

1 WORD LIST

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3 For the People: Ms. Flores

4 The Witness: Sergeant Rhoades

5 The Court:

6 For the Defendant: Ms. Chaplin

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9 Sergeant Craig

10 Walter Clark

11 Mr. Guzman

12 Officer Martinez

13 Miranda

14 Sergeant Rhoades

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16 BEGIN TRANSCRIPTION WITH:

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18 By Ms. Chaplin: Q. You do not believe it causes fear?

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1 WARM UP

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3 THE COURT: Is there an objection to the pending question?

4 MS. FLORES: Yes, I do have an objection.

5 THE COURT: All right. Well, then state your grounds for the record,
6 please. /

7 MS. FLORES: Objection. That's vague as phrased.

8 MS. CHAPLIN: I will withdraw it.

9 THE COURT: All right. Thank you.

10 BY MS. CHAPLIN: Q. Have you received any kind of training or
11 education as to using / the language that Sergeant Craig used when he spoke to
12 Mr. Guzman regarding the waiver?

13 MS. FLORES: Objection. That's been asked and answered.

14 MS. CHAPLIN: I thought it was / withdrawn.

15 MS. FLORES: It was asked in a different way.

16 THE COURT: Do you understand the question, Investigator?

17 THE WITNESS: I'm not sure.

18 THE COURT: It is a bit vague. I know where / you are going,
19 Ms. Chaplin. I am not quite sure the witness does, although that's not the stated
20 grounds.

21 Sustained. Let's try again.

22 MS. FLORES: Thank you. /

23 BY MS. CHAPLIN: Q. The particular phrase that was used in this
24 case, the question "Do you have a problem talking to us," have you or your
25 partner ever / received any training regarding the use of that phrase in
26 questioning a suspect?

27 A. No, ma'am.

28 Q. And you didn't know ahead of time that's the terminology / that your

1 partner was going to use; is that correct?

2 A. I did not.

3 Q. All right. Now, after Sergeant Craig asked the defendant that
4 question along / those lines, both you and your partner spoke to the defendant
5 for about another ten minutes before asking any questions regarding the assaults
6 you were / investigating; is that correct?

7 A. I do not know.

8 Q. You don't know?

9 A. I don't recall.

10 Q. You don't know how long it was?

11 A. No, I don't know / how long it was.

12 Q. You do recall you asked a number of other questions not specifically
13 relating to the robbery and assault charges; right?

14 A. Do / you mean after Miranda?

15 Q. After you read him his rights, yes.

16 A. Yes, I could have.

17 Q. Okay. And did you discuss with your partner the purpose / of your
18 asking those questions rather than asking about just the crimes that you were
19 investigating?

20 A. I don't think that's what we did.

21 Q. Isn't it / true that you do that to sort of ease into the subject matter that
22 you are really interested in?

23 MS. FLORES: It's irrelevant as to the Miranda / issue.

24 MS. CHAPLIN: It goes to voluntariness, your Honor.

25 THE COURT: Overruled.

26 THE WITNESS: After Miranda, I try to establish a rapport with the man.

27 BY MS. CHAPLIN: Q. All right. You were there in / the room with
28 Sergeant Craig and Mr. Guzman for about two hours before you left; is that right?

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A. Yes, I think.

Q. Then, someone else came / in. I think Officer Martinez came in;
correct?

A. I believe so, yes, ma'am.

STOP

1 BEGIN EXAM

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3 THE COURT: Defendant and counsel are present. Let's continue with
4 your examination at this time.

5 BY MS. CHAPLIN: Q. During the time that you were present, there
6 were many instances in / which either yourself or your partner interrupted
7 Mr. Guzman and told him not to talk.

8 A. I don't recall that.

9 Q. You told him to just listen; / true?

10 A. That could be possible.

11 Q. There were, in fact, a number of times where Sergeant Craig raised
12 his voice in order to speak over Mr. / Guzman's voice; correct?

13 A. That is possible.

14 Q. And, isn't it true that you have been trained to do that, to use that
15 technique in order to / maintain control of the interview?

16 MS. FLORES: Objection. Vague as phrased.

17 THE COURT: Overruled. You may answer.

18 THE WITNESS: Not to my recollection. No training on that specific issue.

19 BY MS. CHAPLIN: Q. Isn't it / true that you have been trained to cut
20 off the suspect's denials to allow you to continue to talk to him about the -- well,
21 I / am sorry.

22 Isn't it true that you have been trained to cut off the denials of the
23 person being questioned?

24 A. I believe I have read / some bulletins about that as a technique.

25 Q. Okay. What is that process designed to do? In other words, what's
26 the purpose of that technique as / far as your training?

27 A. To try to get at the truth.

28 Q. Well, you say that you were trained?

1 A. Correct.

2 Q. You have received some training or / you have read materials about
3 cutting off the suspect when he begins to deny the charges; right?

4 A. I believe I have seen some articles or / read some information about
5 that as a technique.

6 Q. Okay. That process, as far as what you have read, that is for the
7 purpose of ensuring / that the suspect doesn't stop the conversation by asking for
8 an attorney or wanting to stop talking; right?

9 MS. FLORES: Objection. That's vague as phrased.

10 THE COURT: Overruled. You / may answer if you understand the
11 question.

12 THE WITNESS: I could not say that as an absolute, no.

13 BY MS. CHAPLIN: Q. Okay. You are aware that it has that
14 consequence; / correct?

15 MS. FLORES: Objection. Lacks foundation and speculation.

16 THE COURT: Sustained.

17 BY MS. CHAPLIN: Q. Well, isn't it also true that when you are talking
18 to the person being detained, you are trained / to take the position that the
19 question of guilt is not at issue.

20 A. No, that's not correct.

21 Q. You tell them you are there to find / out why something happened?

22 A. Yes, it is to try to obtain the complete truth. That's part of an interview
23 is to try to find out / what happened.

24 Q. Well, isn't it accurate to say that your partner kept telling Mr. Guzman
25 you had verified he was guilty and all you wanted / to determine was why it
26 happened?

27 A. That's partially correct. Why something happens is an extremely
28 important aspect of the interview.

1 Q. In fact, it was repeated / to my client that the topic of whether or not
2 he actually did the crime was not at issue; right?

3 A. I don't know.

4 Q. If you / are looking to find out the truth, why are you trained to keep
5 insisting that the issue of whether or not someone did the crime / is no longer at
6 issue?

7 MS. FLORES: Objection. That's argumentative.

8 THE COURT: Overruled. You may answer.

9 THE WITNESS: Can you repeat the question, please?

10 BY MS. CHAPLIN: Q. Sure.

11 If you say that your intent / is to obtain the complete truth, why
12 are you then trained to insist that the issue of whether or not he committed the
13 offense is / not in question?

14 A. Again, as a method to try to get at the truth.

15 Q. Okay. Well, isn't it accurate that it is actually a way / to cause fear in
16 the suspect and to make him feel hopeless?

17 A. Absolutely not.

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1 BEGIN TYPING

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3 BY MS. CHAPLIN: Q. You do not believe it causes fear?

4 A. No, ma'am, I don't. /

5 Q. In your experience, when two officers confront a suspect who has
6 been arrested and they are telling him they know he did it, don't you / believe that
7 has the effect of making the suspect feel like it's hopeless?

8 A. No, I personally don't believe that happens.

9 MS. FLORES: Object. Lack of foundation. It / calls for speculation, and
10 it is irrelevant as to what this witness believes.

11 THE COURT: Overruled. You may answer the question.

12 THE WITNESS: I do not.

13 BY MS. CHAPLIN: Q. And yet, you / don't know why you have been
14 trained to use that method; is that correct?

15 MS. FLORES: I am going to object. That's been asked and answered
16 as / to why the officer was trained.

17 THE COURT: Very well. Sustained.

18 BY MS. CHAPLIN: Q. You were also present when Sergeant Craig
19 spoke at length to Mr. Guzman regarding his own / life and how he, Sergeant
20 Craig, said he could try to understand what my client was going through?

21 A. I believe so, yes, indeed.

22 Q. Well, that's / an approach that you have been trained to use; isn't that
23 right?

24 A. I can't say any specific training has instructed me to use that method
25 / other than my personal experience. I have observed that some fellow officers
26 do that.

27 Q. Well, I reviewed the transcript, and I noticed that you did / not use it.
28 Actually, your partner was conducting the interrogation there; is that correct?

1 A. It is almost impossible to answer the question unless I know / exactly
2 where in the transcript you are talking about.

3 Q. All right. Well, isn't it true that you have been trained to use the
4 techniques that / we have discussed in order to get someone who is reluctant to
5 speak to confess to all the crimes?

6 A. Well, the goal in the interview / is always to try to get at the truth and
7 have the defendant talk to provide us with information as to his knowledge of the
8 / events being investigated.

9 Q. And you use these techniques as a method or a way to get the
10 suspects who don't want to talk to confess / to you; right?

11 A. Yes, we encourage communication with the suspect.

12 Q. That process has been used before; right?

13 A. Yes.

14 Q. The reason your department uses that is / you have found in the past
15 that it has worked in getting reluctant suspects to speak to you; right?

16 MS. FLORES: I object. That's compound. I feel / it lacks foundation.

17 THE COURT: All right. Sustained.

18 BY MS. CHAPLIN: Q. Have you ever personally used the approach
19 of telling a suspect that you have your own life history similar / to what you believe
20 they were going through that enables you to understand why they did something
21 that you believe they did?

22 A. Over the course / of many years, I am positive that there have been
23 cases where I may have utilized that method.

24 Q. Okay. Apparently, the reason you did that / is because you thought
25 that approach would help you personally connect with the suspect being
26 interviewed; correct?

27 A. Yes.

28 Q. That approach would help the person being / questioned feel closer

1 to you, feel like you were his friend, and he would open up and talk; right?

2 A. To be more willing to testify. / Not testify, but be more willing to
3 provide truthful information.

4 Q. Now, sir, even though you say you are looking for truthful information,
5 it is also / the same approach you use to make sure that you cut off the suspect
6 denying the charge; right?

7 A. Repeat the question, please.

8 Q. Sure. The same / technique that you use in getting close to the
9 suspect is used to stop them from denying their involvement in the crime; right?

10 A. Perhaps in / part, yes.

11 Q. And is that something that you have actually received training or
12 education on, or is that just something that you developed on your / own?

13 MS. FLORES: Objection. That's vague as phrased. We have gone over
14 this already.

15 THE COURT: Overruled.

16 BY MS. CHAPLIN: Q. You may answer my question.

17 A. Can you repeat that question again?

18 MS. CHAPLIN: Your / Honor, could I ask the reporter to read that back?

19 THE COURT: Yes.

20 THE WITNESS: I believe I have read several articles and have reviewed
21 some training in the / past on that approach.

22 BY MS. CHAPLIN: Q. Eventually, there was a time that your partner
23 told Mr. Guzman that he would not be spending the rest of his / life in prison for
24 these offenses. Were you present when he said that?

25 MS. FLORES: Objection. That misstates the evidence.

26 THE COURT: Sustained.

27 BY MS. CHAPLIN: Q. Were you present in the room / at any time
28 when you heard Sergeant Craig telling my client something about whether or not

1 he would be spending the rest of his life / in prison?

2 A. I don't think he said that.

3 Q. Were you present in the interview room when Sergeant Craig brought
4 up the topic of Mr. Guzman / having to go to protective custody?

5 A. I don't recall any conversations about that.

6 Q. But, you were present when he told the defendant several times that
7 / he had been identified by many people; isn't that correct?

8 A. I believe that he was told that some of the victims picked him out.

9 Q. At / the time your partner made these statements to my client, you
10 were aware of the fact that no such identifications had yet been made; isn't / that
11 correct?

12 A. I believe so.

13 Q. And so telling someone who is being detained and is refusing to
14 confess to you, telling that person that you / have evidence against him when you
15 actually don't, is that part of your interview procedure?

16 A. It is something that has been used and can sometimes / be included
17 in the interview.

18 Q. In this case, you weren't the person who made these statements; is
19 that correct?

20 A. I believe so.

21 MS. CHAPLIN: Thank you. Nothing / further.

22 THE COURT: Do you have any redirect?

23 MS. FLORES: Yes, very briefly. Thank you, your Honor.

24 REDIRECT EXAMINATION

25 BY MS. FLORES: Q. Just so we are perfectly clear, Sergeant
26 Rhoades, after you had completed / your Miranda statement, your partner jumped
27 in and inquired of the defendant if he had any problem talking with you. Do you
28 recall that?

1 A. Yes, / ma'am.

2 Q. And then, after that, that's when the conversation with the defendant
3 began; is that correct?

4 A. Yes, ma'am.

5 Q. Now, in terms of this interview that / you had with the defendant, I
6 think we talked on direct and you said it was about five or six minutes from the
7 time you / first started questioning him and when you advised him of his rights.
8 Do you remember that?

9 A. Yes, ma'am.

10 Q. Then on cross-examination you testified that it / could have been ten
11 minutes; correct?

12 A. Yes, ma'am.

13 Q. Would you have recorded that time somewhere in a police report?

14 A. I possibly could have, yes.

15 Q. If / I showed you the police report, would that refresh your
16 recollection?

17 A. It would.

18 MS. FLORES: If I may please approach the witness, your Honor.

19 THE COURT: Yes.

20 MS. CHAPLIN: What page / of discovery is it?

21 MS. FLORES: I am sorry. This is not numbered.

22 MS. CHAPLIN: Oh, it is not. Okay.

23 THE COURT: We can mark it as an exhibit if there / is going to be any
24 problem with it.

25 BY MS. FLORES: Q. If you will briefly read that to yourself, please.

26 A. No problem.

27 Q. Does that refresh your memory regarding / how long the interview
28 took place before you advised him of his rights?

1 A. Yes.

2 Q. That was about how long?

3 A. Approximately six minutes.

4 Q. Now, you testified / on cross-examination, and I believe you said you
5 responded to the scene where the defendant was under arrest; is that correct?

6 A. Yes, ma'am.

7 Q. Okay. And / was he in a patrol car when you arrived to the scene?

8 A. I believe so, yes, ma'am.

9 Q. When he was arrested, do you know if / he was in his car or if he was
10 at home, anything like that?

11 A. The information I received was that he was detained in his / vehicle.

12 Q. Now, were you told at any time from where he was coming?

13 A. That would be from his residence.

14 Q. Prior to interviewing the defendant, had / you done some investigation
15 on this case?

16 A. I did.

17 Q. Now, specifically, did you obtain some information regarding a cellular
18 phone that was taken from one / of the victims in this case?

19 A. Yes, ma'am.

20 Q. And did you go through a search warrant in order to obtain these cell
21 phone records, that / type of thing?

22 A. Yes.

23 Q. Now, subsequent to having obtained the various cell phone records,
24 did you contact a particular individual by the name of Walter / Clark?

25 A. Yes, ma'am.

26 Q. And do you recollect whether or not this cell phone was in his
27 possession?

28 A. Yes, I do know. It was in his / possession.

1 Q. Did you speak with Mr. Clark?

2 A. Yes, ma'am.

3 Q. Did he tell you where he got the cell phone?

4 Well, let me rephrase the question. / After this discussion with
5 Mr. Clark, did you start to focus your investigation on the defendant?

6 A. Yes, there was some focus on the defendant.

7 Q. Did / you ever show a photograph of the defendant to Mr. Clark?

8 A. That was the other detective in that room.

9 MS. CHAPLIN: Objection. Motion to strike. No foundation. /

10 THE COURT: Sustained. It is stricken.

11 BY MS. FLORES: Q. Were you in the room with the defendant --
12 pardon me, with Mr. Clark when a picture of the defendant was shown / to
13 Mr. Clark?

14 A. Yes.

15 Q. And you saw the picture being shown to Mr. Clark?

16 A. Yes, ma'am. I believe I was present.

17 Q. Now, the person that / was in the picture, is that person here in court
18 today?

19 MS. CHAPLIN: I object. There is no personal knowledge.

20 THE COURT: Sustained. No foundation.

21 BY MS. FLORES: Q. You saw the picture / that was shown to
22 Mr. Clark?

23 A. Yes, ma'am.

24 Q. You took a look at it?

25 A. Yes, ma'am.

26 Q. And the person who's in court today, do you / see that person that
27 was depicted in that photograph on that date?

28 A. Yes, ma'am.

1 Q. And is that the defendant you previously identified?

2 A. Yes, ma'am.

3 Q. And / when speaking to Mr. Clark, did he give you some information
4 indicating that he had received that phone from the defendant?

5 MS. CHAPLIN: Objection. Hearsay.

6 THE COURT: Sustained.

7 BY MS. FLORES: Q. Now, / as to the interview that you had with the
8 defendant, when you were in there talking with Mr. Guzman, did you or Sergeant
9 Craig present / him with some of the evidence that was obtained against him?

10 A. I think so, yes, ma'am.

11 Q. Do you recall what kind of evidence was presented / against him?

12 A. No, I don't.

13 Q. Was there any talk about fingerprints in the case?

14 A. There may have been.

15 Q. Okay. What about a shirt that the / defendant was maybe wearing?
16 Was that discussed at that time?

17 A. Yes, it may have been.

18 Q. What about property that was seized from the defendant's home? /
19 Was that discussed with the defendant?

20 MS. CHAPLIN: Objection as phrased. He has no personal knowledge.

21 THE COURT: Sustained.

22 BY MS. FLORES: Q. Did you receive information that evidence had
23 been seized from / the defendant's home?

24 MS. CHAPLIN: Object. Hearsay.

25 MS. FLORES: This is just for purposes of confronting the defendant.

26 THE COURT: It goes to this man's state of mind. I think it / is relevant,
27 so I will overrule it.

28 MS. CHAPLIN: Is it just for that limited purpose only of state of mind?

1 THE COURT: Yes, that's what it is admitted / for.

2 THE WITNESS: I believe my memory is that the evidence from the
3 defendant's home was obtained at the same time as the interview was.

4 BY MS. FLORES: Q. Now, during / that interview did you talk to him
5 about any of the items that were collected from the defendant's home?

6 A. I do not recall.

7 Q. While you / were in the interview with the defendant that morning, was
8 he given any breaks while you were there?

9 A. Yes, I believe so.

10 Q. Do you recall / how many?

11 A. I do not.

12 Q. Was he given anything to drink, water or anything like that?

13 A. Yes, I believe there was some water.

14 Q. At any / time while Sergeant Craig was conducting the interview, did
15 he use any force against the defendant?

16 MS. CHAPLIN: Objection. As phrased, no foundation unless it is within
17 / his knowledge.

18 MS. FLORES: I will rephrase it. That's fine.

19 THE COURT: All right.

20 BY MS. FLORES: Q. While you were in the interview room with your
21 partner, did he use any force / against the defendant?

22 A. Absolutely not.

23 Q. For example, did he hit him?

24 A. No, ma'am.

25 Q. Did he touch him, aside from removing his handcuffs or anything like
26 / that?

27 A. No.

28 Q. And I mean touching Mr. Guzman in a forceful fashion.

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A. Definitely not.

Q. Do you recall how your partner was dressed?

A. I believe he / was dressed more casual.

Q. Maybe jeans and a shirt, something like that?

A. More casual than a suit.

Q. He made no threats that you could hear / directed to the defendant?

A. No.

MS. FLORES: Your Honor, I have nothing further at this time.

THE COURT: All right. Let's take a recess for about ten minutes, then.