

1 in a two-phase trial or can we handle it all together as far
2 as determining if the conditions are violated and then
3 punishment at the same time or do you want to have a
4 separate hearing?

5 MR. AGUIRRE: I'd say at the same time, if
6 that's okay with the State.

7 THE COURT: Okay. So we don't have to
8 bifurcate. All right. Very good.

9 All right. Call your first witness.

10 MS. DOZIER: Silvia Villalobos.

11 THE COURT: Come on up, please, ma'am. Right
12 up here, please. If you would, have your seat.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Would you please state and spell
15 your name for my court reporter?

16 THE WITNESS: Silvia Villalobos, S-I-L-V-I-A
17 V-I-L-L-A-L-O-B-O-S.

18 THE COURT: You may proceed.

19 **SILVIA VILLALOBOS,**

20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 Q. (BY MS. DOZIER) Ms. Villalobos, can you tell the
23 Court how you're employed?

24 A. I'm a probation officer for the domestic violence
25 unit in Harris County.

1 Q. And do you work for the Harris County Community
2 Supervision and Corrections Department?

3 A. Yes, ma'am.

4 Q. Do you know the defendant in this case, Samuel
5 James Benitez?

6 A. Yes, ma'am.

7 Q. Is he here in the courtroom?

8 A. Yes, ma'am.

9 Q. Can you point him out and describe something that
10 he's wearing so we all know who you're talking about?

11 A. He's wearing a orange jumpsuit.

12 MS. DOZIER: Your Honor, may the record
13 reflect that the witness has identified the defendant?

14 THE COURT: The record will so reflect.

15 Q. (BY MS. DOZIER) And were you or are you his
16 probation officer in a particular case?

17 A. Yes, ma'am.

18 Q. Is this individual, Mr. Benitez, on deferred
19 adjudication for the offense of kidnapping?

20 A. Yes.

21 Q. Is that in Cause No. 1367801?

22 A. That is correct.

23 Q. Out of the 185th District Court of Harris County,
24 Texas?

25 A. Yes, ma'am.

1 Q. What date was he placed on deferred adjudication?

2 A. He was granted probation on December 13th, 2012.

3 Q. And for what period of time?

4 A. He was given 5 years.

5 Q. Was he given certain conditions of probation that
6 he was to abide by?

7 A. Yes.

8 Q. And was one of those conditions that he commit no
9 offense against the laws of this or any other state or of
10 the United States?

11 A. That is correct. It's No. 1 on his conditions.

12 Q. Was he also told or was a condition of his
13 probation or deferred adjudication that he was not to
14 contact the complainant, Trishea Thomas, in person, in
15 writing, by telephone, via the Internet, a third party or
16 any other means for any reason except as specifically
17 permitted by the Court?

18 A. Correct, No. 25 on his conditions.

19 Q. And were you present when he pled true to some of
20 the other allegations regarding fees and fines?

21 A. Correct.

22 Q. Is that a condition of his deferred adjudication
23 that he pay certain fees and fines as a condition of that
24 deferred?

25 A. Yes, ma'am.

1 Q. Did you have an opportunity to meet with this
2 defendant on any occasions after he was placed on deferred
3 adjudication?

4 A. Yes, ma'am.

5 Q. How many times did you meet with the defendant, if
6 you recall, or if you need to review the records?

7 A. I met with him approximately 12 times, since
8 December 26th, 2012.

9 Q. Is one of the conditions of his probation that he
10 is to provide proof of employment?

11 A. Yes, ma'am.

12 Q. And did he comply with that condition?

13 A. He did on only a couple of times, actually just two
14 times.

15 Q. And where did the defendant indicate to you that he
16 was employed or what kind of proof did he provide to you?

17 A. He presented proof of employment through check stub
18 and he was employed with Hulcher Services.

19 Q. When he provided that information, did he indicate
20 how long he'd been employed there or that he, in fact, was
21 employed with Hulcher Services?

22 A. He had reported on his initial office visit that he
23 was employed there for two years and that was dated
24 12-26-2012. At his last visit with me, which was
25 April 23rd, 2013, he reported five years.

1 Q. So, he's indicated he's been at that particular job
2 for several years?

3 A. Correct.

4 Q. Did he indicate how much he makes at that job?

5 A. Yes.

6 Q. And how much did he say that he makes?

7 A. 1800.

8 Q. 1800?

9 A. A month.

10 Q. Do the conditions of his probation or deferred
11 adjudication specify where he is to live?

12 A. He should reside at the address that he provided on
13 his proof of employment.

14 Q. And what was the address that he provided?

15 A. 7714 Renwick, Apartment No. 65, Houston, Texas,
16 77081.

17 Q. Did he -- when you met with him, did he ever tell
18 you who he lives with, if anyone?

19 A. He would report his mother, Ms. Benitez.

20 Q. Did you ever receive information that caused you to
21 believe that he had violated the conditions of his deferred
22 adjudication involving committing an offense against the
23 laws of this state or another state or contacting the
24 complainant, Trishea Thomas?

25 A. Yes. I received a phone call from Officer Trevino

1 with Pasadena Police Department on 3-26, stating that he had
2 reported to the victim's home on several occasions.

3 Q. Did you go into any detail with him on this -- in
4 those -- regarding those conversations?

5 A. No, no, ma'am.

6 Q. Did you receive any other information regarding
7 those instances?

8 A. I did. I contacted the complaining witness on the
9 same day and requested that she e-mail me a statement
10 indicating the information mentioned by the officer and she
11 did, in fact, e-mail that on the same day.

12 Q. The dates that we have alleged in the motion to
13 adjudicate regarding this defendant having contact with the
14 complainant or going to her -- where she lives are
15 March 23rd, 2013, March 20th and March 22nd, 2013. Did the
16 defendant report to probation on any of those days?

17 A. He reported on the 23rd to me.

18 Q. And by my calendar, that's going to be a Saturday?

19 A. I'm sorry. I'm sorry. That was -- you're right.
20 The third -- the 20th. March 20th.

21 Q. Okay. So, on March 20th, 2013, he reported to you.
22 And where is your office?

23 A. Downtown, across the street, 49 San Jacinto, second
24 floor -- fifth floor. I'm sorry.

25 Q. When he reports, is there some record kept of what

1 time he shows up and what time he leaves?

2 A. When he shows up -- he was actually scheduled on
3 that day at 5:00; however, he reported to the receptionist
4 at 4:48, which was the time stamped on his PMR.

5 Q. At 4:48?

6 A. Yes, ma'am.

7 Q. And does your -- do your records indicate that you
8 actually met with him on that day?

9 A. Yes.

10 Q. When he leaves, is there some sort of a time stamp
11 on just whenever --

12 A. No. He exits.

13 Q. Okay. So, how long of a visit, generally?

14 A. About 30 minutes.

15 Q. Okay. And would you have met with him before 5:00,
16 you think, or not sure?

17 A. Normally I see them as soon as they come in.

18 Q. Okay. So, he was probably gone from the office by
19 5:30?

20 A. Yes.

21 MS. DOZIER: I'll pass the witness.

22 **CROSS-EXAMINATION**

23 Q. (BY MR. AGUIRRE) Ms. Villalobos, you and I
24 actually met for the first time this morning; is that
25 correct?

1 A. Correct.

2 Q. And in the case you were Mr. Benitez's probation
3 officer, correct?

4 A. Uh-huh.

5 Q. You were the supervisor for him?

6 A. The probation officer, not the supervisor.

7 Q. You supervised him?

8 A. Supervising officer.

9 Q. You supervised him.

10 A. Uh-huh.

11 Q. And during this time frame, you said you had
12 received a check stub as proof of employment; am I correct?

13 A. Correct.

14 Q. And the amount was \$1800 per month?

15 A. That's what he reports on his PMR.

16 Q. Okay. What does the check stub indicate?

17 A. \$410.

18 Q. Is that weekly, biweekly? Do you recall how the
19 hours are?

20 A. 44 hours.

21 Q. So, it would be about a week?

22 A. Uh-huh.

23 Q. Does it indicate that there is money that is taken
24 out for child support?

25 A. Yes.

1 Q. What is that amount?

2 A. \$129.23. And a second one is \$184.62.

3 Q. 129 and 182?

4 A. -84.

5 Q. Okay. So it's close to \$300, more or less?

6 A. Yes.

7 Q. Are there any other deductions, like -- besides the
8 standard governmental deductions on it?

9 A. There's an administration fee below the child
10 support.

11 Q. And what is that fee?

12 A. \$5.

13 Q. Ms. Villalobos, you indicated that you had met with
14 Mr. Benitez on March the 20th; is that correct?

15 A. Correct.

16 Q. And at some point you -- between 4:48 when he
17 checked in to more or less about 5:30 leaving?

18 A. Correct.

19 Q. And you're at the central region, which is
20 downtown, correct? I'm sorry. You're at the domestic
21 violence unit, which is downtown, 49 San Jacinto?

22 A. Right, uh-huh.

23 Q. And what side of town do you live on?

24 A. My residence?

25 Q. Yeah.

1 A. Hobby.

2 Q. So, it's south.

3 A. Correct.

4 Q. Do you usually encounter traffic leaving at 5:30?

5 A. No.

6 Q. No?

7 A. (Shakes head negatively.)

8 Q. In the situation here, if there is a statement
9 saying that at 5:00 o'clock he is in the LaPorte area on
10 March 20th, would that be incorrect?

11 A. I'm sorry. Can you repeat that?

12 Q. Okay. If there is a statement that says on
13 March 20th, the same day that you're meeting with him, that
14 somebody sees him in the LaPorte area of town, would that be
15 incorrect?

16 A. It just depends if he took the HOV lane.

17 Q. But you just testified that before 4:48 until about
18 5:30, he's down here.

19 A. Correct.

20 Q. Okay. Do you recall receiving the e-mail from
21 Ms. Thomas indicating that on March 20th she's leaving work
22 around 5:00 and there was a suspicious vehicle which she
23 suspects to be him?

24 A. Correct.

25 Q. But technically he is downtown at your office at

1 5:00 o'clock, is he not?

2 A. He's at my office at 4:48, yes.

3 Q. Until?

4 A. Maybe 5:30.

5 Q. So, the 5:00 o'clock area would be incorrect?

6 A. Correct.

7 Q. Did you ever have any issues with Mr. Benitez not
8 reporting to you?

9 A. No, he reported as scheduled.

10 Q. What about issues with him taking the BIPP classes
11 or any other classes that he was required to take?

12 A. He was reporting as scheduled.

13 Q. It would be your understanding that the only
14 violations would be the law violation and the financial;
15 would that be correct?

16 A. Correct.

17 Q. If you had any other reported violations, those
18 would have been included in the motion to adjudicate; would
19 that be correct?

20 A. Correct.

21 Q. Is there an e-mail in the probation file that was
22 written by Ms. Thomas on March the 26th of this year?

23 A. Yes.

24 Q. And does she provide a chronological indicating
25 March 20th, March 21st, March 22nd and March 23rd?

1 A. Correct.

2 Q. And she wrote that to you at your request; am I
3 correct?

4 A. Yes.

5 Q. Why did you ask her to write that to you?

6 A. When we receive phone calls from any law
7 enforcement agency or the complaining witness, we are to
8 request some sort of form to pass that on to our supervisor
9 to determine if we do need to in fact send the order for the
10 purpose of protecting the complaining witness.

11 Q. Did you have any over-the-phone conversations with
12 Ms. Thomas?

13 A. Yes, I did.

14 Q. And it was also on March 26th?

15 A. Yes.

16 Q. You were in the courtroom when Mr. Benitez was read
17 out the violations about the financial. Do you recall that?

18 A. Uh-huh.

19 Q. What's a supervisory fee?

20 A. The supervision visits that he has with me.

21 Q. How much is that a month?

22 A. \$25.

23 Q. So, the 50 would be he's behind two months; is that
24 correct?

25 A. Correct.

1 Q. What is he required to pay as fine and court costs
2 a month?

3 A. 45.

4 Q. So, the 69 that he's behind would be a little bit
5 over a month and a half?

6 A. Correct.

7 Q. Lab fees are \$5 a month?

8 A. Uh-huh.

9 Q. And the \$10 would be that he's behind two months?

10 A. Right.

11 Q. The standard fee is \$12.50 on ID; am I correct?

12 A. Yes.

13 Q. And the -- what is he required to pay a month on
14 reimbursement for the Court-appointed lawyer?

15 A. \$5 a month.

16 Q. Okay. So, the 10 would be he's behind two months?

17 A. Yes.

18 Q. And the Crime Stoppers, how much is he required to
19 pay?

20 A. \$25 a month.

21 Q. So, the \$3 would be a fraction of that.

22 A. Right.

23 Q. Okay. And the -- how much is he required to pay
24 the Family Violence Center a month?

25 A. \$10 a month.

1 MR. AGUIRRE: Pass the witnesses, Judge.

2 THE COURT: Ms. Dozier?

3 MS. DOZIER: No further questions of this
4 witness.

5 THE COURT: All right. May she be excused?

6 MS. DOZIER: Yes, Your Honor.

7 MR. AGUIRRE: Yes, Your Honor.

8 THE COURT: We'll send her back across the
9 street. If we need her back, we can get her.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: Thank you. You're free to go.

12 THE WITNESS: Thank you.

13 THE COURT: Please call your next witness.

14 MS. DOZIER: Trishea Thomas.

15 THE COURT: If you would, please state and
16 spell your name for my court reporter.

17 THE WITNESS: Trishea Thomas, T-R-I-S-H-E-A
18 T-H-O-M-A-S.

19 THE COURT: I'm sorry. You may proceed.

20 MS. DOZIER: Thank you, Your Honor.

21 **TRISHEA THOMAS,**

22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 Q. (BY MS. DOZIER) Ms. Thomas, do you know the
25 defendant in this case, Samuel Benitez?