

1 D. HAMILTON,
2 was called as a witness by the State and, having
3 been duly sworn, testified as follows:
4

5 DIRECT EXAMINATION
6

7 BY MR. NOLL:

8 Q. Sir, would you please state your name
9 for the members of the jury.

10 A. Don Hamilton.

11 Q. How are you employed?

12 A. City of Houston Police Department.

13 Q. You are a sergeant with the police
14 department; is that correct?

15 A. Yes, sir.

16 Q. How long have you been with the Houston
17 Police Department, Sergeant Hamilton?

18 A. Approximately six and a half years.

19 Q. Are you assigned to a particular unit or
20 division within the police department?

21 A. Yes, sir, patrol division.

22 Q. And are you assigned to a particular
23 part of our town?

24 A. Yes, sir, West Houston.

25 Q. Does your beat or your area of

1 responsibility include the area of Kirkwood Street
2 and Westheimer Road, including the Lakehurst
3 apartments and the Fuddrucker's hamburger joint
4 right there on Kirkwood?

5 A. Yes, sir, it does.

6 Q. Back on September 26th of 1988, were you
7 working in the same area?

8 A. Yes, sir, I was.

9 Q. That evening, did you have occasion to
10 respond to the area behind the Fuddrucker's
11 hamburger store on South Kirkwood?

12 A. Yes, sir, I did.

13 Q. What caused you to go to that location?

14 A. Well, one of our units, I believe it was
15 20-George-40, called out on a person down; and
16 shortly after calling out, they requested an
17 ambulance, they advised our dispatcher that they
18 had a female that had been assaulted; and then
19 roughly 30 seconds after calling out, they said
20 they had found a second victim and they advised
21 over the radio that there was no pulse or
22 respiration and they requested Life Flight. So, I
23 checked by with them.

24 Q. When you went to that location, what
25 kind of area did you find, like, immediately

1 behind the Fuddrucker's?

2 A. There was an unlit -- I'd call it a
3 field. It's a large area. It's high with weeds
4 and grass, open field.

5 THE COURT: Officer Hamilton, keep your
6 voice up, please.

7 BY MR. NOLL:

8 Q. Our acoustics are not very good. If you
9 can, keep your voice up so the gentleman all the
10 way in the back chair can hear, okay?

11 A. Okay.

12 Q. After you entered the field, did you see
13 any lights? Were there any streetlights or any
14 other kind of artificial lighting out there?

15 A. No, sir, there was no artificial
16 lighting; but you could see from the moon how to
17 walk through there and get a general idea what was
18 out there.

19 Q. Did you have a flashlight with you?

20 A. Yes, sir, I did.

21 Q. After you entered the field, were there
22 other officers that you found in there already?

23 A. Yes, sir, there was.

24 Q. Did they direct you to a young lady that
25 was there in the field?

1 A. Yes, sir, as I was approaching Officer
2 Baker and Officer Cook, I walked past a female
3 that was laying in the field.

4 Q. After you -- when you got there, could
5 you describe to the jury the condition of the
6 young woman that you saw in that field? Was she
7 laying face down or was she turned over or what?

8 A. Yes, sir, as I was saying, as I was
9 approaching Officer Baker and Cook, the female
10 that was laying in the path was laying face down.
11 I noticed she was breathing, from just viewing her,
12 and I noticed that her face was directly on the
13 ground at an angle that put her nose and her mouth
14 directly in contact with the ground.

15 Q. Do you remember how she was dressed?

16 A. If I recall correctly, it was whitish or
17 creamish colored shorts and whitish or creamish
18 colored shirt.

19 Q. Did you notice if there was anything
20 unusual about her shorts where she was wearing
21 them and perhaps her panties where she was wearing
22 them?

23 A. Yes, sir. Well, after I spoke with her,
24 I could see she was having a difficult time
25 breathing and I asked her --

1 MR. McCULLOUGH: Object to any
2 conversations. It would be hearsay, Your Honor.

3 THE COURT: That will be overruled.

4 BY MR. NOLL:

5 Q. Let me go into another area. Did you
6 actually have a chance to observe the young lady's
7 injuries?

8 A. Yes, sir, I did.

9 Q. Did they appear serious to you?

10 A. Yes, sir, they was.

11 Q. Could you describe to the jury the
12 nature of her injuries?

13 A. She had what appeared to me to be a stab
14 wound on her neck and a bloodstain on the upper
15 part of her chest that appeared to be bleeding
16 pretty seriously.

17 Q. Was the wound in the neck bleeding?

18 A. Yes, sir, it was.

19 Q. Was there a puddle of blood on the
20 ground where she was lying?

21 A. Yes, sir, there was.

22 Q. Was she able to speak at all?

23 A. Yes, sir, she was.

24 Q. Was she speaking clearly or softly?

25 A. At first she was speaking as clearly as

1 I am to you now but with a little difficulty.

2 Q. Have you seen many cutting or stabbing
3 injuries in the past?

4 A. Yes, sir, I have.

5 Q. In observing the injuries to this young
6 lady's neck and chest, did you believe that she
7 was seriously injured?

8 A. Yes, sir, I did.

9 Q. And observing the blood that was on the
10 ground around her, did it appear to you that the
11 injury had been a relatively recent injury in the
12 sense that it had probably occurred within the
13 hour or so?

14 A. Yes, sir, it was, because the wound on
15 the neck was still bleeding rather profusely.

16 Q. Let's go back then. You said you turned
17 her over and spoke with the girl; is that right?

18 A. Yes, sir.

19 Q. At that point, did you notice anything
20 unusual about her clothing?

21 A. Yes, sir, I did.

22 Q. What was that?

23 A. Well, as I looked over to see what
24 exactly the wounds were and see if she had any
25 additional injuries, I noticed her shorts were on

1 her hips. They were pulled down from the normal
2 position which someone would have their shorts to
3 down on the hips. Her underclothes also had been
4 pulled down and this exposed roughly two-thirds of
5 her pubic area.

6 Q. When you turned the young lady over, did
7 she say anything immediately to you?

8 A. Not initially, no, sir.

9 Q. Did you say something to her?

10 A. Yes, sir.

11 Q. What did you say to her?

12 A. I asked her, after discovering the
13 condition of her clothes, "What happened?"

14 Q. What did she say?

15 MR. McCULLOUGH: Again, Your Honor, we
16 object to this conversation as being hearsay.

17 THE COURT: The Court's going to
18 overrule this but instruct the jury. Members of
19 the jury, as you hear this, do not consider what
20 was said for the truth of it therein but merely
21 that the comments were made to this officer and
22 led him to do whatever it was he did in the
23 context of the situation.

24 What I'm saying is this: Whatever was
25 said to him, do not consider that the truth but

1 merely listen to it and let it aid you, if it does,
2 in showing you what this officer heard and what he
3 did as a result of that conversation.

4 You may proceed, Mr. Noll.

5 MR. NOLL: Thank you, Your Honor.

6 BY MR. NOLL:

7 Q. Do you remember what she said to you in
8 response to your question?

9 A. Yes, sir, I asked her, "What happened?"

10 She replied, "He tried to rape me."

11 Q. What did you say to her then?

12 A. I asked her, "Who tried to rape you?"

13 She stated, "Preston."

14 Q. Did she say anything else to you?

15 A. Yes, sir.

16 Q. What was that?

17 A. I asked her other questions. I asked
18 her if she knew Preston. She stated to me, "Yes."
19 I asked her if she knew Preston's last name.

20 Q. Did she gave you a last name?

21 A. She stated something but --

22 MR. McCULLOUGH: Excuse me. For the
23 record, I think it was understood that my
24 objection went to the whole conversation between
25 this officer and the girl.

1 THE COURT: Let the record reflect that
2 Mr. McCullough has objected to all the
3 conversation between the victim and Officer
4 Hamilton.

5 You may proceed, Mr. Noll.

6 BY MR. NOLL:

7 Q. I'm sorry. And she said something to
8 you about his last name?

9 A. Yes, sir, she stated something. I could
10 not understand it. It was more of a mumble.

11 Q. As you talked with her, did her voice
12 become weaker and weaker?

13 A. Yes, sir, as time passed, it did become
14 weaker, almost to a whisper towards then.

15 Q. Did you have to bend down to hear her
16 talk?

17 A. Yes, sir, I did.

18 Q. Was she able to identify the young boy
19 that you found on the path?

20 A. Yes, sir, she did. She told me it was
21 her cousin.

22 Q. Okay. Was she ever able to give you the
23 last name of the person who had assaulted her?

24 A. No, sir.

25 Q. Did she speak anymore after that?

1 A. Yes, sir. She kept stating, towards the
2 end, her cousin, her cousin, "Find my cousin."

3 Q. And that was the young boy?

4 A. Yes, sir.

5 Q. Was she removed from that area fairly
6 rapidly that evening?

7 A. Yes, sir.

8 Q. Why was that done?

9 A. Well, once the paramedics arrived, they
10 started an IV in her situation at that point in
11 resuscitation. At that point after their arrival,
12 she began to deteriorate rapidly. We had Life
13 Flight there at the scene but I believe they were
14 dispatched from Galveston that night and they were
15 still roughly five minutes off. The paramedics
16 made a decision to take her to the nearest
17 hospital they could find.

18 MR. NOLL: May I approach the witness,
19 Your Honor?

20 (State's Exhibit No. Nos. 10,
21 11 and 12 were marked for identification.)

22 BY MR. NOLL:

23 Q. Sergeant Hamilton, let me show you
24 what's been marked as State's Exhibit No. 10, 11,
25 and 12. I'm going to ask you if you recognize

1 these items of clothing.

2 A. Yes, sir, these are the shorts and shoes
3 the complainant was wearing the night I saw her.

4 Q. Were the pants in the same condition the
5 night that you found her out there?

6 A. Yes, sir, they were.

7 Q. And the shoes were the same?

8 A. Yes, sir.

9 Q. In the same condition they are today?

10 A. Yes, sir, they were.

11 MR. NOLL: Your Honor, for the record
12 I'm tendering to counsel for the defendant,
13 State's Exhibits No. 10, 11, and 12, and move the
14 same into evidence at this time.

15 MR. McCULLOUGH: May I take the officer
16 on voir dire, Your Honor?

17 THE COURT: You may.

18

19 VOIR DIRE EXAMINATION

20

21 BY MR. McCULLOUGH:

22 Q. Officer, with regard to this pair of
23 shorts that's been marked as State's Exhibit 10,
24 did you make any identifying marks on these --
25 this item of clothing out there that night in the

1 dark?

2 A. No, sir, I didn't.

3 Q. Whatever clothing the girl was wearing
4 when you found her were transported with her to
5 the hospital?

6 A. Yes, sir.

7 Q. She wasn't undressed in the field?

8 A. No, sir.

9 Q. Well, did you go down to the hospital
10 and take the clothing off the body or anything
11 like that?

12 A. One of our crime scene units later went
13 to the hospital.

14 Q. But you did not?

15 A. No, sir, I did not.

16 Q. So, the only thing you know about these
17 shorts is that they're white and maybe
18 approximately the same size as the ones you saw
19 out there in the field?

20 A. Yes, sir, they looked similar to the
21 ones the victim was wearing the night I met her.

22 Q. The same could be said of these shoes?

23 A. Yes, sir.

24 MR. McCULLOUGH: I would object to their
25 admission, Your Honor. That goes to State's

1 Exhibit 10 and 11 and 12.

2 THE COURT: That will be overruled.
3 They will be admitted.

4 MR. NOLL: May I proceed, Your Honor?

5 THE COURT: You may.

6

7 DIRECT EXAMINATION CONTINUED

8

9 BY MR. NOLL:

10 Q. Sergeant Hamilton, at some time during
11 the evening, did some homicide investigators
12 respond to the location where you were?

13 A. Yes, sir, they did.

14 Q. Do you recall who they were?

15 A. Detective Gafford and Bloyd.

16 Q. Okay. Did you relate your findings,
17 especially what the little girl had said to you,
18 concerning the person who had assaulted her?

19 A. Yes, sir, I did.

20 Q. Did you participate any further in the
21 investigation as to who might have done this
22 offense?

23 A. Yes, sir, I did.

24 Q. And what did you do in furtherance of
25 the investigation?

1 A. Well, after securing the scene, I
2 believe it was Detective Gafford obtained a list
3 of the apartment complex's residents that was
4 nearby the offense. He examined the list and I
5 believe he found the name of a Preston Hughes on
6 the apartment list itself, and I later went over
7 to that apartment -- I believe it was Apartment
8 138-A -- to see if anyone lived there and to talk
9 with anyone, if they were there.

10 Q. Is that the Lakehurst apartments?

11 A. Yes, sir, it is.

12 Q. In the field area out there, did you
13 find a path on which you found the young girl and
14 the young boy was a fairly well-worn path?

15 A. Yes, sir, it was.

16 Q. And if I can show you State's Exhibit
17 No. 5, an aerial view of that area, could you --

18 MR. NOLL: I'm going to ask, Your Honor,
19 that he be able to step down so the jury can see.

20 BY MR. NOLL:

21 Q. Step down here a little bit.

22 A. (Witness complies.)

23 Q. If you could take my pen, assume this
24 photograph -- do you recognize the photograph?

25 A. Yes, sir, I do.

1 Q. What is this a photograph of?

2 A. General area of the field that I spoke
3 of -- this is the field that I spoke of earlier.
4 It's going to be South Kirkwood. To the south
5 here is going to be Westheimer.

6 Q. Is this tin roof area the Fuddrucker's
7 store we talked about, the hamburger place?

8 A. Yes, sir, it is.

9 Q. Could you point to the area of where the
10 pathway is where you found the children?

11 A. The trees are going to cover it pretty
12 much, but going to be an area from the rear
13 parking lot of the Fuddrucker's that led in the
14 area, this field here to this wooden fence where
15 there was some planks missing and you could enter
16 either apartment complex from this field.

17 Q. Do you know whether or not people use
18 this pathway from the Lakehurst apartments here on
19 this side to walk through that pathway?

20 A. Yes, sir, from the condition of the
21 trail itself, you know, you could see the grass
22 over here. But the trails were just mud from
23 people that trampled it fairly heavy.

24 Q. Well worn. Was there any evidence this
25 fence had been recently repaired or had there been

1 boards knocked down?

2 A. Yes, sir, there were several planks
3 missing where people simply stoop down and walk
4 through the fences.

5 Q. Did you personally later that evening
6 accompany Sergeants Gafford and Bloyd to the
7 residence of the defendant, Preston Hughes, III?

8 A. Yes, sir, I did.

9 Q. On this particular picture can you see
10 the location of Preston Hughes' apartment or can
11 you tell?

12 A. I'm really not familiar with the layout
13 of the apartment complex out there to be for sure.

14 Q. The distance that would be from, say,
15 this corner where the entrance to the pathway is
16 to, say, this building where the red truck is
17 parked on the photograph in the front, how far is
18 that? Can you guesstimate?

19 A. I'm not too good at distances. I'd say
20 200, 300 feet.

21 Q. Could you throw a baseball that far?

22 A. Yes.

23 Q. Thank you. Have a seat.

24 A. (Witness complies.)

25 Q. Once you got to Mr. Hughes' apartment

1 that evening, did you actually go up to the
2 apartment or did you stay on the ground?

3 A. I accompanied Detective Gafford and
4 Bloyd up to the apartment.

5 Q. Remember to keep your voice up so
6 everybody can hear. The apartment that Preston
7 Hughes, III, lived in, do you recall if it was a
8 first floor unit or second floor unit?

9 A. It was a second floor unit.

10 Q. How does one get up to that second floor
11 unit? Is there a metal landing or concrete steps?

12 A. There was metal stairs, maybe 15, 20
13 stairs up to the second floor balcony where his
14 apartment was.

15 Q. Is there another apartment directly
16 across on the second floor from Mr. Hughes'
17 apartment?

18 A. Yes, sir, there was.

19 Q. Do you recall about what time it was
20 when you finally got to Mr. Hughes' apartment that
21 evening?

22 A. I would say it was after 12:00, maybe
23 12:30.

24 Q. In the early morning hours?

25 A. Very early morning, yes, sir.

1 Q. Who was, at this point, the primary
2 officer investigating the offense?

3 A. It was the homicide sergeants, Bloyd and
4 Gafford.

5 Q. And do you recall who it was who
6 actually knocked on the door?

7 A. Detective Gafford.

8 Q. Okay. What happened after detective
9 Gafford knocked on the door?

10 A. Well, he knocked, like I say, maybe five
11 minutes, and there was no answer at the door; and
12 he contacted one of the security guards for the
13 complex to see if they could go back to the office
14 and see if there's a phone to the apartments so
15 they could call, see if someone would answer.
16 That turned out -- I believe it turned out they
17 had no phone in the apartment and we knocked a
18 couple more times and he knocked a couple more
19 times. As we were about to walk down the stairs,
20 the door opened suddenly.

21 Q. You said "we." Are you referring to
22 yourself --

23 A. Myself, Sergeant Gafford and Bloyd.

24 Q. Sergeant Bloyd?

25 A. Bloyd, yes, sir.

1 Q. What happened after the door suddenly
2 opened?

3 A. Sergeant Gafford asked the person that
4 answered the door what his name was.

5 Q. Okay. Without -- remember you're not
6 supposed to say what other people say except the
7 defendant. We'll try to work around that, if you
8 can. After the door was opened, did the defendant
9 identify himself as Preston Hughes, III?

10 A. Yes, sir, he did.

11 Q. Do you see that person in the courtroom
12 today?

13 A. Yes, sir, I do.

14 Q. Would you point to him and describe how
15 he's dressed?

16 A. He's a black male sitting between the
17 two white males, has on a blue blazer, purple tie,
18 whitish colored shirt.

19 MR. NOLL: Your Honor, may the record
20 reflect the witness has pointed to and identified
21 the defendant, Preston Hughes, III?

22 THE COURT: Record will so reflect.

23 BY MR. NOLL:

24 Q. How was Mr. Hughes dressed that evening,
25 if you recall.

1 A. He had on a pair of red boxer-type
2 shorts.
3 Q. Did he say anything after he opened the
4 door besides his name?
5 A. No, sir.
6 Q. Okay. Did you actually enter his
7 apartment?
8 A. Yes, sir, he invited us in.
9 Q. Who all entered his apartment?
10 A. Myself, Gafford and Bloyd.
11 Q. Once inside the apartment, did you have
12 any conversations with the defendant, Preston
13 Hughes, III?
14 A. No, sir, I didn't.
15 Q. Did Sergeant Bloyd?
16 A. Yes, sir, he did.
17 Q. Okay. Did Sergeant Gafford?
18 A. He was standing next to Sergeant Bloyd.
19 Q. Okay. At some point, did Gafford or
20 Bloyd ask the defendant to accompany them downtown
21 to answer questions concerning this case?
22 A. Yes, sir, they did.
23 Q. Did the defendant agree to go downtown?
24 A. Yes, sir, he did.
25 Q. Did anyone place him under arrest at

1 that point?

2 A. No, sir, he was not under arrest.

3 Q. Did he indicate a voluntariness or
4 willingness to go downtown?

5 A. Yes, sir, he did.

6 Q. Prior to his going downtown, was he
7 given the opportunity to change his clothing?

8 A. Yes, sir, he was.

9 Q. Did he do that?

10 A. Yes, sir, he did.

11 Q. Where did he change his clothes?

12 A. In his bedroom.

13 Q. Did you accompany him into his bedroom?

14 A. Yes, sir, I did.

15 Q. Why do you do that?

16 A. Primarily for our safety. As our rule,
17 when we respond to any call, when a person starts
18 walking around, we normally will ask them to stay
19 in the room with us. If they proceed to another
20 room, we'll accompany them, primarily for our
21 safety.

22 Q. Okay. Did you search his apartment at
23 that point?

24 A. No, sir, I didn't.

25 Q. Did Sergeants Bloyd or Gafford search

1 his apartment?

2 A. No, sir.

3 Q. Could you describe the apartment to the
4 members of the jury? Is it large or small?

5 A. It's an average, one bedroom apartment,
6 had a moderate size living room, small bathroom,
7 medium size bedroom, with a hallway between the
8 bedroom and kitchen and living room.

9 Q. Sergeant Hamilton, at some point did the
10 defendant change his clothes into other attire?

11 A. Yes, sir, he did.

12 Q. What happened after he changed his
13 clothes?

14 A. Well, we all left the apartment; and one
15 of our units transported the defendant downtown.

16 Q. Was the apartment locked as you left it?

17 A. Yes, sir. We were first to leave.
18 Defendant locked it, yes, sir.

19 Q. When you say "we," you mean Sergeants
20 Bloyd and Gafford?

21 A. Myself, Bloyd, and Gafford, yes, sir.

22 Q. Who had the key to the apartment?

23 A. The defendant.

24 Q. Did he lock the door himself?

25 A. Yes, sir, he did.

1 Q. While y'all were in the apartment, were
2 there other officers who remained downstairs in
3 the area of the apartment?

4 A. Yes, sir. They were on the ground in
5 the courtyard.

6 Q. And who were those officers?

7 A. It was a security officer. I'm not sure
8 what his name was. And Officer Vicente and, I
9 believe, an Officer Dobbins.

10 Q. What happened after y'all left the
11 defendant's apartment?

12 A. I proceeded downtown to prepare my
13 supplement to the report. Officer Vicente
14 transported, as I said earlier, the defendant
15 downtown. The other units returned to service to
16 additional calls.

17 Q. When you say "downtown," you're
18 referring to the police building at 61 Riesner?

19 A. Yes, sir.

20 Q. Do you know if Sergeants Gafford and
21 Bloyd remained at the scene, or did they go
22 downtown also?

23 A. I'm not sure what they did after they
24 left the scene.

25 Q. Did you become involved any further in

1 the investigation of this offense after you
2 completed a report on what you had done in
3 relationship to the defendant?

4 A. No, sir, I turned in my report at the
5 police station; and I returned to service, also.

6 MR. NOLL: Pass the witness, Your Honor.

7 THE COURT: Mr. McCullough.

8
9 CROSS EXAMINATION

10
11 BY MR. McCULLOUGH:

12 Q. The field behind that Fuddrucker's you
13 referred to does not have any guard lights or
14 anything like that that illuminate it?

15 A. No, sir, there's no lights out there
16 whatsoever.

17 Q. No artificial lighting out there at all?

18 A. No, sir.

19 Q. I'm trying to get a grip on how dark it
20 was out there. Did you have to use flashlights in
21 your having gone out there, or was there enough
22 light to see what you've described without them?

23 A. To see the wounds on the victim, I need
24 my flashlight. As I said, the moon was out that
25 night; and there was enough light for you to walk

1 through the path and to see general things out in
2 the field. You couldn't see anything in detail
3 without additional lighting.

4 Q. Could you make out colors of clothing
5 and stuff like that without the use of a
6 flashlight?

7 A. Not without a flashlight, no, sir.

8 Q. Well, were you dressed like you are now?

9 A. Yes, sir, I was.

10 Q. For the record, that's in a standard
11 Houston Police uniform, sergeant's chevrons, gold
12 badge?

13 A. Yes, sir.

14 Q. So, you obviously looked like a cop on
15 that occasion?

16 A. Yes, sir.

17 Q. Did you introduce yourself to the victim
18 as a police officer?

19 A. Yes, sir.

20 Q. I think you said you turned her over?

21 A. Yes, sir, I did.

22 Q. You touched her, at least to that degree.
23 Well, was there a great deal of blood?

24 A. Yes, sir, there was.

25 Q. Did you get any on you in turning her

1 over and talking to her?

2 A. Well, the majority of her blood was on
3 her head and to the side of her neck. When I
4 rolled her off, her hair was in her face and
5 matted and pretty soaked with blood. Yes, sir, I
6 got some on me in the process of removing the hair
7 out of her face.

8 Q. Did you also go to the place where the
9 little boy was laying?

10 A. Yes, sir, I did.

11 Q. Did you turn him over or make any
12 investigation with regard to that?

13 A. No, sir, I didn't do anything with the
14 little boy.

15 Q. When you went up to the apartment where
16 you say you encountered Mr. Hughes, how did he act?
17 Did he act very nervous or excited?

18 A. No, sir. He was relatively calm.

19 Q. Was he polite?

20 A. Yes, sir.

21 Q. How long -- once again, who all was out
22 there on the -- outside his door? How many of you?

23 A. Myself, Sergeant Gafford, and Bloyd.

24 Q. Was there the manager, security guard or
25 anybody else that trailed along with you?

1 A. Just us three that approached the door.

2 Q. Did y'all all go into the apartment?

3 A. Yes, sir, once he invited us in.

4 Q. Well, did you see any blood, knives or
5 spears or clothing or anything while you were in
6 the apartment?

7 A. I really didn't look around. I was
8 basically just listening to the conversation.

9 Q. Now, officer, how long have you been a
10 police officer?

11 A. Six and a half years.

12 Q. And you just come from a field where two
13 children had been killed with a knife or spear or
14 sword or something that -- been stabbed or cut in
15 some manner?

16 A. Yes, sir.

17 Q. You are now at the apartment of someone
18 who might turn out to be a suspect, right?

19 A. Yes, sir.

20 Q. And you go inside the apartment.

21 A. Yes, sir.

22 Q. And you don't look around for any
23 instrument that might have caused that death, even
24 casually?

25 A. No, sir.

1 Q. Well, that wouldn't seem like very good
2 police work.

3 A. Well, I had no right to search, look
4 around in his apartment.

5 Q. But your eyes can't help seeing what
6 they see if you're in the apartment, can they?

7 A. During the entire time that we were
8 there, Mr. Hughes and Sergeant Gafford and Bloyd
9 were in the living room, I stood right behind them
10 in the hallway. The apartment was dark; and if I
11 wanted to look around, I couldn't see anything
12 anyway.

13 Q. It was dark in the apartment? Anybody
14 turn on any lights?

15 A. When he went to get dressed, yes, sir,
16 he turned on a light.

17 Q. Y'all went through -- what would it be,
18 the living area, living room and into a bedroom?
19 Did you go through any other rooms to get in there?

20 A. It's just a hallway.

21 Q. And you're telling me that the living
22 room area where y'all were talking was in darkness
23 the whole time you were there?

24 A. There's a hallway outside the door, the
25 breezeway, whatever you would describe that as,

1 has a light. The door was open the entire time.
2 We stepped right out of the breezeway to the
3 entrance of the living room. We were all standing
4 there pretty much together.

5 Q. Was the bedroom dark when you went in
6 there? Did he have to turn on the light to change
7 clothes?

8 A. Yes, sir, he turned on the light.

9 Q. Did all three of you go into the bedroom
10 with him or just you?

11 A. No, I followed him in there.

12 Q. The other two detectives stayed in the
13 front room?

14 A. Yes, sir.

15 Q. In the dark?

16 A. Yes, sir.

17 Q. Was the TV or stereo or radio or
18 anything on?

19 A. I don't recall.

20 Q. Was there anything else in the apartment?

21 A. No, sir.

22 Q. Did anybody go check all the rest of the
23 rooms to make sure nobody else was there?

24 A. No, sir.

25 Q. Well, you're telling us that you went

1 with Mr. Hughes to change clothes for your own
2 safety, that means you don't want to be having
3 someone go in another room and not knowing what
4 they're doing when you're investigating?

5 A. Yes, sir.

6 Q. Wouldn't it make sense you would want to
7 go in another room and make sure nobody else was
8 in there with a gun or bazooka or something?

9 A. I don't understand what you're saying.

10 Q. If you were protecting yourself by going
11 with Mr. Hughes to change clothes, wouldn't it
12 make sense to check the other rooms to make sure
13 nobody else was there just as dangerous?

14 A. Like I said, when the other sergeants
15 interviewed the defendant, they asked him if
16 anyone else was there. He indicated no one else
17 was there. It was quiet, and I had no reason to
18 believe anyone else was there at the time.

19 Q. Don't get me wrong, officer. Nobody
20 here believes you did anything outside of what a
21 good police officer would do. It seems like you
22 would have taken a look around the rest of the
23 house while you were there. But you say you
24 didn't.

25 A. No, sir, I didn't.

3 Q. So, Mr. Hughes was incorrect, and
4 whoever else might have been there would have been
5 quiet, y'all wouldn't have known it, that they
6 were there?

7 A. No, sir. As I said, when he went to
8 change -- this is a relatively small apartment.
9 As we walked down the hallway, you could look in
10 the bathroom, see there was no one there. As I
11 watched him get dressed, I could see around the
12 bedroom, and there was clearly no one there.

13 Q. But you didn't go into the kitchen area
14 or dining area?

15 A. No, sir. You would have to see the
16 configuration of the apartment to understand it.
17 When you walk right in, you could see straight to
18 the end of the kitchen. Directly off to your left,
19 you can see the living room. There's a hallway
20 and there's a bathroom right off the hallway and
21 at the end is a bedroom. It would be impossible.

22 Q. As a matter of fact, you did at least
23 have a look around the entire apartment in the
24 manner you just described?

25 A. Yes, sir.

1 Q. Were you present when Mr. Hughes was
2 placed in the patrol car?

3 A. Yes, sir, I was.

4 Q. That's a standard blue and white Houston
5 Police Department patrol car?

6 A. Yes, sir, standard patrol vehicle.

7 Q. Got the wire --

8 A. Plastic safety glass, headlights,
9 overhead lights, yes, sir.

10 Q. Separating the front seat from the back?

11 A. Yes, sir.

12 Q. Doesn't have any door handles on the
13 inside of the back doors?

14 A. No, sir.

15 Q. So, once you're put in there, you can
16 only get out if somebody on the outside opens the
17 door and lets you out?

18 A. Yes, sir, that's correct.

19 Q. How many officers were in that patrol
20 car?

21 A. Officer Vicente was the only officer.

22 Q. Well, did you take -- did you see
23 anything interesting in the apartment? Anything
24 catch your eye?

25 A. No, sir.

1 Q. Did you take anything from the apartment?
2 A. No, sir.
3 Q. Any pieces of paper, anything like that?
4 A. No, sir.
5 Q. Did any of the other officers?
6 A. No, sir.
7 MR. McCULLOUGH: Pass the witness.
8 THE COURT: Mr. Noll?
9 MR. NOLL: Nothing further, Your Honor.
10 THE COURT: May this officer be excused?
11 MR. NOLL: Ask he remain out in the hall,
12 Your Honor.
13 THE COURT: Call your next.
14 MR. NOLL: Sergeant Dennis Gafford, Your
15 Honor.
16 (Witness sworn.)
17 THE COURT: You may proceed, Mr. Noll.
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