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IN THE DISTRICT COURT OF OKLAHOMA COUNTY

STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CF-2015-6456
)	
WALI ABDUL-QADIR,)	
)	
Defendant.)	

* * * * *

SEVENTH JUDICIAL DISTRICT OF OKLAHOMA

EXCERPT OF THE TESTIMONY OF CHAD VONTUNGELN

HAD ON THE

16TH DAY OF FEBRUARY, 2016

BEFORE THE HONORABLE D. FRED DOAK

SPECIAL JUDGE

* * * * *

REPORTED BY:

Pamela J. Goold, CSR, RPR
Official Court Reporter
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I N D E X

FOR THE STATE:

CHAD VONTUNGELN

Direct Examination by Mr. Vazquez-----5

Cross-Examination by Mr. Parr-----16

Redirect Examination by Mr. Vazquez-----43

END OF REQUESTED TRANSCRIPT-----51

CERTIFICATE OF THE COURT REPORTER-----52

EXHIBITS

	<u>OFFERED:</u>	<u>RULED:</u>
STATE'S EXHIBIT NO. 1 Lab report	14	14
DEFENDANT'S EXHIBIT NO. 1 Search Warrant & Affidavit	33	34

1 (Whereupon, the following proceeding is only the
2 testimony of Chad Vontungeln as had on February 16,
3 2016:)

4 THE COURT: State may call its next witness.

5 MR. VAZQUEZ: Your Honor, the State calls
6 Officer Chad Vontungeln.

7 THE COURT: Come right on up, sir. Right here
8 is fine.

9 (Witness sworn.)

10 THE COURT: Have a seat there in the witness
11 chair.

12 THE WITNESS: Yes, sir.

13 THE COURT: Pull the microphone down in front
14 of you and sit where you can face out toward the
15 lectern --

16 THE WITNESS: Yes, sir.

17 THE COURT: -- where Mr. Vazquez is standing.
18 When you're comfortably situated, would you please state
19 your name.

20 THE WITNESS: Sir, Sergeant Chad Vontungeln.
21 Would you like me to spell it?

22 THE COURT: No, sir. I think we've got it the
23 past few times.

24 THE WITNESS: Okay.

25 MR. VAZQUEZ: And, Sergeant Vontungeln, how are

1 you --

2 THE COURT: Just one -- half a second, Mr.
3 Vazquez.

4 MR. VAZQUEZ: I apologize, Your Honor.

5 THE COURT: Let me catch up. All right, Mr.
6 Vazquez. Thank you, sir. You may inquire.

7 MR. VAZQUEZ: Thank you.

8 CHAD VONTUNGELN

9 was called as a witness, after having been first duly
10 sworn, and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. VAZQUEZ:

13 Q Sergeant Vontungeln, how are you employed?

14 A I'm a staff sergeant with the Oklahoma City Police
15 Department.

16 Q And how long have you been employed with the
17 Department?

18 A About 15 years.

19 Q And did you assist in executing a search warrant on
20 July 10th of 2015?

21 A Yes, sir.

22 Q And was that at 7000 West Britton Road in Oklahoma
23 City?

24 A Yes, sir, Apartment 1101, I believe.

25 Q Apartment 1101?

1 A Yes, sir.

2 Q Yes, sir. Okay. And what was your involvement in
3 the search?

4 A I believe I was the affiant on the search warrant,
5 as well as the logger during the execution of the search.

6 Q Okay. When you say, "logger," what does that mean?

7 A The logger is the person that documents where the
8 searcher, the designated searcher, finds the evidence
9 that the searcher determines to seize. Basically, you
10 just go around as their secretary during the execution.

11 Q And do you recall logging any evidence during the
12 execution of the search warrant?

13 A Yes, sir.

14 Q What evidence did you log?

15 MR. PARR: Judge, if I may? Just so that the
16 record is clear. Our objection to the issuance and
17 execution of the search warrant is on the record at this
18 point, and it also goes with regards to the testimony of
19 this witness.

20 THE COURT: Noted. Thank you, Mr. Parr.

21 Q (BY MR. VAZQUEZ) Sergeant Vontungeln, can you please
22 tell me what evidence you ended up logging during the
23 execution of this search warrant?

24 A I do recall there was evidence of various amounts of
25 marijuana, empty baggies, as well as other paraphernalia,

1 along with marijuana, some ammunition, I believe. 9
2 millimeter, if I remember correctly.

3 Q Okay. And did you find any items of dominion and
4 control in this apartment?

5 A Yes, sir.

6 Q And do you know who that was for?

7 A It was for -- I believe Wali Qadir was the name on
8 them, that was one of the aliases or the converted name
9 of the defendant.

10 Q And do you see a person that you know as Wali Qadir
11 or a/k/a Wallace McCoy sitting in the courtroom today?

12 A Yes, sir. He's at the defense table dressed in the
13 black. He's the black male.

14 Q And is he the individual that you came into contact
15 during the execution of your search warrant?

16 A Yes, sir.

17 MR. VAZQUEZ: Your Honor, the State would
18 request the record reflect identification of the
19 defendant, Mr. Qadir, as being the individual Sergeant
20 Vontungeln came into contact with during the execution of
21 a search warrant.

22 THE COURT: I might have missed a question, but
23 I don't recall him stating that he did. He stated that
24 he found some items of what he characterizes as D&C or
25 dominion and control. He may have said that, I just

1 missed it, so if I did miss it, perhaps you want to
2 inquire further.

3 MR. VAZQUEZ: I'd be happy to qualify that,
4 Your Honor.

5 Q (BY MR. VAZQUEZ) Sergeant Vontungeln, did you come
6 into contact with a person that you know as Wali Qadir
7 during the execution of your search warrant?

8 A Yes, sir, I did.

9 Q And is that gentleman sitting in the courtroom
10 today?

11 A Yes, sir.

12 Q And is that the person that we had mentioned
13 previously?

14 A Yes, sir, at the defense table, the black male,
15 dressed in all black.

16 MR. VAZQUEZ: Thank you.

17 THE COURT: Record will reflect that the
18 witness has pointed out Wali Abdul Qadir as the person
19 with whom he came into contact during the execution of a
20 search warrant on July 10, 2015.

21 Q (BY MR. VAZQUEZ) And, Sergeant Vontungeln, did you
22 come into contact with any other individuals in the
23 apartment at that time?

24 A Yes, sir.

25 Q Do you know who they were?

1 A I don't recall their names. One of them was
2 Mr. Qadir's wife and then, I believe, two children that I
3 believe were his. They were both children under the age
4 of 18.

5 Q In regards to the evidence that was logged, did you
6 submit any of that to the property room or for testing?

7 A I did not. It's usually the searcher that does it,
8 I believe. Sergeant Shroyer did. But I do know that it
9 was submitted to the property room.

10 Q Do you know what the seal number was on that
11 evidence?

12 A I have it on my report. I believe it's 40473 from
13 reviewing my report. That's close. I'm not great with
14 numbers, but I believe that's it.

15 Q Sergeant Vontungeln, did you --

16 THE COURT: Pardon me. I want to be sure I
17 understand what you're saying. You're not telling me
18 that you remember that's the number, you just looked at
19 your report and found it -- you're just telling me what
20 the report says?

21 THE WITNESS: Correct. Yes, sir.

22 THE COURT: Go ahead, sir.

23 Q (BY MR. VAZQUEZ) Sergeant Vontungeln, did you write
24 a report close in time to the execution of this search
25 warrant?

1 A Yes, sir, immediately after we returned to the
2 station.

3 Q All right. And did you have a chance to look over
4 that report prior to coming here?

5 A Yes, sir.

6 Q And would it -- would it -- would it reflect your
7 recollection to know for certain if that was indeed the
8 seal number, if you were able to look at your report?

9 A It would not on my report because that's in
10 Shroyer's original report.

11 Q Okay. During the course of this search, did you
12 have a chance to speak with Mr. Qadir?

13 A Yes, sir.

14 Q Did you Mirandize him?

15 A Yes, sir.

16 MR. PARR: Objection, Your Honor. At this
17 time, foundation.

18 THE COURT: Overruled.

19 Q (BY MR. VAZQUEZ) Did you Mirandize him?

20 A Yes, sir.

21 Q And did he make any statements to you?

22 A Yes, sir.

23 Q What statements were those?

24 A He acknowledged that he was a small time drug dealer
25 and he just sold to feed his family.

1 Q And did he give you any other information regarding
2 locations of narcotics?

3 A He did. He told me where the marijuana was in his
4 room. He kind of downplayed the amount of marijuana. I
5 think that was more just to claim it all as his and to
6 make sure that his wife wasn't charged with it as well,
7 but everything he said was where we ended up finding it.

8 Q Sergeant Vontungeln, are you familiar with this area
9 of Oklahoma City where the apartment is located?

10 A Yes, sir.

11 Q Do you know if there is any schools in that
12 neighborhood?

13 A Yes. There is a school directly east on the other
14 side of the fence to the apartment complex.

15 Q And do you know what the name of that school is?

16 A It's Wiley Post Elementary School, I believe.

17 Q And would that be within a thousand feet of this
18 dwelling?

19 A Yes, sir.

20 MR. PARR: Objection. Conclusion, Your Honor.
21 No basis for that -- no basis of fact for that statement.

22 THE COURT: Overruled.

23 MR. VAZQUEZ: Permission to approach the
24 witness, Your Honor?

25 THE COURT: Yes, sir.

1 Q (BY MR. VAZQUEZ) Sergeant Vontungeln, do you
2 recognize that document?

3 A Yes, sir, this is a lab report.

4 Q And do you recognize the serial number that's on
5 that lab report?

6 A Yes, sir.

7 Q And what is that serial number?

8 MR. PARR: Objection. We've got hearsay going
9 on here, Judge.

10 THE COURT: Sustained. That report will tell
11 me what the serial number on it is, Mr. Vazquez.

12 MR. VAZQUEZ: All right.

13 THE COURT: Why don't -- if we're going to be
14 referring to this piece of paper, why don't we get it
15 numbered and identified, so we'll all be talking about
16 the same piece of paper.

17 MR. VAZQUEZ: Yes, sir.

18 Q (BY MR. VAZQUEZ) Sergeant Vontungeln, I've handed
19 you what's marked as State's Exhibit 1.

20 A Yes, sir.

21 Q And you said that is, what, again?

22 A It is an Oklahoma City Police Lab Report.

23 Q And does the information on that report comport with
24 the evidence that you logged as your duty as a logger?

25 A Yes, sir.

1 MR. VAZQUEZ: Your Honor, the State would
2 request to admit the lab report, State's Exhibit 1, at
3 this time.

4 MR. PARR: We're going to object to that.

5 THE COURT: I'm sorry.

6 MR. PARR: I object to the admission of this
7 exhibit. First of all, in accordance with statutes and
8 rules, it wasn't provided to me until today. So it has
9 not been provided 10 days in advance of this hearing, as
10 required -- five days in advance of the hearing as
11 required by law, Your Honor.

12 Secondly, this witness has said he didn't submit any
13 evidence in this case, and Officer Shroyer has previously
14 testified that he didn't submit any evidence in this
15 case, and so any reference to numbers that may be
16 associated with this are purely hearsay. Because no one
17 has testified that they've submitted any evidence from
18 this case, so I object to the admission of this report.

19 THE COURT: The objection is sustained on both
20 grounds. Now, you understand my sustaining the objection
21 on your first ground only gets you a continuance.

22 MR. PARR: I do, Your Honor.

23 THE COURT: All right.

24 Q (BY MR. VAZQUEZ) Sergeant Vontungeln, have you
25 received training in the identification of marijuana?

1 A Yes, sir.

2 Q And in your training and experience, do the
3 narcotics that you observed and logged comport with your
4 training as being marijuana?

5 A Yes, sir.

6 Q Do you recall approximately how many baggies of
7 marijuana you recovered from the apartment?

8 A I believe more than five, I believe.

9 Q And, in your training and experience, is that
10 consistent with distribution of narcotics?

11 A Yes, sir.

12 Q Was there anything else found in the apartment that
13 would lead you to believe that there was distribution of
14 narcotics going on?

15 A Yes, sir. There was also various empty baggies, as
16 well as a heat seal machine, which to me would make no
17 sense; if you weren't selling drugs, why would you need
18 to package the marijuana back?

19 THE COURT: Sir, without your conclusion, just
20 tell me what you found.

21 THE WITNESS: Okay. Heat seal bag -- or heat
22 seal machine, empty baggies. There was also some baggies
23 that concealed the smell of marijuana. I don't remember
24 what -- like, no-smell bags or something is what they
25 were called. And then I believe a pipe to smoke

1 marijuana as well.

2 Q (BY MR. VAZQUEZ) In your course of your discussions
3 under Miranda with the defendant, did he direct you as to
4 where any of the marijuana would be located in the house?

5 A Yes, sir.

6 MR. VAZQUEZ: Okay. Thank you. Pass the
7 witness at this time.

8 THE COURT: Mr. Parr, I'm going to take about
9 five minutes before we start your cross-examination.
10 Stretch your legs, I'll be right back.

11 (Whereupon, a brief recess was had; after which the
12 following further proceedings resumed:)

13 THE COURT: Mr. Parr, when you are ready, sir,
14 you're recognized for cross-examination.

15 MR. VAZQUEZ: Mr. Parr, if I may? May I
16 retrieve the report from the officer?

17 THE COURT: For?

18 MR. VAZQUEZ: State's Exhibit 1.

19 THE COURT: Do you need it?

20 MR. VAZQUEZ: I don't need it. I just didn't
21 think --

22 THE COURT: It's been offered. It's part of
23 the record.

24 MR. VAZQUEZ: Understood.

25 THE COURT: Both of you need that in there.

CROSS-EXAMINATION

1
2 BY MR. PARR:

3 Q Sergeant, is your last name spelled

4 V-o-n-t-u-n-g-e-l-n?

5 A Yes, sir.

6 Q Okay. But it's pronounced Vontungeln?

7 A Yes, sir.

8 Q Okay. Little tricky on that.

9 A Yes, sir.

10 Q And you've been with the Oklahoma City Police
11 Department for 15 years?

12 A Right about 15 years, yes, sir.

13 Q Any prior law experience -- law enforcement
14 experience, before that?

15 A No, sir.

16 Q You attended the Oklahoma City Police Academy?

17 A Yes, sir.

18 Q You were assigned to the Hefner IMPACT Unit on the
19 date that you've testified about?

20 A Yes, sir.

21 Q Are you still assigned to the Hefner IMPACT Unit?

22 A Yes, sir.

23 Q What is that Unit?

24 A It's a Street Level Narcotics Unit.

25 Q Okay. How long have you been a member of the Hefner

1 IMPACT Unit?

2 A Since September of 2014, so about a year and a half

3 Q Since when in '14? I'm sorry?

4 A September.

5 Q Prior to that, were you a patrol -- assigned to
6 patrol?

7 A Yes. Yes, sir.

8 Q Anything else?

9 A No. No, sir.

10 Q Okay. Now, as a member of the Oklahoma City Police
11 Department, you have yearly performance reviews?

12 A Yes, sir.

13 Q Okay. And how is your performance as a police
14 officer evaluated each year?

15 MR. VAZQUEZ: Objection, Your Honor.

16 Relevance.

17 THE COURT: Overruled.

18 Q (BY MR. PARR) How is your performance as an Oklahoma
19 City Police Officer evaluated each year?

20 A It's my immediate supervisor has a packet that he
21 fills out, and he gives me it, and I review it, and sign
22 it, and it's got various bullets, I guess, of categories.
23 And then there is a number at the end of it that's, you
24 know, in a range.

25 Q Okay. What is it that you're evaluated for?

1 A I believe things like activity. I wouldn't be able
2 to tell you that. I don't know. I've never filled one
3 out. I read it, but I don't -- I pay attention more to
4 the number at the end.

5 Q Okay. So you don't really -- is it your testimony
6 today that you really don't know what you're evaluated
7 for as an Oklahoma City Police Officer of 15 years?

8 MR. VAZQUEZ: Objection, Your Honor.
9 Relevance.

10 THE COURT: Overruled.

11 THE WITNESS: Not exactly sure. Performance I
12 know, amount of complaints, various other things.

13 Q (BY MR. PARR) Okay. In each yearly -- in each
14 yearly performance evaluation, do you and your supervisor
15 set goals and objectives for the upcoming year?

16 A No, sir.

17 Q But I believe you told us that at least part of your
18 evaluation you believe is based upon your activity as a
19 police officer?

20 A Yes, sir.

21 Q And what does that mean? What do we mean when we're
22 talking about evaluating you based upon your activity as
23 a police officer?

24 A Basically, means you work. If you're in patrol, you
25 answer calls; if not, then you're out following up on

1 tips, doing other investigations.

2 Q Okay. So part of your evaluation as an Oklahoma
3 City Police Officer includes whether or not you're making
4 any arrests?

5 A No, that's not true.

6 Q Whether or not you are having contact with suspects?

7 A No.

8 Q Whether you are actually working on cases?

9 A Working, yes, doing your job, whatever you're
10 assigned to do.

11 Q And what is your job that you're assigned to do as a
12 member of the Hefner IMPACT Unit?

13 A We get assigned tips. Let's say a neighbor thinks
14 that the next-door neighbor is dealing drugs. They'll
15 call Crime Stoppers or some other number. And then we
16 get those assigned to us. Also, if patrol or another
17 unit makes an arrest for narcotics, we follow up on that
18 investigation and then we just go from there.

19 Q Okay. And that's how you became involved in this
20 particular incident regarding Mr. Qadir?

21 A Yes, sir.

22 Q Because another officer had told you that they had
23 made an arrest?

24 A Yes. Yes.

25 Q Okay. An officer by the name of Keith Medley?

1 A Yes.

2 Q Had told you the day before you went and got this
3 warrant he had made an arrest?

4 A That's correct. Yes, sir.

5 Q Okay. Now, prior to that you hadn't had any contact
6 with Mr. Qadir?

7 A Not that I recall.

8 Q Okay. And you hadn't been participating in any
9 investigations with regards to Mr. Qadir?

10 A Not that I recall.

11 Q And, to your knowledge, prior to his arrest on July
12 the 1st of last year there weren't any investigations
13 directed at him?

14 A Not that I recall, no, sir.

15 Q Okay. So the sole basis that you were involved in
16 focusing on Mr. Qadir was based upon information provided
17 to you by Keith Medley?

18 A Yes, sir.

19 Q Okay. Now, did you talk to Sergeant Medley?

20 A Yes, sir.

21 Q Okay. Did you read any reports that he prepared;
22 with regards to his arrest?

23 A I believe I did at the time, yes, sir.

24 Q So you believe that prior to contacting Mr. Qadir
25 you read Officer or Sergeant Medley's report with regards

1 to the arrest of Mr. Qadir the day before?

2 A Yes, sir, I know I read the report.

3 Q You know you did?

4 A Yes, sir.

5 Q Of that you're certain?

6 A I'm certain, yes, sir.

7 Q Okay. And that's the only information that you had
8 specifically about Mr. Qadir before you had contact with
9 him on the -- on July the 2nd of last year when you
10 executed the search warrant?

11 A Are you talking about just from the police report or
12 from my interview with Detective Medley?

13 Q Well, from both.

14 A From both, yes, sir.

15 Q Okay. And Medley -- and Sergeant Medley didn't tell
16 you that he had been involved in any investigation of
17 Mr. Qadir before his arrest the day before, did he?

18 A That, I'm not sure of. I don't remember that.

19 Q Okay. So you were the person who went to Judge
20 Graves and got the search warrant that was executed in
21 this case?

22 A Yes, sir.

23 Q And then when the search warrant was executed, you
24 were the person in charge of logging the evidence?

25 A Yes, sir.

1 Q Okay. So you prepared, what, a handwritten log?

2 A Yes, sir.

3 Q Did you review that today before testifying?

4 A No, I did not because I enter that into our report
5 system directly, so I reviewed that -- that report.

6 Q Okay.

7 A But not the handwritten version, sir.

8 Q You've had a certain amount of training and
9 experience; with regards to the investigation of criminal
10 offenses involving marijuana?

11 A Yes, sir.

12 Q You've been to a lot of schools?

13 A As many as they'll let me go to, yes, sir.

14 Q Okay. So you know, then, that there are two primary
15 varieties of marijuana?

16 A Are you talking about, like, high grade, hydro and
17 Reggie, or are you talking about different --

18 Q No. I'm talking about cannabis sativa and cannabis
19 indica.

20 A Yes, sir.

21 Q You're aware that there are different varieties of
22 cannabis, correct?

23 A I don't believe I recall the different varieties.
24 We deal with a lot of strand names, but I don't know the
25 chemical makeup of those.

1 Q Well, you're familiar that a number of different
2 states around the United States have medicalized the use
3 of marijuana, correct?

4 A Yes, sir.

5 Q And you're aware that a number of different states
6 around the country have legalized the use and possession
7 of marijuana, correct?

8 A Yes, sir.

9 Q And you've participated in numerous kinds of
10 investigations, correct?

11 A Yes, sir.

12 Q And based upon your experience and training, you are
13 aware that the effects of cannabis sativa and cannabis
14 indica are different from one another, correct?

15 A No, sir.

16 Q You're not aware of that?

17 A No, sir.

18 Q Okay. Have you heard that?

19 A No, sir.

20 Q You've testified today with regards to -- well,
21 strike that.

22 Have you -- since the execution of this search
23 warrant, have you conducted any other investigation in
24 this case?

25 A No, sir, not this specific case, no.

1 Q Okay. You prepared any other reports -- how many
2 reports have you prepared with regards to this case?

3 A I believe I did two. One was the logger report and
4 then the other was a brief summary of the Miranda
5 interview.

6 Q Okay. You've been thoroughly trained in the
7 reporting -- in the writing of reports, police reports?

8 A I feel so, yes, sir.

9 Q Okay. And that was part of your training in the
10 Oklahoma City Police Academy?

11 A Yes, sir.

12 Q And you've probably had -- or have you had
13 additional training in courses with regards to report
14 writing since graduating from the Oklahoma City Police
15 Report?

16 A I don't --

17 THE COURT: Police Academy?

18 MR. PARR: Police Academy. I'm sorry.

19 THE WITNESS: I don't recall any specific
20 classes.

21 Q (BY MR. PARR) Okay. But you are trained that police
22 reports are an extremely important part of police work,
23 correct?

24 A Yes, sir.

25 Q And you are trained that it is important in police

1 reports to include all of the evidence that you believe
2 is relevant in the investigation of a case, correct?

3 A Yes, sir.

4 Q And you are trained to be as thorough, with regards
5 to the fact as humanly possible, correct?

6 A Yes, sir.

7 Q Because one of the purposes of police reports is to
8 help police officers remember the facts of a case perhaps
9 seven, eight, ten months after it actually happened?

10 A Correct, sir.

11 Q Because police officers have hundreds, sometimes
12 thousands of cases that they may work on in a year's
13 time, correct?

14 A Probably not thousands, maybe --

15 Q Okay. Because police officers such as yourself will
16 have hundreds of cases that they are working on in any
17 one year, correct?

18 A Probably between one and 200, yes, sir.

19 Q With regards to officers assigned to drug cases,
20 many of those cases have a lot of similarities, correct?

21 A Yes, sir.

22 Q Okay. So it's important to write down the key facts
23 in any particular case, correct?

24 A Yes, sir. Yes, sir.

25 Q It's also important to do that for the purpose of

1 assisting prosecutors in evaluating cases and deciding
2 what kinds of charges to file, correct?

3 A Yes, sir.

4 Q Okay. And as a veteran police officer of 15 years,
5 you do what you were trained to do with regards to the
6 writing of reports, correct?

7 A Yes. Training kind of evolves over time but, yes,
8 sir.

9 Q Okay. So you include all of the facts that you
10 think are relevant in an investigation when you write a
11 report?

12 A Yes, sir.

13 Q Okay. And you write reports when -- you write
14 reports shortly after the incident occurs while all of
15 the facts and information is fresh in your mind, correct?

16 A Yes, sir.

17 Q Because memory fades over time, correct?

18 A Yes, sir.

19 Q Okay. People who smoke marijuana -- strike that.

20 Based upon your training and experience, people who
21 smoke marijuana will frequently -- or will buy more than
22 one bag of marijuana over the course of a month or two
23 months, fair to say?

24 A Not necessarily.

25 Q So is it your testimony today that every person who

DISTRICT COURT OF OKLAHOMA COUNTY - OFFICIAL TRANSCRIPT

5 Q Okay. So you've been in many, many houses where
6 people smoke marijuana where you will find small
7 quantities of marijuana on a tray, and in baggies, or in
8 a little box, or in a stash container, correct?

9 A No, sir.

10 Q You've not?

11 A Not people that just smoke marijuana, no, sir.

12 Q Okay. So you prepared reports in this case?

13 A Yes, sir.

1 smokes marijuana will buy a bag of marijuana and not
2 purchase any other marijuana until every bit of the first
3 amount purchased is consumed?

4 A No, sir, that's not my testimony.

5 Q Okay. So you've been in many, many houses where
6 people smoke marijuana where you will find small
7 quantities of marijuana on a tray, and in baggies, or in
8 a little box, or in a stash container, correct?

9 A No, sir.

10 Q You've not?

11 A Not people that just smoke marijuana, no, sir.

12 Q Okay. So you prepared reports in this case?

13 A Yes, sir.

14 Q Two reports?

15 A Yes, sir.

16 Q Okay. Regarding the execution of the search warrant
17 -- pardon me.

18 With regards to evidence that you logged, correct?

19 A Yes, sir.

20 Q And with regards to the statements that you claim
21 Mr. Qadir made?

22 A Yes, sir.

23 Q Now, in either of those two -- and you were complete
24 with all of the evidence that you thought was important
25 in the case to include in those reports?

1 A Yes, sir.

2 Q Okay. In either of your two reports, is there any
3 statement with regards to the house where Mr. Qadir lived
4 being close to a school?

5 A No, sir.

6 Q Have you read Sergeant Shroyer's report?

7 A No, sir.

8 Q Okay. And you've testified that you have not
9 conducted any investigation since you executed -- in this
10 case since you executed the search warrant?

11 A That's correct, sir.

12 Q Okay. Now, did any officer video the execution of
13 this search warrant?

14 A No, sir.

15 Q Were any of the officers who participated in it
16 equipped with body cams?

17 A No, sir.

18 Q Was there any other person present when Mr. Qadir
19 allegedly made the statements to you that you've
20 testified about?

21 A There were other people in the apartment, but I
22 don't recall -- I mean, I don't know what they heard.

23 Q Okay. So as far as you know, you're the only person
24 that can tell us what Mr. Qadir said?

25 A As far as I know, yes, sir.

1 Q Okay. Now, did you have at the time -- strike that.

2 Oklahoma City Police Officers are equipped with
3 Miranda forms as part of their regular paperwork that
4 they carry around with them, aren't they?

5 A No.

6 Q It's your testimony today that Oklahoma City Police
7 Officers executing search warrants do not carry with them
8 Miranda waiver forms? Is that your testimony?

9 A I can only speak about my unit and we do not.

10 Q So with regards to this particular case, you do not
11 have a Miranda waiver form signed by Mr. Qadir?

12 A No, sir, I do not.

13 Q And you read -- you claim that you read him his
14 Miranda rights?

15 A Yes, sir.

16 Q And what did you tell him?

17 A I read it off of my Miranda card.

18 Q Okay. And so whether -- the only way we know of
19 whether or not he was Mirandized is your say-so?

20 A Yes, sir.

21 Q Correct?

22 A Yes, sir.

23 Q And the only way that we know or that we have to
24 believe that he made any statements is your word?

25 MR. VAZQUEZ: Objection, Your Honor.

1 Argumentative.

2 THE COURT: Sustained.

3 Q (BY MR. PARR) Are you aware of any other way other
4 than your testimony to confirm whether or not you read
5 Mr. Qadir his Miranda rights?

6 A No, sir.

7 Q Are you aware of any other way to confirm that
8 Mr. Qadir, other than your testimony, to confirm that
9 Mr. Qadir made any kind of statements to you,
10 incriminating statements to you?

11 A No, sir, I'm not.

12 Q Okay. In applying for the warrant in this case, you
13 submitted to a judge an affidavit?

14 A Yes, sir.

15 Q That was to Judge Graves?

16 A I believe so.

17 Q Okay. And that was an affidavit that you signed?

18 A Yes, sir.

19 Q And that was an affidavit that you signed under
20 oath?

21 A Yes, sir.

22 Q And that was an affidavit that you signed under oath
23 swearing that all of the information contained in that
24 affidavit was factually true?

25 A Yes, sir, to the best of my knowledge, yes, sir.

1 Q Prior to obtaining a search warrant in this case,
2 you had not been engaged in any other investigation of
3 Mr. Qadir?

4 A That's correct, sir.

5 Q Prior to obtaining the search warrant in this case,
6 you had not been advised by any other officers that there
7 was other investigation going on with regards to
8 Mr. Qadir?

9 A That, I don't recall. It seems like there was
10 something that Detective Medley was telling me about him,
11 an allegation -- I don't recall that.

12 Q Okay.

13 A Detective Medley is in the Criminal Enterprise Unit.

14 Q And prior to preparing the warrant in this case, you
15 had read Officer Medley's police report, with regards to
16 his arrest of Mr. Qadir the day before?

17 A Yes, sir. I don't believe it was the day before,
18 was it? I don't believe it was the day before.

19 Q And in a sworn affidavit that you submitted to Judge
20 Graves in order to obtain the warrant, the search warrant
21 for Mr. Qadir's residence, you made at least three
22 materially false representations of fact at that time,
23 didn't you?

24 MR. VAZQUEZ: Objection, Your Honor. Facts not
25 in evidence.

1 THE COURT: Overruled.

2 Q (BY MR. PARR) Didn't you?

3 A Absolutely not.

4 Q Sergeant Vontungeln, I'd like to hand you what's

5 been marked for defendant's -- or for identification

6 purposes as Defendant's Exhibit Number 1. You recognize

7 that document or those two documents.

8 A I only see Exhibit 1. What's the other document,

9 sir?

10 Q Well, look at the entire exhibit.

11 A Okay.

12 Q Does Exhibit 1 include both the search warrant

13 signed by Judge Graves and the affidavit seeking that

14 search warrant?

15 A Yes, sir.

16 Q And the first page, the first three pages are the

17 affidavit that you submitted?

18 A Yes, sir.

19 Q The sworn affidavit that you submitted?

20 A Yes, sir.

21 Q Sworn to contain the truth?

22 A Yes, sir.

23 Q Directing your attention to -- strike that.

24 MR. PARR: Judge, we'd like to offer

25 Defendant's Exhibit Number 1 into evidence.

1 MR. VAZQUEZ: No objection, Your Honor.

2 THE COURT: Defendant's 1 is admitted without
3 objection.

4 MR. PARR: A copy for the Court.

5 THE COURT: Thank you, sir.

6 Q (BY MR. PARR) Sergeant Vontungeln, on the third page
7 of the affidavit that you submitted under oath to Judge
8 Graves, would you look at that, please.

9 A Is it Page 3, sir?

10 Q Yes, sir.

11 A Okay.

12 Q That affidavit was sworn out by you on July 2, 2015,
13 correct?

14 A Yes, sir.

15 Q In the second paragraph of that affidavit, it makes
16 reference to Keith Medley arresting Mr. Qadir the day
17 before, correct?

18 A Yes, sir.

19 Q Okay. In the last paragraph of that sworn affidavit
20 prepared by you on July 2nd of 2015, look at that,
21 please. You looked at it?

22 A Yes, sir.

23 Q There was -- you had no evidence that drugs had been
24 seen in Mr. Qadir's house 72 hours before presenting this
25 to Judge Graves, did you? Did you? Did you?

1 A Not according to the warrant. I believe there
2 was --

3 Q The warrant -- the affidavit that you prepared and
4 swore to says, "The information has been presented to the
5 Court within 72 hours of illegal drugs being seen at the
6 location." That's what it says, correct?

7 A Yes, sir.

8 Q That is not true, is it?

9 A Correct, sir.

10 Q That is not true, correct?

11 A That is not true. You're right, sir.

12 Q Okay. The second sentence says, "Based upon your
13 affiant's investigation," and you are the affiant,
14 correct?

15 A Yes, sir. Yes, sir.

16 Q "Statements made by CI and marijuana purchased from
17 the residence" --

18 A Should be -- it's a typo.

19 Q That --

20 THE COURT: Sir, let's let him ask his
21 question.

22 THE WITNESS: Sorry, Judge.

23 Q (BY MR. PARR) That is what you put into your sworn
24 affidavit, correct?

25 A Yes, sir.

1 Q That is not true, is it?

2 A No, sir.

3 Q That is a false statement, correct?

4 A It is not true.

5 Q It is a false statement, correct?

6 THE COURT: Counsel, he said it is not a true
7 statement. He doesn't have to use your words.

8 Q (BY MR. PARR) Back up to the second paragraph of
9 that affidavit. That says on September 1 -- on 7/1/15,
10 you see that paragraph?

11 A Yes, sir.

12 Q That paragraph implies that on 7/1 of '15, Mr. Wali
13 Qadir was found to be in possession of 7 grams of
14 marijuana, correct?

15 A Yes, sir.

16 Q If you read Officer Medley's report, you know that
17 on 7/1 of '15, Mr. Qadir was not found to be in actual
18 possession of any marijuana; isn't that correct?

19 A No, sir.

20 Q If you read Sergeant Medley's report regarding his
21 arrest of Mr. Qadir on 7/1 of '15, you know that, in
22 fact, the 7 grams of marijuana was found on the person of
23 one Erika Shinault who was stuffing it into her pants at
24 the time she was approached by an officer working with
25 Mr. Medley, correct?

1 A I don't recall that.

2 Q You have testified that you did read Sergeant
3 Medley's report, correct?

4 A Yes, sir.

5 Q Is it your testimony today that you do not remember
6 what was contained in Officer Medley's report that you
7 read?

8 A Yes, sir.

9 Q Would it help refresh your memory if you were able
10 to read Officer Medley's report?

11 MR. VAZQUEZ: Objection, Your Honor. That
12 report was not written by Officer Vontungeln and --

13 THE COURT: How is that relevant to the
14 proffer?

15 MR. VAZQUEZ: That report has not been
16 referenced.

17 THE COURT: He's proffering it to refresh this
18 witness's recollection. He may offer him anything that
19 would serve to refresh recollection including a list of
20 groceries. Objection is overruled.

21 Q (BY MR. PARR) Sergeant Vontungeln, I'd like to hand
22 you what's been marked for identification purposes as
23 Defendant's Exhibit Number 2.

24 A Yes, sir.

25 Q Do you recognize that as the report prepared by

1 Sergeant Keith Medley regarding his arrest of Mr. Qadir
2 on July 1st of 2015?

3 A Yes, sir.

4 Q That would be the report that you reviewed, correct?

5 A Yes, sir.

6 Q I would like you to read that report, please, to
7 help refresh your memory.

8 A Yes, sir.

9 Q Does that help refresh your memory?

10 A Yes, sir.

11 Q In fact, Mr. -- Sergeant Medley's report doesn't
12 contain any information about Mr. Qadir being in actual
13 possession of any marijuana that night, does it?

14 A That's correct, sir.

15 Q And, in fact, the report very specifically states
16 that a bag with seven -- weighing 7.9 grams of marijuana
17 was found on the actual person of a passenger in the car,
18 Erika Shinault, correct?

19 A Yes, sir.

20 Q And that at the time she was contacted, Ms. Shinault
21 was trying to stuff that bag containing approximately 7
22 grams of marijuana into her pocket, correct?

23 A Yes, sir.

24 Q Now, with regards to the affidavit that you
25 submitted to get the search warrant in this case, in the

1 second paragraph when you're talking about Detective
2 Medley's arrest of Mr. Qadir the day before. You do not
3 put into that paragraph that the 7 grams of marijuana was
4 found on the person of Erika Shinault, do you?

5 A No, sir.

6 Q And you did not put into that affidavit the fact
7 that Erika Shinault was stuffing that bag with 7 grams of
8 marijuana into her pants at the time it was discovered,
9 did you?

10 A No, sir.

11 Q In the search of the Qadir residence, you did not
12 find any scales, correct?

13 A Correct, sir.

14 Q You did not find any large amounts of money,
15 correct?

16 A I believe we did find some money. I don't know what
17 you're considering a large amount to be.

18 Q Well, nothing that was seized?

19 A I believe that's correct.

20 Q Okay. You didn't find any documents reflecting
21 sales of marijuana, correct?

22 A Correct, sir.

23 Q You did not find any documents reflecting money
24 received for marijuana, correct?

25 A Correct, sir.

1 Q You did not find any documents referencing money
2 owed from the sale of marijuana, correct?

3 A Correct, sir.

4 Q How much does -- based upon your training and
5 experience, how much marijuana does a daily smoker of
6 marijuana consume?

7 A Oh, that would be speculation. I mean, I don't
8 know. It just depends on how much marijuana they want to
9 consume.

10 Q Okay. And you -- I believe you have testified that
11 you're familiar that there are a number of different
12 varieties and strains of marijuana, correct?

13 A Yes, sir.

14 Q And you know that there is sativa and indica,
15 correct?

16 A Yes, sir.

17 Q And you know that there are hybrids between the two
18 different varieties, correct?

19 A No, sir.

20 Q I believe you testified on direct examination that
21 because you found, I believe you said five -- about 5
22 bags of marijuana in the house that that was consistent
23 with distribution as opposed to personal use, is that
24 your testimony?

25 A Yes, it can be.

1 Q It can be?

2 A Yes, sir.

3 Q It's also consistent with personal use, isn't it?

4 A It can be, yes, sir.

5 MR. PARR: May I have that report back,
6 please?

7 THE WITNESS: The warrant?

8 MR. PARR: No.

9 THE WITNESS: That's the warrant.

10 MR. PARR: Judge, we did --

11 THE COURT: I think he's telling you you picked
12 up the wrong one.

13 THE WITNESS: Did you want the warrant or the
14 report?

15 MR. PARR: I'm sorry. My bad. The report.

16 THE WITNESS: Yes, sir.

17 MR. PARR: My bad.

18 THE WITNESS: Okay.

19 MR. PARR: Actually --

20 THE WITNESS: You want the warrant?

21 MR. PARR: That was the State's. Did I take
22 back --

23 THE COURT: You gave me a copy, which I have.

24 MR. PARR: The affidavit.

25 THE WITNESS: That's what this is.

1 MR. PARR: Okay. Did I take --

2 THE COURT: Just take your time and find what
3 you need.

4 MR. PARR: Did I take back Mr. Medley's report?

5 THE WITNESS: Yes, sir, you did.

6 Q (BY MR. PARR) The fact of the matter is that
7 Mr. Qadir made no statements to you with regards to the
8 marijuana that was found in the house; isn't that
9 correct?

10 A That's completely untrue.

11 Q Based upon your word?

12 A Yes, sir.

13 Q Did you personally measure the distance from
14 Mr. Qadir's house?

15 A To where, sir?

16 Q To where you say this school was?

17 A No, sir.

18 Q Okay. So you have no personal knowledge of that at
19 all?

20 A The exact distance, no, sir.

21 Q Yes. Okay. That's speculation on your part?

22 A Yes, sir.

23 Q You said you found a heat seal machine?

24 A Yes, sir.

25 Q What -- tell me what you're talking about.

1 A It's like a food saver machine. It seals bags.

2 Q Oh, like sealing food in a freezer?

3 A Sealing food anywhere, sealing anything, just
4 sealing a bag, yes, sir.

5 Q Oh, okay. So if you wanted to freeze soup and you
6 put it in a bag for the purpose of freezing it to warm it
7 up later, you can use a heat sealing device?

8 A Yes, sir.

9 Q And if you want to freeze any kind of food for the
10 purpose of storage until later, you can use a heat
11 sealing device?

12 A Yes, sir.

13 Q Okay.

14 MR. PARR: I don't believe I have any further
15 questions of this witness at this time, Your Honor.

16 THE COURT: Redirect.

17 REDIRECT EXAMINATION

18 BY MR. VAZQUEZ:

19 Q Sergeant Medley, have you presented charges on other
20 cases --

21 THE COURT: This is Sergeant Vontungeln.
22 Sergeant Medley is somebody else.

23 MR. VAZQUEZ: I'm sorry. I apologize.

24 Q (BY MR. VAZQUEZ) Sergeant Vontungeln, have you in
25 the past presented charges relating to narcotics being

1 sold or possessed within a thousand feet of a school?

2 A Yes, sir.

3 Q And are you familiar with the approximate distance
4 of how far a thousand feet would be?

5 A Yes, sir.

6 Q And in your training and experience, how certain are
7 you that these -- I believe you said, Wiley Post
8 Elementary is within a thousand feet of the listed
9 apartment complex?

10 A I'm very certain. It's right next door.

11 Q Okay. I just want to clarify a couple of things
12 here. Because I was a little bit confused talking first
13 about some of these dates. Mr. Parr kept mentioning July
14 10th, and July 1st, and a day before, and a day after.
15 What day was this search executed?

16 A I believe the 10th.

17 Q Of July?

18 A Yes, sir, July 10th.

19 Q And what year is that?

20 A 2015.

21 Q Okay. In regards to the warrant being signed, which
22 I believe was in Defense Exhibit 1. You had testified
23 that was signed on July -- presented and signed on July
24 2nd; is that correct?

25 A Yes, sir.

1 Q Okay. So when we're talking about the day before,
2 we're talking about an incident that occurred on July
3 1st?

4 A Yes, sir.

5 Q Okay. And what I'm led to believe, then, is that
6 this incident on July 1st was a traffic stop by Sergeant
7 Medley?

8 A Yes, sir.

9 Q And that was in -- that information is referenced in
10 the report that Mr. Parr has also entered in as an
11 exhibit, correct?

12 A Yes, sir.

13 Q Okay. You had a chance to read over that report,
14 correct?

15 A Yes, sir. Medley's report?

16 Q Yes.

17 A Yes, sir.

18 Q Okay. And you relied on the information in that
19 report to prepare your warrant; is that correct?

20 A Yes, sir.

21 Q Do you recall reading anything in that report about
22 Ms. Erika -- pardon me if I mispronounce her name. I
23 believe it was -- I apologize.

24 THE COURT: Are you talking about Erika
25 Shinault?

1 MR. VAZQUEZ: Yes, Shinault. That was the last
2 name. I apologize.

3 Q (BY MR. VAZQUEZ) Do you recall reading in the report
4 anywhere about Ms. Shinault saying the marijuana in the
5 car belonged to the defendant?

6 MR. PARR: Objection, Your Honor. Hearsay.

7 THE COURT: Sustained.

8 Q (BY MR. VAZQUEZ) Did you rely on the information in
9 the report to create your warrant?

10 A Yes, sir.

11 Q And was there any information in that report,
12 specifically, that led you to believe Mr. Qadir may be
13 selling narcotics?

14 A Yes, sir.

15 Q What was that information?

16 MR. PARR: Objection. Hearsay.

17 THE COURT: He can tell me what was in the
18 report. I'm not going to accept it as factually proof
19 for purposes of this proceeding. You may answer the
20 question.

21 THE WITNESS: He was arrested for possession of
22 marijuana with intent, as well as some statements that
23 Ms. Shinault made.

24 Q (BY MR. VAZQUEZ) In the course of logging all of
25 your evidence, did you see all of it before writing your

1 report?

2 A The evidence?

3 Q Yes.

4 A Yes, sir.

5 Q Okay. In your training and experience, to your
6 knowledge, is marijuana legal to possess in Oklahoma?

7 A No, sir.

8 Q And did the defendant provide you with any
9 information such as a medical marijuana card or anything
10 like that stating he had a prescription for marijuana?

11 MR. PARR: Outside the scope.

12 MR. VAZQUEZ: It's directly in regards --

13 THE COURT: Overruled. I didn't hear an answer
14 to the question, however. If you want an answer you
15 probably ought to let him give one.

16 Q (BY MR. VAZQUEZ) Sergeant Vontungeln, did he -- did
17 the defendant provide you with any information that he
18 possessed a medical marijuana card?

19 A No, sir.

20 Q Sergeant Vontungeln, Mr. Parr has asked you a lot
21 about different strains of marijuana, a couple different
22 kinds there. Do you know if there is a way to
23 differentiate which strain is which just by sight?

24 A No, sir.

25 Q Do you know if you would need a lab report to be

1 able to understand the differences between marijuana that
2 may be found?

3 A Yes, sir.

4 Q In regards to the question of this being possession
5 with intent to distribute, based on your training and
6 experience, other than the number of bags that were
7 there, is there anything else that led you to believe
8 that distribution was occurring?

9 A He told me under Miranda.

10 Q The statement he made?

11 A Yes, sir.

12 Q Thank you.

13 A That, and the packaging, and the heat seal bag also
14 -- the heat sealer, also, was important to me for that
15 based on the location where we found it.

16 Q Okay. Mr. Parr asked you about reports that you
17 submitted, and you said you submitted two reports,
18 correct?

19 A Yes, sir.

20 Q If other reports were submitted through Oklahoma
21 City Police, how would you locate those other reports?

22 A In our Varuna system, our police report system.

23 Q And is there any type of identification process to
24 find those reports?

25 A You look them up under the case number.

1 Q And was there a case number assigned to this case?

2 A Yes, sir.

3 Q What was this case number?

4 A I do not recall offhand.

5 Q Is that number something on the top of your report?

6 A It's on the top of State's Exhibit 1. It's

7 15-56767.

8 Q Okay. And is that the case number or incident
9 number assigned to the events of July 10, 2015?

10 A Yes, sir.

11 Q Okay. So any other reports that were made in
12 relation to this event would be under that case number?

13 A Yes, sir.

14 Q And any lab report related to evidence seized would
15 be made under this case number and/or seal number,
16 correct?

17 A Yes, sir.

18 Q Okay. I had previously handed you what's State's
19 Exhibit 1, a lab report. Is there a case number on
20 there?

21 A Yes, sir.

22 Q And what is that case number?

23 MR. PARR: That is outside the scope, Your
24 Honor. Objection.

25 THE COURT: Sustained.

1 MR. VAZQUEZ: One moment, Your Honor.

2 THE COURT: Yes, sir.

3 Q (BY MR. VAZQUEZ) In regards to Sergeant Medley's
4 report, are you aware of the defendant making any
5 statements in that report?

6 MR. PARR: Objection. Hearsay, Your Honor.

7 THE COURT: He may answer "yes" or "no" whether
8 he's aware of any statements.

9 THE WITNESS: Sorry. Will you repeat the
10 question?

11 MR. VAZQUEZ: Yes.

12 Q (BY MR. VAZQUEZ) In Sergeant Medley's report, are
13 you aware of the defendant making -- after reviewing it,
14 are you aware of the defendant making my statements to
15 Sergeant Medley in his report?

16 A In the report, I only recall him saying he wasn't --

17 THE COURT: No. No, sir. Don't tell me what
18 he said. You can say "yes" or "no", you recall some
19 statements or you do not.

20 THE WITNESS: I do recall some statements.

21 Q (BY MR. VAZQUEZ) Okay. And in this case relating to
22 the search warrant, you said that you Mirandized the
23 defendant. Was that a voluntary waiver? Did you force
24 him to do anything like that?

25 A Absolutely not.

1 Q So it was knowingly and voluntarily given?

2 A Absolutely.

3 Q There was no threats of force or coercion?

4 A Absolutely not.

5 MR. VAZQUEZ: No further questions at this
6 time. Pass the witness.

7 THE COURT: Recross.

8 MR. PARR: No further questions at this time,
9 Your Honor.

10 THE COURT: That is all the questions we have
11 for you, Sergeant Vontungeln.

12 THE WITNESS: Thank you.

13 THE COURT: You can push the microphone aside
14 and step down. May this witness be excused?

15 MR. VAZQUEZ: Yes, Your Honor.

16 (End of Requested Testimony)

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IN THE DISTRICT COURT OF OKLAHOMA COUNTY

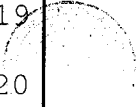
STATE OF OKLAHOMA

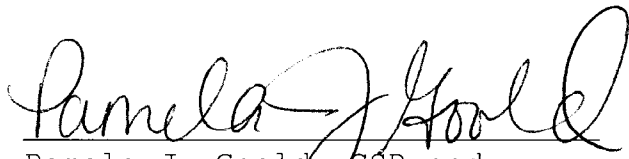
THE STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CF-2015-6456
)	
WALI ABDUL-QADIR,)	
)	
Defendant.)	

STATE OF OKLAHOMA))
) SS: CERTIFICATE OF COURT REPORTERS
 COUNTY OF OKLAHOMA)

I, Pamela J. Goold, Certified Shorthand Reporter, within and for the State of Oklahoma, duly appointed and qualified reporter in the District Court of Oklahoma County, State of Oklahoma, do hereby certify that the foregoing is a true, complete, and accurate record of said proceedings.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 23rd day of March, 2016.

 Pamela J. Goold
 State of Oklahoma
 Certified Shorthand Reporter
 CSR # 140
 12/16


 Pamela J. Goold, CSR and
 Official Court Reporter in
 and for the State of
 Oklahoma