

1 You're going to hear Mr. Totten was
2 honest. He did tell them he had a switchblade
3 knife, which in October 2012 was illegal. It no
4 longer is. But at the time it was under the laws of
5 the state.

6 I ask you to listen to the evidence
7 carefully, judge the credibility of the witnesses,
8 the officers you hear come from this witness stand,
9 and you determine if they were telling the truth.

10 Thank you.

11 THE COURT: Call your first
12 witness.

13 MS. CLEMONS: State calls Officer
14 Trant.

15 THE BAILIFF: This witness has not
16 been sworn.

17 (Witness sworn)

18 THE CLERK: Take the witness stand,
19 please.

20 THE COURT: Proceed.

21 HAROLD TRANT,

22 After having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 Q. (By Ms. Clemons) Please introduce
25 yourself to the jury.

1 A. I'm Officer Trant, HPD Narcotics.

2 Q. Are you a peace officer for Harris
3 County?

4 A. Yes, I am.

5 Q. The City of Houston. I notice you're
6 not in uniform. Is there a reason for that?

7 A. I work undercover plainclothes on the
8 street, purchasing narcotics.

9 Q. Are you assigned to the Narcotics
10 Division?

11 A. I am.

12 Q. How long have you been assigned with the
13 Narcotics Division?

14 A. I've been six years, narcotics.

15 Q. How long have you been with the Houston
16 Police Department?

17 A. Nine.

18 Q. Do you have any training that you had to
19 go through to become a peace officer?

20 A. To become a narcotics officer or peace
21 officer?

22 Q. Both.

23 A. Both. Yes, I do.

24 Q. What training do you have?

25 A. We went through common TCLEOSE training

1 police academy, handling evidence and all that kind
2 of stuff. Then with narcotics we're trained in
3 officer safety, generating search warrants, how
4 to -- I guess, narcotics street survival.

5 Q. Do you have any specialized training in
6 identifying narcotics or controlled substances?

7 A. Yes, I do.

8 Q. And what training is that?

9 A. HIDA classes I've been to.

10 Q. What are those?

11 A. Some of them are manufacturing meth and
12 then different interdiction classes that have been
13 given.

14 Q. So, classroom training?

15 A. Yes, ma'am.

16 Q. Do you have any hands-on training?

17 A. Yes, ma'am. I've seen that quite a bit.

18 Q. So, would you say on few or many
19 occasions you've made a narcotics arrest?

20 A. Many.

21 Q. Back on October 25th 2012, were you
22 with -- still with the Houston Police Department?

23 A. I was.

24 Q. And were you assigned to the Narcotics
25 Division?

1 A. Yes.

2 Q. Were you working that day?

3 A. Yes, ma'am.

4 Q. Where were you working?

5 A. In Cloverleaf, Houston, Texas,
6 Cloverleaf area.

7 Q. Is that in Harris County, Texas?

8 A. Yes, ma'am.

9 Q. What were you doing?

10 A. Conducting surveillance on a narcotics
11 location.

12 Q. Is that something you typically do as
13 part of your duties as a narcotics officer?

14 A. Yes, I do.

15 Q. Is that a majority of what you do as a
16 narcotics officer?

17 A. Well, all of it has to do with
18 narcotics. The majority of the time, it's that and
19 purchasing narcotics.

20 Q. So, on this particular day what were you
21 doing?

22 A. Surveillance on a location I'd purchased
23 from in the past.

24 Q. And where exactly were you?

25 A. I was at -- on Brownsville. The

1 location was the 14002 Brownsville.

2 Q. That's in Harris County, Texas?

3 A. Yes, ma'am.

4 Q. Were you -- what kind of vehicle were
5 you in?

6 A. I was in a common vehicle, undercover
7 vehicle. It looks like all of them on the street.

8 Q. And are there any markings that show
9 you're an officer?

10 A. No, ma'am.

11 Q. What were you wearing?

12 A. I was wearing a t-shirt and holey jeans.

13 Q. Was there anything to identify you as a
14 police officer?

15 A. Not presented to the public, no.

16 Q. Did you come into contact with a Ruben
17 Totten that day?

18 A. I did.

19 Q. How?

20 A. At the end of the traffic stop he wanted
21 to speak to an officer, and he had some information.

22 Q. Did you see him prior to that?

23 A. Well, I saw two suspects, and one of
24 them was Totten in a vehicle go by me.

25 Q. Where was that vehicle?

1 A. The vehicle was traveling west on
2 Brownsville where I was sitting, and they went right
3 by me on the left-hand side to the location.

4 Q. And what location are you referring to?

5 A. To the duplex where I've been and many
6 of my squad members in the past, to purchase
7 narcotics and make stops out of.

8 Q. What kind of vehicle was it?

9 A. It was a Ford Ranger.

10 Q. Do you remember the color?

11 A. Green.

12 Q. Green?

13 A. Green. Yes, ma'am.

14 Q. So, what did you do once you saw that
15 vehicle?

16 A. I conducted surveillance on them. They
17 were sitting in the parking lot, watched one of them
18 walk towards the duplex. Several minutes later, the
19 other one came back, and they drove away from the
20 location.

21 Q. Do you remember which one walked towards
22 the duplex?

23 A. I'm not sure which one of them did. One
24 of them opened a hood and was messing around with
25 the engine somewhere. I don't know. I couldn't --

1 I was looking from the -- from west to east. So, I
2 was looking west, and the rear end of the vehicle
3 was facing me. So, when they opened the hood, I
4 couldn't --

5 Q. Okay. Now, as part of your training as
6 an officer, you write offense reports, correct?

7 A. I do.

8 Q. Did you write an offense report in this
9 case?

10 A. I did.

11 Q. Now, are offense reports typically
12 evidence in cases that y'all bring in?

13 A. Yes.

14 Q. But are they entered into evidence or
15 something? What are the purpose of offense reports?

16 A. Basically notes of what we saw in the
17 crime committed.

18 Q. In this case did you write the offense
19 report?

20 A. Yes, I did.

21 Q. Did you include any of this information
22 about the house that you were surveilling?

23 A. I did not.

24 Q. Why not?

25 A. Because open record acts and defense

1 attorneys sometimes disclose it to defendants. It
2 jeopardizes my safety and the other officers' safety
3 because it was an open investigation, and we were
4 planning to go back and running a search warrant or
5 purchasing more narcotics. The last thing I'd want
6 is to walk up there and they know who I am and then
7 either beat me down to the ground or do whatever
8 they got to do. I'm conducting surveillance. They
9 come by and, oh yeah, that's the description and I'm
10 a sitting duck and I don't want that.

11 Q. Now, did you ever see this vehicle again
12 or do anything else with this vehicle that you had
13 seen?

14 A. When he left the location, there was a
15 stop sign in front of me. They were traveling west
16 on Brownsville, turned north onto Frankie without
17 using a right turn signal.

18 Q. Is that a traffic violation?

19 A. Yes, ma'am.

20 Q. Did you pull the car over?

21 A. I did not, no.

22 Q. Why not?

23 A. I wouldn't stop for me either. So, we
24 let marked guys in uniforms do it.

25 Q. Did you notify any marked units?

1 A. I did.

2 Q. Do you remember who you notified?

3 A. Yes, ma'am. Officer Kunkel and
4 Betancourt, a hotspot unit I work with all the time.

5 Q. What is a hotspot unit?

6 A. They focus on areas of town that I guess
7 a lot of complaints are coming in as far as
8 narcotics, assaults, robberies. So, they kind of
9 address citizens' concerns when they're not being
10 proactive.

11 Q. Do you remember what information you
12 gave to Officer Kunkel and Officer Betancourt?

13 A. Well, they knew when it began I always
14 brief people. I let them see me, which they knew me
15 from the past and I told them I was going to a
16 location that we've been to several times. And I
17 was going to basically conduct surveillance and look
18 for narcotics activity.

19 Q. Did you give a description of the
20 vehicle you had seen?

21 A. I did.

22 Q. Did you see them actually pull the
23 vehicle over?

24 A. No, ma'am. I stayed where I was at.

25 Q. Did you ever see that vehicle again once

1 they had pulled it over?

2 A. No, ma'am. No.

3 Q. Do you know if the person they pulled
4 over is the same person that you saw?

5 A. When they went by -- I mean, I could
6 just see two occupants. It was kind of a blur --

7 Q. Did you notice if it was the same
8 vehicle that they --

9 A. It wasn't the same vehicle.

10 Q. And how do you know that?

11 A. Just by what they told me,
12 description-wise.

13 Q. Did you do anything else in this case
14 after you gave them that information?

15 A. I met up with them, I think, in front or
16 behind the business, kind of out of public sight
17 because, one, I had to get the narcotics and receive
18 the information that I guess they came up with
19 during the traffic stop because I wasn't there. And
20 then the defendant wanted to talk to me.

21 Q. Why do you not participate in the
22 traffic stop -- or once they pull him over, why do
23 you not go over there?

24 A. I don't want them to focus on me,
25 blowing my cover. In a small town, news travels

1 fast out there in Cloverleaf.

2 Q. Is that an area you work often?

3 A. Yes, ma'am.

4 Q. Did you collect any evidence in this
5 case?

6 A. I didn't collect any of the evidence. I
7 just obtained it from them, part of the chain of
8 custody. I tagged it.

9 Q. So, you tagged the evidence into --

10 A. Not the knife though. I never -- just
11 the narcotics.

12 Q. Okay. Who did you receive the narcotics
13 from?

14 A. I want to say it was Kunkel. I believe
15 it was Kunkel.

16 Q. At that point what did you do with the
17 evidence you received from Officer Kunkel?

18 A. I take it, and I test it. I think they
19 tested it also. I weigh it, tag it, submit it, do
20 all the paperwork. Then I put it in a locked drop
21 box where it goes to the lab and is tested again and
22 held until we go to court or it's destroyed.

23 Q. What is the test that you do that you
24 were just referring to on the scene?

25 A. It's the field test. It tests positive

1 for cocaine trace. It turns blue if there's cocaine
2 in it.

3 Q. Is that something that is done typically
4 in narcotics cases?

5 A. Yes, ma'am. D.A.'s ask for it.

6 Q. Now, is that the only test that's done
7 on the narcotics?

8 A. No. There's another one once it's sent
9 in at the lab.

10 Q. But that's not done by you, correct?

11 A. No, ma'am.

12 MS. CLEMONS: May I approach the
13 witness?

14 THE COURT: You may.

15 Q. I'm showing you what's been previously
16 marked as State's Exhibit No. 2. Do you recognize
17 this?

18 A. Yes, ma'am.

19 Q. What is State's Exhibit No. 2?

20 A. Crack cocaine.

21 THE COURT: Looks like an envelope.

22 A. An envelope.

23 Q. Do you know what's inside State's
24 Exhibit 2?

25 A. I do.

1 Q. Could you open it? Can you pull out
2 what's inside of State's Exhibit No. 2? What was
3 inside of State's Exhibit No. 2?

4 A. Crack cocaine.

5 Q. And do you recognize this crack cocaine?

6 A. It's what I received from the officers.

7 Q. How do you know it's the same cocaine
8 that you received from the officers that day?

9 A. Well, I signed it, dated it.

10 Q. Are there any other identifying marks on
11 it?

12 A. The blue test.

13 Q. Are there any numbers on it that
14 identify it to the case that you were working?

15 A. Yes, ma'am. Right here.

16 Q. What number is that on there?

17 A. 135476312.

18 Q. Okay. And does that correspond to any
19 numbers that are on the envelope it was received in?

20 A. Yes, ma'am.

21 Q. Are those the same numbers that are on
22 that?

23 A. Yes, ma'am.

24 Q. Do you make any markings on the envelope
25 as well so you know it's your's?

1 A. I sign it and date it after I seal it,
2 right at the tape.

3 Q. Are your initials and date on here?

4 A. Up here.

5 Q. Does that correspond to the October 25th
6 2012 date?

7 A. Yes, ma'am.

8 Q. Now, is the cocaine in State's Exhibit
9 No. 2 the same or substantially similar as the day
10 you found it on October 25th 2012?

11 A. Yes, ma'am.

12 Q. Okay.

13 MS. CLEMONS: Your Honor, at this
14 time, State offers into evidence State's Exhibit No.
15 2 and tenders to opposing counsel.

16 MR. ORTIZ: Object at this point.

17 THE COURT: Sustained.

18 Q. (By Ms. Clemons) Were you the person
19 that tagged this into the Houston Police lab?

20 A. Yes, ma'am.

21 Q. Okay. And I notice there was some blue
22 on there. What is that?

23 A. That's the field test positive for
24 cocaine.

25 MS. CLEMONS: Pass the witness.

1 MR. ORTIZ: Proceed, Judge?

2 THE COURT: Proceed.

3 CROSS-EXAMINATION

4 Q. (By Mr. Ortiz) Officer Trant, as part
5 of your training by HPD Academy, you're also taught
6 to write a police report; is that correct?

7 A. Yes.

8 Q. You know what information to put in.
9 You know what's required, correct?

10 A. Right.

11 Q. Establishing probable cause or the
12 elements of the crime, correct?

13 A. Right.

14 Q. And you'd also agree that in that HPD
15 training, you're also taught about the law, correct?

16 A. Right.

17 Q. You know, search and seizure, when
18 you're authored to stop a vehicle, when you're
19 authorized not to; is that correct?

20 A. Right.

21 Q. And back on October 25th 2012 --

22 MR. ORTIZ: May I approach the
23 podium over here, Judge, or the overhead?

24 THE COURT: For what?

25 MR. ORTIZ: I've got some

1 photographs I'd like.

2 THE COURT: You can't use it. You
3 can show it to the witness. If you want to show it
4 to the jury, you can do that. Wait until they're in
5 evidence.

6 MR. ORTIZ: Okay. May I approach
7 the witness?

8 THE COURT: Yes.

9 Q. (By Mr. Ortiz) Officer Trant, I'm going
10 to show you what I've marked as Defense Exhibit 1,
11 which is from MapQuest, showing the marker here
12 being the 700 block of Hollywood. Also on this map,
13 do you see the street, Brownsville, Frankie, kind of
14 the general area --

15 A. I do.

16 Q. -- that you were conducting surveillance
17 at, you said?

18 A. Yes, sir.

19 Q. All right. And you testified to the
20 jury that the vehicle that was ultimately stopped
21 drove by you; is that correct?

22 A. It did.

23 Q. Okay. And what street were they
24 traveling on at that time?

25 A. Traveling on Brownsville.

1 Q. Okay. And were they driving east or
2 west?

3 A. West.

4 Q. West. Okay. And does this Defense
5 Exhibit 1, does this kind of map the area fairly and
6 accurately at least show the names --

7 A. Street-wise.

8 Q. Show the names street-wise, those types
9 of things?

10 A. Yes, sir.

11 Q. Okay. At this point -- well, let me ask
12 you. Can you make a mark with this red pen on
13 Defense Exhibit 1 where you would have been parked
14 at in relation to the corner of Frankie and
15 Brownsville, to give us some idea?

16 A. I can do it better if I see what the
17 buildings were, but it was under 100 yards.

18 Q. Doesn't have to be exact, but just to
19 give us some reference as to -- in relation to those
20 two streets where you were --

21 A. Somewhere in here.

22 MR. ORTIZ: Your Honor, at this
23 time I'd offer into evidence Defense Exhibit 1 if
24 there's no objections by defense counsel -- I'm
25 sorry, by the State.

1 MS. CLEMONS: No objections, Your
2 Honor.

3 THE COURT: Be admitted.

4 MR. ORTIZ: Permission to publish
5 to the jury, Judge.

6 THE COURT: You can show it to
7 them.

8 MR. ORTIZ: Yes, sir.

9 Q. (By Mr. Ortiz) So, with regards
10 to Defense Exhibit --

11 THE COURT: Show it to them. Then
12 ask questions.

13 Q. Now, Officer Trant, just for the record,
14 to the left of the red dot that you made, there's a
15 circle; is that correct, that little highlighted
16 circle?

17 A. Yeah, west of there.

18 Q. Okay. West of --

19 A. I wasn't -- if you want exactly, I was
20 actually on the other side of this.

21 Q. That's fine. That's fine. But for the
22 record, on Defense Exhibit 1 there's a highlighted
23 circle to the left or west of where you were parked;
24 is that correct?

25 A. Right.

1 Q. And that circle would indicate the
2 intersection of Brownsville and Frankie Street; is
3 that correct?

4 A. Yes, sir.

5 Q. And that is the corner which you
6 indicated that the vehicle Mr. Totten was a
7 passenger in, made a right turn without using a
8 right turn signal; is that correct?

9 A. No, not where I was -- you mean down
10 here?

11 Q. Correct.

12 A. Yes, sir.

13 Q. Right. And that's what I'm referring
14 to.

15 A. Okay. I thought the red dot.

16 Q. No. The highlighted circle.

17 A. Yes, highlighted circle.

18 Q. Which is the corner of Brownsville and
19 Frankie Street.

20 A. Yes, sir.

21 Q. That that is the intersection at which
22 you say you observed the vehicle not use a right
23 turn signal, correct?

24 A. Yes, sir.

25 Q. All right. So, for illustration

1 purposes then, if this area right here is the stop
2 sign of Brownsville, right in front of you would be
3 Brownsville Street, right? Let's assume the street
4 is Brownsville. This is the stop sign, and Frankie
5 Street would run perpendicular to it; is that
6 correct?

7 A. They cross, T, right.

8 Q. Like a T?

9 A. Uh-huh.

10 Q. So, if I'm driving towards Brownsville
11 towards that stop sign like this, they would have
12 passed you, correct?

13 A. Yes, sir.

14 Q. You said they passed you on the left,
15 which means you were on the right side of the road?

16 A. Sitting on the north side.

17 Q. Right. Okay. So, where you were parked
18 at, they passed you up. Stop sign's here, and the
19 duplex or the surveillance location was where in
20 relation to the corner?

21 A. I can draw it on there if you want me
22 to. It's at the intersection -- it was west of me,
23 on the south side. And last night I was looking --

24 THE COURT: Listen to the question.
25 Answer the question only.

1 Q. At Brownsville, looking towards the stop
2 sign at Frankie.

3 A. Oh, on this side.

4 Q. Yeah. Basically standing here, looking
5 down towards the stop sign at Frankie.

6 A. Okay.

7 Q. Are you familiar -- recognize these?

8 A. Yes, sir.

9 Q. Do these photographs fairly, accurately
10 show or depict the area of those streets that we're
11 talking about?

12 A. Pretty accurate.

13 Q. Thank you, sir.

14 A. Yes, sir.

15 MR. ORTIZ: At this time, Judge,
16 Defense would offer Defense Exhibits 2, 3, 4, 5, 6,
17 7 and 8, tender to State for any objections.

18 MS. CLEMONS: No objection to
19 Exhibits 2 through 6 --

20 MR. ORTIZ: Two through eight.

21 MS. CLEMONS: Two through eight.

22 THE COURT: They're each admitted.

23 Q. (By Mr. Ortiz) Now, Officer Trant, you
24 indicated that you were -- correct me if I'm wrong,
25 at least 100 yards from the corner or 100 yards from

1 the surveillance location?

2 A. Yeah. That's approximate. I mean --

3 Q. What would you say?

4 A. I didn't have -- like we said before,
5 you know, from the back of this courtroom, maybe
6 2-1/2 more of these rooms.

7 Q. Okay. And so, to give the jury some
8 idea -- and you're talking about from where you were
9 seated in your undercover car to the location of, I
10 guess, the surveillance house or apartment, correct?

11 A. Right.

12 Q. And you're saying it would be pretty
13 much the distance of 2-1/2 of these courtrooms from
14 where you're seated to the back wall?

15 A. Yeah, at the shortest.

16 Q. And were you using any kind of
17 binoculars?

18 A. No.

19 Q. Were you using any kind of recording
20 device, a camcorder or something you can zoom in to
21 see and document what's happening?

22 A. No.

23 Q. HPD has that type of equipment, correct?

24 A. They don't have camcorders and stuff
25 that we're trained or that they issue. We have

1 binoculars. Most of them are broken. We haven't
2 received any grant money lately to get any.

3 Q. So, I guess in the thousands -- you
4 know, all the money that's collected and seized in
5 these kinds of cases or big dope cases, you're
6 saying HPD doesn't have any camcorders?

7 A. No. I mean, we're not trained in -- my
8 sergeant doesn't have them. I don't know where I'd
9 get one. I could buy one.

10 Q. Not even a pair of binoculars?

11 A. A pair of binoculars probably, but like
12 I said, they're broken.

13 Q. Now, so, you said -- and from your side,
14 your point of view from where you're seated in the
15 car to 2-1/2 of these courtrooms' length, how
16 much -- the location you're doing surveillance on,
17 is it on the left side of the street or the right
18 side of the street where you are?

19 A. It's on the left side.

20 Q. It's on the left side. And from where
21 you're seated in your vehicle on the right side of
22 the road, doing surveillance, to the location 2-1/2
23 times this court's width or length, how much of the
24 home or apartment can you see from your vantage
25 point?

1 A. I could see less than half, and I could
2 see the driving going into the place of the duplex.

3 Q. Okay. You can see less than half of the
4 complex?

5 A. Yes, sir.

6 MR. ORTIZ: May I approach the
7 witness, Judge?

8 THE COURT: Yes.

9 Q. I'm going to show you what has already
10 been admitted as Defense Exhibit 5. If down here
11 towards the bottom, this is Brownsville Street
12 running, I guess, up --

13 A. Frankie.

14 Q. Right. Up to Frankie, correct? And
15 that would be in an east to west direction?

16 A. Yes, sir.

17 Q. Then Frankie going towards right would
18 be north?

19 A. North to south.

20 Q. All right. So, from looking at this
21 aerial, you'd agree this is an aerial photograph of
22 that street, correct?

23 A. Yes, sir.

24 Q. Okay. And you can see that on the
25 corner edge of the property where that duplex is,

1 there's some bushes, trees, things like that,
2 correct?

3 A. Uh-huh.

4 Q. And on Defense Exhibit 5, could you
5 indicate more or less where you were parked at and
6 looking at the property?

7 A. I remember these trailer houses to my
8 right.

9 Q. And do you --

10 A. Somewhere in here.

11 Q. Okay. And at this point would you make
12 an indication on Defense Exhibit 5 as to where you
13 were at, approximate?

14 A. The 14 -- around the 14019, in that area
15 I was looking last night.

16 Q. Okay. Could you give us some idea as to
17 more or less where you were parked at?

18 A. Do you have one that's exploded a little
19 more so I can see what's behind this?

20 Q. Sure. I hand you now Defense Exhibit 4,
21 which will show the entire Brownsville, from Beacon
22 to Frankie Street?

23 A. Somewhere in -- you want me to mark it?

24 Q. Yes, sir.

25 A. Somewhere in here, in this area because

1 I had a place to pull off on the side of the road
2 without a ditch.

3 Q. Let me grab a -- just put a dot kind of
4 visible, the point you're talking about. Thank you,
5 sir.

6 A. Uh-huh.

7 MR. ORTIZ: May I tender Defense
8 Exhibit 5 to the jury, Judge?

9 THE COURT: You can show it to
10 them.

11 MR. ORTIZ: Where Officer Trant
12 indicated he was at. (Showing exhibit to jury)

13 Q. And, Officer Trant, regarding Defense
14 Exhibit 5, so we're clear also, made a mark where --
15 more or less where you were positioned. Would you
16 put a mark now -- I guess the corner or in front of
17 the driveway of the location you were doing
18 surveillance?

19 A. The one picture you had of the dumpster
20 is right by that dumpster. It could have been
21 moved.

22 Q. If you wouldn't mind keep it on the
23 street line.

24 A. Where I saw the vehicle park?

25 Q. No, no. Just to indicate the location

1 you were doing surveillance of.

2 A. Okay.

3 Q. If you could make that a little --

4 A. This whole drive in. Do you want a big
5 line?

6 Q. Just something in the street to indicate
7 this is the location you were looking at. Okay.

8 Thank you, sir.

9 MR. ORTIZ: Permission to publish,
10 Judge?

11 THE COURT: You can show it to
12 them.

13 Q. (Showing exhibit to jury) So, the top
14 is where you were looking at. The bottom is where
15 you were parked, correct?

16 A. (No response)

17 Q. Now, isn't it true, Officer Trant, that
18 from your point of view, as you indicated, you could
19 see less than half of the duplex; is that correct?

20 A. Yes, sir.

21 Q. Is that what you just told us? And
22 Defense Exhibit --

23 MR. ORTIZ: May I approach the
24 witness, Judge?

25 Q. Defense Exhibit No. 7 is a picture of

1 the duplex; is that correct, that's on the corner?

2 A. Yes, sir.

3 Q. All right. I'll leave this up here so
4 you can see it. So, from where you're sitting,
5 Officer Trant, you indicated you do not know who got
6 out of the vehicle; is that correct?

7 A. I could see -- I could see people
8 getting out of the vehicle, doors opening.

9 Q. But from your vantage point, from the
10 distance you were at, you really couldn't tell which
11 one of the two it was?

12 A. I mean, there's a -- I want to say
13 Duckworth -- there's a black and white male. I
14 could tell that.

15 Q. Okay. My question is --

16 A. But I couldn't --

17 Q. -- from where you were sitting, 2-1/2
18 courtrooms away, you told us you could not tell who
19 got out of the car and approached the duplex,
20 correct?

21 A. No. I saw somebody go that way.

22 Q. All right. And Mr. Duckworth was a
23 black male, correct?

24 A. Yes.

25 Q. And, obviously, Mr. Totten is a white

1 male?

2 A. Yes.

3 Q. From your vantage point, from the
4 distance you were at, you couldn't tell if it was a
5 black male or white male that went into the complex?

6 A. No. That's because the hood -- somebody
7 went in front. Both of them did at first, and I
8 couldn't see the left side.

9 Q. My question is, you could not tell
10 whether it was a black male or white male that
11 approached the complex, correct?

12 A. No, I couldn't.

13 Q. You couldn't tell if whether it was a
14 white or black male that under the hood or messing
15 with the vehicle, correct?

16 A. Right. I just saw them walk back out in
17 front of it and get in.

18 Q. Now, so, from your vantage point, the
19 person, whoever it was, that went into the complex
20 or up to this address and came back out, you didn't
21 see any illegal activity, did you?

22 A. No.

23 Q. You couldn't tell if somebody was there
24 to visit a friend, a family member, loved one,
25 correct?

1 A. Right.

2 Q. And from the photograph there in Defense
3 -- I believe, is that Defense Exhibit 5?

4 A. Seven.

5 Q. Seven, that you have in front of you, of
6 the complex. Can you tell how many units are there?

7 A. Eight units total. There are two
8 housing units. Each have four.

9 Q. So, you got two separate buildings.
10 Each have four apartments in each one?

11 A. Right.

12 Q. Or homes. So, a total of possibly eight
13 families, correct?

14 A. Right.

15 Q. And from your vantage point, you don't
16 know -- whoever walked up to the complex, you don't
17 know who they were to visit, correct?

18 A. No.

19 Q. Could have been a totally legitimate,
20 non-illegal purpose, correct?

21 A. Could have been, yes.

22 Q. But because you had purchased narcotics
23 from that complex before -- and do you remember
24 which of the eight you purchased from?

25 A. We'd been to both of them. I mean, my

1 whole squad, like I said, under five minutes, gone,
2 we're out of there when we buy. So, that's
3 consistent with the purchase of narcotics.

4 Q. But my question is, you don't know which
5 of the eight the person was from?

6 A. We get out, and they swarm us.

7 Q. Okay. Once again, Officer Trant --

8 A. I don't know.

9 Q. Very simple question.

10 A. I don't know.

11 Q. You don't know which of the eight,
12 correct?

13 A. No, sir.

14 Q. All right. So, when the vehicle -- you
15 said -- approximately how long was this vehicle that
16 Mr. Totten was in, pulled in and then left. How
17 long would you say they were there?

18 A. I'd say approximately five to ten
19 minutes. That's an approximate time.

20 Q. Okay. You don't know if they dropped
21 anything off or were picking anything up or anyone?

22 A. I don't know that. I didn't see anybody
23 extra get in the truck, but two leaving.

24 Q. So, when the truck leaves, it stops. It
25 stops at the stop sign, correct?

1 A. Yes.

2 Q. Okay. And I believe we have a
3 photograph of Defense Exhibit -- may I approach the
4 witness?

5 THE COURT: Yes.

6 Q. Defense Exhibit No. 8. Officer Trant,
7 this is a photograph, you recall, of Frankie Street
8 looking towards down Brownsville and the duplex or
9 apartment towards your right with the dumpster,
10 correct?

11 A. Yes, sir.

12 Q. And on the left side of the photograph
13 but right side of the road is the stop sign,
14 correct?

15 A. Yes, sir.

16 Q. And when the truck pulled out of the
17 parking lot of the complex, did they stop at this
18 stop sign?

19 A. It appeared as though they stopped.

20 Q. Well, I mean, did they stop?

21 A. They came to a stop. I don't know if it
22 was right at that point because I wasn't at that
23 vantage.

24 Q. That's fine. But they stopped at the
25 intersection, correct?

1 A. Yes, sir.

2 Q. Before making the right turn?

3 A. Yes, sir.

4 MR. ORTIZ: Permission to show the
5 jury, Judge?

6 THE COURT: Yes, sir.

7 Q. (Showing exhibit to jury) So, Officer
8 Trant, this -- according to what your testimony was,
9 you were parked on the right side of the road; is
10 that correct?

11 A. Which in this photo would be the left
12 side.

13 Q. Correct. So, the side of the street
14 you're parked on is the same side that the stop sign
15 would have been on, correct?

16 A. Yes, sir.

17 Q. About 2-1/2 lengths, 2-1/2 of these
18 courtrooms, correct?

19 A. Approximately. Maybe a little further.

20 Q. And you would agree, Officer Trant, that
21 when someone stops for a stop sign or a stoplight
22 that the brake lights come on, correct?

23 A. Yeah.

24 Q. Now, you would also agree, Officer
25 Trant, that at this time that the vehicle was

1 stopped at the stop sign, based on what you had seen
2 before, you had no reasonable suspicion to believe
3 this vehicle or any of its occupants were involved
4 in any kind of illegal activity, did you?

5 A. No.

6 Q. Nothing you had seen, correct?

7 A. The time they were in there is
8 consistent with narcotic activity.

9 Q. Okay. Have you ever made a quick stop
10 to a buddy's house or a relative's house and dropped
11 something off or picked something up?

12 A. Yes, I have.

13 Q. So, really your attention and your
14 opinion is based on what you knew about that
15 location, not about the vehicle Mr. Totten was in?

16 A. Past experience. Yes, that's right.

17 Q. Nothing specific to that vehicle?

18 A. No.

19 Q. Nothing specific to the occupants of
20 that vehicle?

21 A. No.

22 Q. Based on your experience with that
23 location of the duplex, you believed if they stopped
24 in there and then left, must have been a drug
25 transaction; is that correct?

1 A. That's typical of a drug transaction,
2 yes.

3 Q. I mean, that drew your --

4 A. Yes, right.

5 Q. Your interest, right?

6 A. Yes.

7 Q. You wanted to stop the vehicle. You
8 wanted to see if they had drugs, correct?

9 A. Yes, I did.

10 Q. Okay. And, so, you know based on your
11 training and experience, up until that point, you
12 had no legal reason to stop that truck, correct?

13 MS. CLEMONS: Objection, calls for
14 a legal conclusion.

15 THE COURT: Overruled.

16 Q. (By Mr. Ortiz) Correct?

17 A. While they were still in the parking
18 lot, I did not.

19 Q. While they were stopped at the stop sign
20 before making a turn, you had no legal reason to
21 pull them over?

22 A. They weren't signaling to turn right at
23 the stop.

24 Q. When they stopped at the stop sign,
25 Officer Trant, there's no legal basis at that point

1 to pull --

2 A. No.

3 Q. To pull --

4 A. Not that I saw, no.

5 Q. And at that point they would have been
6 out of your view; is that correct, once they made
7 the turn?

8 A. While turning, they go out of my view,
9 yes, sir.

10 Q. Okay. How many officers were working
11 with you there on Brownsville?

12 A. Just me.

13 Q. No one else in the car with you?

14 A. No, sir.

15 Q. Okay. So, now this truck that stopped
16 at the stop sign, you believe was involved in drug
17 trafficking or possessed drugs made a right turn; is
18 that correct?

19 A. Yes, they did.

20 Q. And you're telling us that they did not
21 use a turn signal; correct?

22 A. They did not.

23 Q. All right. Now, in your police report
24 you would agree that -- and you were the one that
25 wrote it; is that correct?

1 A. Yes, sir.

2 Q. And you would agree that nowhere in this
3 report does it even mention that you were doing
4 surveillance at a particular location?

5 A. I agree.

6 Q. And nowhere in this report did you put
7 in there anything about Mr. Totten being in a
8 vehicle that drove past you and stopped at a known
9 narcotics location?

10 A. No.

11 Q. And nowhere in there did you indicate
12 anything having to do with the vehicle Mr. Totten
13 was in, your surveillance, or distance from that
14 duplex, did you?

15 A. No, just --

16 Q. So, if someone were to pick up this
17 report, Officer Trant, and read it for the way you
18 wrote it, would you agree that it sounds as though
19 it was just a traffic violation stop?

20 A. Yes. I agree.

21 Q. When, in fact, there was more
22 information behind the scenes, more information that
23 you're telling us about Mr. Totten and Mr. Duckworth
24 than is in here; is that correct?

25 A. Yes.

1 Q. And you would agree that this is not the
2 complete truth of that entire transaction?

3 A. It is the truth. I told you I left it
4 out for officer safety.

5 Q. It is not the entire truth; is that
6 correct, Officer Trant, by the way you wrote this
7 report?

8 A. The report is the truth as far as where
9 I saw it. The surveillance, I could not list, for
10 officer safety.

11 Q. Did not even indicate that there was
12 surveillance to begin with and that you were
13 surveillancing a duplex?

14 A. No, it's not in there.

15 Q. You could have been general. You could
16 have used general terms without listing a specific
17 address; is that correct?

18 A. It's the only one in that area though.

19 Q. Okay. But you talk about drug dealers
20 and, you know, these requests and things like that.
21 You could have put generic information you were
22 conducting a surveillance of the location in an area
23 of, you know, Cloverleaf, correct? Could have done
24 that?

25 A. I could have done that.

1 Q. Okay. And, so, it wasn't until -- you
2 testified previously that this other information
3 came out; is that correct?

4 MS. CLEMONS: Objection, Your
5 Honor, hearsay.

6 THE COURT: Sustained.

7 Q. (By Mr. Ortiz) Did you talk to the
8 prosecutor after you filed this case, Officer Trant,
9 about all this other information you had?

10 A. I did.

11 Q. Okay. As soon as the charge was filed,
12 you contacted the D.A.'s office and told them, hey,
13 here's the other half of the story?

14 A. No. That's when I talked to the
15 prosecutor because we have to call to get the
16 charges accepted.

17 Q. Okay. So, when you called the D.A.'s
18 office about charges, you told them everything,
19 correct?

20 A. Right.

21 Q. But when you wrote the report for Mr.
22 Totten or myself or whoever else, the Court, who was
23 going to review this report, they would not have
24 known anything you just testified to about the
25 surveillance, correct?

1 MS. CLEMONS: Objection to asked
2 and answered.

3 THE COURT: Overruled.

4 Q. (By Mr. Ortiz) They wouldn't have known
5 that?

6 A. No. They wouldn't have known. But it's
7 standard for the Narcotics Division to do that.

8 Q. To not put --

9 A. It's standard.

10 Q. To not put the entire truth in here?

11 A. For officers' safety.

12 Q. You're telling the 12 jurors and
13 everyone in this courtroom that it's standard not to
14 tell the entire truth about a case?

15 A. No, not the truth, no, I'm not saying
16 that. But information, as far as the surveillance
17 on the location.

18 Q. Is it safe to say, Officer Trant, you
19 put in the report the way you want it to read?

20 A. I put what I saw as far as all the P.C.
21 leaving the location.

22 Q. I mean, you're the one who types up the
23 report, correct?

24 A. Right. Really, nothing happened at the
25 apartment like you and I talked about, but once I

1 saw the probable cause on the turn signal, then
2 that --

3 Q. But wait a minute. Something did happen
4 at that apartment complex or that duplex. That was
5 the whole reason your interest in this vehicle --

6 A. Yeah.

7 Q. -- was pointed to, correct?

8 A. Right.

9 Q. That's where this case started but is
10 not included in your report.

11 THE COURT: That's been asked and
12 answered.

13 Q. You don't think that's important?

14 A. It is important, yes, sir.

15 Q. But you made the decision not to put it
16 in there?

17 A. Right. I didn't.

18 MR. ORTIZ: Pass the witness,
19 Judge.

20 THE COURT: Anything further?

21 MS. CLEMONS: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 Q. (By Ms. Clemons) Officer Trant, you know
24 that offense reports are your perspective of the
25 day, correct?

1 A. Yes.

2 Q. All information that you typed up?

3 A. Right.

4 Q. And you know that's hearsay, correct?

5 A. Yes.

6 Q. That doesn't get entered into evidence,
7 right?

8 A. Right.

9 Q. In no case does an offense report ever
10 go back with the jury, right?

11 A. Right.

12 Q. What is the purpose of an offense
13 report?

14 A. It's to basically record the notes of
15 what I saw during the day or the crimes that were
16 committed, and it's for me later on in court, and
17 the D.A. to testify.

18 Q. Do you often use offense reports to
19 refresh your memory?

20 A. I do.

21 Q. And in this case, reading this offense
22 report, does it refresh your memory?

23 A. Yes, it did.

24 Q. Officer, what time of day was it when
25 you saw this traffic violation?

1 A. It was around 17 or 16 -- 4:45 p.m.,
2 5:00 p.m., somewhere in that timeframe.

3 Q. Would you say it was light or dark
4 outside?

5 A. It was light.

6 Q. When you saw the defendant or when you
7 saw the vehicle fail to make a signal, how far away
8 was that vehicle?

9 A. Like I said, the distance I gave y'all
10 earlier, probably another 20 feet, 15, 20 feet.

11 Q. Do you have training and experience in
12 the Texas Transportation Code in traffic laws?

13 A. I do.

14 Q. Do you know how long before a person
15 turns that they must signal?

16 A. It's been awhile. I think it's 100
17 feet.

18 Q. So, a person can't just signal right
19 when they're turning, right?

20 A. No. Right.

21 Q. That would still be a traffic violation?

22 A. Right.

23 Q. And in any situation, you can pull
24 someone over just for a traffic violation, right?

25 A. Yes.

1 Q. Just for failing to signal, you can go
2 ahead and pull that person over?

3 A. Yes.

4 Q. So, you could have pulled this vehicle
5 over even if you hadn't seen anything at that
6 duplex, right?

7 A. Right.

8 MS. CLEMONS: Pass the witness.

9 THE COURT: Anything further?

10 RECROSS-EXAMINATION

11 Q. (By Mr. Ortiz) Officer Trant, if the
12 vehicle used a turn signal, made the right turn or
13 let's say stopped at the stop sign and went through
14 the stop sign, straight, followed all the traffic
15 laws, what would you have done?

16 MS. CLEMONS: Objection,
17 speculation.

18 THE COURT: Sustained.

19 Q. (By Mr. Ortiz) When you saw the vehicle
20 make a right turn using its turn signal in the
21 appropriate distance from the stop sign, make a
22 right turn, based on what you saw, what would you
23 have done?

24 MS. CLEMONS: Objection, still to
25 speculation, relevance in this case.

1 THE COURT: Sustained.

2 MR. ORTIZ: Pass the witness.

3 THE COURT: Step out in the
4 hallway. Call your next.

5 MS. CLEMONS: State calls Officer
6 Kunkel.

7 THE BAILIFF: This witness has not
8 been sworn.

9 THE CLERK: Raise your right hand.
10 (Witness sworn)

11 THE CLERK: Take the witness stand,
12 please.

13 THE COURT: Please proceed.

14 MS. CLEMONS: Thank you.

15 CHRISTOPHER KUNKEL,

16 After having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 Q. (By Ms. Clemons) Please introduce
19 yourself to the jury.

20 A. Christopher Kunkel.

21 Q. I see that you're in uniform. What do
22 you do for a living?

23 A. I'm a police officer for Houston Police
24 Department.

25 Q. How long have you been with the Houston

1 Police Department?

2 A. Six years.

3 Q. Are you assigned to a current assignment
4 or division?

5 A. I currently work for the gang division.

6 Q. What is the gang division?

7 A. We receive crime analysis stats from
8 different parts of the city related to gang crime,
9 and we address the crime trends accordingly.

10 Q. Where were you assigned prior to that?

11 A. Northeast Patrol station.

12 Q. What did you do as part of your duties
13 in the Northeast Patrol Division?

14 A. I spent a little time in the divisional
15 gang unit there, as well as a proactive policing
16 unit called the hotspot unit.

17 Q. What does that mean when you say hotspot
18 unit?

19 A. It's kind of what I do now for the gang
20 division, just in northeast Houston as opposed to
21 the whole city.

22 Q. So, does that entail working in an
23 office, receiving phone calls, or are you actually
24 out patrolling?

25 A. We do follow-up on some good case leads,