

1 PLANTIFF: Ms. Gilbert

2 WITNESS: Daniel Cross

3 COURT:

4 DEFENDANT: Ms. White

5

6 WARM UP

7

8 THE COURT: Let the record reflect that we are back
9 on the record in People vs. Hilton.

10 MS. GILBERT: Thank you, your Honor. I have one
11 more witness for / today and we are ready to begin with
12 him.

13 THE COURT: All right.

14 MS. WHITE: Your Honor, before we call the next
15 witness, I just wanted to offer a / stipulation that
16 counsel and I have already spoken about.

17 THE COURT: All right. Let's proceed with that at
18 this time.

19 MS. WHITE: The defense stipulates that if the
20 witness / from the crime lab were called, she would
21 testify that the substance in exhibit 10 was tested in
22 the crime lab and was found to / be cocaine.

23 THE COURT: Is there a date that is included in the
24 stipulation?

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1 MS. GILBERT: Yes, your Honor. We stipulate that
2 the test was performed by Robin Perkins / from the
3 crime lab on June 15, 2005.

4 THE COURT: All right. Thank you. Are you also
5 stipulating that the substance is cocaine?

6 MS. GILBERT: Yes, your / Honor. The people so
7 stipulate.

8 MS. WHITE: Defendant stipulates.

9 THE COURT: All right. Thank you.

10 Ladies and gentlemen, when the parties stipulate to
11 evidence, you must accept that as / true and if it had
12 come from the witness stand.

13 Call your next witness.

14 MS. GILBERT: Thank you, your Honor. The people
15 call Daniel Cross.

16 THE COURT: Please step */ forward and be sworn.
17 State your name for the record, please.

18 THE WITNESS: Daniel Cross.

19 THE COURT: Spell your name, please.

20 THE WITNESS: Daniel, D-A-N-I-E-L.
21 Cross, / C-R-O-S-S.

22 THE COURT: Thank you. Let's proceed.

23 DIRECT EXAMINATION

24 BY MS. GILBERT: Detective Cross, tell the jury
25 where you are employed.

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1 A. I am a detective with the Orange / County
2 Sheriff's Department.

3 Q. How long have you been so employed?

4 A. I have been a detective for 23 years.

5 Q. What is your current assignment?

6 A. I am / assigned to the homicide detail at this
7 time.

8 Q. And were you so employed on October 15, 2004?

9 A. Yes, ma'am, I was so assigned. /

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11
12 **END OF WARMUP**

1 EXAM

2 Q. BY MS. GILBERT: Did there come a time that
3 day when you were called out to the scene of an
4 apparent homicide?

5 A. Yes, ma'am.

6 Q. What time were you / dispatched to the scene?

7 A. I received the call at 10:30 p.m. and I
8 arrived to the location at 10:50 p.m.

9 Q. Were / you the first officer to arrive at the
10 scene?

11 A. No, I was the detective called out. But,
12 there were several deputies already at the scene. /

13 MS. GILBERT: Your Honor, I would like to mark this
14 diagram as next in order.

15 THE COURT: That will be marked as exhibit 53.

16 MS. GILBERT: I would like to set / this up so we
17 can mark on it.

18 THE COURT: That's fine. I am not sure if defense
19 counsel will be able to see it at that / angle.

20 MS. WHITE: That's fine, your Honor. I can adjust
21 my chair and be able to see it. Thank you.

22 THE COURT: All right. Is the defendant able to /
23 observe the diagram?

24 MS. WHITE: Yes, your Honor. There is no problem.
25 Thank you.

26 THE COURT: Let's proceed, then.

1 Q. BY MS. GILBERT: Detective, do you recognize
2 this diagram?

3 A. Yes, I do.

4 Q. Would / you please tell the jury what it
5 depicts.

6 A. This is the layout of the apartment where the
7 victim was discovered.

8 Q. And what's the address of */ that location?

9 A. That would be 1624 Westhaven Lane.

10 Q. When you got to that address were you directed
11 to a certain location?

12 A. Yes. Sergeant Brown / met me at the door and
13 led me to the kitchen where the defendant was detained.

14 Q. Did you have a conversation with Sergeant
15 Brown before / going to the kitchen area?

16 A. Yes. He briefed me on the call and told me --

17 MS. WHITE: Objection, your Honor. That would be
18 hearsay.

19 THE COURT: Sustained.

20 Q. BY MS. GILBERT: Without telling / us what
21 Sergeant Brown said to you, were you informed of what
22 had happened at the scene before you arrived?

23 A. Yes. It is standard practice / to be briefed
24 once we arrive so we know what we have and who the
25 players are.

26

1 Q. Were you directed to the kitchen by Sergeant /
2 Brown?

3 A. Yes, I was. He showed me through the living
4 room, and then we --

5 MS. WHITE: Objection. Nonresponsive after "yes."

6 THE COURT: Sustained.

7 Next question, please.

8 Q. BY MS. GILBERT: When you got / in the
9 kitchen, what did you see?

10 A. I entered the room and immediately saw the
11 defendant sitting at the table. He was speaking to
12 Deputy / Swan.

13 Q. Without telling us what they were saying,
14 could you determine if the deputy was questioning the
15 defendant or if it was just a conversation? */

16 A. No, I couldn't hear what they were saying
17 because I was involved in discussion with Sergeant
18 Brown at the time. They were just speaking together. /

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1 START TYPING

2 MS. WHITE: Objection, your Honor. Assumes facts
3 not in evidence.

4 THE COURT: Overruled.

5 Next question, please.

6 Q. BY MS. GILBERT: Did you have a partner with
7 you that evening?

8 A. Yes, ma'am, I did. /

9 Q. Who was your partner?

10 A. That would be Detective Baker.

11 Q. And did you arrive at the scene together?

12 A. No. We ultimately met at the residence.

13 Q. Do / you recall which one of you arrived
14 first?

15 A. I live very close to the location, so I was
16 there in 20 minutes. My partner arrived / there
17 shortly after I arrived.

18 Q. Now, after you had walked the scene with the
19 sergeant, did there come a time when you and your
20 partner / spoke to the defendant?

21 A. We interviewed him briefly at the scene
22 initially, and then at the station.

23 Q. When you say briefly at the scene, what / did
24 that consist of?

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1 A. We introduced ourselves to him and explained
2 to him we would like to discuss with him about what
3 happened that evening. /

4 Q. Did you advise the defendant of his Miranda
5 rights at the scene?

6 A. We did.

7 MS. WHITE: Excuse me, your Honor. If the witness
8 could answer the question / as to his activities and
9 not what his partner officer did, please.

10 THE COURT: All right. Are you objecting for the
11 record?

12 MS. WHITE: Yes, your Honor.

13 THE COURT: State your */ grounds.

14 MS. GILBERT: I can rephrase the question.

15 THE COURT: All right.

16 MS. WHITE: Thank you. I apologize for the
17 interruption.

18 Q. BY MS. GILBERT: Detective, did you personally
19 advise the defendant of his Miranda / rights at the
20 scene?

21 A. I certainly did.

22 Q. Was your partner present when that occurred?

23 A. Yes. We were all in the same room.

24 Q. Where was that? /

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1 A. It was in the kitchen area. We told him we
2 wanted to ask him some questions about the events of
3 the evening, and he agreed / to talk to us.

4 Q. You said that you briefly spoke to him at the
5 scene. Approximately how long do you think you spoke
6 to him / at the table in the kitchen?

7 A. It was a short conversation. We initially
8 wanted to obtain his name and whether he lived in the
9 residence, / if he knew who the victim was, things like
10 that.

11 Q. Did he identify the victim for you?

12 A. Yes, he did. He verified it was someone / he
13 knew.

14 Q. Did he eventually provide you a name, or what
15 was the description that he gave you?

16 A. Well, I asked him if he was / a resident of
17 the home.

18 Q. Do you mean the defendant?

19 A. Yes. I asked him if he lived there, and he
20 said yes. I then inquired */ about the victim laying
21 on the floor. He said he was a friend.

22 MS. WHITE: Objection, your Honor. I object to the
23 use of the word "victim." /

24 THE COURT: State your grounds.

25 MS. WHITE: Assumes a fact not in evidence at this
26 time.

1 THE COURT: Well, it is nonresponsive after the
2 word "yes."

3 Next question.

4 Q. BY MS. GILBERT: Did you ask / the defendant
5 for his driver's license?

6 A. Yes. He gave me his wallet and I removed his
7 license.

8 Q. Okay. How long would you estimate that you /
9 spoke to the defendant at the scene?

10 A. About 15 minutes.

11 Q. And who was present during that conversation?

12 A. Defendant Hilton, my partner, and Deputy Brown
13 was / also present for part of the time.

14 Q. When you spoke to the defendant in the
15 kitchen, did you question him at all regarding the
16 facts / of the case?

17 A. In my mind, all my questions would be
18 regarding the facts of the case.

19 Q. I understand. My question mainly goes to the
20 / facts involving how there happened to be a body in
21 the hallway.

22 A. The only information that we were gathering at
23 the scene was identification of / the victim and
24 defendant, who lived in the home, and a very rough time
25 line. The questions pertaining to exactly how the
26 crime happened were */ asked back at the station.

1 Q. Let's move to the interview at the station,
2 then. Was that taped in any way?

3 A. Yes. The room has video / equipment and
4 recording equipment.

5 Q. Is it standard practice to use that room for
6 interviews?

7 A. There are a few rooms in the station that we
8 use / for that or questioning suspects.

9 Q. Who was present at that interview?

10 A. My partner and I were the two deputies
11 present.

12 Q. What time did you start / the interview of the
13 defendant that night?

14 A. Well, we really didn't talk to him at the
15 station until early the next morning.

16 Q. Okay.

17 A. We started / the interview at 2:15 a.m.

18 Q. Is that common for you to begin an interview
19 of a suspect in the early morning hours?

20 A. Well, / it all depends on when the crime
21 happens.

22 Q. So there are no set hours for when interviews
23 take place?

24 MS. WHITE: Objection, your Honor. Irrelevant.
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1 MS. GILBERT: Your Honor, / I think the defense is
2 going to raise a question as to the time of the
3 questioning.

4 MS. WHITE: I object to Ms. Gilbert addressing this
5 in / front of the jury. I would prefer if we could
6 approach sidebar, your Honor.

7 THE COURT: Well, no speaking objections in front
8 of the jury. Overruled */ at this time. We can address
9 it at the recess if counsel wants to put something on
10 the record.

11 MS. WHITE: Thank you, your Honor.

12 Q. BY MS. GILBERT: Detective, is / it true that
13 you conduct your investigation when the crime happens
14 and you don't delay until the morning to question a
15 suspect?

16 A. That's true. Crime / happens at all different
17 times and we begin our investigation as soon as we can.

18 Q. Now, the interview with the defendant was
19 taped?

20 A. That's correct. /

21 MS. GILBERT: Your Honor, at this time I would like
22 to play the video for the jury of the defendant's
23 interview.

24 THE COURT: All right. We can do that. /

25 Ms. White, do you have any questions at this time,
26 or do you want to wait until the tape is played?

1 MS. WHITE: I do have a / couple questions now,
2 your Honor, if that's permissible.

3 THE COURT: Okay. Any objection?

4 MS. GILBERT: No.

5 THE COURT: Let's proceed with cross-examination.

6 CROSS-EXAMINATION

7 Q. BY MS. WHITE: Good morning, detective.

8 A. Good morning.

9 Q. I wanted to ask / you a couple questions
10 briefly before we view the tape of my client.

11 A. All right.

12 Q. That night when you first spoke to my client
13 at / the residence, did you obtain information that he
14 lived there?

15 A. Well, his driver's license listed a different
16 address, but he said that he had moved */ into the home
17 on Westhaven about six months earlier.

18 Q. Did you attempt to verify if the defendant
19 resided there at all?

20 A. Absolutely, we did, but / that was later in
21 the investigation.

22 Q. I mean before you left the home.

23 Let me ask you a question first. Was the defendant
24 arrested at / the residence?

25 A. No. We asked him to accompany us down to the
26 station for some questions.

1 Q. Was he in custody at that time?

2 A. No, he / was not arrested. We explained that
3 we had some more questions and asked him if he would
4 join us at the station.

5 Q. Well, did he / have a choice in whether to
6 join you or not?

7 A. Yes, everybody has choices.

8 Q. If he had refused to go to the station --

9 MS. GILBERT: Objection. Calls / for speculation
10 and not relevant.

11 THE COURT: Sustained.

12 Q. BY MS. WHITE: So, Mr. Hilton was arrested at
13 the station; is that right?

14 A. After we spoke to him and interviewed him, /
15 that's right.

16 Q. Is that something that we will see on the tape
17 when we view it?

18 A. I think so. We conducted our interview and it
19 / was several hours later that he was arrested.

20 Q. How long did the interrogation last?

21 A. I believe it was about three hours.

22 Q. During that time, did */ you advise the
23 defendant of his Miranda rights?

24 A. Yes, I did. I had conducted that at the
25 residence, and I did it again once we / were in the
26 interview room at the department.

1 Q. Why did you do it twice?

2 MS. GILBERT: Objection. Irrelevant.

3 THE COURT: Overruled.

4 THE WITNESS: That is just my practice. I wanted
5 him / to be clear that this was a serious matter and
6 that we wanted to make sure that he knew what was going
7 on.

8 Q. BY MS. WHITE: Speaking of / that, let's talk
9 about the fact that this interview occurred at 2:15 in
10 the morning.

11 Did you inquire when the defendant had last slept?/

12 A. I believe that's on the tape later in the
13 interview.

14 Q. Since this happened so late in the evening
15 when you were called out to the / scene, when had you
16 last slept?

17 MS. GILBERT: Objection. Irrelevant.

18 THE COURT: Sustained.

19 MS. WHITE: Your Honor, I believe it is relevant
20 for the officer's conduct.

21 THE COURT: Sustained.

22 Next question, please.

23 MS. GILBERT: Thank / you, your Honor.

24 Q. BY MS. WHITE: Officer, I know that we are
25 going to view the video in a few minutes and then I'll
26 definitely have further questions / for you, but I

1 wanted to ask you about the condition of my client when
2 you first observed him.

3 A. You mean at the scene?

4 Q. Yes. */ When you first saw him in the kitchen,
5 what was his demeanor?

6 A. He was sitting at the table and appeared to be
7 calm.

8 Q. You testified / earlier that he was speaking
9 to a deputy. Did you overhear their conversation?

10 A. No, ma'am, not the contents, but I could hear
11 voices.

12 Q. Were they / speaking in a normal tone of voice
13 or an excited tone of voice?

14 A. It was just a conversational tone of voice.
15 Nothing angry or excited. /

16 Q. What was my client wearing, if you recall?

17 A. He was wearing a pair of jeans and a T-shirt.

18 Q. Was he wearing shoes?

19 A. I couldn't see / his two feet initially,
20 ma'am, when I entered the kitchen. Later when we were
21 preparing to leave for the police station, we advised
22 him that / he needed to get some shoes before we left.

23 Q. You advised him that he needed to get shoes
24 on, or did you --

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1 A. Well, I mean / we asked him if he wanted to
2 put tennis shoes on or get a jacket because it was
3 getting late, it might be cool outside. /

4 Q. You didn't order him to get his shoes?

5 MS. GILBERT: Object to the form of the question.

6 THE COURT: Counsel, if you would rephrase your
7 question, please.

8 MS. WHITE: Certainly.

9 THE COURT: All */ right. Let's proceed.

10 MS. GILBERT: Thank you, your Honor.

11 Q. BY MS. WHITE: When you transported him to the
12 station, did you have any conversation with him in the
13 car?

14 A. Actually, / I didn't transport the defendant.
15 He was taken straight to the station by another deputy.

16 Q. Who would that be?

17 A. I would have to check the / report to make
18 sure, but I believe it was Deputy Matson.

19 Q. For the record, how do you spell that?

20 A. M-A-T-S-O-N. /

21 Q. Thank you.

22 Do you know if there is a report written by Deputy
23 Matson pertaining to the transportation of the
24 defendant?

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1 A. No, I don't know. / I could check our file
2 for that, but I don't have any firsthand knowledge of
3 that.

4 Q. Well, you are the case agent for this case /
5 against my client; is that correct?

6 A. I am the lead detective, yes.

7 Q. Well, if there was a report by a deputy
8 regarding something about the / defendant, you would
9 have a copy of that, wouldn't you?

10 A. I definitely should.

11 Q. And you don't know of any report from Deputy
12 Matson?

13 A. No, I / don't.

14 MS. WHITE: Your Honor, I don't believe I have any
15 more questions until after we have viewed the interview
16 of the defendant.

17 THE COURT: All right. Are we */ ready to do that
18 at this time?

19 MS. GILBERT: I would request to mark as next in
20 order the tape and transcript of the defendant's
21 interview.

22 THE COURT: All / right. Next in order would be
23 54.

24 MS. GILBERT: I would request to pass out the
25 transcripts and play the video at this time, your
26 Honor.

1 THE COURT: Okay. / Are we ready to begin the
2 playing of the tape at this time?

3 MS. GILBERT: Yes, your Honor. Before we start, I
4 believe there is a stipulation / that we want to enter.

5 THE COURT: Proceed.

6 MS. GILBERT: We stipulate that the transcript of
7 the interview is a true and accurate transcript of the
8 proceedings from that / date.

9 MS. WHITE: So stipulated, your Honor.

10 THE COURT: All right. That is accepted.

11 MS. GILBERT: May I inquire of the detective, your
12 Honor?

13 THE COURT: Yes.

14 REDIRECT EXAMINATION

15 Q. BY MS. GILBERT: Detective, before we start
16 the tape, / let me ask you a couple questions.

17 A. Okay.

18 Q. Have you reviewed the tape and compared that
19 to the transcript?

20 A. Yes, I did.

21 Q. And did you / make any corrections to the
22 transcript?

23 A. There were a few, yes.

24 Q. So our transcript is accurate now?

25 A. Yes.

26

1 THE COURT: We just had a stipulation to that /
2 effect, didn't we?

3 MS. GILBERT: Yes, your Honor.

4 THE COURT: Okay. Let's proceed with playing the
5 tape.

6 MS. GILBERT: The bailiff passed out the
7 transcripts and we are ready to begin. */

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