

Guilt Innocence Phase  
August 14, 2017

1 (Witness sworn.)

2 **DIRECT EXAMINATION**

3 BY MS. BARNETT:

4 Q. Would you please state your name for the  
5 record?

6 A. Odil Robertson.

7 Q. And Ms. Robertson, do you live in Houston?

8 A. Yes, ma'am.

9 Q. What is your address?

10 A. 9530 Kelsey Meadows Court, Houston, Texas  
11 77040.

12 Q. Okay. Thank you.

13 How long have you lived there?

14 A. Since 1999.

15 Q. And do you remember your neighbors back in  
16 2012?

17 A. Yes.

18 Q. Who were your neighbors in 2012?

19 A. Jim and Sandy Melgar.

20 Q. All right. Now, I noticed that you called him  
21 Jim. Did you know him by any other name besides Jim?

22 A. Mostly Jim, but I also know his name was also  
23 Jaime.

24 Q. So sometimes you would call him Jaime?

25 A. No, I would always call him Jim.

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1 Q. Okay. How did you know that he was also known  
2 as Jaime?

3 A. I guess from prior conversation with maybe Jim  
4 or Sandy. I cannot recall exactly.

5 Q. All right. How long -- and did they -- is  
6 their house in 2012 next door to your house?

7 A. Yes.

8 MS. BARNETT: Your Honor, may I approach  
9 the diagram?

10 THE COURT: You may.

11 Q. (BY MS. BARNETT) Now, when you are looking at  
12 the Melgar house, you're standing in the street --  
13 that's just the diagram.

14 I'm showing you what's been entered into  
15 evidence as State's Exhibit 2. That's just a diagram of  
16 their house.

17 A. Okay.

18 Q. All right. So if you're standing in the  
19 street, which is at the bottom here, but if you're  
20 standing in the street and you're looking at the Melgar  
21 house, which house is yours, on the left or the right?

22 A. Sorry.

23 Q. You're standing in the street?

24 A. Yes --

25 Q. Let's do it this way.

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1 A. Standing in the street.

2 Q. Let's do it this way: You're standing in the  
3 street, you're looking at your house.

4 A. Yes. I'm on the right.

5 Q. You're on the right. All right. So, Sandy's  
6 house -- when Sandy and Jaime Melgar's house, you're  
7 standing in the street and looking at it, your house is  
8 to the right of theirs?

9 A. I'm sorry. Because you are facing me the other  
10 way, so I'm confused.

11 MS. BARNETT: May I approach the witness?

12 THE COURT: You may.

13 Q. (BY MS. BARNETT) Have you ever testified  
14 before?

15 A. No.

16 Q. It's fun, isn't it?

17 A. No.

18 Q. Let's pretend like we're in the street.

19 A. Yes.

20 Q. And we're looking at your house.

21 A. Yes.

22 Q. Where is the Melgar house?

23 A. Here.

24 Q. On the left?

25 A. Yes.

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1 Q. Okay. Thank you.

2 A. Sorry.

3 Q. That's quite all right.

4 So in our diagram here your house is over  
5 here?

6 A. Yes.

7 Q. So their bathroom is closest to your house?

8 A. Yes.

9 Q. That side of the house is closest to your  
10 house?

11 A. Yes.

12 Q. Now, do you know how long you and the Melgars  
13 lived side-by-side?

14 A. I cannot remember exactly, but it was several  
15 years.

16 Q. All right. Did -- were they close friends of  
17 yours?

18 A. We were good neighbors and, yes, I would  
19 consider them friends.

20 Q. Did you ever have them over to your house?

21 A. Yes.

22 Q. Was it -- and what kind of situation was it  
23 that they came over to your house?

24 A. We were just having a party, and they just came  
25 over and joined the party. I invited them to come over

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1 and join us for a party.

2 Q. Were other neighbors also included in the  
3 party?

4 A. Yes.

5 Q. Who -- who did you see more? Did you see Jaime  
6 or Jim Melgar or did you see Sandy Melgar?

7 A. Jim Melgar more often.

8 Q. All right. How is it that you would see Jaime  
9 Melgar?

10 A. Because he was often working in his yard and I  
11 was, too. So we would often see each other and we  
12 wouldn't always have a conversation, but I would see  
13 him, he would see me and he would say hi and he was  
14 always very cordial.

15 Q. Was he friendly to you?

16 A. Yes.

17 Q. And did you sometimes have conversations with  
18 him?

19 A. Sometimes, yes.

20 Q. Did -- outside of the party when you had the  
21 Melgars over with other couples, did you ever have any  
22 conversations with Sandy?

23 A. Yes.

24 Q. How would those happen?

25 A. Sometimes -- very seldom. But sometimes she

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1 would be in her yard, and if I was there, we'd always be  
2 very cordial and engage in a small conversation.

3 Q. And can you estimate or guess how many times  
4 you saw Sandy Melgar, aside from the party?

5 A. I cannot. I really can't say.

6 Q. Is it, like, under five times or more than ten  
7 or what would you guess?

8 A. Hard to tell, maybe 15 or 20 times.

9 Q. Fifteen or 20 times.

10 Okay. At anytime in the 15 or 20 times  
11 that you saw Sandra Melgar, did you ever see her walking  
12 with a cane?

13 A. No.

14 Q. Let me take you back to December 23, 2012 and  
15 ask if you remember that day.

16 A. Yes.

17 Q. How is it that you remember that day?

18 A. It was a very -- well, besides the event that  
19 happened next door, it was a very quiet, peaceful  
20 weekend. I had friend coming over for lunch that day  
21 with her son and it was a beautiful sunny day and we  
22 just -- we were just very relaxed and very quiet and  
23 that's it, just a very peaceful day with her.

24 Q. All right. Let me take you to that day and ask  
25 if you were interviewed by the police.

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1 A. Yes. They came to my home.

2 Q. What kind of questions did they ask you, if you  
3 recall?

4 MR. SECREST: Objection to the type of  
5 questions, and I'm having a problem with the answers.

6 THE COURT: Say that again. What's your  
7 legal objection?

8 MR. SECREST: Hearsay.

9 THE COURT: All right. Sustained.

10 Q. (BY MS. BARNETT) Were you asked about dogs?

11 A. I cannot remember.

12 Q. Okay. Do you remember -- all right. Do you  
13 have a recollection of the Melgars having dogs?

14 A. Yes.

15 Q. Do you remember how many dogs they had?

16 A. They had a minimum of two, I would think.

17 Q. And do you know if they had more than that --  
18 you said a minimum of two.

19 A. Yes.

20 Q. So at least two, maybe more?

21 A. Yes.

22 Q. Do you remember if they had dogs the entire  
23 time they were your next door neighbors?

24 A. I think so. I'm not positive, but I think so.  
25 I think they did bark a lot, so they did have dogs.

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1 Q. Did the dogs bark?

2 A. Yes.

3 Q. And was that irritating to you?

4 A. Yes.

5 Q. And it's okay, nobody is in trouble. I just  
6 want to make sure that we're all on the same page here.  
7 And when you say that they were irritating to you, what  
8 do you mean?

9 A. Well, it's like I enjoy my backyard. I spend a  
10 lot of time in my backyard. Every time we step in my  
11 backyard to relax or do some work, the dogs were already  
12 there, fighting, barking, pestering us. It was just  
13 annoying.

14 Q. And --

15 A. They have dogs, so.

16 Q. It's okay. Did the dogs ever bark when you  
17 were trying to go to sleep?

18 A. Yes.

19 Q. And did the dogs keep you from going to sleep?

20 A. Sometimes, yes.

21 Q. Would the dogs sometimes bark when you were  
22 asleep and wake you up?

23 A. Yes.

24 Q. Did that happen more than one time?

25 A. Yes, it happened.



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1 Q. Did you -- do you recall whether or not you  
2 ever complained to the Melgars about it?

3 A. No.

4 Q. Do you know if anybody else ever complained to  
5 the Melgars about it?

6 A. I don't know.

7 Q. Do you recall on December 23, 2012 or the  
8 Saturday night, did you hear any dogs barking that  
9 night?

10 A. No.

11 Q. What kind of neighborhood is it that you live  
12 in?

13 A. It's just a very nice, quiet neighborhood and  
14 kind of like under the radar. It's not sensatious  
15 {sic}, or -- it's just a very nice, middle-class  
16 neighborhood, lots of trees, lots of children, all kinds  
17 of people. It's very nice.

18 Q. Have you ever, since you've lived there since  
19 1999, have you ever heard about or seen or talked to any  
20 of the neighbors about any kind of kick burglary  
21 happening in your neighborhood?

22 A. No.

23 Q. Have you ever seen, or witnessed, or heard  
24 about, or talked to any neighbors in your neighborhood  
25 about a home invader in your neighborhood?

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1 A. Not that I can recall, no.

2 Q. Have you ever heard of any violent act taking  
3 place that you would know about or anybody has talked to  
4 you about taking place in your neighborhood?

5 A. No.

6 MS. BARNETT: May I have a minute, Your  
7 Honor?

8 THE COURT: You may.

9 Q. (BY MS. BARNETT) And one other thing I want to  
10 ask you about: The way that your house is situated, do  
11 you know where your --

12 MS. BARNETT: May I approach the diagram?

13 THE COURT: You may.

14 Q. (BY MS. BARNETT) Do you know where your bedroom  
15 would be in relation to your home?

16 A. So --

17 Q. Let me come up there.

18 MS. BARNETT: May I approach the witness?

19 THE COURT: Yes.

20 A. So this is their bedroom, and there is a window  
21 here and a window here. Our patio is here. Our patio  
22 is here, and then our bedroom is right there, facing  
23 that way, with the bay window facing the direction.

24 MS. BARNETT: All right. May the record  
25 reflect the witness has identified the master bedroom as

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1 where the two windows are and the area adjacent to the  
2 bedroom as being in between the witness' bedroom and the  
3 defendant's bedroom; is that right?

4 A. Yes.

5 THE COURT: It will.

6 MS. BARNETT: Pass the witness.

7 THE COURT: All right.

8 MR. SECREST: May I move this back, Your  
9 Honor?

10 THE COURT: You may.

11 **CROSS-EXAMINATION**

12 BY MR. SECREST:

13 Q. Good morning. How are you, ma'am?

14 A. Good morning.

15 Q. My name is Mac Secrest, and I represent your  
16 old neighbor, Sandy Melgar.

17 A. Yes.

18 Q. Have you and I ever spoken before?

19 A. No.

20 Q. You have, however, you remember back, maybe a  
21 year or so ago, you spoke with a young man who was my  
22 private investigator?

23 A. Yes.

24 Q. Mr. Bacon?

25 A. Yes.

1 Q. And you were kind enough to give him a few  
2 moments of your time?

3 A. Yes.

4 Q. Let me ask you about your understanding of the  
5 relationship between Sandy and Jim Melgar. Were they a  
6 happy couple as far as you could tell?

7 MS. BARNETT: Objection, speculation.

8 THE COURT: Sustained.

9 Q. (BY MR. SECREST) This is based upon your being  
10 around them. Anytime that you were around them, did you  
11 ever notice they were fighting?

12 A. No.

13 Q. Did you ever notice any strong words?

14 A. No.

15 Q. Did you ever notice any kind of aggression on  
16 Sandy's part towards Jim?

17 A. No.

18 Q. Any type of aggression on Jim's part towards  
19 Sandy?

20 A. No.

21 Q. But if I understand your testimony, Jim was  
22 outside a heck of lot more than Sandy was, fair  
23 statement?

24 A. Yes.

25 Q. Were you aware that she had some health

1 problems?

2 A. Yes.

3 Q. Okay. When Jim was outside, what kind of  
4 things was he doing?

5 A. Work in his yard.

6 Q. And that was pretty much a big thing for him,  
7 was it not?

8 A. Yes.

9 Q. And did he have a lot of tools in the garage?

10 A. I would not know.

11 Q. Did you often see the garage door up, though?

12 A. Yes.

13 Q. Okay. And in fact you told the -- our  
14 investigator before, didn't you, that Jim had a bad  
15 habit of leaving his garage door up. Didn't you tell us  
16 that?

17 A. Many people do leave their garage door open and  
18 Jim did leave his garage door open, yes.

19 Q. Okay. And I don't want to put words in your  
20 mouth, but to be fair with you, didn't you tell  
21 Mr. Bacon that Jim always left the garage door open?

22 A. Yes.

23 Q. Is that a quote?

24 A. Yes.

25 Q. And let me ask you, too, about these dogs; and

1 I understand no one likes little dogs barking, I  
2 appreciate that. I'm the same way, but it never got to  
3 the point where you thought you had to go over there and  
4 complain?

5 A. No.

6 Q. Did you -- did you see that the Melgars made  
7 some effort to try to get the dogs out of the yard and  
8 into the house sometimes so they wouldn't be barking as  
9 much?

10 A. I cannot say that, no.

11 Q. Okay. Let me ask you this: You said that  
12 sometimes the dogs barked and you weren't able to go to  
13 sleep, right?

14 A. Yes, sir.

15 Q. And I assume other times they barked and you  
16 were able to go to sleep?

17 A. Yes.

18 Q. And I think you said that sometimes that you  
19 were awakened by the dogs after you had gone to sleep,  
20 right?

21 A. Yes.

22 Q. And I assume there had to be other times the  
23 dogs barked and didn't wake you up.

24 A. We could assume.

25 Q. That's right, we can assume.

1                   Did you also Mr. Bacon {phonetic} that you  
2 go to bed pretty early?

3       A.     We do.

4       Q.     And tell our jury how early you go to bed.

5       A.     9:00, 9:30.

6       Q.     Okay.  So pretty typical for you -- are you  
7 married, ma'am?

8       A.     Yes.

9       Q.     And what is your husband's name?

10      A.     Timothy Robertson.

11      Q.     And how old a gentlemen is he?

12      A.     I'm sorry.

13      Q.     How old a gentleman is Mr. Robertson?

14      A.     Today he's 63 years old.

15      Q.     Is it his birthday today?

16      A.     No, not today.  But today's -- this year he is  
17 63 years old.  A few years back he was not.

18      Q.     I was going to wish him a happy birthday.

19                   THE BAILIFF:  Let's have order, please.

20      Q.     (BY MR. SECREST) So, but the bottom line is you  
21 and Mr. Robertson go to bed the same time normally, and  
22 it's around 9:00 or 9:30?

23      A.     Yes, sir.

24      Q.     And if I understand, the reason you go to bed  
25 so early around 9:00 or 9:30 is because you get up

1 early?

2 A. Yes.

3 Q. And tell the jury what time you normally get  
4 up.

5 A. 5:00 o'clock.

6 Q. Okay. So, you're not telling our jury that the  
7 dogs could have been barking and you just didn't hear  
8 them that night, are you?

9 A. I'm not saying that.

10 Q. Okay. It's just that based on your  
11 recollection, you don't remember the dogs barking, but  
12 you also went to bed at 9:00 o'clock at night, fair  
13 statement?

14 A. That is correct.

15 MR. SECREST: No further questions.

16 THE COURT: All right. Any further  
17 redirect?

18 MS. BARNETT: I do have.

19 **REDIRECT EXAMINATION**

20 BY MS. BARNETT:

21 Q. If there were four dogs barking outside your  
22 window at 10:00 o'clock through 2:00 o'clock in the  
23 morning, do you think you would have heard it?

24 MR. SECREST: Objection, first is that  
25 misstates the evidence.



1 THE COURT: What's your legal objection?

2 MR. SECREST: Misstates the evidence.

3 THE COURT: Rephrase.

4 Q. (BY MS. BARNETT) Let me give you a hypothetical  
5 in regards to you, where you were living and the  
6 experience that you had with the dogs.

7 Let's say that the dogs -- there are four  
8 dogs, and they're outside -- they're outside the  
9 bathroom closet -- I mean outside the bathroom here.  
10 And they're barking, four of them between, let's say,  
11 10:00 p.m. to 2:00 o'clock in the morning. Do you think  
12 that you would have heard it?

13 A. I think so.

14 Q. Based on your experience, living --

15 A. I mean, it's a long period of time. It's like,  
16 if it's five minutes, it's one thing. If it was a long  
17 time, I may have heard them, you know.

18 Q. I understand.

19 A. I didn't hear. That's all I can say. I didn't  
20 hear.

21 Q. And did you tell the police officer that  
22 interviewed you that the dogs were not barking that  
23 night?

24 A. That is correct.

25 Q. Thank you, ma'am.

1 MS. BARNETT: Pass the witness.

2 **RECROSS-EXAMINATION**

3 BY MR. SECREST:

4 Q. Did the police officer ask you what time you  
5 went to bed that night?

6 A. I cannot recall.

7 Q. And Ms. Barnett asked you a hypothetical. Let  
8 me add to that hypothetical. If dogs were barking,  
9 let's say between a time -- around 10:00 o'clock or so  
10 or even a bit later and if Jim got up to go get the dogs  
11 and brought them in, would you have heard the dogs  
12 barking once they were in the house?

13 A. I could not -- I could not say, no. I could  
14 not say if I could hear them if they were in the house.

15 Q. Okay. And of course you can't say that you  
16 could hear them anyway because you have no recollection  
17 that night of hearing the dogs because you went to bed  
18 as early as you did?

19 A. Exactly. I did not hear the dogs that night.

20 Q. Let me ask you this, too, Ms. Robertson: Is it  
21 fair to say that you rarely saw Sandy walking up and  
22 down the street?

23 A. I usually would see Sandy maybe in her yard,  
24 sometimes.

25 Q. Yes, ma'am.

1           A.     And sometimes I would see her going to her  
2 car --

3           Q.     Okay.

4           A.     -- to get in her car and go to her business, I  
5 don't know.

6           Q.     Okay.

7           A.     But she was not the kind of person who would go  
8 for exercising or walking the dog up and down the street  
9 --

10          Q.     Okay.

11          A.     -- so I -- no.

12          Q.     That's a fair answer.

13                     And let me ask you: Do you know where  
14 Sandy normally parked her car?

15          A.     In the driveway.

16          Q.     Okay. And do you know whether or not -- did  
17 Jim to your knowledge ever park his truck in the garage  
18 or did his truck always remain outside?

19          A.     His truck was always outside and actually not  
20 that -- but I think Sandy some time or most of time had  
21 it in the garage. I'm sorry. It's been a long time.

22          Q.     And that's fine. I understand memories fade.

23                     So would it be fair to say that because  
24 your recollection is Sandy normally parked in the  
25 garage, that you would seldom see her walk to her car

1 because she would get into the car and get out of the  
2 car normally in her garage?

3 A. Yes, I wouldn't -- yes.

4 Q. And the few times that you saw her, you  
5 basically saw her maybe venture out of the house and you  
6 saw her in the yard?

7 A. Yes.

8 Q. Okay. And was Sandy and Jim Melgar good  
9 neighbors to you?

10 A. Yes.

11 Q. Okay. Well, I hope so.

12 MR. SECREST: Thank you for your time. No  
13 further questions.

14 THE COURT: May this witness be excused?

15 MS. BARNETT: Yes, Your Honor.

16 MR. SECREST: Yes, Your Honor.

17 THE COURT: State, call your next witness.

18 MS. BARNETT: Sergeant Dousay.

19 THE BAILIFF: He has not been sworn,  
20 Judge.

21 THE COURT: (Swearing in witness.)

22 State, you may proceed.

23 MS. BARNETT: Thank you.

24 **DIRECT EXAMINATION**

25 BY MS. BARNETT: