

1 PLAINTIFF: Mark Snider  
2 WITNESS: Margaret Lambert  
3 COURT:  
4 DEFENDANT: Nick Barnes

5  
6 WARM UP

7 THE COURT: Good morning.

8 We are now on the record in the matter of People vs.  
9 Joseph Carter.

10 Your appearances, please.

11 MR. SNIDER: Mark Snider for the People.

12 MR. BARNES: Nick / Barnes from the Public Defender's  
13 Office on behalf of Mr. Carter. He is present in custody.

14 THE COURT: All right. The complaint that I am looking  
15 at / is the one that's dated March 29, 2012. Is that the  
16 same complaint you both have?

17 MR. BARNES: Yes, it is.

18 THE COURT: It appears that the / defendant has been  
19 arraigned on the new complaint.

20 MR. BARNES: That's correct.

21 THE COURT: Any issues we need to deal with before we  
22 start the prelim?

23 MR. SNIDER: No, your Honor. /

24 MR. BARNES: No, your Honor.

25 THE COURT: In that case, Mr. Snider, are the People  
26 ready to proceed, then?

1 MR. SNIDER: Thank you, your Honor.

2 The People call Officer Lambert.

3 THE COURT: Come / right over here, please, ma'am. You  
4 can go up to the witness stand, please.

5 THE WITNESS: Thank you, your Honor.

6 THE COURT: Please state your full name and spell / it  
7 for the record, please.

8 THE WITNESS: Margaret is my first name. Last of  
9 Lambert, L-A-M-B-E-R-T.

10 THE COURT: Good morning.

11 THE WITNESS: Hello, your Honor. /

12 THE COURT: You may proceed.

13 MR. SNIDER: All right, your Honor.

14 THE COURT: Thank you.

15 DIRECT EXAMINATION

16 Q. BY MR. SNIDER: Good morning. Who is your  
17 employer?

18 A. The Santa Ana Police Department.

19 Q. And what is your occupation? \*/

20 A. Police officer.

21 Q. And how long have you been a sworn officer for the  
22 State of California?

23 A. 13 years.

24 Q. Were you working in the evening on / March 21st of  
25 2012, at around 7:46 p.m.?

26 A. Yes.

1 Q. At that time were you patrolling the 1400 block of  
2 North / Bush Street in Santa Ana, in Orange County?

3 A. Yes.

4 Q. Did you encounter a man named Joseph Carter?

5 A. Yes.

6 Q. And what was the nature of the / encounter?

7 A. I was traveling in my police car southbound on  
8 Bush Street in the 1400 block. I saw two male subjects  
9 walking in the / roadway. I started to watch them and saw  
10 both of them walk past a parked vehicle and they were  
11 looking into the vehicle.

12 Q. Could you / describe for me how they were looking  
13 into the vehicle.

14 A. Looking into the windows. Mr. Carter had a  
15 flashlight. They were both just, you know, / checking the  
16 interior of the vehicle.

17 Q. Okay. And what happened when the other individual  
18 turned around?

19 MR. BARNES: Objection. No foundation.

20 THE COURT: Sustained.

21 MR. BARNES: Thank you, your Honor.

22 THE COURT: Okay. /

23 \*\*END OF WARM UP\*\*

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1 EXAM

2 Q. BY MR. SNIDER: Did you observe the two subjects  
3 to look in your direction?

4 A. Yes.

5 Q. What happened then?

6 A. The second male said something to Mr. Carter.

7 They both / crossed the street near the corner where  
8 there is a parking lot for the market. I drove towards  
9 both of them. At that point they / split up.

10 Q. What do you mean by that?

11 A. Mr. Carter ran into the side door of the market  
12 and the other suspect ran in the / opposite direction.

13 Q. Then what happened?

14 A. I ran into the market and was able to locate Mr.  
15 Carter as he was trying to exit the back / door.

16 Q. Did you detain him at that point?

17 A. Yes. I asked him if he was on probation or  
18 parole. He replied he was on parole / for a burglary  
19 conviction.

20 Q. Was the defendant wearing anything that concerned  
21 you?

22 A. Yes, he was. He was wearing a backpack. For my  
23 safety, I removed / it from him so I could search him.

24 Q. Did you conduct a search for weapons at that time?

25 A. Correct.

26 Q. Okay.

1 A. After that I escorted the / defendant to my police  
2 vehicle.

3 Q. Did you get his name at that time?

4 A. Yes. I asked him for his personal information.  
5 Name, date of birth, \*/ address, and so forth.

6 Q. And you mentioned that he had a backpack.  
7 What, if anything, did the backpack contain?

8 A. It contained two car stereos, some / personal  
9 items, and a wallet.

10 Q. What was in the wallet?

11 A. A California I.D. card in the name of the victim  
12 in this incident.

13 Q. So / it was not the defendant's I.D. card?

14 A. Correct.

15 Q. While you were with the defendant at your patrol  
16 vehicle, did a gentleman by the name / of Robert Gomez  
17 approach you?

18 MR. BARNES: Objection. No foundation.

19 THE COURT: Overruled. You may answer.

20 THE WITNESS: Yes, he did.

21 Q. BY MR. SNIDER: Who is that person?

22 A. He is the victim in this / matter.

23 Q. And what, if anything, did he say to you?

24 A. I saw him walking up towards my vehicle and saw  
25 him look into the back / of my police car. He pointed to  
26 Mr. Carter and said that was the guy who tried to rob him.

1 Q. What did the alleged victim / tell you had  
2 happened during this attempted robbery?

3 A. He reported he was walking in the area of Bush and  
4 Main when he was confronted by / two subjects, one being  
5 Mr. Carter. He said the defendant demanded his cell phone  
6 and his wallet.

7 Q. What happened next?

8 A. At that point both defendants \*/ simulated  
9 handguns by putting their right hands into their clothing  
10 and pointing it out towards him. The victim said at that  
11 point he ran away. /

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1 START TYPING

2 Q. BY MR. SNIDER: Did he tell you whether or not he  
3 was afraid?

4 A. Yes. He reported he was afraid for his life  
5 because he truly believed both of / them had handguns.

6 Q. Okay. Did the victim tell you whether or not  
7 either of the men were carrying anything with them at the  
8 time?

9 A. Yes. /

10 Q. What did he indicate?

11 A. I believe he said that Mr. Carter had a backpack  
12 on.

13 Q. Did you show Mr. Gomez the backpack from the  
14 detained / individual, Mr. Carter?

15 A. I did.

16 Q. And did he recognize it?

17 A. Yes. He identified that was the same backpack he  
18 had observed.

19 Q. Did you allow the / victim to see the defendant  
20 in your patrol vehicle?

21 A. Yes.

22 Q. Did he confirm that was the man who tried to rob  
23 him?

24 A. He did.

25 Q. Do / you see that person the victim identified in  
26 the courtroom here?

1 A. Yes.

2 Q. Could you please identify him for the record and  
3 describe an article of / his clothing.

4 A. Sure. He is seated at the defense table and  
5 wearing the orange jumpsuit.

6 MR. SNIDER: May the record reflect that the witness  
7 has identified the / defendant, Mr. Carter?

8 THE COURT: Yes. It will so reflect.

9 MR. SNIDER: Thank you. No further questions.

10 THE COURT: Ms. Barnes.

11 MR. BARNES: Thank you.

12 THE COURT: Proceed.

13 CROSS-EXAMINATION

14 Q. BY MR. BARNES: Did you write a report in this \*/  
15 matter?

16 A. Absolutely.

17 Q. Have you been trained to make your reports  
18 accurate and complete?

19 A. That's correct.

20 Q. Were you trained as to why that is important?

21 A. Yes. / I was trained that it is necessary to put  
22 all the pertinent facts in a report because you might have  
23 to testify on it later. /

24 Q. Did you review your written report prior to  
25 testifying here today?

26 A. Yes, I did.



1 Q. And is it actually before you on the witness  
2 stand?

3 A. Yes, / it is.

4 Q. Is there anything in your report that you would  
5 like to correct or add?

6 A. No.

7 Q. So it is your testimony that your report / is  
8 accurate and complete?

9 A. Yes.

10 Q. When you first saw these two gentlemen on this  
11 particular day, what were you doing?

12 A. I was just driving southbound / on Bush Street in  
13 the 1400 block.

14 Q. Were you driving alone, or were you with another  
15 officer?

16 A. Alone.

17 Q. How fast were you driving?

18 A. Pretty / slowly. I would say 10 to 15 miles an  
19 hour.

20 Q. And what were the traffic conditions?

21 A. Very light.

22 Q. Were you dispatched to another call, or / were  
23 you just cruising the scene?

24 A. Correct. I was patrolling through that area.

25 Q. You said it was about 7:46 p.m. What was the \*/  
26 lighting like at that location?

1 A. It was dark.

2 Q. Was there any overhead lighting?

3 A. Street lights. There was some lighting, but that  
4 neighborhood in that area / is fairly dark and the  
5 lighting isn't that wonderful.

6 Q. Are there many businesses in that area?

7 A. Well, there are some near that location, yes.  
8 But / most of it is residential as far as I can  
9 remember.

10 Q. Do you mean there are porch lights and street  
11 lights or something of that / nature?

12 A. Correct.

13 Q. When you first observed these two individuals,  
14 was there something odd that drew your attention to them?

15 A. Yes.

16 Q. What was that?

17 A. When I / first observed them, they had exited out  
18 of an alley. I know that it is a gang neighborhood.

19 It is a high crime area, and / so I just decided to  
20 watch them. That's when I noticed them look into the  
21 white Honda Civic that was parked there.

22 Q. When you say / it is a high crime area, how do  
23 you know that?

24 A. Because I work the area all the time.

25 Q. Do you have any training and / experience with  
26 respect to gang crimes?

1 MR. SNIDER: Objection. Relevance.

2 THE COURT: Sustained.

3 MR. BARNES: Your Honor, I would ask that the record  
4 be stricken of any testimony regarding it being \*/ a gang  
5 area, then, if she has no foundation to testify to that.

6 THE COURT: Well, you asked and you got an answer.  
7 Pursuing the answer is / what's objected to.

8 It is sustained.

9 Q. BY MR. BARNES: When you first saw the two men,  
10 what was Mr. Carter wearing?

11 A. Dark clothing. I can't recall exactly. I /  
12 would have to look at my report.

13 Q. Would it refresh your recollection?

14 A. Yes.

15 MR. BARNES: With your Honor's permission.

16 THE COURT: Go ahead.

17 THE WITNESS: Okay.

18 Q. BY MR. BARNES: Was your recollection refreshed?

19 A. Yes. /

20 Q. What do you recall that my client was wearing?

21 A. Black and white baseball cap, black and white  
22 sweatshirt, and blue jeans.

23 Q. The second gentleman, what / was he wearing?

24 A. Long sleeve gray T-shirt and blue jeans.

25 Q. Did you notice any tattoos on either individual?

26 A. It looked like Alex Walker had several / tattoos,

1 but I never got close enough to him to tell for sure.

2 Q. What about the height of Mr. Carter? Did you  
3 note that in / your report?

4 A. The only notation is the victim said he was over  
5 six feet tall.

6 Q. And Mr. Walker?

7 A. It is noted he was a little / bit shorter.

8 Q. How far away were you from these two gentlemen  
9 when you first noticed them?

10 A. I was probably 50, 60 feet away.

11 Q. And your \*/ car was moving?

12 A. Yes.

13 Q. So you were driving and watching these two  
14 individuals?

15 A. That's right.

16 Q. You testified you first noticed them look into a  
17 white / Honda; is that correct?

18 A. Yes.

19 Q. How long were you watching them before you  
20 noticed them look into this white Honda?

21 A. A couple seconds.

22 Q. Is there / any other description you can give of  
23 the white Honda other than just a white Honda?

24 A. Just a Honda Civic.

25 Q. Was it older or newer? /

26 MR. SNIDER: Objection. Vague and ambiguous.

1 THE COURT: Sustained.

2 Q. BY MR. BARNES: Did it appear to be a model from  
3 more than ten years ago?

4 A. Yes, it did.

5 Q. Was it parked on / the street?

6 A. Parked along the curb on the east side of the  
7 street.

8 Q. Were there other cars parked around it that you  
9 observed?

10 A. Some in / front of the Honda.

11 Q. Did you see the two individuals look into any  
12 other vehicles?

13 A. No.

14 Q. How far away from the Honda were you when / you  
15 first saw the two gentlemen looking into it?

16 MR. SNIDER: Objection. Asked and answered.

17 THE COURT: Sustained.

18 Q. BY MR. BARNES: Officer, you were in a marked  
19 police vehicle?

20 A. That's correct.

21 Q. You / said you saw Mr. Carter hold up a  
22 flashlight; is that correct?

23 A. That's what it looked like.

24 Q. Did you recognize my client from any previous \*/  
25 encounters?

26 A. I think I have talked to him before, but I am not

1 positive.

2 Q. How close together were the two subjects when  
3 they were looking / into the Honda Civic?

4 A. Not too far. A couple feet.

5 Q. Did you ever find the flashlight?

6 A. No.

7 Q. How long did they peer into the vehicle? /

8 A. Just a couple seconds.

9 Q. After that they just walked away from the  
10 vehicle?

11 A. Correct.

12 Q. And you stayed in your police vehicle, correct?

13 A. Yes.

14 Q. You weren't / parked at this point, you were  
15 actually driving?

16 THE COURT: Mr. Barnes, how does that question relate  
17 to the matters in issue at this prelim? What relevance /  
18 does it have?

19 MR. BARNES: It goes to the officer's recall of what  
20 she observed as well as --

21 THE COURT: This is not discovery. This is not a  
22 deposition. / How does it pertain to the issues in this  
23 preliminary?

24 MR. BARNES: Your Honor, I think it is relevant to  
25 what she testified to on direct.

26 THE COURT: I / disagree. I would urge you to avoid

1 making this a deposition for discovery purposes.

2 MR. BARNES: Thank you, your Honor.

3 THE COURT: Ask your next question.

4 Q. BY MR. BARNES: Now, where did / you detain Mr.  
5 Carter?

6 A. He was trying to go out the back door of the  
7 market, which is right up against Main Street, and that's  
8 \*/ when I detained him.

9 Q. You put handcuffs on Mr. Carter, correct?

10 A. That's correct.

11 Q. You searched my client for weapons?

12 A. First I removed his backpack for / safety  
13 reasons. Then I placed him in handcuffs and asked him if  
14 he was on probation or parole. He told me he was on  
15 parole. /

16 Q. You say for safety reasons. Did you really have  
17 any reason to believe that your safety was in jeopardy at  
18 this point?

19 A. I always consider / that in any stop I make.

20 Q. Anything specific with respect to Mr. Carter?

21 A. No. It is just my practice to remove a backpack  
22 or a / handbag or anything like that from anyone I am  
23 detaining.

24 Q. Why is that?

25 MR. SNIDER: Objection. Asked and answered.

26 THE COURT: Overruled.

1 THE WITNESS: Because I never know what the individual  
2 / is carrying with them.

3 Q. BY MR. BARNES: You questioned him if he was on  
4 parole, and he confirmed he was indeed on parole, correct?

5 A. Yes.

6 Q. You were actually / inside the market at that  
7 point?

8 A. I believe we were.

9 Q. After you removed his backpack, found out he was  
10 on parole, searched him for weapons, / did you then move  
11 him outside?

12 A. Correct. I escorted him out the back door to my  
13 police car.

14 Q. And you put him in the back \*/ of your police  
15 vehicle, correct?

16 A. Yes.

17 Q. About what time was it at this point, if you  
18 remember?

19 A. This was probably about 7:45, 7:50, / something  
20 like that.

21 Q. What was the lighting like at this point?

22 A. It's very dark.

23 Q. Was there any lighting in the parking lot?

24 A. There was lighting / in the parking lot.

25 Q. Now, your police windows, are they tinted at all?

26 A. No.



1 Q. You testified you searched the backpack at that  
2 point; is that / correct?

3 A. That's right.

4 Q. At what point did Mr. Gomez walk up?

5 A. Probably about five minutes later.

6 Q. Five minutes after you first detained my client?

7 A. Correct. /

8 Q. And so Mr. Gomez just happened to be walking up  
9 when you saw him in the parking lot?

10 MR. SNIDER: Objection. Calls for speculation.

11 MR. BARNES: I am sorry. / I will rephrase.

12 THE COURT: Okay.

13 Q. BY MR. BARNES: Did you observe him just walk up  
14 into the parking lot?

15 A. Yes.

16 Q. And was he all by himself?

17 A. He was alone, / yes.

18 Q. Did Mr. Gomez speak English?

19 A. He spoke Spanish.

20 Q. Do you speak Spanish, or are you certified for  
21 another language?

22 A. Yes. I am certified as / a bilingual officer.

23 Q. So Mr. Gomez told you that my client tried to rob  
24 him?

25 A. That's correct.

26 Q. Did Mr. Gomez tell you that there were \*/ two

1 people who attempted to rob him, or was it just one  
2 person?

3 A. He said there were two people.

4 Q. Did he tell you what time / this attempted  
5 robbery occurred?

6 A. Yes. About 7:30.

7 Q. So that would be approximately 15 or 20 minutes  
8 before this exchange you were having with him? /

9 A. That's about right.

10 Q. Did Mr. Gomez tell you whether or not he called  
11 the police?

12 A. He said he did not call the police.

13 Q. Did you / ask him why he didn't call the police?

14 A. That's correct.

15 MR. SNIDER: Objection. Irrelevant.

16 THE COURT: Overruled.

17 Q. BY MR. BARNES: What did he respond to your  
18 question?

19 A. He didn't give me a / reason. He said he saw a  
20 police officer and decided to tell me about what happened.

21 Q. Did he give any description of my client to / you  
22 at that point?

23 A. He simply pointed him out and told me that's the  
24 guy who attempted to rob him.

25 Q. Did you ask Mr. Gomez / about a description of  
26 the two people that he alleges tried to rob him?

1 A. He had already pointed out your client. I did  
2 ask him / about the other suspect since we didn't have him  
3 in custody yet, and that's when I got that description.

4 Q. What did Mr. Gomez describe for \*/ you?

5 MR. SNIDER: Your Honor, I believe we should only be  
6 concerned with this defendant who is present today for  
7 preliminary.

8 THE COURT: Sustained. Let's move on.

9 MR. SNIDER: Thank you. /

10 MR. BARNES: Your Honor, I have nothing further.

11 THE COURT: Mr. Snider.

12 MR. SNIDER: Briefly.

13 REDIRECT EXAMINATION

14 Q. BY MR. SNIDER: Did you ask the victim whether he  
15 was certain that the suspect in the back of / your vehicle  
16 was one of the people who tried to rob him?

17 A. Absolutely.

18 Q. Okay. What was his response?

19 A. That he definitely was.

20 Q. When you showed / him the I.D. card of the other  
21 suspect, did you ask him whether he was certain that was  
22 the other suspect?

23 A. Yes.

24 Q. And what / did he say?

25 A. That it was definitely the other suspect involved  
26 in robbing him.

1 Q. Did you ask him whether or not he would be able /  
2 to identify either of the suspects again if he was  
3 required to identify them at a later time?

4 A. I did.

5 Q. And what did he say? /

6 A. He said that he would.

7 MR. SNIDER: Thank you. Nothing further.

8 THE COURT: Mr. Barnes.

9 MR. BARNES: I have nothing further. Thank you.

10 THE COURT: Looks like we are finished with your  
11 testimony. / You may stand down.

12 THE WITNESS: Thank you, your Honor.

13 THE COURT: Mr. Snider, any further witnesses or  
14 further evidence?

15 MR. SNIDER: No, your Honor. We rest.

16 THE COURT: All right. Thank you. \*/

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22 **\*\*\*EACH EXAM VARIES. THE ACTUAL TEST GIVEN MAY BE**  
23 **SLIGHTLY DIFFERENT\*\*\***  
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