

1 you who had done this?

2 A. No.

3 Q. Did she appear confident -- I'm sorry. Did she
4 appear certain?

5 A. She was very certain.

6 MS. BRUCHMILLER: Pass the witness.

7 MR. CORNELIUS: Nothing further, Judge.

8 THE COURT: You may step down, ma'am.

9 Call your next witness.

10 MS. BRUCHMILLER: State calls Sergeant
11 Triplett.

12 THE BAILIFF: Your Honor, this witness has
13 been previously sworn.

14 THE COURT: All right. Ms. Bruchmiller.

15 **TROY TRIPLETT,**

16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 **BY MS. BRUCHMILLER:**

19 Q. Good morning, Sergeant Triplett.

20 A. Good morning, ma'am.

21 Q. Would you please state your full name for the
22 jury?

23 A. Troy Triplett.

24 Q. We see you're in full police uniform today.

25 A. Yes, ma'am.

1 Q. How are you employed?

2 A. I'm a sergeant with the Houston Police
3 Department.

4 Q. How long have you been with the Houston Police
5 Department?

6 A. Thirteen years.

7 Q. Can you tell us a little bit about some of the
8 areas you've been assigned to during those 13 years?

9 A. I began my career with HPD working Westside
10 Patrol for about two years. I transferred to the North
11 Patrol Station and worked there for approximately six
12 years. And then I was assigned to the Robbery Division
13 for five-and-a-half years. And I recently promoted in
14 January to sergeant and I'm now working the South
15 Gessner Patrol Station.

16 Q. Congratulations.

17 A. Thank you.

18 Q. Now, prior to going into the Robbery Division,
19 what were some of your job duties?

20 A. Just regular patrol, running calls, 911
21 hang-ups, anything you can think of, robberies, murders,
22 burglaries, burglary of motor vehicles, anything that
23 citizens call in for.

24 Q. And then once you joined the Robbery Division,
25 what were some of your duties and responsibilities as

1 part of that division?

2 A. My duties then was not to be the first person
3 on the scene, but I would be assigned the case and I was
4 the investigator or the detective and I would do the
5 follow-ups, do the photo arrays, do the line-ups, and
6 then go get the warrants issued. And I would either
7 serve the warrants or I would get assistance from patrol
8 units to serve the warrants on the suspects, and then
9 interview the suspects.

10 Q. Now, tell us a little bit about what kind of
11 training and classes that you've taken while you've been
12 a police officer.

13 A. Well, specifically for the Robbery Division, I
14 had interview and interrogation classes, both beginner,
15 intermediate, and advanced. I had a 40-hour class on
16 making and presenting photo arrays and conducting
17 live and what we call mock line-ups, which is just a
18 recording of a line-up. I've had cultural diversity
19 training, had basic investigator school, intermediate
20 investigator school, and advanced investigator school.
21 I've had a class in blood splatter patterns. And
22 there's just numerous classes that I've had. Over 2,000
23 hours in 13 years.

24 Q. Are you a certified peace officer?

25 A. Yes, ma'am.

1 Q. Certified through TCLEOSE?

2 A. Yes, ma'am.

3 Q. While you were in the Robbery Division, what
4 shift did you work?

5 A. I worked 6:00 a.m. to 2:00 p.m.

6 Q. During that time, were you assigned a case
7 involving a complainant by the name of Catherine
8 McDaniel?

9 A. Yes, ma'am, I was assigned that case.

10 Q. Now, how are cases assigned in the Robbery
11 Division?

12 A. When a patrol officer gets a call and he goes
13 out to the scene and he talks to the citizen who called
14 in, they type up a report and each report is classified
15 whether it's a burglary report, a robbery report,
16 homicide report. And it's automatically sent to that
17 concerned division.

18 Now, we have officers and sergeants that
19 work in each division and they review the reports and
20 they look at it and say: Okay. This happened on the
21 north side of Houston, this is going to go to the
22 robbery squad because it happened at north. And they'll
23 go down the roster of every officer and sergeant that
24 works in that division. They say: Okay. Joe Smith got
25 the first one, Officer Triplett is up next, so this next

1 case will be assigned to him.

2 Q. Do you recall when you were assigned or when
3 you began working on the case involving Catherine
4 McDaniel?

5 A. It's written in the case. I don't remember the
6 exact date.

7 Q. Was it close to after June 26th, 2012?

8 A. Yes, ma'am, it was about that time.

9 Q. What was your first step in that investigation?

10 A. I get the original report, I read through the
11 report to see what type of clues or what identifiers we
12 have in there to who the suspect might be. I'll review
13 the statement the complainant gave the officer on the
14 scene, and then the first thing I try to do is try to
15 contact that complainant either by phone; and if not
16 possible by phone, I go out and meet with them
17 face-to-face.

18 Q. Did you make contact with Catherine McDaniel?

19 A. Yes, ma'am, I contacted her by phone.

20 Q. When -- not going into what she said, but when
21 you spoke to her, was she consistent with what was in
22 the report?

23 A. Yes, ma'am, she was consistent with what was in
24 the original report.

25 Q. Did you feel it necessary to get any additional

1 information from her at that point?

2 A. No, ma'am, not from her.

3 Q. What was your next step in the investigation?

4 A. To contact the mother of the listed suspect in
5 the report.

6 Q. And what was the mother's name?

7 A. Kim Able.

8 Q. How did you contact Kim Able?

9 A. I drove out to the location at -- is it 3701
10 Lyons?

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

12 A. Yes, ma'am.

13 Q. Is that the same location where the incident
14 had occurred to Catherine McDaniel?

15 A. Yes, ma'am.

16 Q. Can you describe what's located at that center?

17 A. It's an extremely large, multi-story, and I
18 believe it's a -- like a retirement type community home.
19 It takes up a whole complete block.

20 MS. BRUCHMILLER: Your Honor, may I
21 approach the DOAR system?

22 THE COURT: Yes.

23 Q. (By Ms. Bruchmiller) Officer, I'm showing you
24 what has been admitted as State's Exhibit 5. Is this
25 Catherine McDaniel's building (indicating)?

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

2 Q. Is this what you were referring to as taking up
3 a whole block?

4 A. Yes, ma'am. It's actually bigger than what you
5 see in the picture because it goes the other direction
6 this way, too (indicating).

7 Q. When you arrived at the retirement center, you
8 said you spoke to Kim Able; is that correct?

9 A. Yes, ma'am.

10 Q. Was she cooperative with you?

11 A. Yes, ma'am.

12 Q. What was your purpose in meeting with her?

13 A. There was a name in the report and I wanted to
14 make sure that was the correct information because the
15 report stated that the listed suspect was her son.

16 Q. Were you able to verify that information?

17 A. Yes, ma'am.

18 Q. Were you able to get a date of birth for him as
19 well?

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

21 Q. Now, at that time was it your understanding
22 that Kim Able stayed at the retirement center?

23 A. Yes, ma'am.

24 Q. Now, did Mr. Brown stay at the retirement
25 center?

1 A. My understanding was --

2 MR. CORNELIUS: Objection if it calls for
3 hearsay, Judge.

4 THE COURT: Sustained.

5 MR. CORNELIUS: I think it does.

6 Q. (By Ms. Bruchmiller) Let me ask it this way.

7 Did you speak to Mr. Brown that day?

8 A. No, ma'am, I did not.

9 Q. While you were visiting the retirement center
10 on that day, did you do any additional investigation?

11 A. I just -- I talked to the ladies at the front
12 desk and they told me where Ms. Able lived and I went up
13 and spoke to her and that was it.

14 Q. Were there any other witnesses that you met
15 with?

16 A. No, ma'am.

17 Q. Any other witnesses who saw this event?

18 A. Not that I'm aware of.

19 Q. Did you fingerprint any areas?

20 A. No, ma'am, I did not. I didn't -- I wasn't
21 there the day the robbery occurred. I was there several
22 weeks later. In the area where the robbery occurred,
23 untold number of people had sat at that bench and been
24 in that area.

25 Q. Now, when you're saying "sat at that bench,"

1 what bench are you referring to, Sergeant?

2 A. The one at the bus stop in the picture.

3 Q. So, in your opinion do you think it would be
4 beneficial to fingerprint that bench?

5 A. No, ma'am.

6 Q. And why not?

7 A. Just too many people going in and out. There's
8 probably 100 to 200 people a day that probably use that
9 bus stop.

10 Q. So, no information to gain from it?

11 A. No, ma'am.

12 Q. Would it have been helpful to swab the bench
13 for DNA?

14 A. No, ma'am.

15 Q. And why not?

16 A. Too many people sit there. One person sits
17 down and gets on one bus and 15 minutes later another
18 bus comes by and somebody else is sitting on that bench
19 at that time.

20 Q. When you were investigating the report, did you
21 see the list of items that had been taken from
22 Ms. McDaniel?

23 A. Yes, ma'am.

24 Q. Was there any way to track down those items in
25 order to find out where they ended up?

1 A. No, ma'am.

2 Q. And why not?

3 A. Didn't know what happened with it. In my
4 experience as a robbery investigator, when you have this
5 type of case and a lady's purse is taken, usually the
6 suspect that takes the purse will go through it, take
7 some items out of it, and just throw it in a ditch
8 somewhere to get rid of it.

9 Q. So, the purse was never recovered; is that
10 correct?

11 A. Not that I'm aware of.

12 Q. Was there any other property that could have
13 been found in a pawn shop or anything like that?

14 A. Not that I'm aware of.

15 Q. Any jewelry that had been taken?

16 A. Not that I saw in the report, ma'am.

17 Q. And you had spoken to Ms. McDaniel when you
18 began your investigation?

19 A. Yes, ma'am, by telephone.

20 Q. Did she give you any -- a list of any
21 additional items that had been taken to her -- taken
22 from her?

23 A. No, ma'am. Just what was in the original
24 report.

25 Q. During your investigation, did you do a

1 photospread?

2 A. No, ma'am, I did not.

3 Q. And why not?

4 A. She knew the man. She was familiar with him,
5 had seen him around the complex several times, knew his
6 mother, and knew where his mother lived. It's just that
7 she was not sure about his actual name.

8 Q. So, what did you do with that information?

9 A. I went to Ms. Able, explained the details of
10 the case to her, and she provided me with a name and I
11 went down and filed a warrant.

12 Q. And what was that warrant for?

13 A. Aggravated robbery of elderly.

14 MS. BRUCHMILLER: Your Honor, may I
15 approach the witness?

16 THE COURT: Yes.

17 Q. (By Ms. Bruchmiller) Officer, I'm handing you
18 what has been marked as State's Exhibit 9. Are you
19 familiar with this (indicating)?

20 A. Yes, ma'am, it's the warrant.

21 Q. Is it the warrant specifically for this case?

22 A. Yes, ma'am.

23 Q. Is this an exact copy of the warrant that was
24 issued?

25 A. Yes, ma'am.

1 MS. BRUCHMILLER: Your Honor, at this time
2 State offers State's Exhibit 9 and tenders to opposing
3 counsel for any objection.

4 **(State's Exhibit No. 9 Offered)**

5 MR. CORNELIUS: Objection. It's hearsay,
6 Your Honor.

7 MS. BRUCHMILLER: Additional -- Your Honor,
8 it's a certified government document.

9 THE COURT: Let me see it, please.

10 MR. CORNELIUS: We also add relevance.

11 THE COURT: Overruled. State's 9 is
12 admitted.

13 **(State's Exhibit No. 9 Admitted)**

14 Q. (By Ms. Bruchmiller) After you filed the
15 warrant, did you take any other steps in this
16 investigation?

17 A. I contacted the northeast patrol warrant team
18 and gave them the information on the warrant because
19 they're out in that area every day. They know the
20 people in the streets, they interact with them every
21 day. And from my understanding from Ms. Able, her son
22 was living on the streets.

23 MS. BRUCHMILLER: Pass the witness.

24 THE COURT: Mr. Cornelius.

25 **CROSS-EXAMINATION**

1 **BY MR. CORNELIUS:**

2 Q. Officer Triplett, my name is Skip Cornelius.
3 I'm the defense lawyer in the case. We've never
4 discussed the case before, have we?

5 A. No, sir.

6 Q. You went to see Ms. Able to get the suspect's
7 name and information?

8 A. Yes, sir, to confirm his name and get
9 additional information if she had any.

10 Q. Okay. She was not a witness to this, right?

11 A. No, sir, she was not.

12 Q. And she didn't have a clue as to what happened,
13 but she knows her son's name?

14 A. She had a clue. She told me --

15 Q. Well, let me rephrase my question. And I'm not
16 asking you what she told you because I'm going to object
17 to that as hearsay.

18 But other than her repeating what somebody
19 else may have told her, she was not there, as far as you
20 know, and witnessed a single thing in this case?

21 A. That's correct, sir.

22 Q. And the complainant in the case you talked to
23 on the phone?

24 A. Yes, sir.

25 Q. So, you never met her?

1 A. Not in person, sir, not until today.

2 Q. Now, when you talked to her, though, on the
3 phone, you put the conversation in your report, correct?

4 A. I don't have a copy of the report. I asked her
5 to describe what happened that night and it was similar
6 to her original statement.

7 MR. CORNELIUS: May I approach the witness?

8 THE COURT: Yes.

9 Q. (By Mr. Cornelius) This is Page 2.007, at least
10 on my printout.

11 A. Okay.

12 Q. Is that your report?

13 A. Yes, sir.

14 Q. Okay. So, you put in the report the results of
15 your conversation with her?

16 A. Yes, sir, as a summary.

17 Q. Okay. And that would be so if somebody else
18 picked up this report and were to read it, they would be
19 able to read what you did in the case?

20 A. Yes, sir.

21 Q. Like if the D.A. read it or I read it or the
22 arresting officers or another investigator, they would
23 have some information as to what you did, right?

24 A. That's correct, sir.

25 Q. You put in the report what she said happened to

1 her, right?

2 A. Yes, sir.

3 Q. And there would be some reason or motivation on
4 your part to correctly record what she said happened to
5 her; for example, to record where injuries might be
6 found?

7 A. Yes, sir.

8 Q. Okay. Now, you said that it would be a waste
9 of time to swab for DNA in this case?

10 A. For me to do that once I began my investigation
11 because there is such a time period between the day the
12 incident occurred and the day that I was assigned the
13 case.

14 Q. Okay. So, it would be a waste of time?

15 A. For me to do it, yes, sir.

16 Q. Well, is that -- would it have not been a waste
17 of time for somebody else to do it, like a Crime Scene
18 Unit, or are you just saying --

19 A. I can't answer that because I wasn't there the
20 night the incident occurred.

21 Q. Okay. The same with fingerprints?

22 A. Same thing, yes, sir.

23 Q. So, even on the day that you got involved in
24 the case -- which was which day? It's on the report.

25 A. This was July 5th, sir.

1 Q. So, for nine days later?

2 A. Yes, sir.

3 Q. If you or someone else had swabbed for DNA and
4 gotten the defendant's DNA or tried to get prints and
5 got the defendant's prints at that bus stop, that would
6 have been a waste of time?

7 A. No, sir, that wouldn't have been a waste of
8 time if they would have been able to recover anything.

9 Q. Now, you didn't -- let me rephrase this.

10 Do you know if anyone showed Ms. McDaniel a
11 photo array or invited her to attend a line-up?

12 A. No, sir, because she knew him.

13 Q. I understand that. She believed she knew who
14 did this?

15 A. She knows who did this, yes, sir.

16 Q. Okay. Well, you know that sometimes people
17 identify the wrong person; you know that, don't you?

18 A. Yes, sir. It occasionally happens when they're
19 strangers, but when they're acquaintances, it almost
20 never happens, when she sees him on a basis -- on a
21 weekly or sometimes a daily basis over a period of time.

22 Q. Where is that in the report, that she sees him
23 daily?

24 A. That's not in the report.

25 Q. She didn't even know his name?

1 A. No, she wasn't familiar with his name.

2 Q. Have you seen this guy?

3 A. Just a picture of him, sir.

4 MR. CORNELIUS: Can I have the defendant
5 stand up?

6 THE COURT: All right.

7 (Defendant complies)

8 Q. (By Mr. Cornelius) Did you see the description
9 that was given of the person that assaulted her?

10 A. I read the description, yes, sir.

11 MR. CORNELIUS: Okay. Go ahead and have a
12 seat.

13 (Defendant complies)

14 Q. (By Mr. Cornelius) So, I know that you were
15 impressed that she believed she knew who it was that did
16 this.

17 A. Yes, sir.

18 Q. Apparently, still impressed with that because
19 you've added it a couple of times.

20 A. Yes, sir.

21 Q. But if you had done a photo array and shown her
22 a photo array and seen if she can actually pick out this
23 man's picture, do you think that would help a jury in
24 deciding a case?

25 A. Yes, it would.

1 Q. And in addition to that, if you had put this
2 man in a line-up -- I don't even know if that's your
3 responsibility to do that --

4 A. It was my responsibility, yes, sir.

5 Q. Put this man in a line-up with four or five
6 other people that are similarly built like he is of the
7 same age and as close as you can get it --

8 A. Yeah.

9 Q. -- and had her see him standing there, not just
10 a photograph, but his whole body standing there and see
11 if he's actually the one she can pick out, do you think
12 that would aid the jury in deciding whether she's able
13 to identify the right person?

14 MS. BRUCHMILLER: Objection. Speculation.

15 THE COURT: Overruled. You may answer.

16 A. Yes, sir, it would help them.

17 MR. CORNELIUS: All right. Pass the
18 witness.

19 THE COURT: Ms. Bruchmiller.

20 MS. BRUCHMILLER: Thank you, Your Honor.

21 **REDIRECT EXAMINATION**

22 **BY MS. BRUCHMILLER:**

23 Q. Sergeant Triplett, when you worked as a patrol
24 officer responding to different locations, if you
25 responded to a scene such as a bus stop where you have

1 already testified a hundred people could go through in a
2 day, do you think it would be beneficial to fingerprint
3 that bus stop?

4 MR. CORNELIUS: Objection, Your Honor, as
5 asked and answered and not relevant and calls for an
6 opinion or speculation.

7 THE COURT: Sustained.

8 Q. (By Ms. Bruchmiller) Can you get more than one
9 fingerprint from an area where many people frequent?

10 A. Yes, ma'am.

11 Q. Can that be misleading?

12 A. It can be very misleading.

13 Q. A fingerprint could tell you who was there at a
14 completely different time than when the crime occurred,
15 correct?

16 A. Yes, ma'am.

17 Q. So, would it have been beneficial to
18 fingerprint the bus stop?

19 A. In my opinion with my experience of 13 years on
20 the police department, I'd say no.

21 MS. BRUCHMILLER: Pass the witness.

22 THE COURT: Mr. Cornelius.

23 **RECROSS-EXAMINATION**

24 **BY MR. CORNELIUS:**

25 Q. So, am I to understand that what you're telling

1 this jury is that because fingerprints might -- you
2 might get somebody else's fingerprint and that might be
3 misleading, it would be better off just not to try to
4 get fingerprints? Is that what you just told the jury?

5 A. If we knew or the officers knew a smooth, flat
6 surface had been touched by the hand of the suspect at
7 the time of the crime, then, yes, they would need to go
8 get fingerprints. The time period from when the
9 incident occurred and the officers arrived, there's no
10 telling how many more people went through that bus stop
11 and may have touched that same area. I can't answer
12 that because I wasn't there the night the crime
13 happened.

14 Q. Okay. No one attempted to get fingerprints in
15 this case, correct?

16 A. Correct, sir.

17 Q. And are you telling the jury that if you had a
18 fingerprint of this man right here at that bus stop,
19 whether it was obtained the night the crime occurred or
20 whatever we determined it was, nine days later or
21 something, that wouldn't be helpful?

22 A. If we couldn't determine the actual time that
23 the print was put there, no, sir.

24 Q. So, it wouldn't be helpful?

25 A. He could have been there many of times over

1 many days. His mom lives there and he maybe frequents
2 that bus stop.

3 Q. Okay. So, you're saying that --

4 A. It could have been a hindrance to him,
5 actually.

6 Q. -- the real reason could be a hindrance to him?

7 A. Because if he was at that bus stop three days
8 earlier just sitting there talking to a friend and you
9 pull up his fingerprints, you know...

10 Q. Well, how about this. What if you
11 fingerprinted that thing that night and his prints were
12 not there, do you think that would be a hindrance to him
13 or do you think that would be helpful to him?

14 A. Only if he would have touched one of the
15 clean surfaces -- or one of the flat surfaces.

16 Q. The question is: Would that be helpful to him
17 or not? If you tried to get DNA and tried to get
18 fingerprints at that bus stop and his were not there, do
19 you think that would be a hindrance to him or helpful to
20 him?

21 A. That would be helpful to him.

22 MR. CORNELIUS: Thank you. Pass the
23 witness.

24 THE COURT: Ms. Bruchmiller.

25 MS. BRUCHMILLER: Briefly, Your Honor.

1 MS. BRUCHMILLER: Pass the witness.

2 MR. CORNELIUS: Nothing further.

3 THE COURT: You may step down, sir.

4 THE WITNESS: Thanks.

5 THE COURT: Call your next witness.

6 MS. BRUCHMILLER: State calls Catherine

7 McDaniel.

8 THE BAILIFF: Your Honor, this witness has
9 been previously sworn.

10 THE COURT: All right. Ms. Bruchmiller.

11 MS. BRUCHMILLER: Thank you, Your Honor.

12 **CATHERINE MCDANIEL,**

13 having been first duly sworn, testified as follows:

14 **DIRECT EXAMINATION**

15 **BY MS. BRUCHMILLER:**

16 Q. Good morning, Ms. McDaniel.

17 A. Good morning.

18 Q. Will you please state your full name for the
19 jury?

20 A. Catherine McDaniel.

21 Q. And how old are you today, ma'am?

22 A. Seventy-four.

23 Q. Where are you currently living?

24 A. I live at Pleasant Hill Retirement Center, 3814
25 Lyons Avenue.