

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S RECORD  
VOLUME 1 OF 1 VOLUME  
TRIAL COURT CAUSE NO. 16CR0391

THE STATE OF TEXAS        )     IN THE DISTRICT COURT OF  
                                  )     )  
VS.                            )     GALVESTON COUNTY, TEXAS  
                                  )     )  
ARCHIE CHAPMAN, JR.        )     10TH JUDICIAL DISTRICT

\*\*\*\*\*  
EXCERPTED TESTIMONY OF DAVID WORDEN  
\*\*\*\*\*

On the 17th day of January, 2017, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Kerry L. Neves, Judge presiding, held in Galveston, Galveston County, Texas.

Proceedings reported by machine shorthand.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S

MR. JAMES HAUGH  
ASSISTANT DISTRICT ATTORNEY  
MS. TIFFANY MYERS  
ASSISTANT DISTRICT ATTORNEY  
GALVESTON COUNTY DISTRICT ATTORNEY'S OFFICE  
600 59TH STREET, JUSTICE CENTER  
GALVESTON, TEXAS 77550  
PHONE: 409.766.2355  
ATTORNEYS FOR THE STATE

MR. GREG CAGLE  
ATTORNEY AT LAW  
MR. SCOTT COURTNEY  
ATTORNEY AT LAW  
1602B STATE STREET  
HOUSTON, TEXAS, 77007  
PHONE: 713.489.4789  
ATTORNEYS FOR THE DEFENDANT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHRONOLOGICAL INDEX

January 17, 2017

Volume 1

STATE'S WITNESSES:

**David Worden**

	Direct	Cross
	4	18

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**DAVID WORDEN,**

having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MYERS:

Q. Could you please state your name for the jury?

A. My name is David Worden.

Q. Okay. And what do you do for a living,  
Mr. Worden?

A. I operate a news service called, "News Now  
Houston" on -- basically, it's an Internet-based news  
service.

Q. Okay. And what is on this news service?

A. Predominately matters pertaining to police, police  
activity. There are First Amendment audit videos on there,  
a little of everything.

Q. Okay. And where is this news channel located?

A. It's not broadcast on TV. I can tell you that.  
It's an Internet-type forum: UTube, Facebook, VIPme,  
predominately Internet sites.

Q. Okay. Would you say that your website is  
anti-police?

A. No, not at all.

Q. Have you had some good experiences with police  
officers?

A. Absolutely.

1 Q. Have you ever been in trouble before?

2 A. I have.

3 Q. Okay. And what have you been in trouble for?

4 A. 1985, I was arrested and charged with sexual  
5 assault; and in 1995, I was arrested and charged with  
6 possession of a firearm.

7 Q. Were you convicted of those offenses?

8 A. I -- yes. Yes, I was.

9 Q. Do you believe that your past criminal history has  
10 affected your view about police officers?

11 A. Yes.

12 Q. How so?

13 A. It makes me view them more favorably.

14 Q. And tell me why it makes you view them more  
15 favorably.

16 A. Because I had never had a bad experience with  
17 police officers.

18 Q. So, it's safe to say that you respect law  
19 enforcement?

20 A. I do.

21 Q. Are you familiar with Photography Is Not A Crime  
22 or PINAC?

23 A. I am.

24 Q. And how are you familiar with it?

25 A. I'm an independent correspondent for them.

1 Q. Okay. And how long have you been an independent  
2 correspondent?

3 A. For PINAC?

4 Q. Yes.

5 A. A year.

6 Q. Are you familiar with Phillip Turner?

7 A. I am.

8 Q. And how are you familiar with him?

9 A. Through PINAC.

10 Q. Have you two done work together under PINAC?

11 A. We have.

12 Q. Okay. On few or many occasions?

13 A. Specifically PINAC related stuff, just a few.

14 Q. I want to talk to you about November 4th, 2015.

15 Around 4:00 p.m., were you located in Galveston County?

16 A. I was located in Galveston County in the City of  
17 Galveston.

18 THE COURT: Mr. Worden, scoot up just a little bit  
19 or pull that microphone just a little bit closer to you so  
20 we can hear.

21 THE WITNESS: Does it move -- okay.

22 Q. (BY MS. MYERS) Who did you come to Galveston  
23 with?

24 A. I came with Phillip Turner.

25 THE WITNESS: Is that better?

1 THE COURT: That's better.

2 Q. (BY MS. MYERS) Did you guys ride together? Did  
3 you ride separately?

4 A. We rode together.

5 Q. When you got to Galveston, what were you doing?

6 A. We came -- we had a discussion. We had some  
7 viewers that -- we interact with the viewers in our forums.  
8 And we had some viewers that had pointed out that the police  
9 memorial down here was --

10 MR. CAGLE: I'm going to object, Judge, as  
11 hearsay.

12 THE COURT: The question is: What were you doing?  
13 Let's limit that to what you know. No hearsay, please.

14 Sustained.

15 A. Okay. We came to Galveston to see the Fallen  
16 Officers' Memorial.

17 Q. (BY MS. MYERS) And where is that Fallen Officers'  
18 Memorial?

19 A. It's over in front of the police station.

20 Q. Okay. And when you got there, what did you do?

21 A. We start videoing long before we get anywhere  
22 we're going. Generally, we wear body cameras, and we start  
23 the body cameras when we get out of our vehicle; and we do  
24 not turn them off until we return to the vehicle. However,  
25 in that particular instance, neither of us bothered to grab

1 body cameras, because we didn't think it was going to be any  
2 kind of activity. So, we had a regular camera. We were  
3 walking along the sidewalk, just taking pictures of, just a  
4 video of the random things.

5 Q. Okay. Were you openly recording and taking photos  
6 of a public building?

7 A. Yes, ma'am. I was out in public on a public  
8 sidewalk in plain view in daylight taking pictures.

9 Q. Were you filming and taking pictures to provoke  
10 police officers?

11 A. No, ma'am.

12 Q. Were you filming or taking pictures of license  
13 plates to attack officers?

14 A. No, ma'am.

15 Q. Do you condone any type of violence towards  
16 officers?

17 A. I do not. I very openly say that I do not condone  
18 acts of violence or threats against police officers.

19 Q. So, while you were recording, what happened next?

20 A. Phillip got a little bit ahead of me. Initially,  
21 we were close to each other. He got a little bit a ahead of  
22 me. A Galveston City police officer stopped to talk to  
23 me -- let me back up just a little bit. There was a red car  
24 that kept floating by me, going by and, like -- it looked  
25 kind of suspicious. And anytime somebody comes around like

1 that, I always make a point of videoing the car and the  
2 license plate, if I can get it, because I don't know who  
3 they are or what their intentions are. So, I was focused on  
4 that; and another SUV went by. And, I guess, I photographed  
5 it. And it contained a police officer, and he stopped to  
6 ask me what I was doing.

7 Q. Okay. And when he approached you and asked you  
8 what you were doing, what happened?

9 A. Nothing. He just asking me what I was doing. I  
10 told him, and he asked if I was filming his car.

11 MR. CAGLE: I'm going to object, Judge, to  
12 relevance and hearsay.

13 MS. MYERS: Your Honor, it's talking about what he  
14 was doing, and it goes to interaction with this police  
15 officer.

16 MR. CAGLE: It's still hearsay.

17 THE COURT: It's still hearsay. I'll sustain it  
18 as to hearsay. Relevance -- see if you can tie it in.

19 Q. (BY MS. MYERS) Were you asked your name during  
20 that encounter with that officer?

21 MR. CAGLE: I'm going to object. It calls for  
22 hearsay. The question contains hearsay.

23 THE COURT: I don't agree. Overruled.

24 A. I don't recall. However, I think you have the  
25 video. It would show up in the video.

1 Q. (BY MS. MYERS) After your encounter with that  
2 officer, what happened next?

3 A. I rounded the corner. I think the red car turned  
4 up again, and I took some video of that red car again. And  
5 then I rounded the corner and started down the side street  
6 that goes to the Fallen Officers' Memorial. Phillip was  
7 some distance -- I can't determine where he was -- some  
8 distance ahead of me. As I was closing the gap, an SUV -- a  
9 police, Galveston PD, SUV Ford Explorer, pulled up and  
10 stopped; and a couple of police officers got out and started  
11 talking to Phillip.

12 Q. Okay. Were you right there when Phillip was being  
13 talked to?

14 A. I was not within distance where I could hear it,  
15 but I could see it and observe it; and I did video him.

16 Q. Okay. Were you able to tell -- let me you this.  
17 Since you weren't able to hear, were you able to see  
18 Mr. Turner getting arrested?

19 A. I was.

20 Q. Were you able to tell who arrested Mr. Turner?

21 A. I was.

22 Q. Is he in -- is this person inside the courtroom  
23 today?

24 A. He is.

25 Q. Could you, please, point to him or her, and

1 identify them with an article of clothing?

2 A. It's Mr. Chapman (indicating).

3 MS. MYERS: May the record reflect this witness  
4 has identified the Defendant?

5 THE COURT: The record will so reflect.

6 Q. (BY MS. MYERS) So, after you see Mr. Turner  
7 getting arrested, what do you do next?

8 A. I was incensed.

9 Q. Why?

10 A. Because they arrested him, and he wasn't doing  
11 anything wrong. From what I could tell, he was on the  
12 public sidewalk, had been on the public sidewalk at all  
13 times; and neither of us was doing anything wrong. They  
14 didn't even approach me and talk to me. They only -- they  
15 went straight to Phillip, and -- I mean, it was, like, 90  
16 seconds, he's handcuffed.

17 Q. After you see that, what happened next?

18 A. They drove off with Phillip, took him inside the  
19 police station or County jail, whatever it is they take him  
20 to over there. I proceeded to go to the front door of the  
21 police station and film. There were some police officers in  
22 their patrol vehicles that had been taking part in the  
23 arrest. I went up to their patrol vehicles with my video  
24 camera, put it in the window of the patrol vehicle and  
25 videoed them. Just anything I could do to provoke them to

1 come and arrest me.

2 Q. Okay. And did they arrest you?

3 A. They did not. They didn't say a word to me.

4 Q. After they did not arrest you, where did you go or  
5 what happened next?

6 A. I stayed there for about two hours doing that,  
7 doing everything I could to provoke them. And that's not  
8 like me; but in that particular instance, I did everything I  
9 could to force them into making contact with me.

10 Q. Well, you say "provoke" right now. Did you  
11 provoke them when you first arrived to Galveston?

12 A. No. No. No, provoking meant involved going up to  
13 the car window, putting a camera in their face, going onto  
14 the Police Department's property. You know, even though  
15 it's our property, okay, basically they have custody of it.  
16 So, we don't enter into that property, generally, when we do  
17 recording and stuff. So, for me to go onto the property and  
18 be in the window of their car with a video camera, you know,  
19 that -- that would be considered, especially for me, would  
20 be considered very provocative.

21 Q. Did you get arrested for doing that?

22 A. No, they -- nobody said a word to me.

23 Q. Okay. So, after you waited for about, you said  
24 two hours --

25 A. It was about two hours.

1 Q. Okay. What did do you after that?

2 A. I had made a phone call to let everybody know that  
3 Phillip had been arrested. And, unfortunately, we have some  
4 disreputable law enforcement officers in this Country that  
5 will erase videos from incidents like that --

6 MR. CAGLE: I'm going to object as nonresponsive,  
7 and ask that the nonresponsive part of the answer be  
8 stricken and jury so instructed.

9 THE COURT: I'll sustain it as nonresponsive. The  
10 rest of your objection is overruled.

11 Q. (BY MS. MYERS) So, just after you had stayed  
12 there for two hours and you called and told people that  
13 Phillip Turner was arrested, what did you do?

14 A. I was instructed to secure the video, my video  
15 that I had of the arrest. In the event that something  
16 happened to the video that was on Phillip's camera, we would  
17 have video of the arrest. And so, I began to extricate  
18 myself from the area.

19 Q. Okay. When you say "extricate yourself"?

20 A. I was leaving.

21 Q. Okay. And where did you go?

22 A. I was walking down the street, going back to  
23 Phillip's car.

24 Q. And where was Phillip's car?

25 A. Phillip's car was parked by the Subway, which you

1 can see out the window here, just over here on the corner.

2 Q. Is that in Galveston County, State of Texas?

3 A. It is.

4 Q. Okay. And did you go to his car?

5 A. I did.

6 Q. Okay. And what did you do after you went to the  
7 car?

8 A. I was arranging for transportation to get myself  
9 out of Galveston.

10 Q. Okay. Was your transportation there as soon as  
11 you called or did you have to wait a while?

12 A. I had to wait a while.

13 Q. Okay. And how long did you have to wait?

14 A. I ended up having to put them on standby; but I  
15 was there for about 90 minutes, two hours, waiting for  
16 transport.

17 Q. While you were waiting for your ride, where were  
18 you waiting? Were you out in the open? Were you --

19 A. Initially, I was -- I was over in the shopping  
20 center there, just kind of standing in front of one of the  
21 stores.

22 Q. Okay. While you were waiting, did you notice  
23 anything out of the ordinary or may seem odd to you?

24 A. Yes. I noticed some police vehicles kind of  
25 floating around.

1 Q. Okay. And what did you see?

2 A. I saw marked Galveston units, appeared that they  
3 were setting up a perimeter. My impression was that they  
4 were maybe looking for me.

5 Q. Okay. Did anything happen while you seen this  
6 perimeter being set up?

7 A. Yes. I also observed a Crown Vic sedan come by,  
8 and there was a hand out the window doing something like  
9 this (indicating). And I thought it was kind of odd at the  
10 time. It wasn't until a short time later, the vehicle  
11 turned around and came back by Phillip's car, and I saw his  
12 lights flash. And I realized that his remote key was being  
13 used to locate the car.

14 Q. Did you record any of this?

15 A. I did.

16 Q. Did you -- so, after you seen someone with their  
17 hands out, pressing a button and then Phillip's lights  
18 flashing, what else did you see?

19 A. I observed the -- the -- unmarked police car,  
20 obviously, pull up and park in front of Phillip's car. Some  
21 police officers got out and began looking at Phillip's car,  
22 and I videoed that. And, you know, they opened Phillip's  
23 car and got in Phillip's car.

24 Q. Okay. You said "officers." How many officers did  
25 you see?

1           A.    There were three officers there, two from the  
2 Sheriff's Department and one from Galveston City P.D. that I  
3 recognized.

4           Q.    Okay.  And who did you recognize from Galveston  
5 P.D.?

6           A.    Mr. Chapman.

7           Q.    When you seen them get out of car and enter into  
8 the vehicle, who did you see go inside the vehicle?

9           A.    Initially, I could not see exactly who was doing  
10 what.

11          Q.    Okay.

12          A.    There was an SUV parked between where I was  
13 standing and where Phillip's car is, like this; and I was  
14 over here.  While they were fiddling around with the car,  
15 there were two Sheriff's deputies standing at the rear of  
16 the vehicle, and somebody had gone into the car and set off  
17 the alarm.  The SUV pulled off, and I had a view of the  
18 vehicle itself.  I had stepped up.  I had been behind a  
19 pillar concealing myself, and I stepped up to another pillar  
20 that was here.  The SUV pulled off, because I was going to  
21 try to get a little better video; and I was too exposed to  
22 video.  So, I was just able to look and see.  I could see  
23 the street light was illuminating through the windshield the  
24 interior of the vehicle, because Phillip's windows are  
25 tinted kind of lightly.  But I could see Officer Chapman in

1 the vehicle.

2 Q. So, you said that you were kind of exposed so you  
3 didn't -- you didn't record that particular portion; is that  
4 correct?

5 A. Correct. I withdrew and concealed myself again.

6 Q. Okay.

7 MS. MYERS: Your Honor, may I approach the  
8 witness?

9 THE COURT: Yes, you may.

10 Q. (BY MS. MYERS) I'm showing you what has been  
11 premarked for State's purposes as Exhibit No. 3. Do you  
12 recognize it?

13 A. I do.

14 Q. How do you recognize it?

15 A. I examined the video on that disk and signed the  
16 disk.

17 Q. Okay. So, what is it?

18 A. It is the video that I took of Officer Chapman  
19 entering Phillip's car.

20 Q. Okay. And what kind of device did you use to  
21 record it?

22 A. I used a Sony video camera.

23 Q. And were you the operator of that device?

24 A. I was.

25 Q. And did you have an opportunity to watch it?

1 A. The video?

2 Q. Yes.

3 A. Yeah.

4 Q. Okay. And does it accurately depict the images  
5 that you recorded in that Subway parking lot?

6 A. It does. It does not appear to have been tampered  
7 with.

8 Q. Has it been altered in any way?

9 A. No.

10 MS. MYERS: At this time, I'm tendering to  
11 opposing Counsel for inspection and move to admit State's  
12 Exhibit No. 3.

13 MR. CAGLE: No objection.

14 THE COURT: State's Exhibit 3 will be admitted.

15 (State's Exhibit No. 3 admitted)

16 MS. MYERS: Your Honor, permission to publish?

17 THE COURT: You may.

18 (State's Exhibit No. 3 published)

19 MS. MYERS: Pass the witness.

20 THE COURT: Mr. Cagle?

21 CROSS-EXAMINATION

22 BY MR. CAGLE:

23 Q. Mr. Worden, my name is Greg Cagle. Have we ever  
24 met before?

25 A. We have not.

1 Q. Now, you said -- you told us a couple of times  
2 during direct examination that you liked the police, right?

3 A. I do like the police. I'm very pro-police.

4 Q. And you said that your -- you followed that you  
5 liked the police, because you've been arrested for a couple  
6 of felonies. Is that what you said? Made you respect them  
7 more?

8 A. I have been -- yes. That's not exactly what I  
9 said, but it's close enough.

10 Q. Okay. Is it Worden, W-O-R-D-E-N?

11 A. It is.

12 Q. Well, I mean, I want to get it right. Because I  
13 have been doing this a long time and I've never heard  
14 anybody say that, "I had a couple of penitentiary trips, and  
15 it made me like the police more." So, is that --

16 A. The police didn't put me in jail.

17 Q. Okay. Now, there were some discussion earlier  
18 about you're a registered sex offender, right?

19 A. I am now.

20 Q. And that's a lifetime sex offender registration;  
21 isn't it?

22 A. It is now.

23 Q. Okay. And you know what's in that building there  
24 at Galveston County, the building you guys were filming,  
25 right?

1           A.    It's the -- I do now.  I didn't realize that it  
2 was all bundled into one package.

3           Q.    Well, you went in there not too long ago to update  
4 your sex offender registration, didn't you?

5           A.    I've only had to register as a sex offender for  
6 the last eight months.  Prior to that, I had an exception.  
7 I was falsely arrested by the Harris County Sheriff's  
8 Department.  They protested the exception, because I exposed  
9 some bad officers; and I now have to register.

10          Q.    Okay.  Because you exposed -- so, there's -- so,  
11 there's something in here, if I was to hand you this code,  
12 there's something in here that says if you expose some bad  
13 officers, you have to register for the rest of your life as  
14 a sex offender?

15          A.    You would have to take that up with DPS.

16          Q.    Well, no, I'm asking you.  I mean, you said,  
17 "Because I exposed some bad officers, now, I have to  
18 register as a sex offender the rest of my life."  Is that in  
19 here somewhere?

20          A.    I don't know where that's at.

21          Q.    You have to register as sex offender for the rest  
22 of your life, because you sexually assaulted a woman; isn't  
23 that the real reason?

24          A.    I'm sorry.  I couldn't hear what you said.

25          Q.    The reason you have to register as a sex offender

1 the rest of your life is because you sexually assaulted a  
2 woman, right?

3 A. That is the current law.

4 Q. Well, no, I'm not asking what the law is. I'm  
5 asking if you did it and that's why or if it's because you  
6 told on some bad policemen in Harris County?

7 A. I was convicted of sexual assault --

8 Q. Okay.

9 A. -- so, I have to register.

10 Q. And you got ten years TDC on that, right?

11 A. No, I did not.

12 Q. What did you get?

13 A. I got ten years probation on that; and six years  
14 into it, while working as a I.D. checker at a bar, after we  
15 closed the bar one night, I came out and found a lady being  
16 raped. So, I retrieved a firearm from the bar manager and  
17 held the subject at gun point for the police. That was a  
18 violation of my probation to have a firearm, and I got five  
19 years TDC for that.

20 Q. Okay.

21 A. I, also, testified against that gentleman while we  
22 were in the same jail.

23 Q. Same jail or same prison?

24 A. Same jail.

25 Q. Okay. All right. So, is that fair?

1           A.    I don't know if it's fair or not, but it's true.

2           Q.    Okay.

3                    All right.  So, you said on direct that you  
4 guys came to do a story and see the Fallen Officers'  
5 Memorial; is that right?

6           A.    If you look back at my channel, you'll find a  
7 number of videos --

8           Q.    Sir --

9                    MR. CAGLE:  I'm going to be object as  
10 nonresponsive.

11                   THE COURT:  Sustained.

12           Q.    (BY MR. CAGLE)  I don't care what's on your  
13 channel.  My question is:  Did you tell this jury just a few  
14 minutes ago, under oath, that you came to do a story on the  
15 Fallen Officers' Memorial?

16           A.    Yes.

17           Q.    Okay.  Now, we had the chance to watch all of  
18 Mr. Turner's videos earlier.

19           A.    Okay.

20           Q.    And there's nothing on there, except like a  
21 passing glimpse of the Fallen Officers' Memorial.  Were you  
22 aware of that?

23           A.    I am aware of that.

24           Q.    Okay.

25           A.    He was arrested when he got to the memorial before

1 he could film.

2 Q. Did you watch a video where he walks past the  
3 memorial and starts filming the trustee dorm?

4 A. I did not.

5 Q. Okay. Well, if you said he was arrested before he  
6 could get to the memorial, that wouldn't be true, because he  
7 walked by the memorial on down to the trustee dorm and then  
8 came back, right?

9 A. Does the memorial have two sides? Is it visible  
10 from both angles?

11 Q. Unfortunately, you don't get to ask me the  
12 questions. I get to ask the questions.

13 A. Okay. Then I can't answer for what was going on.  
14 I can only tell you what I saw.

15 Q. Well, if Mr. Turner came in here under oath this  
16 morning and said he was filming the pretty palm trees, that  
17 that was the purpose of you guys coming down here, because  
18 the buildings down here on the island are amazing, like,  
19 breath-taking Government buildings with beautiful palm  
20 trees --

21 A. I would agree with him.

22 Q. Okay. But that would be different than what you  
23 told us under oath, and that's that you are coming to do a  
24 story on the Fallen Officers' Memorial, because you love the  
25 police, right?

1           A.    I came to video the Fallen Officers' Memorial.

2           Q.    So, did you guys have two different agendas when  
3 you got down here?

4           A.    I don't think so.

5           Q.    You only had one agenda, and that was to bait the  
6 police into coming down and arresting you, right?

7           A.    Citizens can't bait the police.

8           Q.    Well, you said that you spent two hours of your  
9 time trying to provoke the police into arresting you after  
10 Mr. Turner got arrested, correct?

11          A.    That's not baiting. That's provoking.

12          Q.    Right. But my question is -- it's a "yes" or "no"  
13 question, sir. You spent two hours trying to provoke the  
14 police into arresting you, correct?

15          A.    I did.

16          Q.    And you videotaped that, right?

17          A.    I did.

18          Q.    And did you watch that videotape before you  
19 testified today?

20          A.    No.

21          Q.    Did you turn that videotape over to the State?

22          A.    Anything that was videoed has been turned over to  
23 the State, as far as I know.

24          Q.    Okay.

25               MR. CAGLE: Can we approach, Judge?

1 THE COURT: Do you need a record?

2 MR. CAGLE: Yes, sir.

3 (At the Bench, on the record)

4 MR. CAGLE: I'm assuming he did not turn that over  
5 to y'all, but I just want to verify that on the record.

6 MR. HAUGH: I need you to verify what we're  
7 talking about exactly, because I was taking some notes when  
8 he was testifying. I'm not sure exactly.

9 MR. CAGLE: He testified that he videotaped a  
10 couple of hours of him provoking the Galveston police.

11 MR. HAUGH: I don't have that. No, that was never  
12 provided to our office. I don't have a couple of hours  
13 of --

14 THE COURT: So, the two hours to try to provoke  
15 somebody to arrest him, you don't have any --

16 MR. HAUGH: We don't have footage of that, Judge,  
17 absolutely not.

18 THE COURT: Okay.

19 (In the jury's presence)

20 THE COURT: You may proceed.

21 Q. (BY MR. CAGLE) Mr. Turner, you say as far as you  
22 know that all of your videos were turned over to the State,  
23 right, to the prosecutors?

24 A. To the best of my knowledge.

25 Q. Would there be any reason for you to have withheld

1 those videos from the State, maybe you doing something bad  
2 during those two hours of provoking?

3 A. No.

4 Q. Okay. During the lunch break, I saw that you -- I  
5 guess, you and Mr. Turner went to lunch?

6 A. We met over at Burger King, yes.

7 Q. Okay. Did you guys talk about this case at all?

8 A. No. No.

9 Q. Never came up?

10 A. (Witness shakes head side to side). Nothing to  
11 talk about.

12 Q. Okay. Now, when you got here, you and Mr. -- we  
13 see on Mr. Turner's videos -- we've watched Mr. Turner's  
14 videos. I never see you in his videos. Did you see  
15 yourself in any of his videos? Did I miss that?

16 A. You know, I get videoed so much and photographed  
17 so much, I really didn't notice; but there was some distance  
18 between us.

19 Q. Well, I mean, you guys split up to look more  
20 suspicious, don't you?

21 A. No.

22 Q. I mean, wouldn't that be the purpose of two guys  
23 driving down here together to split up to look more  
24 suspicious versus getting together and produce this movie on  
25 the Fallen Officers' Memorial?

1           A.    No, one -- one person can look plenty suspicious  
2 by himself and actually looks more suspicious by himself.

3           Q.    Well, can I -- did you say you did have a chance  
4 to watch all of Turner's videos?

5           A.    I had seen -- I have seen them all, I'm pretty  
6 sure.

7           Q.    Would you characterize that as a pretty poor job  
8 of doing a video on the Fallen Officers' Memorial or do you  
9 think he did a pretty jam-up job?

10          A.    I don't think he got an opportunity.

11          Q.    Now, when the policeman came up to you, you denied  
12 knowing Phillip Turner, didn't you, that you weren't with  
13 him?

14          A.    At that point -- okay.  There's two different  
15 police contacts there.  Which contact are you referring to?

16          Q.    I'm talking about the contact after Phillip Turner  
17 is arrested --

18          A.    Okay.

19          Q.    -- you have contact with the Galveston Police and  
20 they ask you about being with the other guy, and you denied  
21 knowing Phillip Turner, right?

22          A.    I did.  At that point, I was attempting to  
23 extricate myself and secure the video.

24          Q.    Okay.  So, you lied to the police?

25          A.    Absolutely.

1 Q. All right. Was there any legitimate reason for  
2 you to lie to the police?

3 A. Absolutely.

4 Q. Do you know that -- would you assume that it would  
5 be reasonable for a police officer to be more suspicious if  
6 somebody lies to them?

7 A. The officer indicated to me that --

8 MR. CAGLE: I'm going to object as nonresponsive,  
9 Judge.

10 THE COURT: Sustained.

11 Q. (BY MR. CAGLE) Sir, did you not understand that  
12 question?

13 A. Ask the question again, please.

14 Q. Wouldn't it be reasonable for a police to assume  
15 that if someone is lying that they are, in fact, more  
16 suspicious?

17 A. Only if he knew if I was lying or not.

18 Q. Why didn't you just tell them you were lying?

19 A. Why, didn't I tell the police officer I was lying?

20 Q. Yeah. Why didn't you just say, "Hey, I don't have  
21 anything to hide. I'm not doing anything wrong." Either,  
22 "I'm a big fat liar" or just tell them the truth?

23 A. At that point, it was my decision that I needed to  
24 secure the video of Phillip's arrest, and that was my only  
25 purpose and goal.

1 Q. Did you leave your wallet in Phillip's car?

2 A. I don't recall.

3 Q. So, you wouldn't know if you had to leave the  
4 island that night without your wallet and your I.D.?

5 A. I think I had it on me.

6 Q. I thought that was part of y'all's game, though,  
7 was to leave your I.D. in the car?

8 A. Your game? I don't understand your question.

9 Q. A game where you try to bait the police into  
10 stopping you and detaining you, and in that case, they pat  
11 you down, you don't have any I.D. on you?

12 A. Okay. Again, citizens can't bait the police.

13 Q. Because your I.D. would have "sex offender"  
14 printed real big across the top, wouldn't it?

15 A. No, it wouldn't. I would be glad to show it to  
16 you if you would like to see it. No, I don't have it on me.

17 Q. No, I don't want -- I don't want to infringe upon  
18 you.

19 Now, when we were filming the car, this -- in  
20 the video we see here, you filming the car, that would be  
21 after this, what you said was spending two hours of poking  
22 the camera in the police car trying to provoke the officers  
23 to arrest you, right?

24 A. No. They had left after about 30 minutes of  
25 having to deal with me.

1 Q. Right. But my question is -- I'm trying --  
2 subsequently the video that the jury just watched of the  
3 car, that would have been after you spent a couple of hours  
4 provoking the police trying to get arrested, right?

5 A. Yes. If you notice, it's dark when I filmed that  
6 where it was light when I initially filmed.

7 Q. Okay. I'm just trying to establish the time line?

8 A. Okay.

9 Q. And you said that we see -- we don't actually see  
10 anybody get in the car on the video, do we?

11 A. It's difficult to see on the video, because the  
12 vehicles -- there's a vehicle in the way there.

13 Q. Right. And, so, you -- all of a sudden, we see  
14 the camera go down, and you said that you turned -- you  
15 stopped videoing, because you didn't want them to see you or  
16 discover you or something along those lines?

17 A. One of the officers looked in my general  
18 direction. So, I took a step back for a second and looked  
19 at the battery, because being out there for such an extended  
20 period of time -- that particular camera doesn't belong to  
21 me and, so, I'm not sure how long the battery will last.  
22 So, I stepped back to examine the battery life, and then I  
23 moved through the opening there up to the next pillar.

24 Q. So, the guy who just spent two hours trying to get  
25 arrested, your story now is you stopped filming, because the

1 deputies looked in your direction; is that true? Is that  
2 your answer?

3 A. I had been told to secure the video; and at that  
4 point, I made every effort that I could not to be arrested.  
5 Trying to get arrested was after Phillip was arrested,  
6 before I realized that they weren't going to turn him loose.

7 Q. So, what we see on the video is we see you and  
8 then we see, like, a little SUV, and then on the other side  
9 would be Phillip's car, correct?

10 A. With the two deputies standing behind it, yes.

11 Q. Yes, sir.

12 And, so, you say that -- who all went inside  
13 the car?

14 A. The only one I actually saw in the vehicle was  
15 Chapman. There was another Sheriff's deputy. You can tell  
16 the difference, because of their uniforms. It was a  
17 Sheriff's deputy that leaned in, but I did not see him enter  
18 the vehicle, other than just a lean?

19 Q. Okay. And when you say -- of course, none of this  
20 is on video, right?

21 A. No.

22 Q. Because -- because you were scared and turned the  
23 video off; but you were still sticking your face over there  
24 and watching, right?

25 A. Well, I could see without -- without standing in

1 the open.

2 Q. Okay. And, so, you said the Sheriff's deputy  
3 leaned in the car?

4 A. Yes, he just leaned in. He didn't actually enter  
5 the vehicle or sit in the vehicle.

6 Q. Well, where was Chapman when the deputy leaned in  
7 the vehicle?

8 A. The deputy leaned in twice. The first time, he  
9 leaned in while Chapman was there; and the second time he  
10 leaned, Chapman was outside the vehicle.

11 Q. So, how was Chapman in -- how was Chapman in the  
12 vehicle?

13 A. He was in the driver's seat of the vehicle.

14 Q. Like got in and sat down?

15 A. Pretty much.

16 Q. Okay. If you're ever -- you've seen cops search  
17 cars, right?

18 A. Uh-huh.

19 Q. If this is a seat, the cops who search your car  
20 don't get in your car and sit down. They lean in. They  
21 open things.

22 A. Sure.

23 Q. They dig through it, and they take their  
24 flashlight and shine under the seat, right?

25 A. Uh-huh.

1 Q. I mean, cops don't do the, "Oh, wow, this is  
2 amazingly comfortable. I want to search the car," do they?

3 A. He was sitting sideways in the seat, as best I  
4 could tell, okay, from my vantage point and with the tinted  
5 window. Okay? The seat is like this. His feet were  
6 outside the vehicle, and he was going like this  
7 (indicating). That's the best I can describe.

8 Q. Okay. So, Chapman's feet are outside the vehicle;  
9 but, I guess, his upper body is inside the car?

10 A. Partially sitting on the seat, it appeared to me.

11 Q. Okay. So, you think maybe he was kind of -- one  
12 of these (indicating)?

13 A. Yes.

14 Q. Okay. Feet on the ground, body leaning in,  
15 looking, correct?

16 A. Yeah, his butt sitting either partially on the  
17 seat or wholly on the seat. I could not see to determine  
18 that.

19 Q. Okay. But then his legs are sitting outside?

20 A. As best I recall, they were outside the vehicle,  
21 yes.

22 Q. Okay. Did you ever give any interview to anybody  
23 at the District Attorney's Office or Galveston P.D. during  
24 the -- I guess, what I'll call the investigation of this  
25 case?

1           A.    Nobody contacted me for any kind of interviews,  
2           except for the District Attorney's Office other than to come  
3           down and look at the video, sign the video.

4           Q.    I mean, nobody asked you for a statement like,  
5           "Hey, just give us a quick statement," you know, "beginning  
6           to end," right?

7           A.    No.  I was unaware that there was any  
8           investigation going on.

9           Q.    Okay.

10           MR. CAGLE:  Pass the witness.

11           MS. MYERS:  Nothing further from this witness.

12           THE COURT:  Nothing further?

13           All right.  Sir, you may step down.  You're  
14           subject to recall.

15           MS. MYERS:  Subject to recall.

16

17

18

19

20

21

22

23

24

25

1 THE STATE OF TEXAS )  
2 COUNTY OF GALVESTON)

3 I, Gail Jalufka, Official Court Reporter in and for  
4 the 10th District Court of Galveston County, State of Texas,  
5 do hereby certify that the above and foregoing contains a  
6 true and correct transcription of all portions of evidence  
7 and other proceedings requested in writing by counsel for  
8 the parties to be included in this volume of the Reporter's  
9 Record, in the above-styled and numbered cause, all of which  
10 occurred in open court or in chambers and were reported by  
11 me.

12 I further certify that this Reporter's Record of the  
13 proceedings truly and correctly reflects the exhibits, if  
14 any, admitted by the respective parties.

15 WITNESS MY OFFICIAL HAND this the 22nd day of August,  
16 2019.

17 /S/Gail Jalufka

18 \_\_\_\_\_  
19 GAIL JALUFKA, Texas CSR No. 6586  
20 Official Court Reporter  
21 10th District Court  
22 Justice Center 600 59th Street  
23 Galveston County, Texas 77550  
24 Expires: 7-31-21  
25 (409) 766-2231