

1 presence of narcotics?

2 A. I'm familiar that he's an aggressive alert dog. I don't
3 know his true alert. I think only the handler could probably
4 testify to that.

5 Q. And at the point where the dog did the alert, did the
6 canine handler, deputy Rich, inform you of that?

7 A. Yes.

8 Q. Did the canine alert on the outside of the trailer?

9 A. Yes.

10 Q. Was the canine placed inside the trailer?

11 A. Yes.

12 Q. Did the canine alert inside the trailer? You believe he
13 did or he didn't?

14 A. He did.

15 Q. And you were told that by the canine handler?

16 A. Yes.

17 Q. Was the alert near the bags that were found in the back
18 of the trailer?

19 A. Correct.

20 MS. DURBOROW: No further questions, Your Honor.

21 THE COURT: We are going to take about a 10-minute
22 recess before we begin cross examination.

23 (The court recessed.)

24 (Court resumed.)

25 THE COURT: Mr. Stobbs, you may inquire.

1 MR. STOBBS: Thank you, Judge.

2 CROSS EXAMINATION

3 BY MR. STOBBS:

4 Q. At the time of the stop, you were handling some sort of
5 safety inspection; is that correct?

6 A. That's correct.

7 Q. Could you tell Judge Gilbert exactly what a safety
8 inspection is?

9 A. A safety inspection is generally -- generally stopped for
10 a probable cause. We have speeding. Any sort of equipment
11 violation we'll stop the vehicle. They are done on occasion
12 just to stop the vehicle to make sure that the driver's
13 driving down the road with the log book being current, that
14 the bill of lading is correct, and he is not hauling any
15 hazardous material. We do that without probable cause. It's
16 a legitimate way to make sure the roads are safe. Once we
17 start this stop, we will walk around the vehicle very
18 quickly. Where you walk up you will listen for any leaking
19 out of the suspension. You will glance at tires as you are
20 walking around the vehicle to make sure there are no major
21 tears, no major --

22 Q. The safety inspection is to check the safety of the
23 truck?

24 A. A driver safety inspection, he can do that.

25 Q. Is that what you were doing on that date?

1 A. A motor carrier inspection.

2 Q. Means that you check the motor vehicle to make sure that

3 the brakes are working properly, correct?

4 A. That would be a Level 1 truck inspection.

5 Q. There are different levels?

6 A. That's correct.

7 Q. And this was a Level 3?

8 A. That's correct.

9 Q. What made you determine that it was a Level 3? Is it

10 because of the different violations?

11 A. This is my certification.

12 Q. And is a Level 1 higher than a Level 3 or lower than a

13 Level 3?

14 A. Higher.

15 Q. What is the lowest?

16 A. Level 3.

17 Q. So what would you need to do to become a Level 2?

18 A. Further training.

19 Q. And your training just was what you got at the Academy?

20 A. That's correct.

21 Q. And were you working interdiction on July 12th?

22 A. No, I was not.

23 Q. But even though you weren't working interdiction,

24 anything that aroused your attention regarding narcotics

25 trafficking, that's something that you were interested in, as

1 well, correct?

2 A. My job is continual interdiction of any crime. If you
3 would say that, I wasn't looking for a specific thing. I was
4 looking for any violation of the motor carrier act. I was
5 looking to make sure everyone was driving safely.

6 Q. That involves a passenger carrier as well as a motor
7 vehicle truck?

8 A. Yes.

9 Q. You were parked there in this construction zone to make
10 sure that people were driving safely?

11 A. That is correct.

12 Q. And part of driving safely is not to speed.

13 A. That's correct.

14 Q. And you indicated to Judge Gilbert that there were a lot
15 of people speeding that day?

16 A. That's correct.

17 Q. And even though you are a Level 3, you decided not to
18 pull any of those trucks over for speeding?

19 A. I had already pulled over several vehicles for speeding
20 that day, too.

21 Q. Before Mr. Singh?

22 A. That's correct.

23 Q. Is it more safe to drive through a construction zone or
24 fast in a construction zone?

25 A. I would say fast.

1 Q. It would probably be better to give a ticket for somebody
2 driving fast than driving slow?

3 A. Sometimes driving slow is an indication of sleep. It may
4 be an indication they may be out of time in their log book.

5 Q. Mr. Singh is in the right-hand lane?

6 A. Yes.

7 Q. That's where the slower moving vehicles were supposed to
8 be traveling?

9 A. Yes.

10 Q. If he were in the left-hand lane, he would have posed
11 some sort of a safety concern?

12 A. That's correct.

13 Q. His speed did not impede the normal movement of traffic?

14 A. The vehicles in both the right lane and left lane were
15 having to go around him so it wasn't impeding or endangering.

16 Q. And it wasn't working?

17 A. Correct.

18 Q. When Judge Gilbert asked you about the minimum speed
19 regulations -- I am going to put this on the overhead --
20 197.625, Illinois Compiled Statutes, 511606, that deals with
21 the minimum speed regulations, right?

22 A. That is correct.

23 Q. And you just told Judge Gilbert that Mr. Singh was not
24 impeding or blocking the normal and reasonable movement of
25 traffic, right?

1 A. That's right.

2 Q. So he wasn't violating any sort of minimum speed
3 regulation, right?

4 A. I didn't pull him over for that, no.

5 Q. We'll get to that in a minute. Did you notice any sort
6 of vehicle following behind Mr. Singh that had out-of-state
7 plates?

8 A. No, I didn't.

9 Q. And you -- and I wrote this down, but I'm not sure if I
10 wrote it down correctly. You told Judge Gilbert from a
11 hundred yards away you were able to observe that Mr. Singh
12 was being passed?

13 A. That's correct.

14 Q. By trucks driving faster?

15 A. That's correct.

16 Q. And you said that at about 70 feet is when you were able
17 to observe that he didn't have his seat belt on and the
18 little chip on the windshield?

19 A. Approximation.

20 Q. Seventy feet?

21 A. Roughly.

22 Q. And how long does it take for that vehicle, however fast
23 it was going, even with moving your head like that, 70 feet
24 from where you saw it to where it passed you, how many
25 seconds went by?

1 A. Four, five seconds. The speed is -- the person is
2 slowing. That's where I first indicated it. When he
3 actually went by me, I would have to measure to have an exact
4 distance where I indicated the stop for a seat belt.

5 Q. You said he's driving slowly, and you're parked in a way
6 that you were looking at him?

7 A. That's correct. He's traveling like this and I'm
8 traveling like that.

9 Q. Wasn't it dangerous for you to pull out in traffic like
10 that?

11 A. If there would have been traffic coming, that's why it
12 took me awhile to catch back up to him because I had to wait
13 for traffic to clear.

14 Q. You caught him in three miles?

15 A. I don't know. I think I caught him about the 161 and a
16 half.

17 Q. And when you are behind him, you are not able to observe
18 what he's doing in the vehicle?

19 A. No.

20 Q. You don't know if he's talking on a CB?

21 A. No.

22 Q. You don't know if he's talking on a cell phone?

23 A. No.

24 Q. You don't know if he had both hands on the wheel?

25 A. No, I don't.

1 Q. Now then the violations that you talked about, you didn't
2 stop him for driving too closely, correct?

3 A. That's correct.

4 Q. And you did stop him for not having a seat belt on?

5 A. Correct.

6 Q. When did you issue him a traffic citation for not having
7 a seat belt?

8 A. I believe the citation was issued somewhere back at
9 District 12 after the arrest had been made.

10 Q. Not at the moment?

11 A. No.

12 Q. And was the cracked windshield, that's another violation?

13 A. It was a written warning, I believe.

14 Q. I don't know if Ms. Durborow asked this. I apologize if
15 she has. How many times have you pulled a truck over just
16 for a safety inspection, a Level 3 safety inspection?

17 A. I would have no idea. Lots.

18 Q. Okay. And one of the duties that you had on that day was
19 to traffic violations we've talked about?

20 A. That's correct.

21 Q. A concern you always have while you are throughout is
22 officer safety?

23 A. That is correct.

24 Q. And you -- when Mr. Singh entered the, your police
25 cruiser with you, he was seated in the front seat?

1 A. That's correct.

2 Q. And you told him to sit in the front seat?

3 A. That is correct.

4 Q. And you got out of the vehicle on two occasions to go
5 talk to the canine handlers and to go to the front of the
6 truck; is that correct?

7 A. Out of the vehicle one time leaving Mr. Singh in the
8 vehicle. He was only in the vehicle one time.

9 Q. You didn't turn the vehicle off?

10 A. We have kill switches in our vehicles. I push a little
11 red button, and I disengage in my vehicle, and I take my keys
12 with me.

13 Q. And were there any weapons or firearms in the vehicle?

14 A. No, there's a shotgun in the trunk.

15 Q. But up front are there any weapons?

16 A. No, sir.

17 Q. And this is something that's curious. Now -- and Judge
18 Gilbert is going to see some of this tape, but when you're
19 sitting -- and you saw the tape?

20 A. Right. Yes.

21 Q. When was the last time you saw it?

22 A. Last night.

23 Q. When was the first time you saw it?

24 A. Probably the day after I made the traffic stop.

25 Q. How many times have you seen it?

1 A. Four, I believe.

2 Q. All right. And you hear the audio of you talking to
3 Mr. Singh, correct?

4 A. That is correct.

5 Q. So what's on the tape would be the best evidence in terms
6 of what was actually said?

7 A. Not necessarily.

8 Q. The time that it was said would be the best evidence
9 because there's a timer on it, right?

10 A. The vehicle that I was driving at the time is not the
11 vehicle I'm driving now. However, I had a vehicle that
12 continually liked to die, and you would have to jump start
13 it. The battery would die. Probably had the battery
14 replaced. The clock on the actual VCR is not also absolutely
15 correct. I couldn't tell you now at the time if it was or
16 was not. It might have been off a little bit. It had to be
17 reset.

18 Q. When you said that Mr. Singh crouched down and wanted to
19 crawl inside of himself, that's just like your observation?

20 A. That's correct.

21 Q. That's not something that you viewed on the tape?

22 A. No, it's not something I viewed on the tape.

23 Q. It doesn't say, "Hey, you're crouching down, crawling up
24 inside of yourself," right?

25 A. No.

1 Q. And part of your duties when you do any sort of traffic
2 stop especially -- this is a significant traffic stop, right?
3 A. That's correct.
4 Q. One of the things you do, you write what you call a field
5 report?
6 A. That's correct.
7 Q. I am going to show you what's been marked as Defendant's
8 Exhibit 2, and I'm just going to ask you if that's the field
9 report that you wrote?
10 A. I believe that's an arrest report. That's not the field
11 report that I wrote.
12 Q. Let's take a look at Exhibit -- well, this is a synopsis?
13 A. What that is is when you take somebody into Effingham
14 County jail, if the person is not going to be released on
15 bond for any reason, the state's attorney would like us to
16 write a very brief summary, nothing specific. All it does is
17 tell us why he was arrested, what the reason, why it was and
18 gives him an idea whether he has to go in front of a jury.
19 Q. Is No. 3 a police report?
20 A. I believe so.
21 Q. You believe so or is it?
22 A. I can't guarantee it for a fact. It looks just like it,
23 yes.
24 Q. And I don't know. I'm going to ask you if I could just
25 hand it to him at this time. Might be faster, Judge.

1 THE COURT: Sure.

2 Q. (by Mr. Stobbs) I've not seen one of these. That's why
3 I want to ask you. Could you tell Judge Gilbert what
4 Exhibit 5 is or is that 4?

5 A. Exhibit 4.

6 Q. I'm sorry. If you could tell Judge Gilbert what
7 Exhibit 4 is.

8 A. It's a summary of a non-verbal, non-verbatim of a police
9 report.

10 Q. Did you write that?

11 A. No, I did not.

12 Q. Then I won't bother you anymore with it. When was the
13 last time you viewed your field report?

14 A. This morning.

15 Q. Is there any mention on your field report about Mr. Singh
16 driving too slowly?

17 A. No, there's not.

18 MR. STOBBS: Judge, we at the previous hearing
19 marked these as Exhibits 1, 2, 3, and 4, and I believe these
20 were admitted into evidence. I'm not sure how I should
21 proceed. Should I remark them for this hearing?

22 THE COURT: Yes.

23 MR. STOBBS: Okay.

24 THE COURT: Because you already have a 2, 3, and a
25 4.

1 Q. (by Mr. Stobbs) I am going to ask you if you could take
2 a look at Defendant's Exhibit 9, and I'm going to ask you if
3 you can -- this is something that was previously admitted.
4 It's a windshield of the vehicle that was not previously
5 admitted of Mr. Singh's vehicle. Do you see the crack on
6 that windshield?
7 A. I do not see the crack on that windshield.
8 Q. And that would be because it's not even a crack. It's a
9 chip, right?
10 A. I believe it probably was. I believe it was a chip.
11 Q. As part of your -- when you pull people over and you
12 issue them a citation, you tell them what they've done,
13 correct?
14 A. That's correct.
15 Q. You generally tell them?
16 A. That's correct.
17 Q. If need be you will either issue a warning --
18 A. That's correct.
19 Q. -- or you will issue a ticket?
20 A. That's correct.
21 Q. In this case at the scene of the crime you issued a
22 warning for the cracked windshield, right?
23 A. That's correct.
24 Q. And you also after the fact issued a ticket for not
25 wearing a seat belt?

1 A. That is correct.

2 Q. Before doing that, though, you spoke to Mr. Singh, and
3 you told him what his violation was, correct?

4 A. That's correct.

5 MR. STOBBS: Judge, I've, as an officer of the
6 court, Ms. Durborow had provided to us her Exhibit 4, and
7 what I did, I changed it into our Exhibit 1, which is a DVD.
8 And I've done a transcript of our exhibit which is Exhibit,
9 which we've marked as Exhibit 1A. And --

10 THE COURT: Do you want to admit that and play it?

11 MR. STOBBS: Yes, sir. What I've done, Judge, to
12 try to save time, I've broken portions down of it. It's just
13 clips of it so we can move around a lot faster.

14 Ms. Durborow, I spoke to her. Ms. Durborow
15 indicated she would like to have some sort of a starting time
16 and ending time. That's what I've done. I'm going to hand
17 to her. What I'll do I'll tell her what clip we are playing,
18 and I'll tell the Court what the starting time and end time
19 is so there's no concern.

20 Q. (by Mr. Stobbs) But moving back to the, when you had
21 Mr. Singh in your vehicle, let's hear what you told him.
22 Trooper Fritchley, when did you tell him about the seat belt
23 violation?

24 A. The seat belt violation had already been discussed
25 earlier in the stop when we walked up to the stop.

1 Q. I'm interested to know. You said the light being out.
2 What light was out?

3 A. During the course of it, he had clearance lights on the
4 vehicle in the tractor. I believe he had a clearance light
5 out on the top part of the cab. Was one or two or three
6 orange or amber lights.

7 Q. Where was the citation for that?

8 A. No citation for that.

9 Q. There was no further discussion about that?

10 A. No, sir.

11 Q. No discussion here where you are telling what he's done
12 about the seat belt?

13 A. Sir, we had already discussed that before he was in the
14 vehicle.

15 Q. Okay. But you were talking. When you were talking to
16 the prosecutor talking about what you know, that's a
17 violation in and of itself?

18 A. That is correct.

19 Q. As was the chip.

20 A. That is correct.

21 Q. But when you were talking to the prosecutor, you talked
22 about the chip at the front of the car, too. That's where he
23 said it was a new chip --

24 A. That's correct.

25 Q. -- so you just decided when you got back to the vehicle

1 to talk about the smaller violation, but not talk about the
2 bigger violation?

3 A. I believe up at the vehicle we had already been
4 discussing it. He had told me that he had his seat belt on.
5 In general I don't make a very large deal. If somebody said
6 they had it on and somebody said they had it off, as long as
7 it doesn't become a major issue with the seat belt, I write
8 him for the other warnings and wouldn't write a citation.
9 If, however, when we went back to the vehicle, we were
10 discussing the equipment violations that I was going to be
11 warning him for, and that's when it came up.

12 Q. But you didn't issue any sort of citation for this light
13 business that you are talking about?

14 A. No, sir, I believe there was a warning written for the
15 light, too.

16 Q. You believe it or it is?

17 A. To be honest I haven't seen the written warning. I would
18 have to put it back up. We would have to try to bring it
19 back up on a request. I don't have it with me. On the NCS
20 inspection I wrote down I wrote him a warning for both a
21 windshield and inoperable lamp, and I wrote a citation for
22 the seat belt.

23 Q. Where would you find that?

24 A. I don't know if District 12 holds them that long back,
25 but they usually keep them as a paper copy.

1 Q. Let's turn to the driving too close which you didn't talk
2 to Mr. Singh about when you had him in your vehicle. And
3 you're aware -- and after this took place, you talked to DEA
4 agents, right?

5 A. That's correct.

6 Q. And was one of the DEA agents you spoke to agent Whitman?

7 A. I apologize. I don't remember what his name was.

8 Q. Do you know the agent that testified before Judge Cohn
9 that the --

10 MS. DURBOROW: Your Honor, I object to this. This
11 officer was not at the detention hearing. He cannot testify
12 as to what somebody else testified to at a hearing he was not
13 at.

14 MR. STOBBS: The question I'm going to ask, if he's
15 aware that this testimony was given, if he talked to agent
16 Whitman.

17 THE COURT: Overruled.

18 Q. (by Mr. Stobbs) Are you aware that agent Whitman, the
19 question was asked, "Of course, if the truck had been driving
20 under the minimum speed, well, that would have been another
21 violation, wouldn't it have been?" And he said, "Yes." And
22 the question was asked: "We don't have any indication that
23 the truck was driving under the minimum speed." And the
24 response was, "No." Did you know that testimony was given?

25 A. I had no idea.

1 Q. And the field report, none of your reports make any
2 mention of driving too slow?

3 A. That's correct.

4 Q. And that is something that is important because that's
5 why you were able to see this little chip on the windshield
6 that you weren't able to see today and the seat belt from
7 70 feet away, right?

8 A. That's correct.

9 Q. If he were going by at 60 miles an hour, you wouldn't
10 have been able to see it?

11 A. I don't know. If I see it going by at 80 miles an
12 hour, I could probably see it at 60 miles an hour. If the
13 sun hit it the way it shines, it's hard to say how big it
14 looked, how little it looked. I just know that it was
15 there.

16 Q. Is the driving too slowly, is that something that has
17 come about after the event or something that took place at
18 the time of the event?

19 A. The driving too slowly was just a fact. It wasn't
20 something that I would have written a citation or a warning.
21 It was a minor indicator along with other minor indicators.
22 It was not a --

23 Q. I'll move on. I'll move on. Now there's an indication
24 in your field report about him being nervous, right?

25 A. That's correct.

1 Q. He was shaking in the car, right?

2 A. That's correct.

3 Q. Now, you were shaking, too?

4 A. I was shaking for multiple different reasons. I believe
5 it says in the actual transcript was that it was cold up
6 there. But when I got out of the vehicle, a number of
7 different things were happening. One, I had some idea of
8 what was probably in the vehicle. It was something that
9 wasn't supposed to be in the vehicle. I didn't know. It
10 wasn't in the bills. So to me that's an indicator.

11 And I have a natural shake, which some people do.
12 And I was wearing short sleeves up inside of a refrigerated
13 unit of the truck and stepped out in the cold which made me
14 shiver. He was sitting in my vehicle, and he was shaking
15 profusely.

16 Q. Okay. Officer Fritchley, he is in your vehicle and he's
17 shaking profusely because you think he's scared about the
18 drugs being in the vehicle?

19 A. Right. Yes.

20 Q. And you are shaking. And you're shaking. As you say,
21 "It's cold up here." And then you say, "I've got to quit
22 like shaking here for a second, too." And that's your
23 natural shake?

24 A. Well, when I said those words, I wasn't actually in the
25 vehicle. I had stepped out of the vehicle when I used that

1 foul language. I might have stepped out to speak to the
2 canine officer at that time. I wasn't actually speaking to
3 the defendant at that time.

4 Q. You were speaking at 2:10:21. You were talking to the
5 defendant in the vehicle about it being cold, right?

6 A. It was cold up there, I believe, is what is in the
7 transcript. I was referring inside the tractor trailer.

8 MR. STOBBS: Judge, I think you can see it better
9 on your screen where Mr. Singh is standing.

10 THE COURT: Pardon?

11 MR. STOBBS: I have done this poorly. The point I
12 want to make is the fact that Mr. Singh was not nervous. If
13 I could play it again.

14 THE COURT: Play it again.

15 Q. (by Mr. Stobbs) What I am going to ask you to look at,
16 officer Fritchley, if you can tell Judge Gilbert that he
17 appears nervous there.

18 A. As we are opening this back door -- yeah.

19 Q. Now are you telling Judge Gilbert he appeared nervous at
20 that time?

21 A. No.

22 Q. And this was after your business about you being in the
23 front where he's appearing nervous?

24 A. Negative.

25 Q. Is that a no?

1 A. That's no.

2 Q. And throughout the course of your conversation with him
3 in the vehicle, there were questions that you asked that he
4 became nervous with, right?

5 A. That's correct.

6 Q. It would be normal for someone to be nervous when you
7 tell them that they are never going to see their family
8 again, right?

9 A. The succession which you are showing us is not the
10 succession in which it happened. I think it's kind of a
11 false representation of giving me one thing and then another.
12 I think that's what's odd about this.

13 When he was looking at the back with me in that
14 trailer, that was the very beginning of the stop. And when
15 we spoke inside and he started getting nervous, that was
16 after I already entered into the trailer at one point in time
17 and exited. At that point in time he knew I had seen it.

18 Q. Do you have my question in mind?

19 A. No.

20 Q. It would be normal for somebody to be nervous if they
21 were told by a state police officer that they were never
22 going to see their family again?

23 A. That would be correct.

24 Q. And the only time they would be able to visit their
25 family is through bars?

1 A. That would be correct.

2 Q. I want to make sure that your testimony is when you
3 pulled him over he exited his trailer, right, his truck?

4 A. Yes.

5 Q. Did he walk back towards you on the driver's side?

6 A. Passenger's side.

7 Q. So he would have walked around the vehicle and then
8 walked back toward you?

9 A. He was out of the vehicle when I approached it. He was
10 on the passenger's side. I don't know if he got out of the
11 driver's side and walked around or got out of the passenger's
12 side. I don't know.

13 Q. Now we've talked now about how this started out being an
14 inspection, right?

15 A. That's right.

16 Q. And you took it from an inspection to basically some sort
17 of a drug stop, right?

18 A. That's correct.

19 Q. This is clip three and that's you up inside the vehicle?

20 A. That is right.

21 Q. Does Mr. Singh appear nervous to you there?

22 A. Doesn't appear to be.

23 Q. What's that?

24 A. The stop used to be called a Valkyrie. They were drug
25 interdiction stops.

1 Q. But I thought you weren't working drug interdiction?

2 A. I wasn't.

3 Q. But you just used the Valkyrie.

4 A. The stop had already progressed at that point in time.

5 Q. Well, this was at 2:08. At 2:08 and 30 seconds is when

6 you called in for the Valkyrie stop. And are you telling

7 Judge Gilbert that between those two minutes, that's when it

8 went from just an inspection to when it became something

9 else?

10 A. I'm confused.

11 Q. I'll withdraw the question. You come to the back of the

12 truck?

13 A. Okay.

14 Q. Correct?

15 A. Correct.

16 Q. You ask Mr. Singh to open the back of the truck for you?

17 A. That's correct.

18 Q. He does it?

19 A. That's correct.

20 Q. You tell him to go stand beside, in front of your squad

21 car?

22 A. That's correct.

23 Q. He's not nervous?

24 A. No.

25 Q. And you've already shined your light in there?

1 A. That's correct.

2 Q. And are you aware that sometimes that these pallets when
3 they put them in there, they stagger them in. If you shine a
4 flashlight, you wouldn't be able to see all the way back?

5 A. That's correct.

6 Q. How did you know this wasn't doing that?

7 A. It didn't look like a wood pallet.

8 Q. Because you couldn't see back there, you crawled in
9 there?

10 A. That's correct.

11 Q. You crawled in at 2:08 and 30 seconds for a Valkyrie
12 stop, right?

13 A. I would assume that I've got the time right. That's
14 correct.

15 Q. You crawled in. Whatever the time is the time is; is
16 that right?

17 A. That's correct.

18 Q. And at that time the inspection stopped?

19 A. It was still ongoing. The inspection is an inspection,
20 but, yes, it had changed to a different point at that time,
21 yes.

22 Q. You go from a safety inspection to a Valkyrie
23 interdiction stop?

24 A. That's correct.

25 Q. And you suspected that there were drugs in those bags?

1 A. I couldn't tell if they were bags. I don't know.

2 Q. You suspected there was drugs. Whatever was on the floor

3 you told the prosecutor this was a green bag and a black bag,

4 right?

5 A. That's correct.

6 Q. You had your flashlight in there?

7 A. That is correct.

8 Q. You could shine down there and see what was there?

9 A. That's right.

10 Q. You didn't open those bags?

11 A. No.

12 Q. You didn't get out of the vehicle and arrest Mr. Singh?

13 A. No.

14 Q. You got him in the vehicle?

15 A. That's correct.

16 Q. And you then waited for the canine to arrive?

17 A. That is correct.

18 Q. And before doing that you asked, "Do you mind if a canine

19 walks around the vehicle?"

20 A. That's correct.

21 Q. Was that when he crawled inside of himself?

22 A. No. During that conversation he was becoming more

23 nervous, correct.

24 Q. That is when he wanted to slink to the floor?

25 A. Not until the canine officer actually arrived.

1 Q. And you never asked him to deliver the load, though,
2 right?

3 A. Not at that time. No.

4 Q. Because as part of your training you go to the, I call it
5 police academy, but you guys have a different word for it?

6 A. I understand.

7 Q. And you learn to do different things. One of the things
8 you learn to do, when you have someone, a drug suspect, for
9 lack of a better word, a person taking drugs from one part of
10 the country to another part, you want that individual to
11 cooperate?

12 A. That's correct.

13 Q. And in this case you never asked him to actually deliver.
14 You just asked him to cooperate against people; is that
15 right?

16 A. That's correct.

17 Q. And you initially stopped Mr. Singh, and we saw that
18 clip, but I don't want to have to play it again. You
19 initially asked him if he observed the truck being loaded,
20 right?

21 A. That's correct.

22 Q. And later on, subsequent to that, he told you he had not
23 watched it being loaded, right?

24 A. Mr. Singh started out saying he had watched it loaded,
25 and then Mr. Singh said that he watched them drive the

1 pallets in. And then at the end he changed and stated that
2 he did not see them put anything in.

3 Q. This is number 8. 8, 1, 2, and 3. Now, what's important
4 about this clip is you told the prosecutor that sometimes
5 someone will tell you something, and then you wait a little
6 bit longer, and you might ask him the same question to trip
7 him up?

8 A. That's correct.

9 Q. And in this case you thought that Mr. Singh told you that
10 he had watched the pallets go in?

11 A. Mr. Singh told me that.

12 Q. He never told you he supervised them going in. He never
13 told you that, did he?

14 A. He never said "supervised."

15 Q. And he subsequent to that, when he told you something
16 different, you told him, "Hey, you've changed your story
17 here," right?

18 A. Correct.

19 Q. And sometimes when people tell you something, they tell
20 you something else. When they clarify it it makes sense,
21 right?

22 A. That's correct.

23 Q. In this situation when he told you about watching the
24 pallets, that makes sense, doesn't it?

25 A. That's correct.

1 Q. This is number seven. Now, I've got a couple questions,
2 and I want to start, first of all, where he was pulled over,
3 there were people on the side of the road that were broken
4 down?

5 A. Behind him.

6 Q. And when you were behind him with your lights on, the
7 only violation that you know, well, you claim that he had was
8 he didn't have his seat belt, and he had that chipped
9 windshield, right?

10 A. That's correct.

11 Q. So you had no suspicions about narcotics at that time?

12 A. No.

13 Q. So it was more important to you to do an inspection on
14 Mr. Singh instead of helping these people stranded on the
15 road?

16 A. I already had my red and blue lights activated at the
17 time that I saw the vehicle that was disabled. Once I start
18 a traffic stop, I'm not going to walk up and say, "Go away."
19 They were directly behind me. They were secure. The weather
20 was fine. I would have checked on them.

21 Q. Did you?

22 A. No other officer showed up. I believe they left once
23 they changed the flat tire.

24 Q. In the consent to search, I thought you told us before
25 that the inspection stopped when you started up this Valkyrie

1 interdiction?

2 A. I said the inspection continued throughout pretty much
3 the whole thing. The inspection form is what you hear say
4 I'm starting. You have to go throughout the entire
5 inspection, and you fill out a form that said you did it.

6 Q. You gave him a consent to search which you basically let
7 into evidence. Do you remember that?

8 A. That's correct.

9 Q. And then you said, "I'll start on your inspection."

10 A. That's correct.

11 Q. You didn't say, "I'm going to start searching your
12 vehicle"?

13 A. No.

14 Q. And before you talked about the consent to search, you
15 asked Mr. Singh if he had any bombs, knives, or guns, right?

16 A. That's correct.

17 Q. You didn't say drugs?

18 A. No, I didn't.

19 Q. You didn't say -- you didn't say anything about the fact
20 that he might be carrying narcotics?

21 A. I didn't.

22 Q. Now in your field report and in this arrest information
23 report, you indicate that you told -- you asked Mr. Singh,
24 "What about the bags?" And he responded, "You mean those two
25 bags?" Do you remember that?

1 A. That's correct.

2 Q. Now if we were to want -- if we wanted to place a time on
3 it, we would look at your field report. And, Judge, I
4 apologize. I think it might be easier if I gave him the
5 report and asked him to find it.

6 THE COURT: That's fine.

7 Q. (by Mr. Stobbs) You say LT conducted the search --
8 that's you -- asked Singh if he knew anything about the bags
9 in the trailer, and he stated, "You mean the two bags?" So
10 that's something that he would have said while the search of
11 the dog, the search of the vehicle took place, yes or no?

12 A. Actually, no.

13 Q. Is that something that's in your report, though? Did I
14 read it correctly?

15 A. That's correct.

16 MR. STOBBS: And, Judge, this is about the longest
17 clip. It's about six minutes.

18 THE COURT: Six?

19 MR. STOBBS: Yes.

20 THE COURT: I thought you said 60.

21 Q. (by Mr. Stobbs) This is when the dog begins to search
22 outside and then goes inside, correct?

23 A. That's correct.

24 Q. When you tell him to sit tight for a second, you get out
25 of the vehicle again?

1 A. When I say sit tight, he's standing outside the vehicle.
2 He's not inside the vehicle.

3 Q. And there's nothing on this tape where they're walking
4 around the outside of the truck and they're inside the truck
5 where there's any talk about this, you mentioned the two bags
6 or the bags and he said the two bags?

7 A. Not on the audio. It does happen.

8 Q. Well, but, see, you have the video there for a purpose,
9 right?

10 A. That's correct.

11 Q. And one of the purposes is, you know, I've heard it
12 referred to as a trial moment. You get to say, you know, the
13 gotcha. And that's not there, is it?

14 A. It's not always act -- I mean you can't tell me that --
15 the technology in our vehicles is pretty old. If the mike
16 cuts in and out, I can't help it.

17 Q. You can't tell and you do turn it on and off?

18 A. Yes, I do.

19 Q. And you turn it on and off because maybe you don't want a
20 fact finder of the jury to hear what you're saying, right?

21 A. I turn it off because I have the ability to turn it off
22 and turn it on whenever it's --

23 Q. Let's get back to this business about the two bags. You
24 never ever went back because that's something that's
25 important, isn't it?

1 A. Yes, it is.

2 Q. And you talked something about watching the vehicle being
3 loaded. You went back to that. Do you remember that?

4 A. In conversations at that point in time, he was asked
5 about the bags, and he said the two bags.

6 Q. You -- you went back and you asked him about watching the
7 vehicle being loaded, correct?

8 A. Correct.

9 Q. But you never went back to talking about the two bags?

10 A. In that clip that you're showing right there, I don't
11 believe I did.

12 Q. Let me ask you this because I don't want you to think I'm
13 taking things out of turn. You watched that last night?

14 A. Yes.

15 Q. Could you tell Judge Gilbert where on that tape he will
16 be able to see and hear the talk about the two bags?

17 A. He won't be able to hear any of it.

18 Q. Because it's not there?

19 A. It's not on the audio, no.

20 Q. Is it on the video? Could we get like a --

21 MS. DURBOROW: Your Honor, I object. He's
22 badgering the witness. He's already answered that it's not
23 on the tape.

24 MR. STOBBS: I'll withdraw the question, Judge.
25 I'll move on.

1 THE COURT: Yes.

2 Q. (by Mr. Stobbs) Now let's talk about your desire to get
3 Mr. Singh to give some sort of a confession. Okay?

4 A. Okay.

5 Q. This is 12. It sure would have been a good thing if he
6 had said cocaine instead of saying "I don't know"?

7 A. Correct.

8 Q. If we had somewhere on those tapes like those two bags
9 like is mentioned in your report?

10 A. Yes.

11 Q. I'm just curious. How would you be able to charge him
12 with anything other than a full load?

13 A. I don't understand the question.

14 Q. Well, you tell him that you're going to have to charge
15 him with possession at all. Can you charge him with
16 possession of half of it?

17 A. No.

18 Q. You can't charge him with possession of none of it?

19 A. No.

20 Q. And you don't know what Judge Gilbert's going to say?

21 A. No, I don't.

22 Q. And you really had no business telling him what you
23 thought the Judge was going to say?

24 A. I can tell him pretty much anything I want to say.

25 Q. You can lie to him?

1 A. Yes, I can.

2 Q. And that's all to get some sort of a confession out of
3 the person, right?

4 A. That's correct.

5 Q. And it doesn't matter to you if it goes from an
6 inspection to a Valkyrie interdiction, as long as you get
7 some sort of a confession, right?

8 A. If they're guilty, yes.

9 Q. And here you told the prosecutor when you were talking to
10 her that something that drew your suspicion was the fact that
11 there was the same name. On all of the things, Singh was the
12 last name. There was a different first name?

13 A. Just a little clue.

14 Q. And is it something that's -- that would be a little odd
15 to you if you knew that in India Singh is a common last name?

16 A. It would still be a little clue if it was Smith.

17 Q. Is it on the tape where Mr. Singh indicates that he asks
18 you to write on the bill of lading that the canine walked
19 around the load?

20 A. Yes.

21 Q. And is it something that -- is that another little clue
22 that alerted you that this might be some sort of a, something
23 more than just an inspection?

24 A. No.

25 MR. STOBBS: Judge, I'm finished. If I could see

1 if Mr. Capozzi has any questions.

2 THE COURT: Sure.

3 MR. STOBBS: I know I've asked this, but
4 Mr. Capozzi says I haven't.

5 Q. (by Mr. Stobbs) At what point did the inspection stop
6 and the search begin?

7 MS. DURBOROW: Objection, Your Honor. I don't
8 think that's relevant at what exact point the inspection
9 stopped and the search began. The trooper is allowed to
10 investigate, and he's allowed to complete an inspection.

11 THE COURT: Overruled.

12 THE WITNESS: I don't know that I can name a
13 specific time. I would say --

14 Q. (by Mr. Stobbs) You know what. Let me ask it this way,
15 and I think this will speed it up. Did it stop when you
16 decided this was a Valkyrie interdiction?

17 A. No.

18 Q. Did it stop when you asked him for a consent to search?

19 A. No. I -- I don't know if I can explain this at all to
20 you, but the -- if we would have had a consent to search and
21 we would have gotten in there and that would have been food
22 that he was taking from one place to another, it would have
23 still been an inspection. It wouldn't have been a Valkyrie
24 stop or a search. It would have still been an inspection.

25 Q. But there comes a point when an inspection just has to

1 stop. You can't keep someone on the side of the road for
2 hours and hours.

3 MS. DURBOROW: Objection as to relevance, Your
4 Honor.

5 THE COURT: Overruled.

6 THE WITNESS: The average walk-around inspection
7 for me takes approximately 45 minutes to an hour.

8 Q. (by Mr. Stobbs) And in those cases, not all of them, but
9 in some of those cases that's nothing. You go in. You see a
10 taillight out or whatever?

11 A. Correct.

12 Q. But in this case, and I want you to try to be specific on
13 this case. Okay?

14 A. Go ahead.

15 Q. In this case did there ever come a time where the
16 inspection stopped and it became a search? Yes or no.

17 A. I would say when we brought the bags out, it was, or when
18 we put the dog inside the vehicle it became a search because
19 we removed the bags and looked in the contents.

20 Q. That's because you had a justifiable suspicion there was
21 something illegal in the bags, correct?

22 A. Correct.

23 Q. And you decided not to open those bags, right?

24 A. Correct.

25 Q. And but you had a justifiable suspicion there was

1 something in there. Why did you need to call the dogs then?

2 A. It could have been anything. I didn't know what it was.

3 The dog, it could have been bombs. I don't know what's in

4 there at the time. Having the dog there just kind of

5 eliminates some of the options. If it alerts chances are

6 it's narcotics.

7 Q. He told you there's no guns, bombs, or knives, but you

8 didn't ask him about the narcotics?

9 A. People lie, too.

10 Q. Everyone lies?

11 A. That is correct.

12 Q. And in this case we're fortunate to have a videotape,

13 aren't we?

14 A. We are. Correct.

15 MR. STOBBS: Judge, I have no other questions. I

16 don't know how -- do you want me to formally request

17 admission of my --

18 THE COURT: Everything is admitted. Redirect?

19 MS. DURBOROW: Yes, briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. DURBOROW:

22 Q. The microphone and the taping device in your car, what is

23 the purpose of it?

24 A. The purpose of it is mainly for officer safety.

25 Q. Where is the antenna located?