

1 J.J. WILSON,
2 having been first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 Q. (BY MR. PENEGUY) Sir, will you please
5 introduce yourself to the jury?

6 A. I'm a retired sergeant, J. J. Wilson,
7 Houston Police Department.

8 Q. How long have you been with the Houston
9 Police Department?

10 A. I retired last year with 27 years.

11 Q. And tell the jury some of the assignments
12 that you had with the Houston Police Department.

13 A. When I was -- when I retired, the last
14 three and a half years I worked in the homicide
15 division as a homicide sergeant on the murder squad
16 there.

17 Q. And kind of what are your responsibilities
18 as a sergeant assigned to the murder squad?

19 A. Well, we investigate criminal
20 investigations, everything from kidnappings to sexual
21 assaults, murders, whatever major crimes such as
22 that.

23 Q. In the course of your investigation
24 throughout your time with HPD, were you a certified
25 peace officer?

1 A. Yes.

2 Q. Are you currently a certified peace
3 officer?

4 A. Yes.

5 Q. Your certification is still active?

6 A. Still active, yes.

7 Q. Are you working for any agency now?

8 A. No.

9 Q. I want to talk to you about your
10 participation in an investigation back in June of
11 2012. Are you familiar with an investigation, an
12 incident that happened at 5126 Van Fleet?

13 A. Yes, sir, I am.

14 Q. What were your responsibilities in regards
15 to an investigation?

16 A. I was assisting some of the other
17 detectives. I wasn't the primary investigator on the
18 case, but I did handle the photo arrays and the
19 interviewing of the victim there in the homicide
20 division.

21 Q. And can you tell us how you kind of got
22 called into this investigation?

23 A. Just in assistance. They were at the
24 scene. It was a pretty intense scene, a lot of
25 evidence, a lot of people to be interviewed. And so

1 they asked for my help. The victim had come into the
2 homicide division, and they asked if I could
3 interview her and just get some information on
4 basically what had happened to her at the scene.

5 Q. Did you in fact interview her?

6 A. Yes, I did.

7 Q. When you interviewed her, can you tell the
8 jury -- well, tell the jury who you interviewed?

9 A. Patricia, the sexual assault victim that
10 came into the division.

11 Q. When you had Patricia at the division, did
12 you take or have an opportunity to have some
13 photographs taken of her?

14 A. Yes, I did.

15 MR. PENEГУY: Judge, may I approach
16 the witness?

17 THE COURT: You may.

18 Q. (MR. PENEГУY) Showing you what has been
19 marked for identification purposes as State's Exhibit
20 Number 129, 130, 131, 132, and 133.

21 A. Yeah.

22 Q. Do you recognize these photographs?

23 A. I do, yes.

24 Q. Do they fairly and accurately depict how
25 Patricia Asberry appeared when you made contact with

1 her?

2 A. Yes.

3 MR. PENEGUY: Judge, at this time we
4 would offer State's 129 through 133 and tender to
5 defense counsel.

6 MR. SCOTT: No objection, your Honor.

7 THE COURT: State's Exhibit Number 129
8 through 133 are admitted.

9 MR. PENEGUY: May I publish these,
10 your Honor?

11 THE COURT: You may.

12 Q. (MR. PENEGUY) This is what is marked
13 State's Exhibit Number 129. Is that the individual
14 that you met with?

15 A. Yes.

16 Q. And the room in which she's in, is that --
17 what is that room?

18 A. That's one of our interview and
19 interrogation rooms there in the homicide division on
20 the sixth floor at 1200 Travis.

21 Q. Is that where you met with her?

22 A. Yes.

23 Q. Was she cooperative?

24 A. Yes, very cooperative.

25 Q. Did you take her statement?

1 A. Yes, I did.

2 Q. During the course of that, did you have an
3 opportunity to talk to her about some of her injuries
4 on her body?

5 A. Yes.

6 Q. Are these photographs that you just looked
7 at, are these photographs of some of those injuries?

8 A. Yes, they are.

9 Q. Okay. What is State's Exhibit Number 130?

10 A. It looks like her left forearm.

11 Q. Okay. Were there injuries that you guys
12 noted to her left forearm?

13 A. Yes.

14 Q. What types of injury?

15 A. There's at least a 1-inch laceration there
16 on that left forearm.

17 Q. Did you guys try to document those with the
18 photographs and with a ruler?

19 A. Yes.

20 Q. What other injuries did you guys note on
21 her?

22 A. Just various scratches and abrasions, but
23 then there's also another injury on her left thigh, I
24 believe.

25 Q. And you guys attempted to document that?

1 A. Yes, left upper thigh.

2 Q. That is going to be shown in State's
3 Exhibit Number 131 and State's Exhibit Number 132?

4 A. Correct.

5 MR. PENEGUY: Judge, I'm going to ask
6 that these get passed. They are kind of hard to see.

7 THE COURT: You can publish.

8 (Exhibit Published.)

9 MR. PENEGUY: May I, Judge?

10 THE COURT: You may.

11 (Exhibit Published.)

12 Q. (MR. PENEGUY) Officer, at the time that you
13 were meeting with her, did you have an occasion to
14 show her a photo array?

15 A. I did.

16 Q. What is a photo array?

17 A. It would be photos of six different people
18 to show to see if she could possibly pick out one of
19 the six out of the what we call a six-pack, that she
20 could possibly pick to see if the suspect would be in
21 that grouping.

22 Q. And are there a set of instructions that
23 you give someone when you're showing them a photo
24 array?

25 A. There is.

1 Q. What do you tell them?

2 A. I informed Patricia that the suspect may or
3 may not even be in one of the six pictures. She
4 wasn't obligated to pick any of them. And she was
5 just going to look them over and see if she could
6 pick out the individual who committed the crime.

7 Q. And did she voluntarily look at a photo
8 array with you?

9 A. She did.

10 MR. PENEГУY: Judge, may I approach
11 the witness?

12 THE COURT: You may.

13 Q. (MR. PENEГУY) Showing you what has been
14 marked State's Exhibit Number 117. Do you recognize
15 that exhibit?

16 A. Yes.

17 Q. And is it a fair and accurate copy of the
18 photo array that you presented to her?

19 A. It is. It's my handwriting as well as what
20 she had written and how she identified the defendant.

21 Q. Okay. Does it appear to have been altered,
22 other than being a copy?

23 A. No.

24 Q. When you met with her, did you give her the
25 same set of instructions that you just talked about?

1 A. Yes.

2 Q. Is that her marking?

3 A. That is her handwriting, and she circled
4 the defendant's face.

5 MR. PENEGUY: Judge, I offer and
6 tender to opposing counsel.

7 MR. SCOTT: We have no objection, your
8 Honor.

9 THE COURT: State's Exhibit Number 117
10 is admitted.

11 MR. PENEGUY: Thank you.

12 Judge, may I publish State's Exhibit
13 Number 117?

14 THE COURT: You may.

15 Q. (BY MR. PENEGUY) Let's start with an
16 overview. This is what has been admitted as State's
17 Exhibit Number 117. Can you describe what State's
18 Exhibit Number 117 is?

19 A. It would be the photo array that I
20 presented to Patricia Moore on June 8th, 2012 at
21 11:00 a.m. It's six photos of various males picked
22 in random order with one, Number 5, being the
23 defendant.

24 Q. Okay. And in regards to -- there is some
25 writing on the top of it.

1 A. That's my handwriting.

2 Q. What does that state?

3 A. Just the date and time of the -- that the
4 photo array was presented to Patricia Moore in the
5 process of the interview of Patricia Moore.

6 Q. And is that her handwriting?

7 A. It is. When she picked him out, I informed
8 her to circle the photo, which she did. And then I
9 asked her to sign it, and she did. And she put that
10 in the bottom there where it says, "This is him,"
11 that's was her own handwriting and her own idea.

12 MR. PENEГУY: Judge, may I approach
13 the witness?

14 THE COURT: You may.

15 Q. (BY MR. PENEГУY) I'm going to show you what
16 has been marked State's Exhibit Number 118. Do you
17 recognize this?

18 A. I do, yes.

19 Q. Okay. And without going into its contents,
20 what is State's Exhibit Number 118?

21 A. 118 is a copy of the same photo array that
22 was presented to Margaret Stewart, but -- yeah.

23 Q. In regards to the investigation that you
24 guys conducted, were efforts made to meet with
25 Margaret Stewart?

1 A. They were.

2 Q. And was she -- where was she located?

3 A. In the hospital.

4 Q. Was she under a physician's care at that
5 time?

6 A. She was. She was.

7 Q. Did you ever make it to the hospital?

8 A. I'm trying to think here. I don't believe
9 I did. I think one of the other detectives attempted
10 to interview her at the hospital.

11 Q. Okay. In regards to the investigation that
12 was conducted, did you ever come into contact
13 personally with the defendant?

14 A. No, I never did.

15 Q. Did you ever conduct any additional
16 followup information outside of the interviewing and
17 photo array that you conducted?

18 A. No.

19 MR. PENEGUY: Judge, I pass the
20 witness.

21 THE COURT: Mr. Scott.

22 MR. SCOTT: Yes, your Honor. If I
23 may --

24 The photographs, did they come back?

25 MR. PENEGUY: They're here.

1 MR. SCOTT: Thank you.

2 CROSS-EXAMINATION

3 Q. (BY MR. SCOTT) The photographs that you
4 were --

5 MR. PENEGUY: May I approach, your
6 Honor?

7 THE COURT: You may.

8 Q. (MR. SCOTT) 129, 130, 131, 132, 133, did
9 you take these photographs?

10 A. I did not.

11 Q. Were you present when they were taken?

12 A. I was.

13 Q. And who took them? Do you remember?

14 A. Officer Verbitsky. He's with our CSU unit.
15 I called him in to take the photographs, and I was
16 standing next to him as he took the photographs.

17 Q. And this would have been at the same
18 time -- well, when was this?

19 A. It's the same date and time as the
20 interview of the complainant, yes.

21 Q. And the photospread, was it all -- that was
22 altogether?

23 A. Altogether, yes.

24 Q. Okay. So, the 11:00 some time that's on
25 that photo array would have basically been the time,

1 right?

2 A. Ballpark figure, yes.

3 Q. I think it says --

4 A. 11:00.

5 Q. Yes, it's 11:00. It says 11:00 a.m. So it
6 would have been within some time like that, right?

7 A. Yes, sir.

8 Q. I'm trying to see the -- you indicated 129
9 is in fact the individual just standing, it looks
10 like, in the corner of the interview room, correct?

11 A. That's correct.

12 Q. A frontal view of that person, correct.

13 A. That's correct.

14 Q. And in relation to Number 130 then, it
15 looks like a ruler is being held up next to her
16 left --

17 A. Forearm.

18 Q. Left forearm, correct?

19 A. That's correct.

20 Q. And the purpose is to -- I think you said
21 it was to measure something. What is that?

22 A. To show the laceration, about a 1-inch
23 laceration there along her left forearm.

24 Q. Are you able to see that in the photograph
25 of her whole body when she's standing there in the

1 corner?

2 A. No. This photograph would have been taken
3 from probably 8 feet away, so it's not as visible.

4 Q. So you had to get -- basically you're
5 getting right on top of this to see this laceration;
6 is that correct?

7 A. Within 2 to 3 feet away, yes, sir.

8 Q. Then we've got her pointing in 131 at her
9 right arm; is that correct?

10 A. Yes, sir.

11 Q. And she's pointing at what? What is that
12 she's pointing at, besides her arm?

13 A. She was saying there were scratches where
14 he had grabbed her. So there's scratches along her
15 forearm there on both arms. There was abrasions and
16 scratches throughout.

17 Q. Okay. But that's supposed to be to show
18 you the extent of those abrasions, right? Was the
19 purpose of that to show how that happened?

20 A. Yes, sir.

21 Q. And here we've got a bruise that appears
22 down on her left leg?

23 A. Left thigh.

24 Q. Left thigh. And that's -- you can't see
25 that in that 8-foot picture, so you get right up on

1 it and you see a bruise here; is that correct?

2 A. Yes, sir.

3 Q. All right. And then this one is a -- is
4 this the same bruise or another bruise?

5 A. I believe that's the same.

6 Q. Same bruise, just up closer?

7 A. Yes, sir.

8 Q. And it's an eighth of an inch -- it's an
9 eighth of an inch wide about, right, looks like,
10 according to tape measure here or the --

11 A. Ruler. Yes, sir.

12 Q. Eighth of an inch bruise.

13 MR. SCOTT: Pass the witness.

14 MR. PENEGUY: No further questions
15 from this witness.

16 THE COURT: And you are excused, sir.
17 Call your next witness.

18 MR. PENEGUY: Judge, we call Officer
19 Mark Stahlin.

20 Judge, at this time I think we need to
21 publish some of the contents of State's 120 in
22 regards to the injuries of the sexual assault
23 complainant. Can I unseal these?

24 THE COURT: You may.

25 (Pause.)

1 THE COURT: From the State.

2 MR. PENEGRUY: Judge, prior this
3 witness testifying, these are several pages of the
4 photos that had been agreed to on the unsealed
5 State's Exhibit Number 120 documenting injuries that
6 were photographed during the sexual assault
7 examination. May I publish them to the jury by
8 passing them to them? And then we'll be ready to
9 redo the -- redact the colposcope photos at a later
10 time.

11 THE COURT: It's your witness. If you
12 want the jury paying attention to your photographs as
13 opposed to the questions and answers, it's up to you.

14 MR. PENEGRUY: In the interest of time,
15 I'm going to show them the photographs. If we need
16 to at a later time, we can pass them again.

17 THE COURT: Okay.

18 MARK STAHLIN,
19 having been first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. PENEGRUY

22 Q. Sir, will you introduce yourself to the
23 jury?

24 A. Mark Stahlin. I'm a police officer with
25 the Houston Police Department.