

# Exhibit 37



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# Transcript of Elsworth Smith, Jr., Volume II

**Date:** March 5, 2020  
**Case:** Watts Coordinated Cases

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## Transcript of Elsworth Smith, Jr., Volume II

1 (315 to 318)

Conducted on March 5, 2020

|    |   |    |  |
|----|---|----|--|
|    | 315   |    | 317  |
| 1  | UNITED STATES DISTRICT COURT                  | 1  | A P P E A R A N C E S                      |
| 2  | NORTHERN DISTRICT OF ILLINOIS                 | 2  | ON BEHALF OF CERTAIN PLAINTIFFS:           |
| 3  | EASTERN DIVISION                              | 3  | SCOTT RAUSCHER, ESQUIRE                    |
| 4  |   | 4  | LOEVY & LOEVY                              |
| 5  | ----- x                                       | 5  | 311 North Aberdeen Street                  |
| 6  | WATTS COORDINATED CASES. : Master Docket      | 6  | Third Floor                                |
| 7  | : Case No. 19-cv-01717                        | 7  | Chicago, Illinois 60607                    |
| 8  | ----- x                                       | 8  | 312.243.5900                               |
| 9  |   | 9  |  |
| 10 |   | 10 | ON BEHALF OF CERTAIN PLAINTIFFS:           |
| 11 |   | 11 | JOEL FLAXMAN, ESQUIRE                      |
| 12 | Videotaped Deposition of                      | 12 | 200 South Michigan Avenue                  |
| 13 | ELSWORTH SMITH, JR., Volume II                | 13 | Suite 201                                  |
| 14 | Chicago, Illinois                             | 14 | Chicago, Illinois 60604                    |
| 15 | Thursday, March 5, 2020                       | 15 | 312-427-3200                               |
| 16 | 10:28 a.m.                                    | 16 |  |
| 17 |   | 17 |  |
| 18 |   | 18 |  |
| 19 |   | 19 |  |
| 20 |   | 20 |  |
| 21 |   | 21 |  |
| 22 | Job No.: 287768                               | 22 |  |
| 23 | Pages: 315 - 573                              | 23 |  |
| 24 | Reported by: Joanne E. Ely, CSR, RPR          | 24 |  |
|    | 316   |    | 318  |
| 1  | Videotaped deposition, Volume II, of ELSWORTH | 1  | A P P E A R A N C E S C O N T I N U E D    |
| 2  | SMITH, JR., held at the location of:          | 2  | ON BEHALF OF DEFENDANT CITY OF CHICAGO AND |
| 3  |   | 3  | VARIOUS POLICE DEPARTMENT SUPERVISORS:     |
| 4  |   | 4  | PAUL A. MICHALIK, ESQUIRE                  |
| 5  | LOEVY & LOEVY                                 | 5  | DANIEL J. BURNS, ESQUIRE                   |
| 6  | 311 North Aberdeen Street                     | 6  | REITER BURNS LLP                           |
| 7  | Third Floor                                   | 7  | 311 South Wacker Drive                     |
| 8  | Chicago, Illinois 60607                       | 8  | Suite 5200                                 |
| 9  | 312.243.5902                                  | 9  | Chicago, Illinois 60606                    |
| 10 |   | 10 | 312.982.0090                               |
| 11 |   | 11 |  |
| 12 |   | 12 | ON BEHALF OF DEFENDANT WATTS:              |
| 13 | Pursuant to notice, before Joanne E. Ely,     | 13 | AHMED A. KOSOKO, ESQUIRE                   |
| 14 | a Certified Shorthand Reporter, and a Notary  | 14 | JOHNSON & BELL, LTD.                       |
| 15 | Public in and for the State of Illinois.      | 15 | 33 West Monroe Street                      |
| 16 |   | 16 | Suite 2700                                 |
| 17 |   | 17 | Chicago, Illinois 60603                    |
| 18 |   | 18 | 312.372.0770                               |
| 19 |   | 19 |  |
| 20 |   | 20 |  |
| 21 |   | 21 |  |
| 22 |   | 22 |  |
| 23 |   | 23 |  |
| 24 |   | 24 |  |

## Transcript of Elsworth Smith, Jr., Volume II

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| 3  | ERIC PALLES, ESQUIRE                       | 3  | EXAMINATION OF ELSWORTH SMITH             |
| 4  | RAVITZ & PALLES, PC                        | 4  | By Mr. Flaxman                            |
| 5  | 203 North LaSalle Street                   | 5  | By Mr. Rauscher                           |
| 6  | Suite 2100                                 | 6  |   |
| 7  | Chicago, Illinois 60601                    | 7  | E X H I B I T S                           |
| 8  | 312.558.1689                               | 8  | (Attached to transcript.)                 |
| 9  |  | 9  |   |
| 10 | ON BEHALF OF DEFENDANTS SPAARGAREN         | 10 | SMITH DEPOSITION EXHIBITS                 |
| 11 | AND CADMAN:                                | 11 |   |
| 12 | MICHAEL J. SCHALKA, ESQUIRE, via telephone | 12 | Exhibit 23 Robert Lindsey Arrest Report   |
| 13 | LEINENWEBER, BARONI & DAFFADA, LLC, PC     | 13 | Exhibit 24 Germain Sims Arrest Report     |
| 14 | 203 North LaSalle Street                   | 14 | Exhibit 25 Sims and Lindsey Original Case |
| 15 | Suite 1620                                 | 15 | Incident Report                           |
| 16 | Chicago, Illinois 60601                    | 16 | Exhibit 26 Notification of                |
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## Transcript of Elsworth Smith, Jr., Volume II

4 (327 to 330)

|  |            |   |            |
|--|------------|---|------------|
| <p>1 Q And did those documents refresh your<br/>2 memory about the arrest?</p> <p>3 A <b>No, it did not.</b></p> <p>4 Q Okay. Did it refresh your memory about<br/>5 either Mr. Sims or Mr. Lindsey?</p> <p>6 A <b>No.</b></p> <p>7 Q Did you say that looking at a picture of<br/>8 Mr. Lindsey would help you remember him?</p> <p>9 A <b>Possibly.</b></p> <p>10 Q Did you do that before today's deposition?</p> <p>11 A <b>I believe so.</b></p> <p>12 Q And what did you remember when you looked<br/>13 at his picture?</p> <p>14 A <b>I don't recall at this time. I would have<br/>15 to see his picture again. I don't recall.</b></p> <p>16 (Smith Deposition Exhibit 23 marked for<br/>17 identification and attached to the transcript.)</p> <p>18 MR. FLAXMAN: Let's mark this as<br/>19 Exhibit 23. We had a long discussion about<br/>20 getting the numbers right. I got them wrong.</p> <p>21 (An off-the-record discussion was held.)</p> <p>22 Q Is this the arrest report of Robert<br/>23 Lindsey dated October 15th, 2009?</p> <p>24 A <b>Yes, it is.</b></p> | <p>327</p> | <p>1 Q Okay. Is it near to the Ida B. Wells<br/>2 where -- excuse me. I'll start again.</p> <p>3 Is that address near where the Ida B.<br/>4 Wells homes were located?</p> <p>5 A <b>No, it is not.</b></p> <p>6 Q How far is it from where the Ida B. Wells<br/>7 homes were located?</p> <p>8 A <b>I don't know exactly how many miles it<br/>9 may be from the Ida B. Wells, but it's not close<br/>10 to it.</b></p> <p>11 QOkay. In 2009 were there other public<br/>12 housing complexes that were near to 4210 South<br/>13 Prairie Avenue?</p> <p>14 A <b>At the time, I don't recall.</b></p> <p>15 QHave you looked at the narrative on page 2<br/>16 of this arrest report?</p> <p>17 A <b>Yes. I did not commit it to memory.</b></p> <p>18 QOkay. Well, my question is having<br/>19 reviewed the narrative, are you able to remember<br/>20 anything about this arrest?</p> <p>21 A <b>No, I do not.</b></p> <p>22 QDid you see on the last page that you are<br/>23 listed as an assisting arresting officer?</p> <p>24 A <b>That is correct.</b></p>  | <p>329</p> |
|  | <p>328</p> | <p>1 Q And having looked at the picture on this<br/>2 arrest report, can you remember anything about<br/>3 Mr. Lindsey?</p> <p>4 A <b>No, I do not.</b></p> <p>5 MR. STEFANICH: I'll just put on the<br/>6 record this is a pretty unclear black-and-White<br/>7 picture of Mr. Lindsey.</p> <p>8 MR. FLAXMAN: The record will so reflect.</p> <p>9 Q But you believe that a better picture of<br/>10 Mr. Lindsey could help refresh your recollection?</p> <p>11 A <b>Possibly but I don't know.</b></p> <p>12 Q Okay. Looking at Exhibit No. 23, do you<br/>13 see that Mr. Lindsey was arrested for possession<br/>14 of a controlled substance?</p> <p>15 A <b>That's what's stated on the report.</b></p> <p>16 Q And it states that the location of the<br/>17 arrest was 4210 South Prairie Avenue.</p> <p>18 Do you see that?</p> <p>19 A <b>That's correct.</b></p> <p>20 Q Are you familiar with that address?</p> <p>21 A <b>Yes, I am.</b></p> <p>22 Q What's at 4210 South Prairie Avenue?</p> <p>23 A <b>Off the top of my head, I don't know; but<br/>24 it's in the 2nd District where I work at.</b></p> | <p>330</p> |

## Transcript of Elsworth Smith, Jr., Volume II

5 (331 to 334)

Conducted on March 5, 2020

|  |     |  |     |
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|  | 331 |  | 333 |
| 1 <b>this arrest; but if that's what's in the report,</b>    |     | 1 reports written by your partners?                          |     |
| 2 <b>then I have no doubt that's what -- I was working</b>   |     | 2 <b>A I'm certain, but I don't recall. I'm</b>              |     |
| 3 <b>with Officer Jones and Mohammed.</b>                    |     | 3 <b>certain I may have; but, again, specifically, I</b>     |     |
| 4 (Smith Deposition Exhibit 24 marked for                    |     | 4 <b>don't recall from this particular date.</b>             |     |
| 5 identification and attached to the transcript.)            |     | 5 Q Can you answer whether it was your                       |     |
| 6 BY MR. FLAXMAN:  |     | 6 practice to review reports created by your                 |     |
| 7 Q Let's mark this as 24.                                   |     | 7 partners?  |     |
| 8 Is Exhibit 24 the arrest report of Germain                 |     | 8 MR. STEFANICH: Objection; asked and                        |     |
| 9 Sims on October 15th, 2009?                                |     | 9 answered.  |     |
| 10 <b>A That's correct.</b>                                  |     | 10 <b>A That is generally the practice, but I</b>            |     |
| 11 Q And do you see the picture of Mr. Sims at               |     | 11 <b>don't recall what I did on October 15th concerning</b> |     |
| 12 the top right of this report?                             |     | 12 <b>this arrest.</b>                                       |     |
| 13 <b>A Yes, I do.</b>                                       |     | 13 (Smith Deposition Exhibit 25 marked for                   |     |
| 14 Q Okay. This one is also not a very good                  |     | 14 identification and attached to the transcript.)           |     |
| 15 copy; right?  |     | 15 Q All right. Is Exhibit 25, the original                  |     |
| 16 <b>A No, it is not.</b>                                   |     | 16 case incident report for the arrests of Mr. Sims          |     |
| 17 Q Does reviewing the picture of Mr. Sims on               |     | 17 and Mr. Lindsey on October 15th, 2009?                    |     |
| 18 his arrest report refresh your memory about               |     | 18 <b>A Yes, this is the case report.</b>                    |     |
| 19 Mr. Sims?   |     | 19 Q And does this report list you as an                     |     |
| 20 <b>A No, it does not.</b>                                 |     | 20 assisting arresting officer on the third page?            |     |
| 21 Q And this report also states that Mr. Sims               |     | 21 <b>A Yes, it does.</b>                                    |     |
| 22 was charged with possession of a controlled               |     | 22 Q I understand that you do not remember this              |     |
| 23 substance?  |     | 23 arrest; correct?  |     |
| 24 <b>A That's what's stated on the report.</b>              |     | 24 <b>A That's correct.</b>                                  |     |
|  | 332 |  | 334 |
| 1 Q Okay. And does this report state on the                  |     | 1 Q Based on your review of the case report                  |     |
| 2 third page that Officer Jones and Officer Mohammed         |     | 2 and the arrest reports, are you able to tell what          |     |
| 3 were both assigned to Beat 264A for the first and          |     | 3 role you had in the arrests?                               |     |
| 4 second arresting officers?                                 |     | 4 <b>A It just states that I'm an assisting</b>              |     |
| 5 <b>A That is correct.</b>                                  |     | 5 <b>officer, and I don't recall from this particular</b>    |     |
| 6 Q And does it state on the fifth page that                 |     | 6 <b>arrest.</b>   |     |
| 7 you were also assigned to Beat 264A on                     |     | 7 Q So you can't tell what your role was;                    |     |
| 8 October 15th, 2009?  |     | 8 right?   |     |
| 9 <b>A That's correct.</b>                                   |     | 9 <b>A No, I cannot.</b>                                     |     |
| 10 Q Was it your practice to review arrest                   |     | 10 Q Do you recall that Mr. Lindsey made a                   |     |
| 11 reports that were created by your partners?               |     | 11 complaint about this arrest?                              |     |
| 12 <b>A I don't recall from this particular day.</b>         |     | 12 <b>A Yes, I am aware of that.</b>                         |     |
| 13 I'm certain at some point in time during my time          |     | 13 Q Okay. Do you remember reviewing                         |     |
| 14 working as a tactical officer, I probably had             |     | 14 information about his complaint in 2011?                  |     |
| 15 reviewed reports by my partners. But I can't              |     | 15 <b>A Sitting here today, I do not recall a</b>            |     |
| 16 speak for this day because I don't recall.                |     | 16 <b>complaint made by him in 2011.</b>                     |     |
| 17 Q So there were sometimes that you reviewed               |     | 17 Q Well, during your career, do you recall                 |     |
| 18 reports by your partners and sometimes that you           |     | 18 receiving allegations based on citizen complaints?        |     |
| 19 didn't?   |     | 19 <b>A Are you asking me for this particular case</b>       |     |
| 20 <b>A No. I'm not saying that. I'm saying I'm</b>          |     | 20 <b>or overall in total in my career?</b>                  |     |
| 21 <b>certain I've reviewed reports written by my</b>        |     | 21 Q My question is in your career.                          |     |
| 22 <b>partners or anyone that I worked with, but I don't</b> |     | 22 <b>A Yes, I have.</b>                                     |     |
| 23 <b>recall from this date, October 15th, 2009.</b>         |     | 23 Q Okay. Were you served with those                        |     |
| 24 Q Was it your practice to always review                   |     | 24 allegations in writing?                                   |     |

## Transcript of Elsworth Smith, Jr., Volume II

6 (335 to 338)

Conducted on March 5, 2020

|  |     |  |     |
|--|-----|--|-----|
|  | 335 |  | 337 |
| 1 <b>A Yes.</b>  |     | 1 <b>observe any other officers involved in this arrest</b>  |     |
| 2    Q Okay. And would sometimes you would                   |     | 2 <b>plant drugs on Robert Lindsey.</b>                      |     |
| 3    respond to those allegations in writing?                |     | 3    Q The allegation also states, "The                      |     |
| 4 <b>A Yes.</b>  |     | 4    complainant alleges that you took the drugs from        |     |
| 5    Q But you don't recall receiving them about             |     | 5    another individual and let that person go."             |     |
| 6    Mr. Lindsey; right?                                     |     | 6    Do you also disagree with that?                         |     |
| 7 <b>A As I'm sitting here today, no, I do not.</b>          |     | 7 <b>A Yes, I do.</b>  |     |
| 8    MR. FLAXMAN: Mark that as 26.                           |     | 8    Q And why do you disagree with that?                    |     |
| 9    (Smith Deposition Exhibit 26 marked for                 |     | 9 <b>A Because although I don't remember this</b>            |     |
| 10 identification and attached to the transcript.)           |     | 10 <b>arrest, I have never done that before.</b>             |     |
| 11   Q Is Exhibit 26 a notification -- I'm sorry.            |     | 11   Q Have you ever known anyone on your                    |     |
| 12    Is the first page of Exhibit 26 a                      |     | 12 tactical team to do that?                                 |     |
| 13 notification of charges and allegations made by           |     | 13 <b>A As I stated before -- I don't know if I've</b>       |     |
| 14 Robert Lindsey?   |     | 14 <b>stated it today, but I've stated it in the past --</b> |     |
| 15 <b>A Yes, it is.</b>                                      |     | 15 <b>I've never seen anyone that I worked with do that.</b> |     |
| 16   Q Okay. Having looked at this notification              |     | 16   Q Have you heard of anybody on your tactical            |     |
| 17 of charges and allegations, do you remember               |     | 17 team doing that?  |     |
| 18 receiving it?   |     | 18 <b>A No, I have not.</b>                                  |     |
| 19 <b>A No, I do not.</b>                                    |     | 19   Q The second page of this Exhibit No. 26, do            |     |
| 20   Q And it states that you received it on                 |     | 20 you see that's an administrative proceeding               |     |
| 21 June 16th of 2011.  |     | 21 rights?   |     |
| 22 <b>A That's correct.</b>                                  |     | 22 <b>A Yes, it is.</b>                                      |     |
| 23   Q And then it lists your name as the name of            |     | 23   Q Okay. Is that your signature on the                   |     |
| 24 accused?  |     | 24 signature line there?                                     |     |
|  | 336 |  | 338 |
| 1 <b>A Yes, it does.</b>                                     |     | 1 <b>A Yes, it is.</b>                                       |     |
| 2   Q And that's your Star No. 11737?                        |     | 2   Q Is that the signature of Sergeant Watts                |     |
| 3 <b>A Yes, it is.</b>                                       |     | 3   for witnesses?   |     |
| 4   Q Is that your signature on the line that                |     | 4 <b>A It appears so.</b>                                    |     |
| 5   says signature?  |     | 5   Q The next page, states that it's a waiver               |     |
| 6 <b>A Yes, it is.</b>                                       |     | 6   of counsel/request to secure counsel.                    |     |
| 7   Q And is that the signature of Sergeant                  |     | 7   Do you see that?   |     |
| 8   Watts under witnesses?                                   |     | 8 <b>A Yes, I do.</b>  |     |
| 9    MR. STEFANICH: Objection; foundation.                   |     | 9   Q Okay. And did you check the box for                    |     |
| 10    You can answer.  |     | 10 request to secure legal counsel?                          |     |
| 11 <b>A From the best of my memory, yes.</b>                 |     | 11 <b>A Yes, I did.</b>                                      |     |
| 12   Q Did you review the three lines in this box            |     | 12   Q And was it always your practice to request            |     |
| 13 that state Mr. Lindsey's allegations?                     |     | 13 legal counsel when you are served with a                  |     |
| 14 <b>A Just sitting here now, yes, I have.</b>              |     | 14 civilian's complaint?                                     |     |
| 15   Q Do you disagree with these allegations?               |     | 15 <b>A That's what we are always advised, as a</b>          |     |
| 16 <b>A Yes, I do.</b>                                       |     | 16 <b>police officer, to request counsel.</b>                |     |
| 17   Q And why is that?                                      |     | 17   Q And did you always do that?                           |     |
| 18 <b>A Because these are false.</b>                         |     | 18 <b>A From the best of my memory, yes.</b>                 |     |
| 19   Q Okay. How do you know they were false?                |     | 19   Q Is that your signature on the third                   |     |
| 20 <b>A Because I never stole drugs or planted</b>           |     | 20 page of the exhibit?                                      |     |
| 21 <b>drugs on any individual.</b>                           |     | 21 <b>A Yes, it is.</b>                                      |     |
| 22 <b>Also I had the chance to look over on the</b>          |     | 22   Q And you wrote that the date was June 16th,            |     |
| 23 <b>last page at my to/from that was addressed on this</b> |     | 23 2011; correct?  |     |
| 24 <b>date, June 16th, 2011, stating that I did not</b>      |     | 24 <b>A Yes.</b>   |     |

## Transcript of Elsworth Smith, Jr., Volume II

7 (339 to 342)

Conducted on March 5, 2020

|   |   |
|---|---|
|   |   |
| 339   | 341   |
| <p>1 Q And what did you write for the time there?</p> <p>2 <b>A It appears 1847.</b></p> <p>3 Q Okay. And is that the signature of</p> <p>4 Sergeant Watts for witnesses?</p> <p>5 <b>A It appears so.</b></p> <p>6 Q And then the next page you mentioned</p> <p>7 earlier.</p> <p>8 You called this a to/from; right?</p> <p>9 <b>A Yes. It's a to/from subject report.</b></p> <p>10 Q Okay. Did you write this memo?</p> <p>11 <b>A Yes.</b></p> <p>12 Q And this was dated June 16th, 2011;</p> <p>13 correct?</p> <p>14 <b>A That is correct.</b></p> <p>15 Q At that time, did you have a recollection</p> <p>16 of the arrest of Mr. Lindsey on October 15th,</p> <p>17 2009?</p> <p>18 <b>A How can I answer that question if I don't</b></p> <p>19 <b>recall today? I don't know what I recalled on</b></p> <p>20 <b>June 16th, 2011.</b></p> <p>21 Q Okay. Have you ever written a memo that</p> <p>22 states what you observed on a certain date without</p> <p>23 remembering what you actually observed on that</p> <p>24 date?</p>   | <p>1 remember your arrest of Mr. Lindsey?</p> <p>2 MR. STEFANICH: Objection; asked and</p> <p>3 answered.</p> <p>4 <b>A As I'm sitting here today, as I stated</b></p> <p>5 <b>before, I don't recall what I remembered on</b></p> <p>6 <b>September -- I mean, sorry -- June 16th, 2011.</b></p> <p>7 <b>BY MR. FLAXMAN:</b></p> <p>8 Q The next sentence says, "At no time, did</p> <p>9 R/O or any other officer involved in the arrest</p> <p>10 take narcotics from another individual and plant</p> <p>11 them on Robert E. Lindsey."</p> <p>12 Did you write that in your memo?</p> <p>13 <b>A That's what's stated.</b></p> <p>14 Q Did you write that in your memo?</p> <p>15 <b>A Yes.</b></p> <p>16 Q And when you wrote that, did you remember</p> <p>17 the incident you were writing about?</p> <p>18 MR. STEFANICH: Objection; asked and</p> <p>19 answered.</p> <p>20 <b>A As I stated, I don't recall; but if I</b></p> <p>21 <b>wrote this in my report, maybe at that particular</b></p> <p>22 <b>point in time I did have a memory at that time;</b></p> <p>23 <b>and also I might have had a chance to review the</b></p> <p>24 <b>reports at that time also in preparing this</b></p> |
| 340   | 342   |
| <p>1 MR. MICHALIK: Object to form.</p> <p>2 MR. STEFANICH: Join.</p> <p>3 <b>A I don't understand your question.</b></p> <p>4 <b>BY MR. FLAXMAN:</b></p> <p>5 Q The second paragraph of your memorandum</p> <p>6 says on October -- I'm sorry -- "On 15</p> <p>7 October 2009, R/O arrested Robert E. Lindsey."</p> <p>8 Did I read that right?</p> <p>9 <b>A That's correct.</b></p> <p>10 Q What did you mean when you wrote R/O?</p> <p>11 <b>A Responding officer.</b></p> <p>12 Q Were you referring to yourself?</p> <p>13 <b>A The way -- looking at this report, the way</b></p> <p>14 <b>it's worded, yes.</b></p> <p>15 Q Okay. When you wrote that you arrested</p> <p>16 Mr. Lindsey on October 15th, 2009, did you</p> <p>17 remember arresting Mr. Lindsey?</p> <p>18 <b>A I don't know what I recall from that date.</b></p> <p>19 Q Okay. The next sentence says, "R/O</p> <p>20 arrested the complainant for PCS."</p> <p>21 Does PCS mean possession of a controlled</p> <p>22 substance?</p> <p>23 <b>A Yes, it does.</b></p> <p>24 Q Okay. When you wrote that, did you</p> | <p>1 <b>to/from report.</b></p> <p>2 Q So your memory may have been based on your</p> <p>3 review of the reports?</p> <p>4 <b>A I don't know at this particular point in</b></p> <p>5 <b>time but possibly, yes.</b></p> <p>6 Q The next sentence says, "Robert E. Lindsey</p> <p>7 pled guilty to the charges of the arrest in Cook</p> <p>8 County Circuit Court, room 306 at 2600 South</p> <p>9 California on 22 September 2010, under Case No.</p> <p>10 09 CR 2036102."</p> <p>11 Did I read that right?</p> <p>12 <b>A That is correct.</b></p> <p>13 Q And is that what you wrote in your memo?</p> <p>14 <b>A Yes, it does state that.</b></p> <p>15 Q How did you learn the details of</p> <p>16 Mr. Lindsey's guilty plea?</p> <p>17 <b>A From the best of my memory, you can look</b></p> <p>18 <b>it up in the computer system and find out.</b></p> <p>19 Q Did you look it up?</p> <p>20 <b>A If I put that in my report, like I said,</b></p> <p>21 <b>I don't recall from June 11th, 2016 [sic], then</b></p> <p>22 <b>perhaps I did.</b></p> <p>23 Q Okay. And it's June 16th, 2011; right?</p> <p>24 <b>A Yes, that's what's stated on this to/from</b></p>                              |

## Transcript of Elsworth Smith, Jr., Volume II

8 (343 to 346)

Conducted on March 5, 2020

|   |  |
|---|--|
| <p>343</p> <p><b>1 report.</b></p> <p>2 Q Okay. I think you may have said 2016. I<br/>3 just wanted to make sure the record --</p> <p><b>4 A I'm sorry. I'm sorry. June 16th, 2011.</b></p> <p>5 QOkay. In your experience as a police<br/>6 officer, after you make an arrest and the<br/>7 arrestee's criminal case is completed, do you<br/>8 receive notification of the outcome of the<br/>9 criminal case?</p> <p><b>10 A Based on my memory, sometimes you might<br/>11 have, but I don't recall.</b></p> <p>12 QOkay. How would you receive that<br/>13 notification?</p> <p><b>14 A Through inter- -- you would receive it<br/>15 through the mail.</b></p> <p>16 QOkay. Would you get a letter from the<br/>17 state's attorney?</p> <p><b>18 A From the best of my memory, yes.</b></p> <p>19 QAnd was that always done on paper, or<br/>20 would you ever get that electronically?</p> <p><b>21 A Sitting here today, I don't recall; but to<br/>22 the best of my memory, it was usually paper.</b></p> <p>23 QAnd what did you do with those paper<br/>24 notifications after you received them?</p>                                      | <p>345</p> <p>1 QOkay. Have you ever heard of someone<br/>2 named Willie Brownlee?</p> <p>3 MR. STEFANICH: Say that again.</p> <p>4 MR. FLAXMAN: Willie Brownlee.</p> <p>5 MR. STEFANICH: Do you know how to spell<br/>6 that?</p> <p>7 MR. FLAXMAN: B-r-o-w-n-l-e-e?</p> <p><b>8 A Sitting here today, the name does not ring<br/>9 a bell. I don't recall.</b></p> <p>10 MR. FLAXMAN: Let me take a very short<br/>11 break, and I'll find a better picture of<br/>12 Mr. Lindsey for you.</p> <p>13 (A recess was taken from 10:53 a.m. to<br/>14 10:57 a.m.)</p> <p>15 (Smith Deposition Exhibit 28 marked for<br/>16 identification and attached to the transcript.)</p> <p>17 BY MR. FLAXMAN:</p> <p>18 QWe're going to mark this as Exhibit 28,<br/>19 and I'm going to replace it with a copy. I'm<br/>20 going to show you a picture on my computer, which<br/>21 we'll get a printout of and mark as Exhibit 28.</p> <p>22 MRF. FLAXMAN: For the record, this is a<br/>23 picture of Mr. Lindsey from the IDOC website.<br/>24 We're going to print out a copy, so everybody can</p>         |
| <p>344</p> <p><b>1 A I don't recall what I've done with them.</b></p> <p>2 MR. FLAXMAN: Let's mark this as 27.</p> <p>3 (Smith Deposition Exhibit 27 marked for<br/>4 identification and attached to the transcript.)</p> <p>5 BY MR. FLAXMAN:</p> <p>6 Q Is Exhibit 27 a sworn affidavit for a<br/>7 complaint log investigation from Robert E. Lindsey?</p> <p><b>8 A Yes.</b></p> <p>9 Q Okay. Do you see this contains a similar<br/>10 allegation to what we looked at a few moments ago?</p> <p><b>11 A Yes, it does.</b></p> <p>12 Q And this says, "The complainant stated<br/>13 that Officer Brown, along with about five other<br/>14 officers, took the drugs from another individual."</p> <p>15 Were you ever familiar with an Officer<br/>16 Brown?</p> <p><b>17 A No, I am not.</b></p> <p>18 Q There was never anybody on your tactical<br/>19 team who you referred to as Brown?</p> <p><b>20 A From the best of my memory, no.</b></p> <p>21 Q And I mean referred to by civilians or<br/>22 officers or anyone else?</p> <p><b>23 A From the best of my memory, I don't recall<br/>24 anybody referred to as Officer Brown.</b></p> | <p>346</p> <p>1 have it.</p> <p>2 BY MR. FLAXMAN:</p> <p>3 Q Having reviewed that picture, do you have<br/>4 any memory of Robert Lindsey?</p> <p><b>5 A No, I do not.</b></p> <p>6 Q And do you know that Mr. Sims also says<br/>7 that he was falsely arrested on October 15th,<br/>8 2009?</p> <p><b>9 A Yes.</b></p> <p>10 Q Okay. And do you disagree with that?</p> <p><b>11 A Yes, I do.</b></p> <p>12 Q And why do you disagree with that?</p> <p><b>13 A Because I know his allegations are false<br/>14 because I never planted any drugs on Germain Sims.</b></p> <p>15 Q Having reviewed all the documents and the<br/>16 pictures, are you still unable to remember<br/>17 anything about the arrests of Robert Lindsey and<br/>18 Germain Sims on October 15th, 2009?</p> <p>19 MRF. STEFANICH: Objection; form.</p> <p><b>20 A Sitting here today, I don't recall. After<br/>21 reviewing these reports, I don't have a memory of<br/>22 the arrest of October 15th, 2009.</b></p> <p>23 Q Is there anything that could help you<br/>24 remember the arrests on October 15th, 2009?</p> |

## Transcript of Elsworth Smith, Jr., Volume II

9 (347 to 350)

Conducted on March 5, 2020

|  |     |  |     |
|--|-----|--|-----|
|  | 347 |  | 349 |
| 1 <b>A At the present moment, I don't know.</b>              |     | 1 <b>remember seeing him in a grocery store.</b>             |     |
| 2   Q All right. I'm going to ask you now about              |     | 2   Q Did you speak to him?                                  |     |
| 3   the arrest of Nephus Thomas on March 6th, 2008.          |     | 3 <b>A Yes, I did.</b>                                       |     |
| 4   Do you remember Nephus Thomas?                           |     | 4   Q And what did you say?                                  |     |
| 5 <b>A I remember Nephus Thomas.</b>                         |     | 5 <b>A I spoke, and he, you know, had his</b>                |     |
| 6   Q What do you remember about Nephus Thomas?              |     | 6 <b>daughter or some child with him, and he introduced</b>  |     |
| 7 <b>A Nephus Thomas was involved with the drug</b>          |     | 7 <b>me to them.</b>   |     |
| 8 <b>activity in Ida B. Wells, and he was a drunk</b>        |     | 8   Q What did he say?                                       |     |
| 9 <b>as well as a drug user.</b>                             |     | 9 <b>A I don't recall what he said; but, like I</b>          |     |
| 10   Q Did you observe him to be drunk?                      |     | 10 <b>said, he had a child with him. He introduced me</b>    |     |
| 11 <b>A Yes.</b>   |     | 11 <b>to him at some point in time, and I guess he might</b> |     |
| 12   Q How many times?                                       |     | 12 <b>have stated that was his child.</b>                    |     |
| 13 <b>A I don't remember how many times.</b>                 |     | 13   Q Was it a cordial conversation?                        |     |
| 14   Q Okay. How could you tell that he was                  |     | 14 <b>A For the most part, yes. As I recall, yes.</b>        |     |
| 15   drunk?  |     | 15   Q What was the part that wasn't cordial?                |     |
| 16 <b>A The way he'd act. He appeared to be drunk</b>        |     | 16 <b>A Like I said, for the most part. I don't</b>          |     |
| 17 <b>or either under the influence of some type of</b>      |     | 17 <b>recall the conversation. It was cordial. It</b>        |     |
| 18 <b>drug.</b>  |     | 18 <b>wasn't --</b>  |     |
| 19   Q Did you ever -- well, were there times                |     | 19   Q All right.  |     |
| 20   that you could tell he was under the influence of       |     | 20 <b>A I'm trying to remember the specifics of</b>          |     |
| 21   drugs and not drunk?                                    |     | 21 <b>the conservation. I do remember at some point in</b>   |     |
| 22 <b>A From the best of my memory, sitting here</b>         |     | 22 <b>time he did mention the fact that -- brought up</b>    |     |
| 23 <b>today, I couldn't tell you. Like I said, based</b>     |     | 23 <b>Mohammed and Watts and just told me that, you</b>      |     |
| 24 <b>off of my memory of my observations of him, he was</b> |     | 24 <b>know, I'm glad you -- or he said, I know you're</b>    |     |
|  | 348 |  | 350 |
| 1 <b>under some type of influence of some type of</b>        |     | 1 <b>glad you didn't get arrested and stuff when they</b>    |     |
| 2 <b>substance.</b>  |     | 2 <b>were arrested because you was a nice guy, and, you</b>  |     |
| 3   Q Did you ever see him using drugs?                      |     | 3 <b>know, you wasn't -- didn't appear to be that type</b>   |     |
| 4 <b>A To the best of my memory, I don't recall.</b>         |     | 4 <b>of officer and stuff to do what they were accused</b>   |     |
| 5   Q Did you ever see Mr. Thomas holding drugs?             |     | 5 <b>of.</b>   |     |
| 6 <b>A Sitting here right now, I don't recall</b>            |     | 6   Q That's what Mr. Thomas said to you?                    |     |
| 7 <b>but -- I don't recall.</b>                              |     | 7 <b>A Yes.</b>  |     |
| 8   Q Okay. Do you remember ever speaking to                 |     | 8   Q Okay. What did you say back to him?                    |     |
| 9   Mr. Thomas?  |     | 9 <b>A I don't recall what I said to him.</b>                |     |
| 10 <b>A Yes, I do.</b>                                       |     | 10   Q Did you consider yourself to be a nice                |     |
| 11   Q And when did you speak to Mr. Thomas?                 |     | 11   officer?  |     |
| 12 <b>A I don't remember the last time I've spoke</b>        |     | 12 <b>A I am a nice officer.</b>                             |     |
| 13 <b>to him, but I've spoke to him in the past.</b>         |     | 13   Q Was Mr. Thomas under the influence of                 |     |
| 14   Q What conversations do you remember with               |     | 14   drugs or alcohol during this conversation?              |     |
| 15   Mr. Thomas?   |     | 15 <b>A No. His appearance that day was totally</b>          |     |
| 16 <b>A A conversation I had -- the last time I</b>          |     | 16 <b>different than it was in the time that he was -- I</b> |     |
| 17 <b>saw Nephus Thomas was a couple of years ago. I</b>     |     | 17 <b>remember seeing him in the Ida B. Wells.</b>           |     |
| 18 <b>saw him in a grocery store near where I live at,</b>   |     | 18   Q He looked better?                                     |     |
| 19 <b>and that was the last time I had a conversation</b>    |     | 19 <b>A Yes, he looked like he was sober, and he</b>         |     |
| 20 <b>with him.</b>  |     | 20 <b>seemed a much different -- like a much different</b>   |     |
| 21   Q Okay. So a couple years ago being 2018 or             |     | 21 <b>person also.</b>                                       |     |
| 22   2019?   |     | 22   Q Did you ever know him by a nickname?                  |     |
| 23 <b>A I don't remember what year it was. Like I</b>        |     | 23 <b>A From the best of my memory, no.</b>                  |     |
| 24 <b>said, it could have been a couple years ago. I</b>     |     | 24   Q Do you remember ever being involved in                |     |

## Transcript of Elsworth Smith, Jr., Volume II

10 (351 to 354)

Conducted on March 5, 2020

|   |     |   |     |
|---|-----|---|-----|
|   | 351 |   | 353 |
| 1 arresting Nephus Thomas?                                  |     | 1 MR. MICHALIK: Objection; foundation.                      |     |
| 2 <b>A Sitting here today, I don't recall, but</b>          |     | 2 <b>A It would depend.</b>                                 |     |
| 3 <b>perhaps I may have been.</b>                           |     | 3 <b>BY MR. FLAXMAN:</b>                                    |     |
| 4 Q Did you look at any documents before the                |     | 4 Q Sometimes there might be. Sometimes there               |     |
| 5 deposition about an arrest of Mr. Thomas?                 |     | 5 might not be.   |     |
| 6 <b>A I don't recall.</b>                                  |     | 6 <b>A That's correct.</b>                                  |     |
| 7 Q Aside from that conversation at the                     |     | 7 Q Okay. The conversation you described with               |     |
| 8 grocery store, do you remember any other                  |     | 8 Mr. Thomas at the grocery store, was that sometime        |     |
| 9 conversations you had with Mr. Thomas?                    |     | 9 after Ida B. Wells was demolished?                        |     |
| 10 <b>A Not offhand.</b>                                    |     | 10 <b>A Yes. Like I said, it was a couple of</b>            |     |
| 11 Q And how did you know that Mr. Thomas was               |     | 11 <b>years ago. I don't remember what year it was, but</b> |     |
| 12 involved with drug activity at Ida B. Wells?             |     | 12 <b>it was most -- it was recently.</b>                   |     |
| 13 <b>A To the best of my memory, that's what he</b>        |     | 13 MR. FLAXMAN: All right. Let's mark this                  |     |
| 14 did. Like I said, I don't recall a particular            |     | 14 as the next Exhibit, No. 29.                             |     |
| 15 incident; but from what I recall, Nephus Thomas          |     | 15 (Smith Deposition Exhibit 29 marked for                  |     |
| 16 was involved as either a lookout or sometimes he         |     | 16 identification and attached to the transcript.)          |     |
| 17 might have been the guy holding drugs. But I             |     | 17 Q Is that a picture of Mr. Thomas?                       |     |
| 18 don't recall, but I do know he was involved in           |     | 18 <b>A Yes, it is.</b>                                     |     |
| 19 drug activity.   |     | 19 (Smith Deposition Exhibit 30 marked for                  |     |
| 20 Q Okay. But you don't know how you learned               |     | 20 identification and attached to the transcript.)          |     |
| 21 that?  |     | 21 MR. FLAXMAN: Exhibit 30.                                 |     |
| 22 <b>A Like I said, probably from my memory</b>            |     | 22 MR. KOSOKO: Joel, just a question. 28 is                 |     |
| 23 observing him in the Ida B. Wells. It could have         |     | 23 going to be the IDOC of -- and 29 and 30.                |     |
| 24 been from other members of my team. I don't              |     | 24 MR. FLAXMAN: Yeah. I'm sorry. For the                    |     |
|   | 352 |   | 354 |
| 1 <b>recall at this particular moment.</b>                  |     | 1 record, I skipped 28 because we're going to add           |     |
| 2 Q Well, what does a lookout do?                           |     | 2 it in.  |     |
| 3 <b>A A lookout usually will alert the drug</b>            |     | 3 MR. KOSOKO: Sure.   |     |
| 4 <b>dealers or potential buyers, people who are coming</b> |     | 4 BY MR. FLAXMAN:   |     |
| 5 <b>to buy drugs that police are coming or near the</b>    |     | 5 Q Is Exhibit No. 30 the arrest report of                  |     |
| 6 <b>building or the area.</b>                              |     | 6 Nephus Thomas on March 6th, 2008?                         |     |
| 7 Q Is that somebody who would say "clean up"?              |     | 7 <b>A Yes, it is.</b>                                      |     |
| 8 <b>A They used -- sometimes they would use</b>            |     | 8 Q Okay. And do you see that Mr. Thomas was                |     |
| 9 <b>clean up. They might have used other terminology.</b>  |     | 9 charged with manufacture and delivery of heroin?          |     |
| 10 I don't remember all the terminology that they           |     | 10 <b>A Yes.</b>  |     |
| 11 might have used.   |     | 11 Q Do you see your name on the third page of              |     |
| 12 Q And you said that he might also be the                 |     | 12 this arrest report?                                      |     |
| 13 person who was holding drugs; is that right?             |     | 13 <b>A Yes, I do.</b>                                      |     |
| 14 <b>A I said that's possible. At this time, I</b>         |     | 14 Q Okay. And what are you listed as?                      |     |
| 15 <b>don't recall.</b>                                     |     | 15 <b>A The second arresting officer.</b>                   |     |
| 16 Q Okay. What was your understanding of the               |     | 16 Q Did you review the narrative on the second             |     |
| 17 responsibility of the person holding drugs?              |     | 17 page of the arrest report?                               |     |
| 18 <b>A Based on my memory and my experience, the</b>       |     | 18 <b>A Yes, I have.</b>                                    |     |
| 19 <b>person that would be holding the drugs would be</b>   |     | 19 Q And having reviewed this narrative and the             |     |
| 20 <b>the person that would distribute the drugs out to</b> |     | 20 other parts of the report, are you able to               |     |
| 21 <b>people who were coming to buy drugs.</b>              |     | 21 remember the arrest of Nephus Thomas on March 6th,       |     |
| 22 Q Would there be a different person holding              |     | 22 2008?  |     |
| 23 drugs from the person accepting money for drugs?         |     | 23 <b>A No, I do not.</b>                                   |     |
| 24 <b>A It would depend.</b>                                |     | 24 Q Based on the listing of officers on the                |     |

## Transcript of Elsworth Smith, Jr., Volume II

11 (355 to 358)

Conducted on March 5, 2020

|  |     |   |     |
|--|-----|---|-----|
|  | 355 |   | 357 |
| 1 third page, can you tell who wrote this arrest<br>2 report?  |     | 1 to place an item into his boot?   |     |
| 3 <b>A I don't recall, but Alvin Jones, who I was<br/>4 partnered with on that day, is listed as the first<br/>5 arresting officer. So he perhaps wrote this<br/>6 report.</b> |     | <b>2 A I do not recall this arrest from that<br/>3 date.</b>  |     |
| 7 Q Is he the most likely officer to have<br>8 written the report?   |     | 4 Q Okay. And do you recall any other time<br>5 when you observed Mr. Thomas attempting to place<br>6 an item from his hand into his boot?  |     |
| 9 <b>A Yes. Usually, the first arresting officer<br/>10 is the one who prepared the report. Also looking<br/>11 at Page No. 3, he is the attesting officer.</b>                |     | 7 <b>A Not off the top of my head, no.</b>  |     |
| 12 Q And that suggests to you that he's the one<br>13 who wrote the report?  |     | 8 Q Okay. The next sentence says, "A/O<br>9 recovered the item and found it to be a clear<br>10 plastic bag with 45 Ziploc baggies with white<br>11 powder suspect heroin."   |     |
| 14 <b>A That is possible.</b>  |     | 12 Did I read that right?   |     |
| 15 Q What are some other possibilities?  |     | 13 <b>A That's correct.</b>   |     |
| 16 <b>A It's possible that myself or other members<br/>17 of my team could have assisted him with this<br/>18 report and prepared the report also.</b>                         |     | 14 Q Okay. Are you able to tell who the<br>15 A/O is?   |     |
| 19 Q Is there any way to tell who assisted in<br>20 preparing the report?  |     | 16 <b>A No.</b>   |     |
| 21 <b>A No, I cannot tell based off of the<br/>22 handwriting -- or not handwriting, but the way<br/>23 this report is typed.</b>  |     | 17 Q Based on the report, you don't know who<br>18 that is?   |     |
| 24 Q The second-page narrative states that the   |     | 19 <b>A No. But Alvin Jones is the first<br/>20 arresting officer. So the only thing I can assume<br/>21 is that he is probably stating that he was the<br/>22 recovering officer.</b>  |     |
|  | 356 | 23 Q Is it possible that you, as the second<br>24 arresting officer, could be the A/O in the  |     |
| 1 above subject was observed during a narcotics<br>2 mission exiting the hallway inside of 575 East<br>3 Browning.   |     |   | 358 |
| 4 Do you see that?   |     | 1 narrative?  |     |
| 5 <b>A Yes, I do.</b>  |     | <b>2 A That is possible, but it does not state in<br/>3 the report or in the narrative.</b>   |     |
| 6 Q Okay. And was 575 East Browning a<br>7 building at the Ida B. Wells housing project?   |     | 4 (Smith Deposition Exhibit 31 marked for<br>5 identification and attached to the transcript.)  |     |
| 8 <b>A Yes, it was.</b>  |     | 6 Q I'm going to give you Exhibit 31.   |     |
| 9 Q Do you know what it means to exit a<br>10 hallway?   |     | 7 Is Exhibit 31 the general offense case<br>8 report for an arrest of five individuals on<br>9 March 6th, 2008?   |     |
| 11 <b>A Exit means you're leaving.</b>   |     | 10 <b>A Yes.</b>  |     |
| 12 Q Okay. And were you familiar with the<br>13 hallways inside that building?   |     | 11 Q Do you see that you're listed as one of<br>12 the witnesses -- well, actually, I'm sorry. Let<br>13 me ask that a better way.  |     |
| 14 <b>A At the time I was; but sitting here today,<br/>15 I do not recall.</b>   |     | 14 Do you see your name on this report?   |     |
| 16 Q Do you know where somebody could go if<br>17 they were exiting a hallway inside of 575 East<br>18 Browning?   |     | 15 <b>A Yes, I do.</b>  |     |
| 19 <b>A Out of the building.</b>   |     | 16 Q And how are you listed on this report?   |     |
| 20 Q This states that Mr. Thomas attempted to<br>21 place an item from his hand into his boot.   |     | 17 <b>A As an assisting officer.</b>  |     |
| 22 Do you see that?  |     | 18 Q Okay. Where does it say assisting<br>19 officer?   |     |
| 23 <b>A Yes, I do.</b>   |     | 20 <b>A It doesn't state assisting in particular,<br/>21 but I know that the way we wrote our reports at<br/>22 this time, when we list the other officers in the<br/>23 box -- I can't make out the number right here, but<br/>24 when we list all the officers on our reports, that</b> |     |
| 24 Q Do you remember ever seeing Mr. Thomas try  |     |   |     |

## Transcript of Elsworth Smith, Jr., Volume II

12 (359 to 362)

Conducted on March 5, 2020

|  |     |  |     |
|--|-----|--|-----|
|  | 359 |  | 361 |
| 1 <b>they had to be assisting in the arrest in some</b>      |     | 1 refer to on this report?                                   |     |
| 2 <b>capacity.</b>   |     | 2 <b>A No, I do not.</b>                                     |     |
| 3 Q Do you know how you assisted in these                    |     | 3 Q And your name is on the third line,                      |     |
| 4 arrests?   |     | 4 E. Smith; right?   |     |
| 5 <b>A No, I do not. I do not recall this arrest</b>         |     | 5 <b>A It appears to be so, yes.</b>                         |     |
| 6 <b>on this date.</b>                                       |     | 6 Q And you don't have any idea why this lists               |     |
| 7 Q And do you see that it says -- it has an                 |     | 7 L. Smith; right?   |     |
| 8 arrest date and time of 20 minutes after the               |     | 8 <b>A No. I did not prepare this report based</b>           |     |
| 9 arrest of Mr. Thomas that we looked at a moment            |     | 9 <b>off the names that are listed as the reporting</b>      |     |
| 10 ago?  |     | 10 <b>officers.</b>  |     |
| 11 <b>A I see that on the report.</b>                        |     | 11 Q I'm sorry. You said because of who is                   |     |
| 12 Q But you don't remember the arrest that's                |     | 12 listed as the reporting officers, you could tell          |     |
| 13 reported on Exhibit 31 either; correct?                   |     | 13 that you didn't prepare it?                               |     |
| 14 <b>A No. As I stated, I'm listed as an</b>                |     | 14 <b>A Like I said, I don't recall this arrest</b>          |     |
| 15 <b>assisting officer, and the reporting officer</b>       |     | 15 <b>from that particular date; but based on the names</b>  |     |
| 16 <b>appears to be Robert Gonzalez, who was my teammate</b> |     | 16 <b>that are listed as the reporting officers, I do</b>    |     |
| 17 <b>at that time.</b>                                      |     | 17 <b>not know.</b>  |     |
| 18 Q All right. Do you remember Terrence Moye,               |     | 18 <b>Not having any memory of this incident, to</b>         |     |
| 19 who is listed as the first offender?                      |     | 19 <b>the best of my memory, I do not know; but if I'm</b>   |     |
| 20 <b>A Sitting here today, I do not recall him.</b>         |     | 20 <b>listed as an assisting officer, then I probably</b>    |     |
| 21 Q Okay. Do you have any memory of Donald                  |     | 21 <b>assisted in this arrest in some capacity. From</b>     |     |
| 22 Sanders?  |     | 22 <b>the best of my memory, I don't recall writing this</b> |     |
| 23 <b>A As I'm sitting here today, I do not</b>              |     | 23 <b>report.</b>  |     |
| 24 <b>recall.</b>  |     | 24 Q Based on reviewing the report, are you                  |     |
|  | 360 |  | 362 |
| 1 Q Do you remember Jordan Key?                              |     | 1 able to tell what capacity you assisted in the             |     |
| 2 <b>A To the best of my memory, I do not.</b>               |     | 2 arrest?  |     |
| 3 Q Do you remember Jimmie Bell?                             |     | 3 <b>A No, I do not. No, I cannot.</b>                       |     |
| 4 <b>A From the best of my memory, no, I do not.</b>         |     | 4 Q The narrative refers to arresting these                  |     |
| 5 Q And do you remember Milton Allison?                      |     | 5 individuals for trespassing.                               |     |
| 6 <b>A From the best of my memory, I do not.</b>             |     | 6 Do you see that?   |     |
| 7 Q You mentioned this list of assisting                     |     | 7 <b>A Yes.</b>  |     |
| 8 officers.  |     | 8 Q And this is -- the address of occurrence                 |     |
| 9 It looks to me like that's in Box 31; is                   |     | 9 for this is 575 East Browning; correct?                    |     |
| 10 that right?   |     | 10 <b>A That's correct.</b>                                  |     |
| 11 <b>A It appears so. I can hardly see.</b>                 |     | 11 Q That's also where Mr. Thomas was arrested;              |     |
| 12 Q Okay. And it starts with P.O.B. Bolton;                 |     | 12 right?  |     |
| 13 right?  |     | 13 <b>A That's correct.</b>                                  |     |
| 14 <b>A Yes.</b>   |     | 14 Q Okay. Do you recall arresting                           |     |
| 15 Q Okay. And the next one is P.O.M. Leano;                 |     | 15 individuals, not on this day, but at other times          |     |
| 16 correct?  |     | 16 for trespassing in buildings at Ida B. Wells?             |     |
| 17 <b>A Yes.</b>   |     | 17 <b>A I'm sure at some point in time we probably</b>       |     |
| 18 Q And the next one I see is P.O.L. Smith.                 |     | 18 <b>have.</b>  |     |
| 19 Do you see that?  |     | 19 Q And was it your practice to give a verbal               |     |
| 20 <b>A Yes.</b>   |     | 20 warning before making a trespassing arrest?               |     |
| 21 Q Was there ever an officer on your team                  |     | 21 <b>A From the best of my memory, yes.</b>                 |     |
| 22 with the last name Smith, first initial L.?               |     | 22 Q Was that a requirement?                                 |     |
| 23 <b>A From the best of my memory, no.</b>                  |     | 23 <b>A I don't recall what the requirement is,</b>          |     |
| 24 Q Do you have any idea who L. Smith might                 |     | 24 <b>but signs are usually posted; and sometimes, from</b>  |     |

## Transcript of Elsworth Smith, Jr., Volume II

13 (363 to 366)

Conducted on March 5, 2020

|   |  |
|---|--|
|   | 363  |
| <p><b>1 the best of my memory, we would tell people.</b></p> <p>2 Q But have you ever made a trespassing<br/>3 arrest of somebody who had not been given a verbal<br/>4 warning before that arrest?</p> <p><b>5 A From the best of my memory, I don't recall</b><br/><b>6 if we did or did not.</b></p> <p>7 Q You just don't know either way.</p> <p><b>8 A I don't recall either way.</b></p> <p>9 Q The general offense case report on the<br/>10 second page, there's two columns in the narrative,<br/>11 and I'm looking at the second column on the right.<br/>12 Well, I'm sorry. The last sentence on the last<br/>13 line of the narrative begins the offenders.</p> <p>14 Do you see that?</p> <p><b>15 A The offenders were placed into; is that</b><br/><b>16 what you mean? The offenders were placed into --</b></p> <p>17 Q Right. The offenders were placed into,<br/>18 and I believe it then goes to the charges.</p> <p>19 MR. STEFANICH: No.</p> <p>20 Q No, I'm sorry.</p> <p><b>21 A It looked like --</b></p> <p>22 Q It goes all the way to the top, and it<br/>23 says, "The offenders were placed into custody,<br/>24 advised of rights and charges, and transported to</p> | 365  |
| <p>1 002 for processing by Beat 2171."<br/>2 Did I get that right?</p> <p><b>3 A Yes.</b></p> <p>4 Q Okay. Does 002 mean the 2nd District?</p> <p><b>5 A Yes.</b></p> <p>6 Q And what is Beat 2171?</p> <p><b>7 A That was the 21st District squad or wagon.</b></p> <p>8 Q Do you know how many people could fit in<br/>9 the wagon?</p> <p><b>10 A No, I do not.</b></p> <p>11 Q But it would be more than just one or two;<br/>12 right?</p> <p><b>13 A Yes.</b></p> <p>14 Q Did you ever drive the wagon?</p> <p><b>15 A Yes, I have.</b></p> <p>16 Q When were you assigned to drive the wagon?</p> <p><b>17 A I can't give you an exact date or time or</b><br/><b>18 how many times I have worked the wagon, but I have</b><br/><b>19 worked the wagon before.</b></p> <p>20 Q Did you ever do that when you were on the<br/>21 tactical team?</p> <p><b>22 A At some point in time, I believe I did,</b><br/><b>23 but I don't recall working the wagon on this</b><br/><b>24 particular date.</b></p>  | 366  |
|   | 366  |
|   | 1 your usual practice?   |
|   | 2 <b>A I don't recall what my usual practice was,</b><br><b>3 but it's possible that -- I don't recall. I don't</b><br><b>4 recall what my usual practice was, but I don't</b><br><b>5 recall either way if I reviewed them or if I did</b><br><b>6 not.</b> |
|   | 7 MR. FLAXMAN: Rick, if we take a short<br>8 break, can you start the video?   |
|   | 9 THE VIDEOGRAPHER: Yes.   |
|   | 10 MR. FLAXMAN: Okay. Let's take a<br>11 five-minute break and start the video.  |
|   | 12 (A recess was taken from 11:23 a.m. to<br>13 11:35 a.m.)  |
|   | 14 THE VIDEOGRAPHER: This is day two of the<br>15 video portion of Elsworth Smith, Jr., and the<br>16 earlier non-video portion was taken today.   |
|   | 17 The video deposition is taken by Loevy &<br>18 Loevy in the matter of the Watts coordinated<br>19 pretrial proceedings, Master Docket 19 cv 01717,<br>20 held at Loevy & Loevy, 311 North Aberdeen Street,<br>21 Chicago, Illinois.                       |
|   | 22 Today is March 5th. The time is 11:35.  |
|   | 23 The court reporter is Joanne Ely of Planet Depos.   |
|   | 24 The videographer is Rick Kosberg.   |

## Transcript of Elsworth Smith, Jr., Volume II

14 (367 to 370)

Conducted on March 5, 2020

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| <p>1        Counsel can now introduce themselves, and<br/>2 the court reporter is free to administer the oath<br/>3 should she need to.</p> <p>4        MR. FLAXMAN: Joel Flaxman for the various<br/>5 plaintiffs. My paralegal Andrew Segal is also<br/>6 present.</p> <p>7        MR. RAUSCHER: Scott Rauscher for<br/>8 plaintiffs represented by Loevy &amp; Loevy in the<br/>9 coordinated proceedings; and just for the record,<br/>10 we started with and will continue for now cases<br/>11 covered by -- represented by Mr. -- plaintiffs<br/>12 represented by Mr. Flaxman's firm.</p> <p>13        MR. SCHALKA: Michael Schalka on behalf of<br/>14 Defendants Cadman and Spaargaren.</p> <p>15        MR. PALLES: Eric Palles on behalf of<br/>16 Kallatt Mohammed.</p> <p>17        MR. KOSOKO: Ahmed Kosoko on behalf of<br/>18 Ronald Watts.</p> <p>19        MR. MICHALIK: Paul Michalik on behalf of<br/>20 Defendant City of Chicago and various supervisory<br/>21 officials.</p> <p>22        MR. STEFANICH: And Brian Stefanich for<br/>23 Officer Elsworth Smith and other defendant<br/>24 officers.</p> | <p>367</p> <p>1 holding it in your left hand, and we talked<br/>2 briefly about the last page of that, which was<br/>3 your to/from memo.<br/>4        Are you looking at that now?</p> <p>5        <b>A Yes.</b></p> <p>6        Q Okay. When you completed to/from memos,<br/>7 was it your practice to discuss the contents of<br/>8 your memo with other officers who were also<br/>9 accused?</p> <p>10        <b>A Sitting here, based off of my memory, I'm<br/>11 certain I might have, but I don't recall for this<br/>12 particular report.</b></p> <p>13        Q Okay. But for responding to some<br/>14 allegations, you would have spoken to your officer<br/>15 colleagues who were also accused.</p> <p>16        MR. MICHALIK: Just are you asking in<br/>17 general? I think the question is vague.</p> <p>18        MR. FLAXMAN: I'm sure I can improve it.</p> <p>19        <b>A As I stated, I do not recall what I did in<br/>20 preparation for this to/from report.</b></p> <p>21        Q Okay. In general, when you were<br/>22 completing a to/from in response to a citizen<br/>23 complaint, would you ever confer with officers who<br/>24 are also accused?</p> |
| <p>1 BY MR. FLAXMAN:</p> <p>2        Q Okay. Sir, you took an oath before the<br/>3 video was here; correct?</p> <p>4        <b>A That's correct.</b></p> <p>5        Q And you understand that you're still under<br/>6 oath; right?</p> <p>7        <b>A Yes.</b></p> <p>8        Q Is there any reason you wouldn't be able<br/>9 to truthfully and accurately answer questions<br/>10 today?</p> <p>11        <b>A No.</b></p> <p>12        Q All right. During the break, I changed<br/>13 the exhibit sticker for No. 28.</p> <p>14        Do you see Exhibit 28 in front of you?</p> <p>15        <b>A Yes, I do.</b></p> <p>16        Q And is that the picture you looked at on<br/>17 my computer a few minutes ago?</p> <p>18        <b>A Yes.</b></p> <p>19        Q Okay. And having looked at it on the<br/>20 computer and looked at it on paper, do you have<br/>21 any recollection of Robert Lindsey?</p> <p>22        <b>A No, I do not.</b></p> <p>23        Q I wanted to very quickly go back to<br/>24 Exhibit 26 about Mr. Lindsey. I think you're</p>   | <p>368</p> <p>1        <b>A Based on my memory and my experience as a<br/>2 police officer, it would not be out of the<br/>3 ordinary, but I do not recall.</b></p> <p>4        Q Okay. Going back to Mr. Thomas, I think<br/>5 the reports are under your left hand, but my<br/>6 question is not about anything in any of the<br/>7 reports.</p> <p>8        My question is having reviewed the reports<br/>9 related to Mr. Thomas, are you still unable to<br/>10 remember the arrest of Mr. Thomas on March 6th,<br/>11 2008?</p> <p>12        <b>A No, I cannot.</b></p> <p>13        Q And is there anything that would help you<br/>14 remember the arrest of Mr. Thomas on March 6th,<br/>15 2008?</p> <p>16        <b>A I don't know.</b></p> <p>17        Q All right. You can put aside the<br/>18 Mr. Thomas exhibits.</p> <p>19        I want to ask you about the arrest of<br/>20 Angelo Shenault, Sr.</p> <p>21        MR. PALLES: Excuse me. I noticed that<br/>22 since yesterday about 5:00 p.m., there was a<br/>23 substantial --</p> <p>24        MR. FLAXMAN: Yeah. I'm not going to ask</p>   |

## Transcript of Elsworth Smith, Jr., Volume II

15 (371 to 374)

Conducted on March 5, 2020

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| 1 about that.                                      | 371   |
| 2 MR. PALLE: Okay.                                 | 1 person depicted in this arrest report, or was he        |
| 3 MR. FLAXMAN: I can put it on the record.         | 2 roughly a different age?                                |
| 4 MR. PALLE: I was going to say there was          | 3 <b>A Like I said, I don't recall Angelo</b>             |
| 5 a substantial amount of documents received last  | 4 <b>Shenault. So it depends on -- I am aware that</b>    |
| 6 night -- I received it from --                   | 5 <b>there's an Angelo Shenault, Jr., so I don't know</b> |
| 7 MR. KOSOKO: COPA.                                | 6 <b>which one you are referring to.</b>                  |
| 8 MR. PALLE: -- on behalf of -- COPA,              | 7 Q Okay.   |
| 9 citizens -- sorry -- whatever it is.             | 8 MR. STEFANICH: If you want to show him                  |
| 10 MR. FLAXMAN: So I'm not going to ask            | 9 his picture, that's fine.                               |
| 11 about Shenault, Jr., who is the subject of that | 10 MR. FLAXMAN: I didn't bring a picture.                 |
| 12 log because we just got all those documents.    | 11 You said we're not going to question on it.            |
| 13 MR. PALLE: Okay. Thank you.                     | 12 <b>A Maybe I misunderstood.</b>                        |
| 14 MR. FLAXMAN: Counsel for the witness has        | 13 Q Sure. And maybe I've asked a bad                     |
| 15 agreed that we're going to postpone that        | 14 question.  |
| 16 questioning.                                    | 15 When I first asked you if you knew of                  |
| 17 MR. STEFANICH: Correct.                         | 16 Angelo Shenault, you said you -- what did you say?     |
| 18 MR. PALLE: Okay. Thank you.                     | 17 <b>A Vaguely.</b>                                      |
| 19 BY MR. FLAXMAN:                                 | 18 Q Okay. And is there anything you remember             |
| 20 Q So do you remember somebody named Angelo      | 19 about the Angelo Shenault that you have a              |
| 21 Shenault?                                       | 20 recollection of?                                       |
| 22 <b>A Vaguely.</b>                               | 21 <b>A As I'm sitting here today, no, I do not</b>       |
| 23 Q Okay. And do you remember that there were     | 22 <b>know.</b>   |
| 24 two people around Ida B. Wells with that name?  | 23 Q Okay. Well, then I will just ask directly            |
|  | 24 about this report. For the record, I'm going to        |
|  | 372   |
| 1 <b>A I am aware of it now.</b>                   | 373   |
| 2 Q Okay. Well, let me -- do you have any          | 1 refer to this as Angelo Shenault, Sr.                   |
| 3 memory of the arrests of either person named     | 2 Do you remember the arrest of Angelo                    |
| 4 Angelo Shenault?                                 | 3 Shenault, Sr., on November 26th, 2006?                  |
| 5 <b>A No, I do not.</b>                           | 4 <b>A No, I do not.</b>                                  |
| 6 (Smith Deposition Exhibit 32 marked for          | 5 Q But you understand that I'm talking about             |
| 7 identification and attached to the transcript.)  | 6 the report that's depicted in Exhibit 33; right?        |
| 8 Q Well, let me show you what we will mark as     | 7 <b>A That's correct.</b>                                |
| 9 Exhibit 32.                                      | 8 Q You see that the location of the arrest is            |
| 10 Do you recognize the man depicted in            | 9 3753 South Vernon Avenue?                               |
| 11 Exhibit 32?                                     | 10 <b>A That's correct.</b>                               |
| 12 <b>A No, I do not.</b>                          | 11 Q Okay. Are you familiar with that                     |
| 13 (Smith Deposition Exhibit 33 marked for         | 12 location?  |
| 14 identification and attached to the transcript.) | 13 <b>A Yes.</b>  |
| 15 Q Okay. Let me give you Exhibit 33.             | 14 Q And what's at that location?                         |
| 16 Is Exhibit 33 the arrest report of Angelo       | 15 <b>A At that time, I believe it was a set of</b>       |
| 17 Shenault on November 26th, 2006?                | 16 <b>row houses in the Ida B. Wells.</b>                 |
| 18 <b>A Yes, it is.</b>                            | 17 Q And by "at that time," what are you                  |
| 19 Q Okay. And this Angelo Shenault has a date     | 18 referring to?  |
| 20 of birth in 1963.                               | 19 <b>A The address.</b>                                  |
| 21 Is that what the report says?                   | 20 Q I'm sorry. You mean the time that's                  |
| 22 <b>A Yes.</b>                                   | 21 listed in this arrest report?                          |
| 23 Q Okay. Based on your memory of someone         | 22 <b>A Yes.</b>  |
| 24 named Angelo Shenault, do you think he is the   | 23 Q Meaning in 2006?                                     |
|  | 24 <b>A Yes.</b>  |

## Transcript of Elsworth Smith, Jr., Volume II

16 (375 to 378)

Conducted on March 5, 2020

|  |     |  |     |
|--|-----|--|-----|
| <p>1 Q Do you see that Mr. Shenault, Sr., was<br/>2 charged with possession of a controlled substance?<br/>3 <b>A That's what's stated on the report.</b><br/>4 Q And on the third page of this report,<br/>5 you're not listed as an attesting officer or the<br/>6 first or second arresting officer; right?<br/>7 <b>A No, I am not.</b><br/>8 Q Okay. Do you see yourself listed on the<br/>9 fifth page of the arrest report?<br/>10 <b>A Yes.</b><br/>11 Q What are you listed as?<br/>12 <b>A As an assisting arresting officer.</b><br/>13 Q Did you review the narrative of this<br/>14 report?<br/>15 <b>A I don't recall if I did on that date</b><br/>16 <b>or not, but I've reviewed it prior to coming here.</b><br/>17 Q Okay. And --<br/>18 <b>A And I've looked at it now.</b><br/>19 Q Okay. And having reviewed this report,<br/>20 are you able to remember the arrest of<br/>21 Mr. Shenault, Sr., on November 26th, 2006?<br/>22 <b>A No, I do not.</b><br/>23 Q This narrative refers to narcotics being<br/>24 sold out of the Madden Park area.</p> | 375 | <p>1 Q Okay. The report states that Mr. Shenault<br/>2 discarded to the ground a Cheetos chip bag that<br/>3 contained Ziploc baggies each filled with suspect<br/>4 heroin.<br/>5 Do you see where I read that?<br/>6 <b>A Yes.</b><br/>7 Q Do you remember ever being involved in an<br/>8 arrest where a suspect was storing narcotics in a<br/>9 chip bag?<br/>10 <b>A I don't recall this arrest, but, yes, I</b><br/>11 <b>have.</b><br/>12 Q Okay. And what do you remember from those<br/>13 arrests that you recall?<br/>14 <b>A That sometimes drug dealers put the</b><br/>15 <b>narcotics in a bag.</b><br/>16 Q And did you ever learn why drug dealers<br/>17 would put narcotics into a chip bag?<br/>18 <b>A Sometimes it wasn't specifically narcotics</b><br/>19 <b>dealers. It was also people who purchased drugs</b><br/>20 <b>also that was trying to hide them from the police.</b><br/>21 MR. FLAXMAN: Mark this as 34.<br/>22 (Smith Deposition Exhibit 34 marked for<br/>23 identification and attached to the transcript.)<br/>24 Q Is Exhibit 34 a vice case report for the</p>  | 377 |
| <p>1 Are you familiar with the Madden Park<br/>2 area?<br/>3 <b>A Yes.</b><br/>4 Q Was there a park called Madden Park?<br/>5 <b>A Yes.</b><br/>6 Q And do you know if Madden Park is still<br/>7 there?<br/>8 <b>A From the best of my memory, I don't</b><br/>9 <b>recall.</b><br/>10 Q Is Madden Park near 3753 South Vernon<br/>11 Avenue?<br/>12 <b>A I believe so.</b><br/>13 Q Do you recall making any arrests in the<br/>14 Madden Park area?<br/>15 <b>A Off the top of my head, I don't recall.</b><br/>16 Q Do you ever recall learning about drugs<br/>17 being sold at Madden Park?<br/>18 <b>A As I'm sitting here today, I don't recall;</b><br/>19 <b>but I'm certain probably during that time, yes.</b><br/>20 Q How close was Madden Park to the Ida B.<br/>21 Wells homes?<br/>22 <b>A Like I said, I don't remember the</b><br/>23 <b>distance. I couldn't tell you how many feet or</b><br/>24 <b>how many -- but it was fairly close.</b></p>  | 376 | <p>1 arrest of Angelo Shenault, Sr., on November 6th --<br/>2 excuse me -- on November 26th, 2006?<br/>3 <b>A Yes.</b><br/>4 Q Do you see your name on this report?<br/>5 <b>A No, I do not.</b><br/>6 Q The first line of the narrative says, "In<br/>7 summary, this is a narcotics investigation arrest<br/>8 by Beats 264A, B, C, D."<br/>9 Do you see that?<br/>10 <b>A Yes, I do.</b><br/>11 Q Okay. Based on the arrest report, can you<br/>12 tell if you were included in that group on<br/>13 November 26th, 2006?<br/>14 <b>A Yes. It doesn't mention me specifically</b><br/>15 <b>by name, but it has several beats listed there.</b><br/>16 <b>So I would have been assigned to one of those</b><br/>17 <b>units.</b><br/>18 Q Do you know why it doesn't mention you by<br/>19 name?<br/>20 <b>A I do not recall this particular arrest;</b><br/>21 <b>and based on the names that are listed as the</b><br/>22 <b>reporting officers, I don't speak for them. So I</b><br/>23 <b>cannot answer for Robert Gonzalez or Brian Bolton.</b><br/>24 Q If you had prepared a vice case report,</p> | 378 |

## Transcript of Elsworth Smith, Jr., Volume II

17 (379 to 382)

Conducted on March 5, 2020

|  |   |
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| <p>379</p> <p>1 would you have listed the names of all the<br/>2 officers involved in the arrest?</p> <p>3 <b>A I would try to, but I'm certain at some<br/>4 point in time officers probably have made mistakes<br/>5 on reports, and it was probably unintentionally<br/>6 done.</b></p> <p>7 Q Do you recognize the signature below<br/>8 Officer Gonzalez's name?</p> <p>9 <b>A I don't recall Robert Gonzalez' signature;<br/>10 but as I see there, the report has been signed by<br/>11 Gonzalez and Bolton.</b></p> <p>12 Q Do you recognize Officer Bolton's<br/>13 signature?</p> <p>14 <b>A No, I do not.</b></p> <p>15 Q Box No. 42 of this report says<br/>16 "gang-related affiliation."</p> <p>17 Do you see where I am?</p> <p>18 <b>A Yes.</b></p> <p>19 Q And victim is checked, and what does it<br/>20 say for victim?</p> <p>21 <b>A None.</b></p> <p>22 Q And then offender is checked, and what<br/>23 does it say for that?</p> <p>24 <b>A G/D.</b></p>  | <p>381</p> <p>1 <b>A Yes, I believe you could check them on the<br/>2 computer, and then they would tell you if they<br/>3 were involved in a gang or part of a gang.</b></p> <p>4 Q All right. Well, having looked at<br/>5 Exhibits 33 and 34, do you have any memory of the<br/>6 arrest of Mr. Shenault, Sr., on November 26th,<br/>7 2006?</p> <p>8 <b>A No, I do not.</b></p> <p>9 Q Okay. Are you aware of anything that<br/>10 would help you remember the arrest of Angelo<br/>11 Shenault, Sr., on November 26th, 2006?</p> <p>12 <b>A Not at this present moment.</b></p> <p>13 Q Okay. Do you know that Shenault, Sr.,<br/>14 says that he was falsely arrested?</p> <p>15 <b>A Yes.</b></p> <p>16 Q Okay. Do you disagree with that?</p> <p>17 <b>A Yes, I do.</b></p> <p>18 Q Why do you disagree with that?</p> <p>19 <b>A Mr. Shenault, as well as many other<br/>20 people, are making false accusations against<br/>21 myself. Because I know myself, I have never<br/>22 falsely arrested anyone, and I don't recall anyone<br/>23 that I worked with at that particular time making<br/>24 any false arrests of any other individuals.</b></p>  |
| <p>380</p> <p>1 Q Okay. Do you know what G/D means?</p> <p>2 <b>A Gangster Disciple.</b></p> <p>3 Q Was that a -- were you familiar with the<br/>4 Gangster Disciple gang?</p> <p>5 <b>A Yes.</b></p> <p>6 Q Were they active at the Ida B. Wells<br/>7 homes?</p> <p>8 <b>A From the best of my memory, yes.</b></p> <p>9 Q I understand that you didn't create this<br/>10 vice case report; but I want to ask when you would<br/>11 create vice case reports, how would you get the<br/>12 information for the gang-related affiliation box?</p> <p>13 <b>A From the computer system. You could<br/>14 check -- I think there's a gang file that you<br/>15 could check, and sometimes some offenders might<br/>16 admit that they are affiliated with a particular<br/>17 gang.</b></p> <p>18 Q Was it your responsibility to ask them if<br/>19 they were affiliated with a particular gang?</p> <p>20 <b>A Yes. To the best of my memory, I believe<br/>21 so.</b></p> <p>22 Q And in the computer system, you would put<br/>23 in a person's name, and the system would say<br/>24 whether they were listed; is that right?</p> | <p>382</p> <p>1 Q So you never knew anyone on your team to<br/>2 make a false arrest?</p> <p>3 <b>A Based on my time working with the 264 team<br/>4 and my experience in working around these<br/>5 individuals that I was working with at that time,<br/>6 I do not recall anyone else doing anything that we<br/>7 are being alleged of.</b></p> <p>8 Q Do you know that Mr. Shenault, Sr., claims<br/>9 that a member of your team took money from him and<br/>10 bought fast food for team members?</p> <p>11 <b>A Yes. I am aware of those allegations.</b></p> <p>12 Q Okay. Do you disagree with that?</p> <p>13 <b>A Yes, I do.</b></p> <p>14 Q And why do you disagree with that?</p> <p>15 <b>A Because, like I said, we never stole any<br/>16 money from anyone and bought food with money that<br/>17 we had taken from any individual.</b></p> <p>18 Q Have you ever seen an officer buy fast<br/>19 food for someone who is under arrest?</p> <p>20 <b>A Have I seen anyone do that? I'm not --<br/>21 can't recall sitting here, but I'm certain we<br/>22 might have. I do recall at times that we were<br/>23 preparing reports that we ate while we were doing<br/>24 our reports; and sometimes there would be extra</b></p> |

## Transcript of Elsworth Smith, Jr., Volume II

18 (383 to 386)

Conducted on March 5, 2020

|   |  |
|---|--|
| <p style="text-align: right;">383</p> <p>1 food, we would sometimes offer it to offenders,<br/>2 not just people who we would lock up, if there was<br/>3 other offenders in the tac office at that<br/>4 particular time.</p> <p>5 Q What fast food restaurants are near the<br/>6 2nd District?</p> <p>7 A There's a bunch of fast food restaurants.<br/>8 I couldn't name you -- tell you all the names of<br/>9 the different fast food restaurants in the<br/>10 2nd District.</p> <p>11 Q Well, my question was what was near the<br/>12 police station?</p> <p>13 A There again, I don't recall at that<br/>14 particular time. Sitting here today, we don't<br/>15 have that many. The only place I can think of<br/>16 right now today, there is a Dunkin' Donuts at 55th<br/>17 and State Street, and I don't recall the Dunkin'<br/>18 Donuts being at that location at that particular<br/>19 time. So I can't recall from that particular day<br/>20 on 2006.</p> <p>21 Q Was there a McDonald's near the police<br/>22 station?</p> <p>23 A At this particular time, I don't recall.<br/>24 I do -- I'm sorry. I don't know what year that --</p> | <p style="text-align: right;">385</p> <p>1 Q What do you remember about Vondell<br/>2 Wilbourn?</p> <p>3 A He was a drug dealer.<br/>4 Q How did you know he was a drug dealer?<br/>5 A From what I may have heard from other<br/>6 members of my team or prior experience dealing<br/>7 with him.</p> <p>8 Q Do you remember what you heard from<br/>9 members of your team?</p> <p>10 A I don't recall specifically other than<br/>11 that he was a drug dealer.</p> <p>12 Q Okay. Do you remember your own experience<br/>13 that led you to conclude that Mr. Wilbourn was a<br/>14 drug dealer?</p> <p>15 A In my experience, like I said, dealing<br/>16 with -- working in the Ida B. Wells and also from<br/>17 my other teammates, that's the information that I<br/>18 recall.</p> <p>19 Q Do you remember what specifically that<br/>20 information was?</p> <p>21 A No, I don't recall specifically.</p> <p>22 Q Do you remember arresting Mr. Vondell<br/>23 Wilbourn?</p> <p>24 A At the present moment, I don't.</p>  |
| <p style="text-align: right;">384</p> <p>1 there used to be a McDonald's at 50th and, I<br/>2 guess, Wentworth; but I don't remember if it was<br/>3 still open at that particular point in time in<br/>4 2006. I know it's not there now.</p> <p>5 Q Was there a Burger King near the police<br/>6 station?</p> <p>7 A To the best of my memory, no.</p> <p>8 Q Was there a Wendy's near the police<br/>9 station?</p> <p>10 A It's nearby.</p> <p>11 Q Yes?</p> <p>12 A Yes. From the best of my memory, yes.</p> <p>13 Q Was there a Subway near the police<br/>14 station?</p> <p>15 A From the best of my memory, I believe so.</p> <p>16 Q Okay. Was there a Popeyes near the police<br/>17 station?</p> <p>18 A It's not close, but there's a Popeyes in<br/>19 the 2nd District.</p> <p>20 Q I'm going to ask you about an arrest of<br/>21 Vondell Wilbourn and Joshua Curtis.</p> <p>22 Do you remember someone named Vondell<br/>23 Wilbourn?</p> <p>24 A Yeah. Vondell.</p>   | <p style="text-align: right;">386</p> <p>1 Q Do you remember Joshua Curtis?</p> <p>2 A Yes, I do.</p> <p>3 Q What do you remember about Mr. Curtis?</p> <p>4 A Joshua Curtis was also involved in drugs<br/>5 in Ida B. Wells also.</p> <p>6 Q How did you learn that Joshua Curtis was<br/>7 involved in drugs?</p> <p>8 A I don't recall at the present moment.</p> <p>9 Either through my teammates or probably prior<br/>10 arrests, but I do recall Joshua Curtis and I --<br/>11 based off of my memory sitting here today, that he<br/>12 was involved in the drug activities in Ida B.<br/>13 Wells.</p> <p>14 Q Do you remember the specifics of what you<br/>15 learned about that?</p> <p>16 A No, I do not recall the specifics.</p> <p>17 Q Do you remember arresting Joshua Curtis?</p> <p>18 A Not at the present moment.</p> <p>19 Q Did you look at any documents about an<br/>20 arrest of Mr. Curtis and Mr. Wilbourn to prepare<br/>21 for the deposition?</p> <p>22 A I just looked at some documents on Vondell<br/>23 Curtis [sic] this morning, and I did look at some<br/>24 documents on Joshua Curtis, but I don't recall the</p> |

## Transcript of Elsworth Smith, Jr., Volume II

19 (387 to 390)

Conducted on March 5, 2020

|   |     |   |     |
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|   | 387 |   | 389 |
| <b>1    specifics in either of those reports.</b>       |     | 1    Q    This begins, "This is an arrest by                  |     |
| 2    Q    I'll show you some pictures.                  |     | 2    2nd District Tac Units 264A and 264C."                   |     |
| 3    (Smith Deposition Exhibit 35 marked for            |     | 3    Did I read that right?                                   |     |
| 4    identification and attached to the transcript.)    |     | <b>4    A    That's correct.</b>                              |     |
| 5    Q    Looking at Exhibit 35, do you recognize       |     | 5    Q    Okay. And does the report list yourself             |     |
| 6    that as Joshua Curtis?                             |     | 6    as 264C on September 2nd, 2005?                          |     |
| <b>7    A    Yes, that's Joshua Curtis.</b>             |     | <b>7    A    Yes. That's listed on page 5.</b>                |     |
| 8    (Smith Deposition Exhibit 36 marked for            |     | 8    Q    Okay. This also lists Officer Nichols and           |     |
| 9    identification and attached to the transcript.)    |     | 9    Officer Leano as your partner that day?                  |     |
| 10   Q    Okay. And Exhibit 36, which I'm going to      |     | <b>10   A    Yes.</b>   |     |
| 11   pass out, do you recognize that as Vondell         |     | 11   Q    And the next sentence says, "The above              |     |
| 12   Wilbourn?  |     | 12   subject was observed by A/O give a subject now           |     |
| <b>13   A    Yes.</b>                                   |     | 13   known as Wilbourn Vondell J. M/1/29 a bundle of          |     |
| 14   (Smith Deposition Exhibit 37 marked for            |     | 14   U.S.C. totaling \$120 in exchange for a clear            |     |
| 15   identification and attached to the transcript.)    |     | 15   plastic bag with suspect narcotics."                     |     |
| 16   Q    All right. Is Exhibit 37 the arrest           |     | 16   Did I read that right?                                   |     |
| 17   report of Joshua Curtis from September 2nd, 2005?  |     | <b>17   A    That's correct.</b>                              |     |
| <b>18   A    Yes, it is.</b>                            |     | 18   Q    Okay. What does M/1/29 mean in a police             |     |
| 19   Q    And do you see yourself listed on this        |     | 19   report?  |     |
| 20   arrest report?                                     |     | <b>20   A    I'm sorry?</b>                                   |     |
| <b>21   A    Yes, I do.</b>                             |     | 21   Q    What does M/1/29 mean?                              |     |
| 22   Q    Okay. What's your role on this arrest         |     | <b>22   A    Male black, age 29.</b>                          |     |
| 23   report?  |     | 23   Q    Okay. And so the 1 refers to black?                 |     |
| <b>24   A    As an assisting officer.</b>               |     | <b>24   A    Yes. That's the demographical code that</b>      |     |
|   | 388 |   | 390 |
| 1    Q    Is that on the fifth page?                    |     | <b>1    the Chicago Police Department uses to describe</b>    |     |
| <b>2    A    That is correct.</b>                       |     | <b>2    race, African-African.</b>                            |     |
| 3    Q    Okay. You don't remember this arrest;         |     | 3    Q    What does U.S.C. mean?                              |     |
| 4    correct?   |     | <b>4    A    U.S.C. is United States currency.</b>            |     |
| <b>5    A    No, I do not.</b>                          |     | 5    Q    And this sentence that I just read said             |     |
| 6    Q    The location of this arrest is 559 East       |     | 6    that it was observed by A/O.                             |     |
| 7    Browning Avenue?                                   |     | <b>7    A    Yes.</b>   |     |
| <b>8    A    That's what's stated on the report.</b>    |     | 8    Q    Can you tell who that refers to?                    |     |
| 9    Q    Okay. Do you recognize that as an address     |     | <b>9    A    No, I do not.</b>                                |     |
| 10   at the Ida B. Wells homes?                         |     | 10   Q    Okay. Is it likely to refer to one of the           |     |
| <b>11   A    From the best of my memory, yes.</b>       |     | 11   first or second arresting officers?                      |     |
| 12   Q    Do you remember what kind of building it      |     | <b>12   A    That's possible.</b>                             |     |
| 13   was?   |     | 13   Q    Could it refer to you as an assisting               |     |
| <b>14   A    A CHA building.</b>                        |     | 14   officer?   |     |
| 15   Q    Was it a row house? Was it a high-rise?       |     | <b>15   A    It's possible, but it doesn't state that.</b>    |     |
| 16   Do you remember?                                   |     | <b>16   Arresting officer could mean arriving officer, it</b> |     |
| <b>17   A    That was a high-rise.</b>                  |     | <b>17   could be mean arresting officer, or it could mean</b> |     |
| 18   Q    And having reviewed the report, are you       |     | <b>18   assisting officer. But it does not state in the</b>   |     |
| 19   able to tell what your role was as an assisting -- |     | <b>19   narrative of the report.</b>                          |     |
| 20   what you did as an assisting officer?              |     | 20   Q    It doesn't state which one it is?                   |     |
| <b>21   A    No, I cannot.</b>                          |     | <b>21   A    No, it does not.</b>                             |     |
| 22   Q    The narrative section, that's on the          |     | 22   Q    The next sentence says, "The subject                |     |
| 23   second page; right?                                |     | 23   Wilbourn, Vondell was also heard saying to the           |     |
| <b>24   A    Yes.</b>                                   |     | 24   above subject, 'this is all we have until later.'"       |     |

## Transcript of Elsworth Smith, Jr., Volume II

20 (391 to 394)

Conducted on March 5, 2020

|    |  |    |   |
|----|--|----|---|
|    | 391  |    | 393   |
| 1  | Did I read that right?                                   | 1  | <b>A I can't speak for Officer Jones or Young;</b>          |
| 2  | <b>A That's correct.</b>                                 | 2  | <b>but technically, it could be paraphrasing what</b>       |
| 3  | Q Okay. Have you ever heard somebody in the              | 3  | <b>they said. I don't know if I -- if I wrote it, it</b>    |
| 4  | drug business saying, "This is all we have until         | 4  | <b>might be exactly what they said, but I can't speak</b>   |
| 5  | later"?  | 5  | <b>for Jones or Young and how they prepared this</b>        |
| 6  | <b>A I don't recall.</b>                                 | 6  | <b>report.</b>  |
| 7  | Q Okay. Based on your experience as a                    | 7  | Q Okay. I want to ask you about your                        |
| 8  | police officer, can you tell what that means?            | 8  | practice in preparing reports.                              |
| 9  | <b>A Based on my experience, that means that</b>         | 9  | In your practice when you put words within                  |
| 10 | <b>it's probably all the drugs that they might have.</b> | 10 | 10 quotation marks, do you mean that's the exact            |
| 11 | Q Okay. Based on the description of this                 | 11 | 11 words that you heard spoken?                             |
| 12 | exchange, do you believe that Mr. Wilbourn and           | 12 | <b>A Like I said, based on my memory, I</b>                 |
| 13 | Mr. Curtis were selling drugs together?                  | 13 | <b>probably would put -- or perhaps put what they</b>       |
| 14 | <b>A I don't know.</b>                                   | 14 | <b>said exactly or try to -- or to the best of my</b>       |
| 15 | Q You can't tell.  | 15 | <b>memory, put as closely, exactly what they said or</b>    |
| 16 | <b>A I can't tell. I don't recall the arrest</b>         | 16 | <b>paraphrase what they said.</b>                           |
| 17 | <b>on this date.</b>                                     | 17 | <b>So I don't know if I'm confusing you, but</b>            |
| 18 | MR. FLAXMAN: Let's mark this next one                    | 18 | <b>the best way to answer it -- to the best of your</b>     |
| 19 | as 38.   | 19 | <b>knowledge, I would try to answer that question</b>       |
| 20 | (Smith Deposition Exhibit 38 marked for                  | 20 | <b>20 to -- in some way try to get exactly what they</b>    |
| 21 | identification and attached to the transcript.)          | 21 | <b>21 would state. I don't know if I would -- because a</b> |
| 22 | Q Is Exhibit 38 the arrest report of Vondell             | 22 | <b>22 lot of times you might have misheard someone, but</b> |
| 23 | Wilbourn from an arrest on September 2nd, 2005?          | 23 | <b>23 you would try to, to the best of your knowledge,</b>  |
| 24 | <b>A Yes, it is.</b>                                     | 24 | <b>24 record -- like I said, paraphrase what they might</b> |
|    | 392  |    | 394   |
| 1  | Q Okay. And what is your role on this                    | 1  | <b>have stated.</b>   |
| 2  | arrest report?   | 2  | Q Did you ever use the phrase "words to the                 |
| 3  | <b>A Again, on page 5, it's states that I was</b>        | 3  | 3 effect of" in your police reports?                        |
| 4  | <b>an assisting officer on Beat 264 Charlie or 264C.</b> | 4  | <b>A Sitting here today, without looking at any</b>         |
| 5  | Q And it's the same listing as the report                | 5  | <b>5 of my old reports, I don't recall, but I possibly</b>  |
| 6  | for Mr. Curtis; right?                                   | 6  | <b>6 may have.</b>  |
| 7  | <b>A That's correct.</b>                                 | 7  | Q If you were paraphrasing, would you use                   |
| 8  | Q Can you tell on the report from                        | 8  | something like "words to the effect of" rather              |
| 9  | Mr. Wilbourn what you did as the assisting               | 9  | than using quotation marks?                                 |
| 10 | officer?   | 10 | <b>A Sitting here today, I could not tell you</b>           |
| 11 | <b>A No.</b>   | 11 | <b>11 what I might have done in the past, and it might</b>  |
| 12 | Q And this narrative has a similar                       | 12 | <b>12 vary from each report.</b>                            |
| 13 | description of the exchange and the words in             | 13 | (Smith Deposition Exhibit 39 marked for                     |
| 14 | 14 quotes that we read from Mr. Curtis's report;         | 14 | identification and attached to the transcript.)             |
| 15 | 15 right?  | 15 | Q Is Exhibit 39 a vice case report for the                  |
| 16 | <b>A That's correct. That's correct.</b>                 | 16 | 16 arrest report of Mr. Curtis and Mr. Wilbourn on          |
| 17 | Q Okay. When you wrote -- when you write                 | 17 | 17 September 2nd, 2005?                                     |
| 18 | 18 police reports, do you ever put language in           | 18 | <b>A That's correct.</b>                                    |
| 19 | 19 quotation marks like we see in this report?           | 19 | Q Okay. And is your name listed on this                     |
| 20 | <b>A It would not be uncommon, but I did not</b>         | 20 | 20 report?  |
| 21 | <b>21 write this report.</b>                             | 21 | <b>A Yes, it is.</b>  |
| 22 | Q Okay. When you write reports and put                   | 22 | Q Where is it listed?                                       |
| 23 | 23 words in quotation marks, does that mean that         | 23 | <b>A In Box 18.</b>   |
| 24 | 24 you're recording exactly what you heard said?         | 24 | Q Okay. And what -- what does it mean for                   |

## Transcript of Elsworth Smith, Jr., Volume II

21 (395 to 398)

Conducted on March 5, 2020

|    |   |    |   |
|----|---|----|---|
|    | 395   |    | 397   |
| 1  | your name to be listed in Box 18?                         | 1  | from a White Ford Contour that did not look like a          |
| 2  | <b>A As an assisting officer.</b>                         | 2  | police car. I recognized those officers as Ronald           |
| 3  | Q Was Sergeant Watts an assisting officer?                | 3  | Watts, Kenny, Al, and Smitty."                              |
| 4  | <b>A Not recalling this arrest report from that</b>       | 4  | When you were on the 264 tactical team,                     |
| 5  | <b>particular date, I'm not certain; but it's</b>         | 5  | did you ever use a vehicle that did not look like           |
| 6  | <b>possible that he could have been there at the time</b> | 6  | a police car?   |
| 7  | <b>of this arrest.</b>                                    | 7  | <b>A Sometimes --</b>                                       |
| 8  | Q Was it your understanding that listing him              | 8  | MR. STEFANICH: Objection; foundation.                       |
| 9  | in Box 18 meant that he was an assisting officer?         | 9  | You can answer.   |
| 10 | MR. MICHALIK: Objection; foundation.                      | 10 | <b>A Sometimes we did.</b>                                  |
| 11 | <b>A Again, I did not prepare this report; but</b>        | 11 | Q And when would you do that?                               |
| 12 | <b>if he's listed on here, it could be possible that</b>  | 12 | <b>A I don't recall the specific dates or times</b>         |
| 13 | <b>he was an assisting officer at some point in time.</b> | 13 | <b>that we did; but, like I said, sometimes we did.</b>     |
| 14 | Q Have you reviewed the narrative in the                  | 14 | Q And why would you use a vehicle that did                  |
| 15 | vice case report?   | 15 | not look like a police car?                                 |
| 16 | <b>A I have now.</b>                                      | 16 | <b>A So we can sneak into the building and try</b>          |
| 17 | Q Okay. And are you able to tell, after                   | 17 | <b>to catch people selling drugs or buying drugs.</b>       |
| 18 | reviewing this narrative, what your role was in           | 18 | Q Did you ever use a White Ford Contour?                    |
| 19 | the arrest of Mr. Wilbourn and Mr. Curtis?                | 19 | <b>A If that's what's stated in this report, I</b>          |
| 20 | <b>A No. It does not state in the report.</b>             | 20 | <b>don't -- I don't recall one way or the other.</b>        |
| 21 | Q This lists the first reporting officer as               | 21 | Q And in the instances when you would use a                 |
| 22 | Officer Jones; correct?                                   | 22 | vehicle that didn't look like a police car, how             |
| 23 | <b>A That's correct.</b>                                  | 23 | would you get that vehicle?                                 |
| 24 | Q Do you recognize the signature below                    | 24 | <b>A Well, myself, and best off of my memory, I</b>         |
|    | 396   |    | 398   |
| 1  | Officer Jones' name?                                      | 1  | <b>1 don't recall how it was done. A sergeant or some</b>   |
| 2  | <b>A From the best of my memory, it appears to</b>        | 2  | <b>2 type of supervisor probably had to get it. So I</b>    |
| 3  | <b>be Alvin Jones' signature.</b>                         | 3  | <b>3 don't recall the specifics of how it was obtained.</b> |
| 4  | Q Okay. The second reporting officer is                   | 4  | Q Was it your understanding that vehicles                   |
| 5  | listed as Officer Young.                                  | 5  | like that were owned by the department?                     |
| 6  | Do you see that?  | 6  | <b>A Yes.</b>   |
| 7  | <b>A Yes, I do.</b>                                       | 7  | Q Did your team ever use a vehicle that                     |
| 8  | Q Do you recognize the signature below                    | 8  | wasn't owned by the Chicago Police Department?              |
| 9  | Officer Young's name?                                     | 9  | <b>A From the best of my memory, no.</b>                    |
| 10 | <b>A I see a signature, but I don't recall</b>            | 10 | Q The next paragraph states, "Watts asked me                |
| 11 | <b>Officer Young's handwriting.</b>                       | 11 | 11 words to the effect of, 'where that shit at?'"           |
| 12 | MR. FLAXMAN: Okay. Let's mark this the                    | 12 | Did you ever hear officer Watts say                         |
| 13 | next exhibit.   | 13 | anything like that to somebody?                             |
| 14 | (Smith Deposition Exhibit 40 marked for                   | 14 | <b>A I don't recall from this particular day.</b>           |
| 15 | identification and attached to the transcript.)           | 15 | <b>I'm certain he probably has said that. I'm</b>           |
| 16 | Q Exhibit 40 is the affidavit of Joshua                   | 16 | <b>16 certain that we all may have used profanity at</b>    |
| 17 | Curtis.   | 17 | <b>17 some point in time, but I don't recall for that</b>   |
| 18 | Have you reviewed Mr. Curtis's affidavit                  | 18 | <b>18 particular date.</b>                                  |
| 19 | before today?   | 19 | Q The next sentence -- I'm sorry -- the next                |
| 20 | <b>A Yes, I have.</b>                                     | 20 | 20 paragraph is 7. It says, "I understood that he           |
| 21 | Q All right. I want to point you to the                   | 21 | wanted to know where illegal drugs were."                   |
| 22 | 22 fifth paragraph where Mr. Curtis states, "I heard      | 22 | Is that what you would take "where that                     |
| 23 | 23 Vondell say that he saw police officers coming. I      | 23 | shit at" to mean?   |
| 24 | 24 looked and I saw four officers quickly running         | 24 | <b>A I don't know what Joshua Curtis meant by</b>           |

## Transcript of Elsworth Smith, Jr., Volume II

22 (399 to 402)

Conducted on March 5, 2020

|   |     |  |     |
|---|-----|--|-----|
| <p>1 that; but based off of reading this, you can<br/> 2 assume that, but I don't know what he meant by<br/> 3 that.</p> <p>4 Q This states that after Mr. Curtis was<br/> 5 handcuffed -- excuse me -- after Mr. Curtis was<br/> 6 handcuffed to Mr. Wilbourn, Watts went up the<br/> 7 stairs and then came back and showed Mr. Curtis a<br/> 8 bag of drugs.</p> <p>9 Were you ever present for anything like<br/> 10 that happening?</p> <p>11 MR. STEFANICH: Joel, is that like a<br/> 12 specific paragraph you're looking at?</p> <p>13 MR. FLAXMAN: I'm on paragraph 9.</p> <p>14 Q Do you see that?</p> <p>15 MR. STEFANICH: Okay. Got you.</p> <p>16 A Yes, I see that.</p> <p>17 Q That paragraph states, "Watts handcuffed<br/> 18 me to Vondell, and Watts went up the stairs where<br/> 19 I could not see him."</p> <p>20 Paragraph 10 states, "At that time, Al<br/> 21 searched my pants. He also did not find anything<br/> 22 illegal."</p> <p>23 Paragraph 11 states, "Watts came right<br/> 24 back and showed me a bag of drugs and said words</p>  | 399 | <p>1 Q Did you ever observe Al slap someone with<br/> 2 justification?</p> <p>3 A Sitting here today, I don't recall. I'm<br/> 4 certain at some point in time to effect an arrest,<br/> 5 that Alvin Jones might have used the necessary<br/> 6 force.</p> <p>7 Q Would it ever be necessary to slap<br/> 8 somebody to effectuate an arrest?</p> <p>9 MR. KOSOKO: Object to form, foundation,<br/> 10 legal conclusion.</p> <p>11 A When we use the words "necessary force,"<br/> 12 that means whatever force is necessary. If a slap<br/> 13 is necessary at that particular point in time to<br/> 14 effect an arrest, then it would be necessary.</p> <p>15 As long as it's not unwanted or -- I'm<br/> 16 trying to find the correct word -- if it's<br/> 17 unlawful force or excessive force. But, like I<br/> 18 said, necessary force is whatever force you have<br/> 19 to use to possibly protect your safety or as well<br/> 20 as your partner's safety.</p> <p>21 Q Did you ever observe Officer Young use<br/> 22 more force than was necessary to make an arrest?</p> <p>23 MR. KOSOKO: Objection; form, foundation,<br/> 24 legal conclusion.</p> | 401 |
| <p>1 to the effect of, 'I found it. You should have<br/> 2 just gave it to me.'"</p> <p>3 Do you recall ever observing Watts doing<br/> 4 anything like that?</p> <p>5 MR. KOSOKO: Object to form.</p> <p>6 A As I stated before, I have not seen<br/> 7 officer -- I'm sorry -- Sergeant Watts or any<br/> 8 other officer that I worked with at that time do<br/> 9 anything that's stated in this report by Joshua<br/> 10 Curtis or possibly Vondell Wilbourn or any other<br/> 11 of these individuals making these false<br/> 12 allegations against us do any of these things that<br/> 13 are -- that he's describing.</p> <p>14 Q Okay. Paragraph 13 says, After I said the<br/> 15 drugs weren't mine, Al slapped me.</p> <p>16 Did you ever observe Officer Jones slap<br/> 17 anybody?</p> <p>18 A Sitting here, I don't have recall from<br/> 19 this particular date. I don't believe that he<br/> 20 probably slapped someone just out of -- for no<br/> 21 reason at all. Like I said, and I don't recall<br/> 22 from this particular date, but I don't believe<br/> 23 that Al would have slapped anyone without any<br/> 24 justification.</p> | 400 | <p>1 A From the best of my memory, sitting here<br/> 2 today, I don't recall if I did observe Officer<br/> 3 Young use force. I'm certain he -- I can't say if<br/> 4 he did one way or the other.</p> <p>5 Q You can't remember an instance when you<br/> 6 saw Officer Young use force?</p> <p>7 A As I sit here today, I don't recall if I<br/> 8 ever saw Kenny Young use force or not.</p> <p>9 Q Have you ever used force?</p> <p>10 A I'm certain I have, yes.</p> <p>11 Q Has there ever been a time where you used<br/> 12 more force than was necessary?</p> <p>13 A No, I have not.</p> <p>14 Q Have you ever kicked a suspect after other<br/> 15 officers took him to the ground?</p> <p>16 A No, I have not. To the best of my memory,<br/> 17 no.</p> <p>18 Q So you understand that Mr. Curtis and<br/> 19 Mr. Wilbourn both say they were falsely arrested<br/> 20 on September 2nd, 2005; right?</p> <p>21 A Yes, I do. And I read these false<br/> 22 accusations; and as I stated before, I did not<br/> 23 witness any of these accusations that they are<br/> 24 making in these -- in this affidavit.</p>                                     | 402 |

## Transcript of Elsworth Smith, Jr., Volume II

23 (403 to 406)

Conducted on March 5, 2020

|   |  |
|---|--|
|   |  |
| 403   | 405  |
| <p>1 Q And you believe the police reports<br/>2 prepared by your team members over those<br/>3 affidavits?</p> <p>4 <b>A Yes. I would believe my teammates over<br/>5 these drug dealers' words any day of the week.</b></p> <p>6 Q Besides what we've talked about, is there<br/>7 anything else you can remember about Vondell<br/>8 Wilbourn?</p> <p>9 <b>A He had a brother named Valentino Wilbourn.</b></p> <p>10 Q Did you ever see the two of them together?</p> <p>11 <b>A I don't recall ever seeing them together.<br/>12 I can't say. Possibly they may have been together<br/>13 at some point in time, but I don't recall, sitting<br/>14 here today.</b></p> <p>15 Q How did you know he had a brother named<br/>16 Valentino Wilbourn?</p> <p>17 <b>A From the best of my memory, that's what I<br/>18 recall, he had a brother named Valentino.</b></p> <p>19 Q Other than what we've talked about with<br/>20 respect to Mr. Curtis, do you remember anything<br/>21 else about Joshua Curtis?</p> <p>22 <b>A Not off the top of my head.</b></p> <p>23 Q Okay. And having reviewed everything that<br/>24 we've reviewed, are you still unable to recall the</p> | <p>1 <b>working in the Ida B. Wells.</b></p> <p>2 Q Did you ever arrest Mr. Jefferson?</p> <p>3 <b>A I don't recall, sitting here right now,<br/>4 without looking at some reports or anything, but<br/>5 I'm certain I -- it's possible I may have.</b></p> <p>6 Q Okay. So you don't recall the specific<br/>7 information you learned to make you aware that<br/>8 Mr. Jefferson was involved in drugs; right?</p> <p>9 <b>A Not off the present -- at the present<br/>10 moment, not off the top of my head.</b></p> <p>11 Q Do you remember the arrest of<br/>12 Mr. Jefferson on September 12th, 2006?</p> <p>13 <b>A What was the date?</b></p> <p>14 Q September 12th, 2006.</p> <p>15 <b>A No, I do not.</b></p> <p>16 Q Okay.</p> <p>17 MR. FLAXMAN: Okay. Let's mark the next<br/>18 exhibit.</p> <p>19 (Smith Deposition Exhibit 41 marked for<br/>20 identification and attached to the transcript.)</p> <p>21 Q Is Exhibit 41 the arrest report of<br/>22 Goleather Jefferson on September 12th, 2006?</p> <p>23 <b>A Yes, it is.</b></p> <p>24 Q And this is kind of a blurry picture up at</p> |
| 404   | 406  |
| <p>1 arrest of Mr. Wilbourn and Mr. Curtis on<br/>2 September 2nd, 2005?</p> <p>3 <b>A No, I cannot.</b></p> <p>4 Q And are you still unable to think of<br/>5 anything that would help you remember that arrest?</p> <p>6 <b>A Not at the present moment.</b></p> <p>7 Q I want to ask you now about Goleather<br/>8 Jefferson.</p> <p>9 Do you remember Goleather Jefferson?</p> <p>10 <b>A I believe so.</b></p> <p>11 Q What do you remember about Goleather<br/>12 Jefferson?</p> <p>13 <b>A We pronounce his name as Goleather, but I<br/>14 don't know if that's the correct pronunciation.</b></p> <p>15 Goleether (phonetic) or Goleather, I'm not<br/>16 certain; but I'm aware that he was involved in the<br/>17 drug activity in the Ida B. Wells.</p> <p>18 Q Okay. And for the written transcript, the<br/>19 way you're saying it is the way you'd normally<br/>20 pronounce the word "leather"; right?</p> <p>21 <b>A Yes.</b></p> <p>22 Q Okay. How did you know that he was<br/>23 involved in drugs?</p> <p>24 <b>A Like I said, from my prior experience in</b></p>  | <p>1 the top right, but do you recognize that as a<br/>2 picture of Mr. Jefferson?</p> <p>3 <b>A Yes. Based on my memory, yes.</b></p> <p>4 Q Did you ever know him to go by a nickname?</p> <p>5 <b>A From the best of my memory, I thought that<br/>6 was his nickname.</b></p> <p>7 Q You thought Goleather was his nickname?</p> <p>8 <b>A Yes.</b></p> <p>9 Q Do you see this arrest report states that<br/>10 he was arrested at 559 East Browning?</p> <p>11 <b>A Yes.</b></p> <p>12 Q Okay. And it also states that was his<br/>13 residence?</p> <p>14 <b>A That's what is stated on the report.</b></p> <p>15 Q Okay. And what is your role listed on<br/>16 this arrest report?</p> <p>17 <b>A On page 3, it's states that I'm the second<br/>18 arresting officer.</b></p> <p>19 Q Can you -- and who is the first arresting<br/>20 officer?</p> <p>21 <b>A Kallatt Mohammed.</b></p> <p>22 Q Okay. And who is the attesting officer?</p> <p>23 <b>A Kallatt Mohammed.</b></p> <p>24 Q Based on that listing, can you tell who</p>   |

## Transcript of Elsworth Smith, Jr., Volume II

24 (407 to 410)

Conducted on March 5, 2020

|    |  |    |   |
|----|--|----|---|
|    | 407  |    | 409   |
| 1  | created the report?  | 1  | name is -- first name is spelled a little bit           |
| 2  | <b>A Like I said, not having an independent</b>            | 2  | differently on this vice case report than the           |
| 3  | <b>recollection from September 12th, 2006, just based</b>  | 3  | arrest report.  |
| 4  | <b>off of reading the report, I would state Kallatt</b>    | 4  | Do you see that?  |
| 5  | <b>Mohammed.</b>   | 5  | <b>A Yes, I do.</b>                                     |
| 6  | Q When you prepare arrest reports, how do                  | 6  | Q It looks like it has a different date of              |
| 7  | you determine the residence of the person                  | 7  | birth too.  |
| 8  | arrested?  | 8  | Do you see that?  |
| 9  | <b>A If they have an ID on them or some type of</b>        | 9  | <b>A Yes, I do. That's obviously a mistake.</b>         |
| 10 | <b>identification, maybe a check stub. I don't know.</b>   | 10 | Q Right. Because based on the other                     |
| 11 | <b>Anything to identify them, or you might ask them</b>    | 11 | information, you can tell that these are about the      |
| 12 | <b>what their residence might be. So I don't know</b>      | 12 | same Mr. Jefferson; right?                              |
| 13 | <b>what we did on that particular date for this</b>        | 13 | <b>A Yes. Because one says March 5th -- yeah,</b>       |
| 14 | <b>particular arrest.</b>                                  | 14 | <b>March 5th, 1961, that's on the vice case report;</b> |
| 15 | Q The narrative section of this report                     | 15 | <b>and on the arrest report, it says March 5th,</b>     |
| 16 | begins, "In summary, R/Os while conducting a               | 16 | <b>1961 -- I mean, sorry, 1964.</b>                     |
| 17 | premise check at 559 East Browning due to                  | 17 | Q Okay.   |
| 18 | complaints of narcotics sales."                            | 18 | <b>A So, obviously, there was a mistake.</b>            |
| 19 | Do you see that?   | 19 | Q And that's just a mistake.                            |
| 20 | <b>A Yes, I do.</b>  | 20 | They are the same man as you read these                 |
| 21 | Q It says p-r-i-m-i-s-e.                                   | 21 | reports; right?   |
| 22 | Do you think that should be p-r-e --                       | 22 | <b>A Well, looking at the picture on the arrest</b>     |
| 23 | <b>A Yeah. That's misspelled.</b>                          | 23 | <b>report, I would assume that is Goleather</b>         |
| 24 | Q And what should that be?                                 | 24 | <b>Jefferson; and based on my memory, that is. But</b>  |
|    | 408  |    | 410   |
| 1  | <b>A Be an E, but, like I said, people make</b>            | 1  | <b>on the arrest report -- I mean, the vice case</b>    |
| 2  | <b>mistakes also.</b>                                      | 2  | <b>report, it has no picture, but I'm certain that</b>  |
| 3  | Q I just want to -- I just want to make it                 | 3  | <b>they're both the same person.</b>                    |
| 4  | clear for record. I think we all understand what           | 4  | Q Okay. And do you see that a nickname is               |
| 5  | it should be.  | 5  | listed on the vice case report, Colors?                 |
| 6  | <b>A Right. It's supposed to be premise, but</b>           | 6  | <b>A Yes.</b>   |
| 7  | <b>it's misspelled.</b>                                    | 7  | Q But you never -- I think you said before              |
| 8  | Q Okay. And what's a premise check?                        | 8  | you never knew Mr. Jefferson by a nickname; right?      |
| 9  | <b>A You walk into a building and check. When</b>          | 9  | <b>A To the best of my memory, I could not</b>          |
| 10 | <b>we do premise checks, normally we would check to</b>    | 10 | <b>recall if he had a nickname or not.</b>              |
| 11 | <b>11 see if there was some type of narcotics activity</b> | 11 | Q This vice case report, in addition to                 |
| 12 | <b>12 taking place.</b>                                    | 12 | yourself and Officer Mohammed, lists Officers           |
| 13 | Q Is that something you would do on a daily                | 13 | Jones, Leano, and Nichols as assisting officers;        |
| 14 | basis when you were on the 264 tactical team?              | 14 | is that right?  |
| 15 | <b>A Yes.</b>  | 15 | <b>A That's correct.</b>                                |
| 16 | MR. FLAXMAN: Let's mark this as Exhibit                    | 16 | Q Okay. And at the bottom, Officer Mohammed             |
| 17 | 42.  | 17 | is listed as the first reporting officer; is that       |
| 18 | (Smith Deposition Exhibit 42 marked for                    | 18 | right?  |
| 19 | identification and attached to the transcript.)            | 19 | <b>A That is correct.</b>                               |
| 20 | Q Is Exhibit 42 the vice case report for the               | 20 | Q Do you recognize Officer Mohammed's                   |
| 21 | arrest of Mr. Jefferson on September 12th, 2006,           | 21 | signature under his name?                               |
| 22 | and another man, Willie Martin?                            | 22 | <b>A No. That's my handwriting.</b>                     |
| 23 | <b>A Yes.</b>  | 23 | Q Okay. You're listed as the second                     |
| 24 | Q Okay. And it looks like Mr. Jefferson's                  | 24 | reporting officer; is that correct?                     |

## Transcript of Elsworth Smith, Jr., Volume II

25 (411 to 414)

Conducted on March 5, 2020

|   |     |  |     |
|---|-----|--|-----|
|   | 411 |  | 413 |
| 1 <b>A That's correct.</b>                                |     | 1 <b>A Number one, on the arrest report, they</b>            |     |
| 2   Q Is that your signature under your name?             |     | 2 <b>misspelled premise.</b>                                 |     |
| 3 <b>A Yes, it is.</b>                                    |     | 3   Q Correct.   |     |
| 4   Q Okay. Do you know why you signed this for           |     | 4 <b>A And then on this vice case report, he</b>             |     |
| 5   Officer Mohammed?                                     |     | 5 <b>misspelled Goleather.</b>                               |     |
| 6 <b>A If I was working with Mohammed at that</b>         |     | 6   Q Okay.  |     |
| 7 <b>point in time, he probably authorized me to sign</b> |     | 7 <b>A And I can't -- there might be some other</b>          |     |
| 8 <b>for him.</b>   |     | 8 <b>errors on here that I have overlooked right now;</b>    |     |
| 9   Q Did you ever sign a report for somebody             |     | 9 <b>but, like I said, I know my style of writing. It</b>    |     |
| 10 without authorization?                                 |     | 10 <b>does not appear to be my style of handwriting or</b>   |     |
| 11 <b>A No, I did not.</b>                                |     | 11 <b>the way I typed my reports at that particular</b>      |     |
| 12   Q If you were the one signing, does that             |     | 12 <b>point in time.</b>                                     |     |
| 13 mean that you were the one who wrote the narrative     |     | 13   Q Okay. And do you mean that the narrative              |     |
| 14 on the report?   |     | 14 doesn't sound like your words?                            |     |
| 15 <b>A No.</b>   |     | 15 <b>A I'm not stating that this is a false</b>             |     |
| 16   Q How do you know that?                              |     | 16 <b>report, but this does not appear to be the way I</b>   |     |
| 17 <b>A Based on how this report is written, I</b>        |     | 17 <b>have written or might have prepared a typewritten</b>  |     |
| 18 know -- pretty much I could tell my handwriting or     |     | 18 <b>or handwritten report.</b>                             |     |
| 19 the way I've written a report from someone else.       |     | 19   Q This vice case report states that the                 |     |
| 20   Q Okay. So you can tell, based on reading            |     | 20 address of the occurrence was 559 East Browning.          |     |
| 21 the report, that it wasn't written by you.             |     | 21   Do you see that?  |     |
| 22 <b>A That's correct.</b>                               |     | 22 <b>A Yes, I do.</b>                                       |     |
| 23   Q Can you tell who wrote it?                         |     | 23   Q Okay. And the report says that the                    |     |
| 24 <b>A If I was working with Mohammed, I would</b>       |     | 24 officers observed Mr. Martin and Mr. Jefferson            |     |
|   | 412 |  | 414 |
| 1 <b>assume that he was writing -- was the first</b>      |     | 1   standing in the rear bottom stairwell of that            |     |
| 2 <b>reporting officer, and he wrote this report.</b>     |     | 2   address.   |     |
| 3   Q Can you tell from the way it's written              |     | 3   Do you see that?   |     |
| 4   that --   |     | 4 <b>A Yes, I do.</b>  |     |
| 5 <b>A I haven't worked with Mohammed in over 10</b>      |     | 5   Q Did you -- well, were you familiar with                |     |
| 6   years, and I don't recall how he wrote; but based     |     | 6   there being more than one stairwell at 559 East          |     |
| 7   on, you know, my style of writing, this does not      |     | 7   Browning?  |     |
| 8   appear to be my style of writing. And, like I         |     | 8 <b>A Sitting here today, I do not recall</b>               |     |
| 9   said, assuming that I was working with him or         |     | 9 <b>because it's been over 10 years ago since the Ida</b>   |     |
| 10 probably the other -- one of the other assisting       |     | 10 <b>B. Wells was constructed -- torn down, and I don't</b> |     |
| 11 officers could have prepared this report also.         |     | 11 <b>recall the specific layouts of the Ida B. Wells.</b>   |     |
| 12   Q Is there something in particular that does         |     | 12   MR. FLAXMAN: Mark that as 43.                           |     |
| 13 not match your style of writing?                       |     | 13   (Smith Deposition Exhibit 43 marked for                 |     |
| 14 <b>A Yes.</b>  |     | 14 identification and attached to the transcript.)           |     |
| 15   Q And what is that?                                  |     | 15   Q Is Exhibit 43 a property inventory sheet              |     |
| 16 <b>A There's a couple misspelled words. I'm</b>        |     | 16 for a bundle of U.S. currency that was recovered          |     |
| 17 not saying that I'm perfect or anything like that;     |     | 17 from Mr. Jefferson?                                       |     |
| 18 but, like I said, prior to you -- when you first       |     | 18 <b>A Yes, it is.</b>                                      |     |
| 19 asked me about Goleather, I wasn't aware that he       |     | 19   Q And this was recovered on September 12th,             |     |
| 20 had a nickname of Colors. I thought his real name      |     | 20 2006, the date of the arrest report and vice case         |     |
| 21 was his nickname. But this doesn't appear to be        |     | 21 report that we just reviewed?                             |     |
| 22 my style of writing.                                   |     | 22 <b>A Yes.</b>   |     |
| 23   Q What are the misspellings that you're              |     | 23   Q Okay. Did you prepare this inventory                  |     |
| 24 referring to?  |     | 24 sheet?  |     |

## Transcript of Elsworth Smith, Jr., Volume II

26 (415 to 418)

Conducted on March 5, 2020

|   |  |
|---|--|
| 1 <b>A I'm looking at the bottom. No, I did not.</b><br>2    Q And you can --<br>3 <b>A Where it says "created by," it has a PC</b><br>4 <b>number that each officer is assigned to, and</b><br>5 <b>that's not my PC number.</b><br>6    Q Okay. Do you know whose PC number that<br>7    is?<br>8 <b>A No, I do not.</b><br>9    Q What's your PC No.?<br>10 <b>A PC0U037.</b><br>11   Q Are you listed on this inventory?<br>12 <b>A Yes. As the second officer.</b><br>13   Q Okay. The same role you had on the arrest<br>14 report and vice case report; right?<br>15 <b>A That is correct.</b><br>16   Q Do you know that Mr. Jefferson says he was<br>17 falsely arrested on September 12th, 2006?<br>18 <b>A Yes, I am.</b><br>19   Q And do you disagree with that?<br>20 <b>A Yes, I do.</b><br>21   Q Why do you disagree with it?<br>22 <b>A Because I don't recall falsely arresting</b><br>23 <b>officer -- I'm sorry -- not officer, but Goleather</b><br>24 <b>Jefferson. When we arrested Goleather Jefferson,</b>  | 415<br>1    I think we'll take a lunch break, if that's okay.<br>2    EXAMINATION BY COUNSEL FOR CERTAIN PLAINTIFFS<br>3    BY MR. RAUSCHER:<br>4    Q The reports we were just looking at --<br>5    well, in particular Exhibit 42, the vice case<br>6    report, you see there are two people listed as<br>7    being arrested?<br>8 <b>A Yes, I do.</b><br>9    Q The first offender in Box 19 is Willie D.<br>10 Martin?<br>11 <b>A That's correct.</b><br>12   Q Do you know Mr. Martin?<br>13 <b>A Yes. I recall Willie Martin.</b><br>14   Q What do you recall about Willie Martin?<br>15 <b>A That he was involved in drug activities in</b><br>16 <b>Ida B. Wells.</b><br>17   Q And what do you mean he was involved in<br>18 drug activities at Ida B. Wells?<br>19 <b>A Sitting here today, I don't recall what</b><br>20 <b>his specific role is, but I know that he was</b><br>21 <b>involved based off my memory and my time as a</b><br>22 <b>tactical officer at the 2nd District.</b><br>23   Q Is that just sort of, like, a vague memory<br>24 of him, or do you have any specifics?   |
| 416<br>1 <b>it was a truthful -- or it was an actual arrest.</b><br>2 <b>It was not unlawful.</b><br>3    Q And is that because you -- you believe<br>4    that you and your team always made truthful and<br>5    lawful arrests?<br>6 <b>A Well, I know myself, if I was working with</b><br>7 <b>Kallatt Mohammed on this particular day -- I don't</b><br>8 <b>recall the incident; but I know while I was</b><br>9 <b>working with Kallatt Mohammed, if we arrested</b><br>10 <b>Goleather Jefferson, we did not make a false</b><br>11 <b>arrest.</b><br>12   Q Having reviewed all this material, are you<br>13 still unable to recall the arrest of Mr. Jefferson<br>14 on September 12th, 2006?<br>15 <b>A I don't have no memory of the arrest. The</b><br>16 <b>only thing I know for certain, that the arrest was</b><br>17 <b>a truthful arrest.</b><br>18   Q Okay. Is there anything else that would<br>19 help you remember the arrest of Mr. Jefferson on<br>20 September 12th, 2006?<br>21 <b>A At the present moment, nothing I can</b><br>22 <b>think of.</b><br>23   MR. FLAXMAN: I'm going to turn it over to | 416<br>1 <b>A I don't have any specific memories of him,</b><br>2 <b>but I do recall Willie Martin.</b><br>3    Q What do you recall about him?<br>4 <b>A As I stated before, that he was a drug</b><br>5 <b>dealer in Ida B. Wells.</b><br>6    Q He was a drug dealer?<br>7 <b>A He was involved -- like I said, I don't</b><br>8 <b>recall specifically if he was a dealer, he may</b><br>9 <b>have possibly been, but he was involved in drugs</b><br>10 <b>at some point in time in the Ida B. Wells.</b><br>11   Q Do you know if he worked with anyone else<br>12 in the drug trade?<br>13 <b>A Sitting here today --</b><br>14   MR. KOSOKO: Objection.<br>15   THE REPORTER: Pardon me?<br>16   MR. KOSOKO: Objection; foundation.<br>17 <b>A Based off the best of my memory, I don't</b><br>18 <b>recall who he worked with.</b><br>19   Q Do you recall any -- well, do you recall<br>20 if he worked with anybody else?<br>21 <b>A As I stated before, I don't recall who he</b><br>22 <b>worked with. As of today, I don't recall.</b><br>23   Q I know but you're saying you don't recall<br>24 who he worked with. Which maybe -- tell me if I'm |

## Transcript of Elsworth Smith, Jr., Volume II

27 (419 to 422)

Conducted on March 5, 2020

|   |  |
|---|--|
| <p>419</p> <p>1 wrong. I hear that and I say -- I understand<br/>2 you're saying you know he worked with at least<br/>3 somebody else.</p> <p><b>4 A I don't recall who he worked with.</b></p> <p>5 Q Do you recall if he worked with anybody<br/>6 else?</p> <p><b>7 A If he worked with -- I'm certain he<br/>8 probably did, but I don't recall who he worked<br/>9 with.</b></p> <p>10 Q Why are you certain he probably worked<br/>11 with at least one other person?</p> <p><b>12 A That's just based on a guess or an<br/>13 assumption. I don't -- like I said, sitting here<br/>14 today, I don't recall. I don't recall a lot of<br/>15 specifics from over the time -- during my time<br/>16 when I worked with Sergeant Watts. It's been over<br/>17 two years ago.</b></p> <p><b>18 And I do not internalize any of this<br/>19 information and did not keep a journal or any type<br/>20 of record that could help me refresh my memory on<br/>21 a lot of these arrests or incidents that occurred<br/>22 during my time working with Ronald Watts or other<br/>23 members of the 264 housing tactical team.</b></p> <p>24 Q Try to answer -- yeah.</p> | <p>421</p> <p><b>1 BY MR. RAUSCHER:</b></p> <p>2 Q Why do you know it was a valid arrest?</p> <p><b>3 A Because I would not have falsely arrested</b></p> <p><b>4 Willie Martin or Goleather Jefferson.</b></p> <p>5 Q Well, what if you didn't personally arrest<br/>6 him and Mohammed did? How would you know that?</p> <p><b>7 A Well, based on my memory of working with</b></p> <p><b>8 Officer Mohammed, we never falsely arrested</b></p> <p><b>9 anyone.</b></p> <p>10 Q What if it was just Mohammed on his own<br/>11 who arrested Mr. Martin? Would you then still be<br/>12 able to say you have personal knowledge that it<br/>13 was a valid arrest?</p> <p>14 MR. STEFANICH: Objection to form.</p> <p><b>15 A As, again, my experience of working with</b></p> <p><b>16 Officer Mohammed, I never witnessed him or known</b></p> <p><b>17 him to make any false arrest. I know what he's</b></p> <p><b>18 being accused of, and the reason why I'm here</b></p> <p><b>19 today is because of, you know, the arrest of</b></p> <p><b>20 Mohammed and Watts and stuff.</b></p> <p><b>21 And I can tell you that all these</b></p> <p><b>22 allegations that Jefferson -- Goleather Jefferson</b></p> <p><b>23 and Willie Martin are making are false. If I was</b></p> <p><b>24 working on this day and we arrested those two</b></p> |
| <p>420</p> <p>1 MR. STEFANICH: So just listen to his<br/>2 question and then just try to answer his question.</p> <p>3 THE WITNESS: I understand. I thought I<br/>4 was doing that. I'm sorry if I'm frustrating<br/>5 people.</p> <p><b>6 A But no, from the best of my memory, I do<br/>7 not recall if he worked with a partner or not.</b></p> <p><b>8 BY MR. RAUSCHER:</b></p> <p>9 Q Do you recall anything else about<br/>10 Mr. Martin other than your belief that he was<br/>11 involved somehow in the drug trade at Ida B.<br/>12 Wells?</p> <p><b>13 A No. I do not recall anything else about</b></p> <p><b>14 Willie Martin.</b></p> <p>15 Q Do you recall anything at all about being<br/>16 involved in arresting Mr. Martin on September<br/>17 12th, 2006?</p> <p><b>18 A I don't recall the arrest; but I'm certain</b></p> <p><b>19 if he's listed on here, that we, obviously,</b></p> <p><b>20 arrested him on that date.</b></p> <p>21 Q You don't have any personal knowledge as<br/>22 to whether it was a valid arrest?</p> <p>23 MR. STEFANICH: Objection to form.</p> <p><b>24 A I do know that. It was a valid arrest.</b></p>             | <p>422</p> <p><b>1 individuals, that this was an actual -- or, sorry,</b></p> <p><b>2 a factual report.</b></p> <p>3 Q All right. What if you were working that<br/>4 day and they were arrested, but you had nothing to<br/>5 do with the arrest?</p> <p><b>6 A Sir, again, like I said, based on my</b></p> <p><b>7 experience working with Officer Mohammed, I do not</b></p> <p><b>8 believe that he would falsify a report.</b></p> <p>9 Q So you're making an assumption that the<br/>10 arrest is valid because you don't think Mohammed<br/>11 would frame somebody?</p> <p>12 MR. STEFANICH: Objection to form.</p> <p>13 MR. PALLE: Object.</p> <p><b>14 A Yes. I am making that assumption, if you</b></p> <p><b>15 want to call it an assumption. But based on my</b></p> <p><b>16 experience of working with Officer Mohammed, I</b></p> <p><b>17 never witnessed him do anything of that nature.</b></p> <p>18 Q Did you and/or Mohammed see Mr. Jefferson<br/>19 and Mr. Martin together on September 12th, 2006?</p> <p><b>20 A Like I said, I don't recall the arrest,</b></p> <p><b>21 sir; and the information in the report, I stand by</b></p> <p><b>22 that.</b></p> <p>23 Q Is it fair to say you don't remember if<br/>24 Martin and Jefferson were arrested at the same</p>   |

## Transcript of Elsworth Smith, Jr., Volume II

28 (423 to 426)

Conducted on March 5, 2020

|  |   |
|--|---|
| 1 time?<br>2 <b>A Again, sir, I do not recall; but I said I</b><br>3 <b>stand by the information that's based in this</b><br>4 <b>report.</b><br>5 Q Okay. But that wasn't my question.<br>6 <b>A I understand your question; and as I</b><br>7 <b>stated before, I do not recall the arrest; but I</b><br>8 <b>stand by the information in the report.</b><br>9 Q I understand that, but just please try to<br>10 just answer the question. If your lawyer has<br>11 other questions for you later, then your lawyer is<br>12 entitled to ask you other questions.<br>13 <b>A Well, what is your question? I thought I</b><br>14 <b>answered your question. I'm sorry if I'm being --</b><br>15 MR. STEFANICH: Let's take a five-minute<br>16 break.<br>17 <b>A -- frustrated by the questioning. Maybe I</b><br>18 <b>misunderstand your question.</b><br>19 MR. STEFANICH: We're going to take a<br>20 break.<br>21 MR. RAUSCHER: We'll take a break.<br>22 THE VIDEOGRAPHER: Off the record, 12:43.<br>23 (A recess was taken from 12:43 p.m. to<br>24 12:56 p.m.) | 423<br>1 <b>A I can't tell off of this picture.</b><br>2 Q Do you remember about how old Mr. Martin<br>3 was in the mid-2000s?<br>4 <b>A Without looking at the report, I would</b><br>5 <b>assume that he was, like, in his mid-20s.</b><br>6 Q Yeah. I meant though -- I meant from your<br>7 memory.<br>8 Do you remember how old about he was?<br>9 <b>A From my memory, I thought he was -- I</b><br>10 <b>looked at his age now; but from the best of my</b><br>11 <b>memory, I thought, like I said, he was in his</b><br>12 <b>mid-20s.</b><br>13 Q And we've already talked about how you<br>14 don't remember the arrest, so I'm not going to go<br>15 through the whole report with you, but I have a<br>16 question about the transport details on<br>17 CITY-BG-052090, page 4 of 5.<br>18 Do you see that, transport details?<br>19 <b>A Yes, I do.</b><br>20 Q Does that mean that he was transported by<br>21 Unit 264D?<br>22 <b>A That's correct.</b><br>23 Q Do you know who Unit 264D was?<br>24 <b>A On that date, it was myself and Officer</b>   |
| 424<br>1 THE VIDEOGRAPHER: Back on the record,<br>2 12:56.<br>3 MR. RAUSCHER: Could you read back the<br>4 last question, please.<br>5 (The Reporter read the record as follows:<br>6 Is it fair to say you don't remember if Martin and<br>7 Jefferson were arrested at the same time?)<br>8 <b>A That's correct.</b><br>9 MR. RAUSCHER: All right. I am going to<br>10 mark -- are we on 44? I'm going to mark the next<br>11 exhibit as 44.<br>12 (Smith Deposition Exhibit 44 marked for<br>13 identification and attached to the transcript.)<br>14 BY MR. RAUSCHER:<br>15 Q Do you recognize this as an arrest report<br>16 for Willie Martin, September 12th, 2006?<br>17 <b>A Yes, I do.</b><br>18 Q Do you recognize Mr. Martin in the picture<br>19 in the top right-hand corner?<br>20 <b>A That's not a clear picture of him, so I</b><br>21 <b>really don't -- can't tell from this picture.</b><br>22 Q All right. It is not a great picture, but<br>23 does it give you -- does it look at all like the<br>24 Willie Martin you remember?               | 426<br>1 <b>Mohammed.</b><br>2 Q You were D, or were you C that day?<br>3 <b>A Like I said, it states on the vice case</b><br>4 <b>report that we were listed as David; and from the</b><br>5 <b>best of my memory, when we were working with</b><br>6 <b>Mohammed, we were David.</b><br>7 Q Do you see the third page of the report?<br>8 It looks like it says you were 264C that day. Is<br>9 that a mistake?<br>10 <b>A That's probably a mistake.</b><br>11 Q So when looking at the transport detail,<br>12 if you were 264D, does that mean you and Mohammed<br>13 transported Martin to the lockup?<br>14 <b>A That's correct.</b><br>15 Q Do you have any memory of the transport?<br>16 <b>A No, I do not.</b><br>17 Q So other than looking at this report, you<br>18 don't know whether you transported Willie Martin?<br>19 <b>A Well, it's stated in the report that we</b><br>20 <b>transported him. So I would not have any reason</b><br>21 <b>to doubt that we did the transport.</b><br>22 Q Do you know if you took him straight from<br>23 the location of his arrest to the 2nd District?<br>24 <b>A Not recalling this arrest or the incident</b> |

## Transcript of Elsworth Smith, Jr., Volume II

29 (427 to 430)

Conducted on March 5, 2020

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| <p>1 that occurred, I know we'd probably have to<br/> 2 transport him to the 2nd District. I don't know<br/> 3 if it was right after the arrest or not.<br/> 4 Q Do you know if he was in a car with<br/> 5 Sergeant Watts at all on September 12th, 2006?<br/> 6 A I don't recall.<br/> 7 Q Do you know whether Sergeant Watts was<br/> 8 with you when you transported Mr. Martin to the<br/> 9 2nd District, assuming that you did that<br/> 10 transport?<br/> 11 A I don't recall.<br/> 12 MR. RAUSCHER: I don't have any other<br/> 13 questions for Mr. Martin. It's maybe a good time<br/> 14 for lunch, if you all want to.<br/> 15 MR. STEFANICH: Yeah.<br/> 16 THE VIDEOGRAPHER: Off the record,<br/> 17 1:00 o'clock.<br/> 18 (A recess was taken from 1:00 p.m. to<br/> 19 1:54 p.m.)<br/> 20 (Mr. Burns joined the deposition, and<br/> 21 Mr. Michalik did not return to the deposition.)<br/> 22 THE VIDEOGRAPHER: Back on the record,<br/> 23 1:54.<br/> 24</p> | <p>427</p> <p>1 A Based off the reports -- like I said, I<br/> 2 don't recall the specifics of the arrest; but I do<br/> 3 remember him being arrested, and, like I said,<br/> 4 other members in the 2nd District, my team talking<br/> 5 about an altercation which occurred between Lionel<br/> 6 White and Alvin Jones.<br/> 7 Q All right. What I was trying to ask at<br/> 8 the beginning was what is your personal<br/> 9 recollection, if anything, about Lionel White,<br/> 10 Sr., being placed in custody on April 24, 2006?<br/> 11 A I don't recall.<br/> 12 Q But you just know from reading the report<br/> 13 that he was placed in custody; is that fair?<br/> 14 A Yes.<br/> 15 Q And then you said you remember people on<br/> 16 your team talking about an altercation between<br/> 17 Mr. White and Alvin Jones?<br/> 18 A Yes.<br/> 19 Q When did you hear those people on your<br/> 20 team talking about the altercation between<br/> 21 Mr. White and Jones?<br/> 22 A From the best of my memory, it was --<br/> 23 excuse me. From the best of my memory, I remember<br/> 24 it was possibly in the 2nd District.</p> |
|  | <p>428</p> <p>1 BY MR. RAUSCHER:<br/> 2 Q All right. Officer Smith, I'm going to<br/> 3 ask you about the arrest of Lionel White, Sr., and<br/> 4 some others who were arrested around the same time<br/> 5 as him in April of 2006 -- April 24, 2006. Okay?<br/> 6 A Okay.<br/> 7 Q I believe that you remember something<br/> 8 about Mr. White's arrest on April 24, 2006; is<br/> 9 that correct?<br/> 10 A Yes.<br/> 11 Q All right. Tell me what you remember<br/> 12 about that arrest.<br/> 13 A That he was placed in custody; and at some<br/> 14 point in time, I remember other members of my team<br/> 15 talking about a physical altercation which<br/> 16 occurred between Lionel White, Sr., I believe, and<br/> 17 Alvin Jones.<br/> 18 Q You remember -- all right. Let's go<br/> 19 piece-by-piece here.<br/> 20 You said you do remember he was placed in<br/> 21 custody?<br/> 22 A Yes.<br/> 23 Q What do you remember about him being<br/> 24 placed in custody?</p>   |

## Transcript of Elsworth Smith, Jr., Volume II

30 (431 to 434)

Conducted on March 5, 2020

|  |     |  |     |
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|  | 431 |  | 433 |
| 1 <b>A I don't recall people laughing. I just</b>            |     | 1    conversation at the time?                               |     |
| 2 <b>remember that people were just like, you know,</b>      |     | 2 <b>A I don't recall if I talked to anybody</b>             |     |
| 3 <b>questioned why, you know, Lionel White was</b>          |     | 3 <b>about that to/from that I submitted at that time.</b>   |     |
| 4 <b>fighting with Alvin Jones.</b>                          |     | 4    Q Do you know, do you remember if your                  |     |
| 5       Q Were people upset?                                 |     | 5    to/from included any reference to you hearing a         |     |
| 6 <b>A From what I recall, I don't recall anyone</b>         |     | 6    conversation about an altercation between White         |     |
| 7 <b>being upset or anything like that or celebrating</b>    |     | 7    and Jones?  |     |
| 8 <b>any, you know -- you know, what had occurred.</b>       |     | 8 <b>A Without having my to/from in front of me,</b>         |     |
| 9 <b>But I don't remember what state people</b>              |     | 9 <b>I don't know what I stated in my to/from.</b>           |     |
| 10 <b>were in, or, like I said, the exact words that was</b> |     | 10   Q Do you remember being involved in any                 |     |
| 11 <b>you used.</b>  |     | 11   arrests on April 24, 2006?                              |     |
| 12   Q And why do you think this conversation                |     | 12 <b>A Not off the top of my head.</b>                      |     |
| 13   happened at the 2nd District?                           |     | 13   Q Did you look at reports from that day to              |     |
| 14 <b>A I don't recall why.</b>                              |     | 14   prepare for your deposition today?                      |     |
| 15   Q When did you first remember hearing this              |     | 15 <b>A I believe so.</b>                                    |     |
| 16   conversation about the fight or the altercation         |     | 16   Q You know, let me back up a step.                      |     |
| 17   between White, Sr., and Alvin Jones?                    |     | 17   You said that you heard people asking why               |     |
| 18 <b>A I don't understand your question.</b>                |     | 18   Lionel White was trying to fight with Al Jones.         |     |
| 19   Q So you gave a statement to COPA; correct?             |     | 19   Were they saying Lionel White's name?                   |     |
| 20 <b>A Yes.</b>   |     | 20 <b>A To the best of my memory, I believe so.</b>          |     |
| 21   Q And I think you told them -- or you had an            |     | 21   Q Was Lionel White known to members of your             |     |
| 22   interview. I shouldn't say you gave a statement.        |     | 22   team?   |     |
| 23   You had an interview with COPA about this               |     | 23 <b>A I don't know. I don't recall at this</b>             |     |
| 24   incident; is that right?                                |     | 24 <b>particular point in time.</b>                          |     |
|  | 432 |  | 434 |
| 1 <b>A Yes.</b>  |     | 1    Q Did you know Lionel White before he was               |     |
| 2    Q And did you tell them you didn't have any             |     | 2    arrested April 24, 2006?                                |     |
| 3    recollection of the incident?                           |     | 3 <b>A No, I did not.</b>                                    |     |
| 4 <b>A That's what I -- yes, that's correct.</b>             |     | 4    Q Did you see a picture of him -- do you                |     |
| 5    Q And when you had that interview, did you              |     | 5    know what he looks like now?                            |     |
| 6    remember this conversation that you're talking          |     | 6 <b>A Yes, I certainly -- I know what he looks</b>          |     |
| 7    about today?  |     | 7 <b>like now.</b>   |     |
| 8 <b>A I don't recall if I had stated to them</b>            |     | 8    Q And when you -- is that because you've                |     |
| 9 <b>whether or not if I did or not.</b>                     |     | 9    seen pictures of him?                                   |     |
| 10   Q No. I'm not asking if you told them about             |     | 10 <b>A Yes, I have.</b>                                     |     |
| 11   the conversation. I'm asking if when you talked         |     | 11   Q When you've seen pictures of him, did that            |     |
| 12   to COPA -- let me rephrase that.                        |     | 12   refresh your recollection or make you think you         |     |
| 13   What I was trying to ask is at the time of              |     | 13   knew him back in 2006?                                  |     |
| 14   your interview with COPA, did you remember that         |     | 14 <b>A No. I think I might have stated to my</b>            |     |
| 15   you had heard a conversation on the day of Lionel       |     | 15 <b>attorneys that --</b>                                  |     |
| 16   White's arrest about an altercation between White       |     | 16   MR. STEFANICH: Stop. You don't have to                  |     |
| 17   and Alvin Jones?  |     | 17   say what --   |     |
| 18 <b>A I don't recall.</b>                                  |     | 18   Q Yeah. Don't tell me the part that you                 |     |
| 19   Q Do you remember giving a to/from statement            |     | 19   told your attorneys; but if there's just factual        |     |
| 20   in response to a complaint that Lionel White made       |     | 20   information that you can answer, then you have to       |     |
| 21   to IPRA or OPS at the time of or near the time of       |     | 21   answer the question.                                    |     |
| 22   his arrest?   |     | 22 <b>A No. To the best of my knowledge, I don't</b>         |     |
| 23 <b>A Yes.</b>   |     | 23 <b>recall whether or not if I had any encounters with</b> |     |
| 24   Q And did you talk about hearing this                   |     | 24 <b>him or knew him at that particular point in time.</b>  |     |

## Transcript of Elsworth Smith, Jr., Volume II

31 (435 to 438)

Conducted on March 5, 2020

|    |          |   |     |
|----|----------|---|-----|
|    | 435      |   | 437 |
| 1  | Q        | And seeing his picture didn't change that?                  |     |
| 2  | <b>A</b> | <b>No.</b>  |     |
| 3  | Q        | All right. And you think you looked at                      |     |
| 4  |          | some reports from April 24, 2006?                           |     |
| 5  | <b>A</b> | <b>Yes.</b>   |     |
| 6  | Q        | And then you also talked about a bunch of                   |     |
| 7  |          | reports, maybe the same ones, when you met with             |     |
| 8  |          | COPA and talked about Lionel White; is that right?          |     |
| 9  | <b>A</b> | <b>I believe so.</b>  |     |
| 10 | Q        | Did seeing your reports refresh your                        |     |
| 11 |          | recollection at all about any events that took              |     |
| 12 |          | place April 24, 2006?                                       |     |
| 13 | <b>A</b> | <b>No.</b>  |     |
| 14 | Q        | Do you know whether you participated in a                   |     |
| 15 |          | reverse sting on April 24, 2006?                            |     |
| 16 | <b>A</b> | <b>I believe -- based off the reports that</b>              |     |
| 17 |          | <b>we -- that might have been submitted for that day,</b>   |     |
| 18 |          | <b>I don't recall the reverse sting offhand, but I</b>      |     |
| 19 |          | <b>believe I've reviewed reports that there was a</b>       |     |
| 20 |          | <b>reverse sting operation that was done on the same</b>    |     |
| 21 |          | <b>day that Lionel White was arrested.</b>                  |     |
| 22 | Q        | And you're saying that in a passive voice,                  |     |
| 23 |          | I think -- well, let me rephrase that. You said a           |     |
| 24 |          | reverse sting was done.                                     |     |
|    | 436      |   |     |
| 1  |          | Did you participate in the reverse sting?                   |     |
| 2  | <b>A</b> | <b>As I'm sitting here, I've reviewed the</b>               |     |
| 3  |          | <b>reports, and I remember that, like I said,</b>           |     |
| 4  |          | <b>reflected on my conversations or my interview with</b>   |     |
| 5  |          | <b>COPA. They did ask me about other people that was</b>    |     |
| 6  |          | <b>arrested at the time of Lionel White.</b>                |     |
| 7  |          | <b>I don't recall the date of the arrest of</b>             |     |
| 8  |          | <b>Lionel White or other individuals that were</b>          |     |
| 9  |          | <b>arrested; but I am aware that there was a reverse</b>    |     |
| 10 |          | <b>sting operation that occurred at the time that</b>       |     |
| 11 |          | <b>Lionel White was arrested.</b>                           |     |
| 12 | Q        | But you're not sure if you participated in                  |     |
| 13 |          | the reverse sting?  |     |
| 14 | <b>A</b> | <b>If my name is on the report, then I had to</b>           |     |
| 15 |          | <b>participate in it, but I don't recall the reverse</b>    |     |
| 16 |          | <b>sting operation.</b>                                     |     |
| 17 | Q        | And your name was on the reports, and also                  |     |
| 18 |          | you signed at least -- or about half of them;               |     |
| 19 |          | correct?  |     |
| 20 | <b>A</b> | <b>I would have to look at the reports, but I</b>           |     |
| 21 |          | <b>believe I did.</b>                                       |     |
| 22 | Q        | And then do you think that someone else                     |     |
| 23 |          | signed your name on the other half of the vice              |     |
| 24 |          | case reports?   |     |
|    | 438      |   |     |
| 1  | <b>A</b> | <b>Yes.</b>   |     |
| 2  | Q        | This is an interrogatory response that you                  |     |
| 3  |          | signed under penalty of perjury two days ago?               |     |
| 4  | <b>A</b> | <b>Yes.</b>   |     |
| 5  | Q        | It says in here, "Specifically, Defendant                   |     |
| 6  |          | Smith recalls Lionel White, Sr., at some point in           |     |
| 7  |          | the lobby of 575 East Browning talking trash to             |     |
| 8  |          | Officer Jones."   |     |
| 9  |          | Is that --  |     |
| 10 | <b>A</b> | <b>That's correct.</b>                                      |     |
| 11 | Q        | So do you recall Defendant Smith -- I'm                     |     |
| 12 |          | 12 sorry.   |     |
| 13 |          | Do you recall Lionel White, Sr., at some                    |     |
| 14 |          | 14 point in the lobby of 575 East Browning talking          |     |
| 15 |          | 15 trash to Officer Jones?                                  |     |
| 16 | <b>A</b> | <b>As of now, yes. Based on if I stated --</b>              |     |
| 17 |          | <b>if I stated anything differently at the time</b>         |     |
| 18 |          | <b>during my COPA investigation, it wasn't because I</b>    |     |
| 19 |          | <b>lied. Like I said, because I had time to review</b>      |     |
| 20 |          | <b>my statement from COPA and reflect over it against</b>   |     |
| 21 |          | <b>21 that.</b>   |     |
| 22 |          | <b>I don't recall the incident of the arrest</b>            |     |
| 23 |          | <b>23 in totality. I just, like I said, remember</b>        |     |
| 24 |          | <b>24 certain things, and I think if you -- and I don't</b> |     |

## Transcript of Elsworth Smith, Jr., Volume II

32 (439 to 442)

Conducted on March 5, 2020

439

441

1 have my to/from in front of me. When I initially  
 2 did my to/from, I do recall stating I was not in a  
 3 position to observe the physical altercation which  
 4 was documented by Alvin Jones in the report.

5 And I did not state that I observed that  
 6 altercation which occurred, the physical  
 7 altercation; and without looking at my to/from  
 8 report, I don't know if it asked me a question if  
 9 I observed a verbal altercation.

10 Q What does your to/from report have to do  
 11 with whether you currently recall Lionel White --

12 A But if I --

13 Q -- talking trash to --

14 A I understand, sir.

15 Q -- Mr. -- to Alvin Jones?

16 A Okay. Sir, as, again, I'm trying to  
 17 answer your question. The idea of reading this  
 18 statement now I -- like I said, I've had time to  
 19 reflect. It's been a year since I gave my COPA  
 20 interview.

21 And based on my last conversation with my  
 22 attorneys, I do recall that there was some point  
 23 in time that there was a verbal altercation which  
 24 had occurred between Lionel White and Alvin Jones.

440

442

1 Q You said maybe less than two minutes ago  
 2 that you don't recall Lionel White talking trash  
 3 to Alvin Jones in the lobby.

4 A I don't think I recall saying that.

5 Q So do you recall telling -- do you recall,  
 6 as you sit here today, Lionel White at some point  
 7 in the lobby of 575 East Browning talking trash to  
 8 Officer Jones?

9 A I don't know if --

10 Q Yes or no?

11 A I don't know if it was in the lobby or  
 12 not. I do remember at some point in time that  
 13 there was a verbal altercation between Alvin Jones  
 14 and Lionel White.

15 Q You're saying verbal altercation today,  
 16 but you said talking trash --

17 A Talking trash, verbal altercation, it's  
 18 the same thing; isn't it?

19 Q Is that the same thing to you?

20 A I don't know. You asked me, you know --

21 Q I'm using the signed sworn interrogatory  
 22 that you -- that you signed.

23 A Yes. Talking trash could mean verbal  
 24 altercation also. I mean I don't mean that they

1 were named -- I don't recall what -- the  
 2 specifics, like I said, but a verbal altercation,  
 3 talking trash is an altercation at some point.

4 Q So you do remember Lionel White, Sr.,  
 5 talking trash to Officer Jones.

6 A As I stated before, it's -- I did say at  
 7 some point in time that I do recall Lionel White  
 8 talking trash to Officer Jones.

9 Q All right.

10 A Yes, I did sign this, and I'm not  
 11 falsifying any reports or lying about anything.

12 Q So it is true that you do recall Lionel  
 13 White at some --

14 A Yes.

15 Q Let me just finish.

16 It is true that you recall Lionel White,  
 17 Sr., at some point at 575 Browning talking trash  
 18 to Officer Jones, and I omitted in the lobby  
 19 because I think you've said you're not sure if it  
 20 was in the lobby.

21 A I don't recall if it was in the lobby or  
 22 not, but I do remember that Lionel White and  
 23 Alvin -- was talking to trash to Alvin Jones at  
 24 some point in time.

1 Q What did Lionel White say to Alvin Jones?

2 A I don't recall exactly what he said.

3 Q Do you recall generally what he said?

4 A No, I do not.

5 Q Was it common that civilians would talk  
 6 trash to members of your team?

7 A It's not uncommon for any offender to talk  
 8 trash to a police officer.

9 Q Why is it that you think you have a  
 10 specific memory of Lionel White, Sr., of all the  
 11 offenders over the years, talking trash to Officer  
 12 Jones?

13 A I don't know why. I mean, after reviewing  
 14 reports, certain things might refresh your memory  
 15 and stuff. I don't know why, but it did come to  
 16 my mind that at some point in time, that he had  
 17 exchanged words or said something to Alvin Jones.

18 Q Do you know why you remember that after  
 19 looking at some -- that's not in a report; is it?

20 A I don't believe so. I don't know. Like I  
 21 said, I don't have the report in front of me, so I  
 22 don't know.

23 Q And you said it might not be in the lobby.  
 24 Where else could it have been? Where else

## Transcript of Elsworth Smith, Jr., Volume II

33 (443 to 446)

Conducted on March 5, 2020

|  |   |
|--|---|
| <p>1 was Lionel White?</p> <p>2 <b>A He was brought into the 2nd District for</b></p> <p>3 <b>processing.</b></p> <p>4 Q So it could have been at the 2nd District</p> <p>5 you heard him talking trash to Jones?</p> <p>6 <b>A I don't recall where it was at. At some</b></p> <p>7 <b>point in time, I do remember him talking trash to</b></p> <p>8 <b>Alvin Jones.</b></p> <p>9 Q So it might not even have been at the</p> <p>10 building at all.</p> <p>11 <b>A It could not have been any other place</b></p> <p>12 <b>because based off of the reports -- and, like I</b></p> <p>13 <b>said, I don't recall the arrest which occurred</b></p> <p>14 <b>that day -- the only time that we would have</b></p> <p>15 <b>encountered Lionel White would have been in the</b></p> <p>16 <b>Ida B. Wells or in the 2nd District police</b></p> <p>17 <b>station.</b></p> <p>18 Q Right. So it might not have been at 575</p> <p>19 East Browning where you heard him talking trash;</p> <p>20 it could have been the police building?</p> <p>21 <b>A Sir, I don't recall; but if that's</b></p> <p>22 <b>what's -- the location where the arrest had</b></p> <p>23 <b>occurred at 575 East Browning, then based off of</b></p> <p>24 <b>what I know, it would not have occurred anywhere</b></p> | <p>443</p> <p>1 there were between the two of them?</p> <p>2 <b>A That I don't recall. I looked at the</b></p> <p>3 <b>report; and based off the report, that Alvin Jones</b></p> <p>4 <b>put in the report that they believed two</b></p> <p>5 <b>altercations occurred.</b></p> <p>6 Q You think that you've seen reports saying</p> <p>7 two altercations occurred?</p> <p>8 <b>A I don't have the report in front of me,</b></p> <p>9 <b>but I believe that's what was stated in the</b></p> <p>10 <b>report. I know that the altercation was</b></p> <p>11 <b>documented by Alvin Jones. A physical altercation</b></p> <p>12 <b>took place, and he documented it in the police</b></p> <p>13 <b>report.</b></p> <p>14 Q Maybe somebody told you there were two?</p> <p>15 <b>A I don't recall.</b></p> <p>16 Q If the report doesn't say two, then you</p> <p>17 would have had to have learned that from somebody</p> <p>18 else; right?</p> <p>19 <b>A Well, I'm certain I did. I don't recall</b></p> <p>20 <b>who told me at the present moment.</b></p> <p>21 Q When is the last time you talked to Jones</p> <p>22 about Lionel White, Sr.'s, arrest?</p> <p>23 <b>A I haven't talked to Alvin Jones in several</b></p> <p>24 <b>years.</b></p> |
| <p>1 else.</p> <p>2 Q Anywhere else other than what?</p> <p>3 <b>A The address that is listed, 575 East</b></p> <p>4 <b>Browning.</b></p> <p>5 Q I thought you just said it could have also</p> <p>6 occurred at the station.</p> <p>7 <b>A Yes. That's what I said. It could</b></p> <p>8 <b>possibly happen -- we were only in two other</b></p> <p>9 <b>places at that time, based off of what I recall,</b></p> <p>10 <b>either at 575 East Browning or in the</b></p> <p>11 <b>2nd District.</b></p> <p>12 Q All right. So why is it that you said in</p> <p>13 your statement that it could be possible that you</p> <p>14 didn't go into 575 East Browning was incorrect, if</p> <p>15 you might not have heard Lionel White talking in</p> <p>16 the building?</p> <p>17 <b>A Based off of this, of what I remember of</b></p> <p>18 <b>my conversation, like I said, I might not have</b></p> <p>19 <b>been in the lobby. I don't know where I was at.</b></p> <p>20 <b>I think I stated that in my COPA interview. I</b></p> <p>21 <b>don't recall if I -- where I was at at the time</b></p> <p>22 <b>that the physical altercation which took place</b></p> <p>23 <b>between Lionel White and Alvin Jones also.</b></p> <p>24 Q Do you know how many physical altercations</p>         | <p>444</p> <p>1 Q At all?</p> <p>2 <b>A At all.</b></p> <p>3 Q This also says toward the end, "Answering</p> <p>4 further, Defendant Smith states that he mistakenly</p> <p>5 stated that he had never seen John Pierce before."</p> <p>6 You said you mistakenly said that to COPA,</p> <p>7 but then you looked at a report and you saw him on</p> <p>8 April 24, 2006?</p> <p>9 <b>A Yes. If he was arrested, then I would</b></p> <p>10 <b>have had to have seen him.</b></p> <p>11 Q But you don't have a memory of seeing him.</p> <p>12 You're just saying, of course, if I was there and</p> <p>13 he was arrested, I saw him.</p> <p>14 <b>A Based on the report, yes, I probably -- I</b></p> <p>15 <b>had to have seen him on that day; but prior to</b></p> <p>16 <b>that day and as of today, I have not seen John</b></p> <p>17 <b>Pierce.</b></p> <p>18 Q And do you remember seeing him that day,</p> <p>19 or are you just basing it on the reports?</p> <p>20 <b>A Based on the pictures that I've seen of</b></p> <p>21 <b>John, this individual John Pierce, and based off</b></p> <p>22 <b>of what I know now, other than that day,</b></p> <p>23 <b>April 24th, 2006, no.</b></p> <p>24 Q No, you don't remember him?</p>             |

## Transcript of Elsworth Smith, Jr., Volume II

34 (447 to 450)

Conducted on March 5, 2020

|  |     |  |     |
|--|-----|--|-----|
|  | 447 |  | 449 |
| 1 <b>A Prior to 2000 -- April 2000 --</b>                    |     | 1 <b>just probably confused about the questions, like</b>    |     |
| 2    Q Well, no, I'm sorry. Not at all.                      |     | 2 <b>I've been confused and crossed up about some of</b>     |     |
| 3       Do you remember him at all? I know that              |     | 3 <b>the questions earlier today. But at no point in</b>     |     |
| 4    you said you looked at a report and understand          |     | 4 <b>time have I -- during my testimony and my</b>           |     |
| 5    that you saw him that day.                              |     | 5 <b>statements that I've given to you or to COPA has</b>    |     |
| 6 <b>A No, I do not recall John Pierce.</b>                  |     | 6 <b>anything been false.</b>                                |     |
| 7    Q All right. Now that you've had a chance               |     | 7 <b>Now, it's possible at that -- yeah, it</b>              |     |
| 8    to look at this answer today, the one -- this           |     | 8 <b>could be changed. I don't recall. Like I said, I</b>    |     |
| 9    answer sworn to under penalty of perjury, is there      |     | 9 <b>don't recall the arrest or the specifics on</b>         |     |
| 10   anything that you need to change in here?               |     | 10 <b>April 24th, 2006; and if there was a reverse sting</b> |     |
| 11    MR. STEFANICH: Object to the form.                     |     | 11 <b>operation that took place at some point in time,</b>   |     |
| 12 <b>A No, not that I see. Not that I can think</b>         |     | 12 <b>it's possible that I was in the lobby at 575 East</b>  |     |
| 13 <b>of.</b>  |     | 13 <b>Browning --</b>  |     |
| 14    Q So does that mean that you do recall                 |     | 14    Q So you -- I'm sorry.                                 |     |
| 15   Lionel White, Sr., at some point in the lobby of        |     | 15 <b>A But I don't recall if I was there when</b>           |     |
| 16   575 East Browning talking trash to Officer Jones,       |     | 16 <b>this verbal altercation occurred between Lionel</b>    |     |
| 17   or should that be changed to say something              |     | 17 <b>White and Officer Jones.</b>                           |     |
| 18   different?  |     | 18    Q You don't know one way or the other, as              |     |
| 19    MR. STEFANICH: Objection; form.                        |     | 19   you sit here today, whether you went into 575 East      |     |
| 20 <b>A Yes. I guess you could change that to --</b>         |     | 20   Browning on April 24, 2006?                             |     |
| 21    Q All right.   |     | 21 <b>A Sitting here today, I do not recall.</b>             |     |
| 22 <b>A -- lobby.</b>  |     | 22    Q Are you aware that a number of the times             |     |
| 23    Q How should that be changed?                          |     | 23   on different reports from that vice -- from that        |     |
| 24 <b>A I don't know. Say at some point in time,</b>         |     | 24   reverse sting on April 24, 2006, don't match up?        |     |
|  | 448 |  | 450 |
| 1 <b>that Officer Smith was aware of a verbal -- I'm</b>     |     | 1 <b>A Yes.</b>  |     |
| 2 <b>sorry. Defendant Smith recalls Lionel White, Sr.,</b>   |     | 2    MR. STEFANICH: Objection to form.                       |     |
| 3 <b>at some point in time on the date of April 24th,</b>    |     | 3 <b>A Yes, I am aware of that.</b>                          |     |
| 4 <b>2006, talking trash to Officer Jones.</b>               |     | 4 <b>BY MR. RAUSCHER:</b>                                    |     |
| 5    Q Because you remember it happening, but you            |     | 5    Q How, if at all, when you were working on              |     |
| 6   don't remember where.                                    |     | 6   reverse stings, did you keep track of the time of        |     |
| 7 <b>A Yes, I don't recall where.</b>                        |     | 7   events?  |     |
| 8    Q So it is -- you're still -- the next                  |     | 8 <b>A Sitting here today, I do not recall how we</b>        |     |
| 9   sentence then, should that also be changed?              |     | 9 <b>kept time; but most of the time, when you do</b>        |     |
| 10   Because it says you were wrong when you told COPA       |     | 10 <b>reports, the times are approximated.</b>               |     |
| 11   that it could not be -- that it could be -- I'm         |     | 11   Q Do you know what a reverse sting kit is?              |     |
| 12   sorry -- let me do it again.                            |     | 12 <b>A I never heard a police officer refer to a</b>        |     |
| 13    It says you told COPA -- it says,                      |     | 13 <b>reverse sting kit. I've heard about it during the</b>  |     |
| 14   Defendant Smith's statement, and I'm going to           |     | 14 <b>preparation of this trial, but I've never heard a</b>  |     |
| 15   insert to COPA, then it keeps going, that it could      |     | 15 <b>police officer specifically state anything about a</b> |     |
| 16   be possible that he did not go into the 575 East        |     | 16 <b>reverse sting kit.</b>                                 |     |
| 17   Browning building on April 24, 2006, was                |     | 17   Q What do you mean you heard about reverse              |     |
| 18   incorrect.  |     | 18   sting -- I guess I probably know the answer.            |     |
| 19    Was that statement to COPA incorrect, or               |     | 19    Are you saying when you were preparing                 |     |
| 20   are you not sure?                                       |     | 20   with your attorneys --                                  |     |
| 21 <b>A My statement to COPA was correct. Maybe</b>          |     | 21 <b>A That's what I said, preparing for this --</b>        |     |
| 22 <b>my statement and how I answered the question was a</b> |     | 22    MR. STEFANICH: Just yes.                               |     |
| 23 <b>mistake. But none of my answers to COPA or the</b>     |     | 23 <b>A Yes.</b>   |     |
| 24 <b>answers that I gave to COPA was incorrect. I was</b>   |     | 24   Q All right. Outside of conversations with              |     |

## Transcript of Elsworth Smith, Jr., Volume II

35 (451 to 454)

Conducted on March 5, 2020

|  |  |
|--|--|
| <p>451</p> <p>1 your attorneys, you have no knowledge of a reverse<br/>2 sting kit.</p> <p>3 <b>A No. I've never heard a police officer</b><br/>4 <b>refer to a reverse sting kit.</b></p> <p>5 Q Safe to say you never used a reverse sting<br/>6 kit with Al Jones?</p> <p>7 <b>A I don't know what a reverse sting kit is.</b></p> <p>8 Q What materials would you have with you<br/>9 typically when you conducted reverse stings on the<br/>10 Watts team?</p> <p>11 <b>A If we were -- if we were planning for a</b><br/>12 <b>reverse sting -- because sometimes we did reverse</b><br/>13 <b>stings at the spur of the moment. If we were</b><br/>14 <b>planning a reverse sting, the only thing that we</b><br/>15 <b>would preprint is a vice case report.</b></p> <p>16 Q You would preprint the vice case reports<br/>17 before you conducted the reverse stings?</p> <p>18 <b>A Yes.</b></p> <p>19 Q What would you pre- -- what would you<br/>20 preprint on the reports?</p> <p>21 <b>A I don't remember exactly how it is we</b><br/>22 <b>worded the information. We would just say -- we'd</b><br/>23 <b>leave blank where the individual or a possible</b><br/>24 <b>offender would come say he tendered money in an</b></p>                  | <p>453</p> <p>1 <b>have not written a report in over two years, and I</b><br/>2 <b>haven't been a tactical officer in over 10-plus</b><br/>3 <b>years.</b></p> <p>4 <b>Based off of my memory -- and I don't</b><br/>5 <b>think that's illegal when we preprinted a report,</b><br/>6 <b>and that does include -- necessarily state that --</b><br/>7 <b>and you're trying to imply if we were making a</b><br/>8 <b>false report. It's not a false report if someone</b><br/>9 <b>is coming to attempt to buy narcotics because,</b><br/>10 <b>like I said, we didn't have any individual name</b><br/>11 <b>written in the report prior to producing these</b><br/>12 <b>reports.</b></p> <p>13 <b>We would leave that blank and then fill in</b><br/>14 <b>the information about the individual, the drugs</b><br/>15 <b>that they was asking to purchase and the amount</b><br/>16 <b>that they -- money that they offered for whatever</b><br/>17 <b>substance, illegal substance that they were trying</b><br/>18 <b>to purchase.</b></p> <p>19 Q On April 24, 2006, you didn't leave the<br/>20 kind of drugs blank, did you?</p> <p>21 <b>A I don't know. I don't have the report in</b><br/>22 <b>front of me, so I don't know how it was written or</b><br/>23 <b>prepared.</b></p> <p>24 Q Well, would it be appropriate to type in</p> |
| <p>452</p> <p>1 <b>attempt to purchase narcotics from a blank subject</b><br/>2 <b>or whatever. And we would leave the space open</b><br/>3 <b>for the amount tendered or whatever or the --</b><br/>4 <b>maybe the drugs that they may have asked for --</b></p> <p>5 Q So you --</p> <p>6 <b>A -- such as heroin or crack cocaine or</b><br/>7 <b>whatever.</b></p> <p>8 Q So, like, the narrative, when there's a<br/>9 typed narrative section for a reverse sting, you<br/>10 have done -- you create that before you go out and<br/>11 do the reverse sting?</p> <p>12 MR. STEFANICH: Objection; form.</p> <p>13 <b>A Yes.</b></p> <p>14 Q And then you just assume it's going to be<br/>15 true?</p> <p>16 <b>A It's not an assumption. Like I said, if</b><br/>17 <b>you heard me when I stated earlier, if the person</b><br/>18 <b>were coming to make a purchase or attempt to buy</b><br/>19 <b>narcotics is not -- then we assume -- I mean, we</b><br/>20 <b>would leave the spots open.</b></p> <p>21 <b>We would just basically make an outline,</b><br/>22 <b>say the above subject come to -- the above subject</b><br/>23 <b>or whatever. Like I said, I don't remember</b><br/>24 <b>because it's been many years. I don't recall. I</b></p> | <p>454</p> <p>1 offender came asking for "blows," blows in quotes,<br/>2 before you went out and did the reverse sting?</p> <p>3 <b>A From the best off -- to the best of my</b><br/>4 <b>memory, yes.</b></p> <p>5 Q Why would that be appropriate? How do you<br/>6 know anyone is going to come ask you for blows?</p> <p>7 <b>A Based off, like I said, we probably had --</b><br/>8 <b>I don't recall how we wrote the reports in</b><br/>9 <b>general. Based off of my memory, we might have</b><br/>10 <b>had some written for blows, and we might have had</b><br/>11 <b>some written for crack.</b></p> <p>12 Q I thought you -- what do you mean you<br/>13 don't know how you wrote them in general? I<br/>14 thought you did.</p> <p>15 <b>A I don't re- -- okay. Maybe I misstated.</b></p> <p>16 <b>I didn't recall how we wrote it -- worded</b><br/>17 <b>them on this particular day, April 24th, 2006; but</b><br/>18 <b>if we preprinted the reports in preparation for a</b><br/>19 <b>reverse sting operation, we would prepare a</b><br/>20 <b>report.</b></p> <p>21 <b>If we didn't leave -- we would leave that</b><br/>22 <b>section blank or sometimes we might have prepared</b><br/>23 <b>it and stated for blows or if they asked for crack</b><br/>24 <b>cocaine.</b></p>  |

## Transcript of Elsworth Smith, Jr., Volume II

36 (455 to 458)

Conducted on March 5, 2020

|  |   |
|--|---|
| <p style="text-align: right;">455</p> <p>1 Q So you think you'd have some reports that<br/>2 were preprinted and say blow and some said crack<br/>3 cocaine?</p> <p>4 <b>A I don't recall for that particular day;<br/>5 but based off of my memory, that's probably how we<br/>6 would prepare the report.</b></p> <p>7 Q So you remember doing that?</p> <p>8 <b>A I said I don't recall for that particular<br/>9 day, and I can't state if we always did that. I<br/>10 don't know for that particular day.</b></p> <p>11 Q I understand. Let me ask it a different<br/>12 way.</p> <p>13 Do you remember ever, even one time --</p> <p>14 <b>A I'm certain we probably did but I don't --</b></p> <p>15 Q You've got to let me finish the question.<br/>16 I know you understand where I'm going because<br/>17 we've been talking about it, but for the record I<br/>18 have to be able to finish.</p> <p>19 Do you remember ever, even once<br/>20 preprinting narrative sections on a vice case<br/>21 report before you conducted a reverse sting with<br/>22 some of the reports saying "offender came and<br/>23 asked for blows" and others saying "offender came<br/>24 and asked for crack cocaine"?</p>   | <p style="text-align: right;">457</p> <p>1 <b>But at no point in time -- if you're<br/>2 trying to imply that we falsified any reports, as<br/>3 I stated before, I never falsified any reports,<br/>4 and I don't recall anybody on my team at the time<br/>5 when I was working with them falsifying any<br/>6 reports.</b></p> <p>7 Q A lot of people have accused you of<br/>8 falsifying reports.</p> <p>9 <b>A I understand that, but they are lying.</b></p> <p>10 Q Could you see a problem now with<br/>11 preprinting a bunch of reports that say "offender<br/>12 came and asked for blows"?</p> <p>13 <b>A No.</b></p> <p>14 MR. KOSOKO: Objection; form.</p> <p>15 Q What if that was the only kind of report<br/>16 you wrote that day? You didn't preprint any with<br/>17 crack cocaine on it.</p> <p>18 <b>A What is your question? I don't<br/>19 understand.</b></p> <p>20 Q Would that be problematic?</p> <p>21 <b>A What is your question? I don't understand<br/>22 your question.</b></p> <p>23 Q My question is if you came and did a<br/>24 vice -- if you came and did a reverse sting on</p>  |
| <p style="text-align: right;">456</p> <p>1 <b>A I don't recall specifically; but as I<br/>2 stated before, it's possible that we did.</b></p> <p>3 Q Well, do you mean it's -- I'm asking if<br/>4 you remember, not if it's possible.</p> <p>5 <b>A There's a lot of things I don't recall,<br/>6 but I don't recall for that particular day or from<br/>7 10 years ago or 15 years ago. I don't recall.</b></p> <p>8 Q But do you recall having a practice of<br/>9 preprinting different kinds of drugs on the<br/>10 reports for a reverse sting?</p> <p>11 <b>A I don't recall, sir.</b></p> <p>12 Q How would you know in advance what kind of<br/>13 drugs different people were going to come ask for?</p> <p>14 <b>A Sir, as I'm trying to point out to you,<br/>15 hypothetically, we were preparing this report.<br/>16 Like I said, someone was coming to buy dope. We<br/>17 would not put dope down there.</b></p> <p>18 If they were coming to buy heroin, we<br/>19 might say that they're coming to buy blows or ask<br/>20 for blows. If they're coming to buy crack, we<br/>21 might put crack, in parentheses crack cocaine or<br/>22 whatever. I forgot what the other street<br/>23 terminology they might have used for crack<br/>24 cocaine.</p> | <p style="text-align: right;">458</p> <p>1 April 24, 2006, and the only vice case reports you<br/>2 preprinted before you did that reverse sting said<br/>3 "offender came and asked for blows," do you see<br/>4 any problem with that?</p> <p>5 <b>A No. I'm certain we would -- if they asked<br/>6 for crack cocaine, we would probably change the<br/>7 report to reflect that they asked for crack<br/>8 cocaine.</b></p> <p>9 Q So if everybody arrested in the reverse<br/>10 sting that day is on the same -- has the same<br/>11 preprinted language about blows, that means that<br/>12 everybody came and asked for blows; nobody asked<br/>13 for anything else?</p> <p>14 <b>A Like I said, I don't have the report in<br/>15 front of me. I don't recall what -- the specifics<br/>16 of that arrest on that particular day; and if they<br/>17 asked for blows, then I'm certain the preprinted<br/>18 report -- like I said before, hypothetically, we<br/>19 probably produced a report that said blows, and we<br/>20 produced a report that said crack.</b></p> <p>21 <b>So, like I said, we would put the<br/>22 appropriate offender's name on the appropriate<br/>23 arrest or the vice case report and what they asked<br/>24 for specifically.</b></p> |

## Transcript of Elsworth Smith, Jr., Volume II

37 (459 to 462)

Conducted on March 5, 2020

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|   |  |
| 459   | 461  |
| <p>1 Q So there should probably be a mix of<br/>2 different kinds of drugs?</p> <p>3 <b>A From the best of my memory, yes.</b></p> <p>4 Q Do you remember what your role was on the<br/>5 reverse sting on April 24, 2006?</p> <p>6 <b>A I don't recall on that particular day.</b></p> <p>7 Q Do you -- and seeing the reports didn't<br/>8 refresh your recollection at all?</p> <p>9 <b>A No, it does not.</b></p> <p>10 MR. RAUSCHER: We're going to mark<br/>11 Exhibit 46.</p> <p>12 (Smith Deposition Exhibit 46 marked for<br/>13 identification and attached to the transcript.)</p> <p>14 Q You had a chance to look at this?</p> <p>15 <b>A Yes, I have.</b></p> <p>16 Q You see it's a vice case report for<br/>17 Cleothus Morris, 24 -- April 24, 2006?</p> <p>18 <b>A Yes.</b></p> <p>19 Q And it says it's a reverse sting<br/>20 operation?</p> <p>21 <b>A That's correct.</b></p> <p>22 Q Your name is in the bottom left-hand<br/>23 corner?</p> <p>24 <b>A That's correct.</b></p>  | <p>1 <b>report.</b></p> <p>2 Q You didn't make this report, did you?</p> <p>3 <b>A I do not have a recollection if I prepared</b><br/><b>this report at this point in time. I know that I</b><br/><b>am listed as the first arresting officer on this</b><br/><b>report, and my name is down here typewritten.</b></p> <p>7 <b>If another member of my team signed my</b><br/><b>name on the report, I had to have given them</b><br/><b>authorization to do so, and I would not have</b><br/><b>allowed them to do so if I felt this report was</b><br/><b>false.</b></p> <p>12 Q All right. Do you know if the time on<br/>13 here is accurate, date of occurrence, 11:30?</p> <p>14 <b>A I don't recall.</b></p> <p>15 Q Date of arrival, 11:30?</p> <p>16 <b>A I don't recall, sir.</b></p> <p>17 Q Is your handwriting anywhere on this<br/>18 report, if you can tell?</p> <p>19 <b>A It doesn't appear to be my handwriting.</b></p> <p>20 Q Okay. It says in the -- did you type up<br/>21 the narrative?</p> <p>22 <b>A I don't recall who typed the narrative up.</b></p> <p>23 Q Do you know what kind of drug or drugs<br/>24 were sold out of 575 East Browning, if any, in</p> |
| 460   | 462  |
| <p>1 Q Is that your signature underneath?</p> <p>2 <b>A No.</b></p> <p>3 Q Whose signature is that?</p> <p>4 <b>A I was working -- it says the second</b><br/><b>arresting officer was Mohammed. I don't recall</b><br/><b>his handwriting, but I probably authorized someone</b><br/><b>else to sign my name on the report.</b></p> <p>8 Q Do you know who prepared this report?</p> <p>9 <b>A I do not recall, but I am in Box 1, and</b><br/><b>10 everything that's in this report -- I would not</b><br/><b>11 have allowed anyone to sign my name on a report if</b><br/><b>12 I didn't feel that the report was truthful. It's</b><br/><b>13 a truthful report.</b></p> <p>14 Q How can you possibly say that?</p> <p>15 <b>A Because I wouldn't have signed my name on</b><br/><b>16 a report or allowed someone else to sign my name</b><br/><b>17 on a report that was false.</b></p> <p>18 Q How do you even know if you allowed<br/>19 someone else to sign your name or if they just<br/>20 did it?</p> <p>21 <b>A Just because I don't recall what happened</b><br/><b>22 on April 26 [sic] at that point in time, as I'm</b><br/><b>23 sitting here today, does not mean that this report</b><br/><b>24 is false. I stand by my report and what's in the</b></p> | <p>1 April 2006?</p> <p>2 <b>A As of today, I don't recall.</b></p> <p>3 Q All right. It says in the narrative</p> <p>4 section, In summary, above offender placed in</p> <p>5 custody after offender approached an undercover</p> <p>6 officer and asked to purchase, quote, "blow,"</p> <p>7 unquote.</p> <p>8 Do you see that?</p> <p>9 <b>A Yes, I do.</b></p> <p>10 Q So Cleothus Morris came and said, I want</p> <p>11 to purchase blow?</p> <p>12 <b>A Yes. As I stated before, if he -- if</b><br/><b>13 that's what he asked for, then we would have put</b><br/><b>14 that in the report and reflect that he attempted</b><br/><b>15 to purchase blow, which is a street -- which is a</b><br/><b>16 street terminology for heroin.</b></p> <p>17 Q But you said that you wrote the -- the</p> <p>18 reports were typed before you encountered anybody.</p> <p>19 <b>A And --</b></p> <p>20 MR. STEFANICH: Object to --</p> <p>21 <b>A -- now you're trying to twist my words</b><br/><b>22 around.</b></p> <p>23 MR. STEFANICH: -- the form of that</p> <p>24 question. I think that misstates his prior</p>   |

## Transcript of Elsworth Smith, Jr., Volume II

38 (463 to 466)

Conducted on March 5, 2020

|  |   |
|--|---|
| <p>1 testimony.</p> <p>2 BY MR. RAUSCHER:</p> <p>3 Q So the narrative report on the vice case</p> <p>4 report was not typed up before you went out to do</p> <p>5 the reverse sting?</p> <p>6 A Sir, like I said, we typed up reports that</p> <p>7 might -- if we did a report, we would type it up</p> <p>8 to say "blows" as well as "crack" and we made --</p> <p>9 if -- whatever the person that we placed in</p> <p>10 custody, we would reflect that or use the</p> <p>11 appropriate report for what they all were asked</p> <p>12 for.</p> <p>13 Q I thought you just said it was a</p> <p>14 possibility that you would write up both kinds,</p> <p>15 that you don't actually remember doing it.</p> <p>16 A Sir, based on my experience -- again, you</p> <p>17 maybe -- I miss -- you misunderstood what I was</p> <p>18 trying to say. At no point in time did I say</p> <p>19 that.</p> <p>20 I'm trying to tell you if we made a</p> <p>21 report, it would reflect what that particular</p> <p>22 offender asked to purchase. Now, like I said, if</p> <p>23 we did preprinted reports and stuff like that, we</p> <p>24 would make up some that say "blows" and some that</p>   | <p>463</p> <p>1 many times they changed the names of the dope, and</p> <p>2 it was hard to keep up with each individual dope</p> <p>3 line. So we would put blow, which is street</p> <p>4 terminology for heroin. That's why we would put</p> <p>5 blow in -- or at least based off the way I</p> <p>6 remember me writing my reports, we would put blow</p> <p>7 in parentheses or crack in parentheses.</p> <p>8 That don't mean that they specifically</p> <p>9 said let me purchase -- because it doesn't say</p> <p>10 anything exactly, from what I'm reading here, that</p> <p>11 the offender exactly stated this. Hey, man, give</p> <p>12 me some blow or whatever. It just says "blow."</p> <p>13 Blow is in quotation marks, but that doesn't mean</p> <p>14 he specifically said blow.</p> <p>15 Q Isn't that what quotation marks indicate,</p> <p>16 that it's a quote?</p> <p>17 A Okay. Maybe that's what, I guess, your</p> <p>18 terminology would be but based on -- it's not</p> <p>19 always like that. As I said, blow is just showing</p> <p>20 that -- based off of what I was taught in my</p> <p>21 experience as a police officer from the police</p> <p>22 academy, we put blows in quotation marks, and</p> <p>23 that's to reflect that it's a type of -- the name</p> <p>24 or the slang that they use for heroin.</p> |
| <p>1 would say "crack cocaine."</p> <p>2 And, like I said, each person wrote the</p> <p>3 reports differently. So if you saw and compared</p> <p>4 this particular -- if I say, assuming that myself</p> <p>5 or Mohammed wrote this report out, another officer</p> <p>6 on our team, how they prepared their reverse sting</p> <p>7 operation reports might be worded differently from</p> <p>8 ours, and I don't recall from this particular</p> <p>9 date.</p> <p>10 Q But this is a quote. It says, purchase,</p> <p>11 quote/unquote, "blow."</p> <p>12 It is used to justify an arrest; right?</p> <p>13 A Quote -- I wouldn't say that's a specific</p> <p>14 quote.</p> <p>15 Q It's in quote marks.</p> <p>16 A It's in quotation marks, but that doesn't</p> <p>17 mean that he asked specifically for blow. Blow is</p> <p>18 a, you know, like I said -- and I am aware of, you</p> <p>19 know, from my experience in working in the Ida B.</p> <p>20 Wells, that each building or -- you know, had</p> <p>21 different names for their dope lines.</p> <p>22 And we put blows in the report because</p> <p>23 sometimes we -- they changed the names of the</p> <p>24 lines of dope frequently, and I can't tell you how</p> | <p>464</p> <p>1 Q So you're saying that putting the word in</p> <p>2 quotes is not trying to attribute that statement</p> <p>3 to the offender?</p> <p>4 A I'm trying to state to you that is not</p> <p>5 exactly -- that he necessarily asked for blow</p> <p>6 specifically. Blow is street terminology for</p> <p>7 heroin, which is indicated in the report.</p> <p>8 Q But why write that someone asked to</p> <p>9 purchase blow, which is a street terminology for</p> <p>10 heroin, if they didn't? Why not just say they</p> <p>11 asked to purchase heroin?</p> <p>12 MR. STEFANICH: Objection to form.</p> <p>13 A Sir, that's -- what I remember from my</p> <p>14 training in the police academy, that's how we were</p> <p>15 taught to write the report.</p> <p>16 Q You were taught to write police reports --</p> <p>17 specifically to write --</p> <p>18 A From the best of my memory, yes, sir.</p> <p>19 Q Someone at the police academy told you</p> <p>20 when you write a report arresting someone for</p> <p>21 heroin, write down blow in quotes and explain</p> <p>22 that's street terminology for heroin?</p> <p>23 A From the best of my memory, sir, that's</p> <p>24 what I recall.</p>  |

## Transcript of Elsworth Smith, Jr., Volume II

39 (467 to 470)

Conducted on March 5, 2020

|  |     |   |     |
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|  | 467 |   | 469 |
| 1     Q All right. What training class was that        |     | 1 <b>for whatever dope that they attempted to purchase.</b> |     |
| 2 in?  |     | 2     Q You said they might have written down what          |     |
| 3 <b>A I don't recall the exact name of the</b>        |     | 3 time the offender might have been arrested?               |     |
| 4 class, but it had to be a class on report writing.   |     | 4 <b>A That's a possibility. Like I said, I</b>             |     |
| 5     Now, you're questioning my ability to            |     | 5 don't recall specifically.                                |     |
| 6 remember something or the training that I            |     | 6     Q Are you just guessing at what the security          |     |
| 7 received.  |     | 7 officers would have written down?                         |     |
| 8     THE WITNESS: Excuse me. I need a break.          |     | 8 <b>A Yes. I guess you could say I am guessing.</b>        |     |
| 9     Excuse me.                                       |     | 9 <b>I don't recall, sir.</b>                               |     |
| 10    MR. STEFANICH: All right. Let's take a           |     | 10    Q Do you recall -- were you -- you were               |     |
| 11 break.  |     | 11 sometimes the fake drug dealer in a reverse sting;       |     |
| 12    THE VIDEOGRAPHER: Off the record, 2:34.          |     | 12 correct?   |     |
| 13    (A recess was taken from 2:34 p.m. to            |     | 13 <b>A Yes.</b>  |     |
| 14 2:55 p.m.)  |     | 14    Q And do you recall telling security                  |     |
| 15    THE VIDEOGRAPHER: Back on the record,            |     | 15 officers this person just asked -- just tried to         |     |
| 16 2:55.   |     | 16 hand me \$10 and asked for X type of drug?               |     |
| 17 BY MR. RAUSCHER:                                    |     | 17 <b>A Based -- best of my memory, yes.</b>                |     |
| 18    Q When is the handwritten part of the vice       |     | 18    Q And did you do that every single time?              |     |
| 19 case report filled out on a reverse sting day?      |     | 19 <b>A Best on -- based on my memory, yes.</b>             |     |
| 20 <b>A I don't recall, as I'm sitting here today.</b> |     | 20    Q Did you ever take notes at the scene of a           |     |
| 21    Q What's the typical practice?                   |     | 21 reverse sting?   |     |
| 22 <b>A I don't remember the typical practice,</b>     |     | 22 <b>A From what I recall, I do not recall doing</b>       |     |
| 23 sir.  |     | 23 so.  |     |
| 24    Q Would it be done at the scene, or would it     |     | 24    Q Do you recall seeing anybody else take              |     |
|  | 468 |   | 470 |
| 1 be done at the station or somewhere else?            |     | 1 notes during a reverse sting?                             |     |
| 2 <b>A All the reports, based off of my memory,</b>    |     | 2 <b>A I don't recall, but I'm certain it perhaps</b>       |     |
| 3 would not have been done at the scene. It could      |     | 3 happened, and I don't recall.                             |     |
| 4 have been done in the police station.                |     | 4     Q What does it mean to be certain it perhaps          |     |
| 5     Q Would you take notes when you were at the      |     | 5 happened?   |     |
| 6 scene about what various offenders asked for?        |     | 6 <b>A I do not recall, sir.</b>                            |     |
| 7 <b>A Based off of my memory, yes, that's</b>         |     | 7     Q All right.  |     |
| 8 possible.  |     | 8 <b>A Do not recall.</b>                                   |     |
| 9     Q It's possible, or it happened typically?       |     | 9     Q Do you recall ever seeing any notes that            |     |
| 10 <b>A Sir, normally, I did not play the role of</b>  |     | 10 were taken during a reverse sting?                       |     |
| 11 the security officer. So I'm certain that the       |     | 11 <b>A As I'm sitting here today, I do not</b>             |     |
| 12 security officers could answer that better. But     |     | 12 recall, sir.   |     |
| 13 based off of my memory, I believe they did.         |     | 13    Q Do you recall being at the police station           |     |
| 14    Q What do you believe the security officers      |     | 14 and participating in filling out reports of a            |     |
| 15 wrote down at the scene?                            |     | 15 reverse sting?   |     |
| 16 <b>A I do not know.</b>                             |     | 16 <b>A I do not recall, but I'm certain that I</b>         |     |
| 17    Q Do you have any idea of what they might        |     | 17 had at some point in time. I do not recall.              |     |
| 18 have written down?                                  |     | 18    Q Do you recall what that process looked              |     |
| 19 <b>A Based off of what I recall, the security</b>   |     | 19 like of filling out reports related to reverse           |     |
| 20 officers might have wrote down what time that the   |     | 20 stings at the station?                                   |     |
| 21 offender might have been placed in custody, or      |     | 21 <b>A It's been over 10 years ago, and I don't</b>        |     |
| 22 what type of dope that they was coming to purchase  |     | 22 recall the specifics. If we did a reverse sting          |     |
| 23 or attempt to purchase, and the amount of money     |     | 23 operation, we're filling out whatever part --            |     |
| 24 that they may have been offering to attempt to --   |     | 24 partly putting in the information on the                 |     |

## Transcript of Elsworth Smith, Jr., Volume II

40 (471 to 474)

Conducted on March 5, 2020

|   |   |
|---|---|
| <p>1 offenders' names, you know, possibly the amount of<br/> 2 money that they offered to purchase, the drugs<br/> 3 which they asked for. And I don't recall all the<br/> 4 specifics.</p> <p>5 Q Do you recall what sources of information<br/> 6 you used to fill in the details?</p> <p>7 A Again, I do not recall, sitting here<br/> 8 today, sir.</p> <p>9 Q Do you recall how the team decided who<br/> 10 would be the attesting officer on the arrest<br/> 11 reports?</p> <p>12 A Again, I do not recall each operation.</p> <p>13 Q Do you recall any of the decisions on who<br/> 14 would be the attesting officer for the 4/26/2006<br/> 15 [sic] reverse sting?</p> <p>16 A No, sir, I do not recall.</p> <p>17 Q Is the attesting officer on a reverse<br/> 18 sting the one who would be completing the arrest<br/> 19 report typically?</p> <p>20 A The arresting officer would be the officer<br/> 21 who is going to court on the arrest, and I don't<br/> 22 recall from this particular date how we decided<br/> 23 that. But if I'm listed as Box 1, then that<br/> 24 determination was based off of probably -- I don't</p>  | <p>471</p> <p>1 Q And it was your typical practice -- well,<br/> 2 the team's typical practice that the first -- Box<br/> 3 1, which here is actually Box 45; right? I just<br/> 4 want to make sure that the record is clear.</p> <p>5 We're saying "Box 1" because you're the<br/> 6 first officer listed in the box?</p> <p>7 A That's correct.</p> <p>8 Q But that's in Box 45?</p> <p>9 A That's correct.</p> <p>10 Q And the typical practice of the team would<br/> 11 be whoever is listed in that box was either the<br/> 12 one selling -- or pretending to sell the drugs or<br/> 13 collecting money from potential buyers.</p> <p>14 A That's correct.</p> <p>15 Q And I think I did though -- before we went<br/> 16 down this road -- tried to ask you a different<br/> 17 question, which is is the person who is listed as<br/> 18 the attesting officer on the arrest reports, is<br/> 19 that the person who creates those arrest reports?</p> <p>20 A The person that's on the first -- as the<br/> 21 arresting officer is the person that's going to go<br/> 22 to court. He prepared --</p> <p>23 Q I know, but that's a different question.</p> <p>24 A And I'm trying -- I understand.</p>                 |
| <p>1 know how that determination was made. I don't<br/> 2 recall from April 24th, 2006.</p> <p>3 Q Well, is the person going to court --<br/> 4 should that person have personal knowledge of what<br/> 5 happened that day?</p> <p>6 A Either they played a role as a buy<br/> 7 officer -- or I'm sorry -- the person that was<br/> 8 selling drugs or the guy who was collecting money.<br/> 9 And I don't know what role that I played on that<br/> 10 particular day. I know I'm listed as Box 1, as<br/> 11 the first reporting officer or the first arresting<br/> 12 officer.</p> <p>13 Q You either were the one pretending to have<br/> 14 drugs to sell or the one collecting money from<br/> 15 people?</p> <p>16 A Possibly but I don't recall April 24th.</p> <p>17 Q When you say "possibly," were there other<br/> 18 roles you could have had and still be listed as<br/> 19 the first arresting officer?</p> <p>20 A No. Like I said, I don't recall from this<br/> 21 arrest; but the role that I usually play, I was<br/> 22 not the process -- I mean, the security officer<br/> 23 who would place the individuals in custody after<br/> 24 they attempted to purchase narcotics.</p> | <p>472</p> <p>1 MR. STEFANICH: He said attesting, not<br/> 2 arresting.</p> <p>3 A The first attesting officer basically is<br/> 4 the same as the first arresting officer.</p> <p>5 But to answer your question, we will -- as<br/> 6 a team, we all assisted in some form or fashion in<br/> 7 helping write these reports.</p> <p>8 Now, if I was the first arresting officer,<br/> 9 my other team members would help me out when we<br/> 10 would do these reverse sting operations because<br/> 11 sometimes we will lock up multiple offenders.</p> <p>12 To make the processing go faster, once we<br/> 13 were inside the 2nd District, they would help<br/> 14 assist in writing reports. And in none of these<br/> 15 words we would ask an individual to falsify any<br/> 16 information in the reports or do anything of that<br/> 17 nature.</p> <p>18 Q I know you've said repeatedly you didn't<br/> 19 falsify any reports. So please just try to answer<br/> 20 the question. If I ask you if you've falsified a<br/> 21 report, give me that information, but it will make<br/> 22 things go faster today if you can just try to<br/> 23 answer the questions.</p> <p>24 A And I thought I was. How am I not</p> |

## Transcript of Elsworth Smith, Jr., Volume II

41 (475 to 478)

Conducted on March 5, 2020

|  |     |   |     |
|--|-----|---|-----|
| <p>1 <b>answering the question?</b></p> <p>2 Q The question didn't ask you anything about<br/>3 falsifying a report. It asked if the person who<br/>4 was the attesting officer after a reverse sting<br/>5 was the person who created the arrest report.</p> <p>6 <b>A And I thought I gave an example. I said<br/>7 sometimes members of my team, they would help<br/>8 assist me writing these reports. We would all<br/>9 have a part to play in the processing of all the<br/>10 individuals that we would arrest during the<br/>11 reverse sting operation.</b></p> <p>12 Q So sometimes, yes; sometimes, no?</p> <p>13 <b>A Yes. Sometimes, yes; sometimes, no.</b></p> <p>14 Q I'm just going to show you an example. So<br/>15 let's mark this as Exhibit 47. This is the arrest<br/>16 report of Cleothus Morris.</p> <p>17 (Smith Deposition Exhibit 47 marked for<br/>18 identification and attached to the transcript.)</p> <p>19 Q You've had a chance to look at this<br/>20 report?</p> <p>21 <b>A Yes, I have.</b></p> <p>22 Q So this is -- is this an arrest report<br/>23 that is memorializing the same arrest as in<br/>24 Exhibit 46, the vice case report?</p> | 475 | <p>1 Q What is the first, second -- what does the<br/>2 fact that there are multiple people listed as<br/>3 first, second, and assisting officers tell you<br/>4 about whether multiple people prepared the actual<br/>5 document?</p> <p>6 <b>A Well, first and second arresting officers<br/>7 are officers that would be the officers that would<br/>8 possibly testify if this particular arrest had to<br/>9 go to trial. Attesting officer is someone who<br/>10 probably attested to the report because they<br/>11 created the report on the computer-generated<br/>12 arrest report.</b></p> <p>13 <b>And they would have -- Robert Gonzalez,<br/>14 listed as the attesting officer, he would have<br/>15 helped me -- while helping prepare this report,<br/>16 probably something -- prepared the narrative that<br/>17 I -- since this is a preprinted -- not preprinted,<br/>18 but this is from an attempted PCS arrest, you<br/>19 know, it's pretty much he was just assisting in<br/>20 that, and the narrative is going to be basically<br/>21 the same as reflected in the vice case report.</b></p> <p>22 <b>So that's -- and like I said, that would<br/>23 help us during the process when you have multiple<br/>24 offenders, to help speed up the process.</b></p> | 477 |
| <p>1 <b>A Yes.</b></p> <p>2 Q You're the first arresting officer listed<br/>3 on page 3; correct?</p> <p>4 <b>A That's correct.</b></p> <p>5 Q And Robert Gonzalez is the attesting<br/>6 officer?</p> <p>7 <b>A Yes.</b></p> <p>8 Q And can you tell by looking at this report<br/>9 who created the arrest report?</p> <p>10 MR. STEFANICH: I'll object to the form<br/>11 and the term "created."</p> <p>12 MR. RAUSCHER: Yeah. That's fair.</p> <p>13 Q Did multiple people work on preparing the<br/>14 information -- I'm going to try again.</p> <p>15 Did multiple people prepare this arrest<br/>16 report, or did one person do that?</p> <p>17 <b>A As I stated before, we did sometimes have<br/>18 multiple teammates to help out and help prepare<br/>19 reports.</b></p> <p>20 Q And when you look at this report, can you<br/>21 tell whether multiple people had a role in<br/>22 preparing it one way or the other?</p> <p>23 <b>A Only by the names that are listed on the<br/>24 report -- first, second, and assisting officers.</b></p>  | 476 | <p>1 Q So the fact that Robert Gonzalez is listed<br/>2 as the attesting officer suggests to you that he<br/>3 is the one who pulled together the information and<br/>4 typed up this report?</p> <p>5 <b>A Yes. He created the arrest report.</b></p> <p>6 Q Okay. What does it mean to you to create<br/>7 an arrest report? Actually, let me ask it more<br/>8 specifically.</p> <p>9 What does it mean to you to create this<br/>10 arrest report?</p> <p>11 <b>A That he was assisting by helping write the<br/>12 report based off of my -- off of my arrest. Like<br/>13 I said, if I allowed him to attest this report,<br/>14 it's not something that would be nefarious or<br/>15 anything like that.</b></p> <p>16 <b>He was just simply helping out based off<br/>17 the information that was already on the vice case<br/>18 report. Like I said, he was assisting to help<br/>19 speed up the process while we had multiple<br/>20 offenders on an arrest.</b></p> <p>21 Q Let me try it a different way because it<br/>22 might have been confusing the way I asked it.</p> <p>23 What would Robert Gonzalez have done?<br/>24 Like what were the mechanical steps?</p>  | 478 |

## Transcript of Elsworth Smith, Jr., Volume II

42 (479 to 482)

Conducted on March 5, 2020

|   |     |  |     |
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| 1 Mechanically, what would he have done to draft<br>2 this report? Like to make this report a thing,<br>3 what would he have to do? He would -- I'm just<br>4 giving an example, I don't know if this is right,<br>5 but I want to make sure that -- I want to try to<br>6 make the question understandable.<br><br>7 <b>A I understand.</b><br><br>8 Q Would he look at a vice case report and<br>9 type in that information? Pull down boxes? What<br>10 sorts of things would he have had to do?<br><br>11 <b>A The arrest report is on the computer</b><br>12 <b>system. He would have to put in his PC number and</b><br>13 <b>his password to enter the computer system to do</b><br>14 <b>so, to generate an arrest report, which is already</b><br>15 <b>preprinted out in the computer system.</b><br><br>16 And then he would just put in the<br>17 offender's demographics, like the height and<br>18 weight, the date of birth, the color of their<br>19 eyes, the color of their hair, their home address.<br><br>20 He is also, like I said, assisting us on<br>21 this arrest. He could put down the charge. Like<br>22 I said, for right here, so it was attempt PCS.<br>23 Like I said, he could have put in the narrative<br>24 based off the narrative from my vice case report. | 479 | 1 potentially call for a legal conclusion.<br>2 <b>A I don't understand your question.</b><br>3 <b>BY MR. RAUSCHER:</b><br>4 Q Well, as a police officer, does it matter<br>5 to you if you get the time of an arrest correct on<br>6 a report?<br>7 <b>A Yes, that's correct. But, like I said, a</b><br>8 <b>lot of times you might not have a chance to look</b><br>9 <b>at your watch while you're dealing with an</b><br>10 <b>offender which you're trying to place into</b><br>11 <b>custody. Because if you have a combative offender</b><br>12 <b>or if a person is trying to run from you, your</b><br>13 <b>first thought is to try to apprehend this</b><br>14 <b>offender.</b><br>15 Once they're placed in -- can I finish<br>16 saying what I was going to say?<br>17 Q Yes.<br>18 <b>A After you place them in custody, stuff</b><br>19 <b>like that, then you might look at your watch, and</b><br>20 <b>you might say, Okay, well, this incident might</b><br>21 <b>have occurred at this time or something like that.</b><br>22 So you're trying to make it as close to<br>23 the time -- the actual time, but if something is<br>24 taking place in the event that's going on, you | 481 |
| 1 Q And then would he have had to get the<br>2 information -- for example, on the time of arrest,<br>3 would he have had to get that from you or<br>4 Mohammed?<br><br>5 <b>A I'm certain he probably would have.</b><br>6 Q And how would you have kept track of the<br>7 time of arrest for all the various people who were<br>8 arrested that day?<br><br>9 <b>A I don't recall from that day; but, like I</b><br>10 <b>said, most report times are usually approximation</b><br>11 <b>times -- approximated.</b><br><br>12 Q Why approximate at all?<br><br>13 <b>A I can't recall from that particular day;</b><br>14 <b>but based off of experience, a lot of times when</b><br>15 <b>you're out there in the field and you're doing a</b><br>16 <b>mission like a reverse sting operation or</b><br>17 <b>something like that or a narcotics mission, you</b><br>18 <b>might lose track of the time. So you would try to</b><br>19 <b>reflect the time as accurately as possible and</b><br>20 <b>make it as close to the time that the incident</b><br>21 <b>actually occurred.</b><br><br>22 Q What's the reason -- like does it matter<br>23 if the time is right for the arrest?<br><br>24 MR. KOSOKO: Objection to form and may   | 480 | 1 would say -- it's like if someone is shooting at<br>2 you. You don't have time to look at your watch.<br>3 Okay. Now, the shooting began at 1510 hours.<br>4 Q Sir, I really do not think that was at all<br>5 responsive to my question. I understand that you<br>6 are --<br>7 <b>A And as I stated, sir, sometimes the times</b><br>8 <b>are approximated because we might not have the</b><br>9 <b>chance to look at our watch.</b><br>10 Q I did not ask you that question. Why it<br>11 is the case that a time might be wrong.<br>12 We know that the times are wrong on a lot<br>13 of these because there are two different times of<br>14 arrest for the same person; right?<br>15 <b>A That's correct.</b><br>16 Q Okay. What I asked you, what I tried to<br>17 ask was as a police officer, does it matter to you<br>18 to try to get the time right? Can you answer that<br>19 yes or no?<br>20 <b>A yes.</b><br>21 MR. STEFANICH: Objection; he did answer<br>22 yes at the beginning.<br>23 Q All right. Maybe the next question was<br>24 why -- as a police officer, why does it matter to   | 482 |

## Transcript of Elsworth Smith, Jr., Volume II

43 (483 to 486)

Conducted on March 5, 2020

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| <p>1 you to try to get the time of arrest right? I<br/> 2 don't want to know why it might not be right. I<br/> 3 just want to know why it matters to you, as a<br/> 4 police officer, to try to get it right.</p> <p><b>5 A Like I said, you try to get it right so it<br/> 6 could be somewhat correct or as accurate as<br/> 7 possible.</b></p> <p>8 Q Is there any reason why it matters to have<br/> 9 it accurate?</p> <p><b>10 A I don't know, sir. I can't give you a<br/> 11 clear definition for that because, as I said,<br/> 12 there's a lot of factors come into play when<br/> 13 you're making these arrests, and so our times<br/> 14 being off maybe a minute or two.</b></p> <p>15 Q Well, for example, if someone said I was<br/> 16 actually in a different place when they're saying<br/> 17 I was arrested, it would be important to be able<br/> 18 to look back at the report and say this is an<br/> 19 accurate time of arrest; right?</p> <p><b>20 A And that's -- again, that's a hypothetical<br/> 21 question. Like I said, I would not falsify a<br/> 22 different location, if it occurred -- if the<br/> 23 arrest didn't occur at the exact location that I<br/> 24 reflected in my report.</b></p> | <p>483</p> <p>1 Q Would you put the gender of the person who<br/> 2 was arrested on the report before you went out to<br/> 3 the location for a reverse sting?</p> <p><b>4 A To the best of my memory, no.</b></p> <p>5 Q Can you think of any valid reason to do<br/> 6 that?</p> <p><b>7 A As I stated before, to the best of my<br/> 8 memory, I don't recall if we did or did not.</b></p> <p>9 Q But you think you didn't do it; right?</p> <p><b>10 A I don't recall.</b></p> <p>11 Q Who would -- and I'm sorry if I asked you<br/> 12 this; and if I did, just tell me.</p> <p>13 But who would make the determination of<br/> 14 when someone was arrested during a reverse sting?</p> <p><b>15 A Sir, I don't recall.</b></p> <p>16 Q Do you recall who was supposed to make the<br/> 17 call -- rephrase -- I'm going to rephrase that.</p> <p>18 Would the -- would it be one of the two<br/> 19 officers who interacted with the person, or would<br/> 20 it be security who would be responsible for<br/> 21 looking at the clock and saying about what time<br/> 22 it was?</p> <p><b>23 A Based off my memory, my experience working<br/> 24 as a tactical officer, it would probably be the</b></p> |
| <p>1 Q It would help you to support the<br/> 2 prosecution if someone had an alibi defense, and<br/> 3 you said my time on the report is correct; right?</p> <p>4 MR. KOSOKO: Objection; form, calls for a<br/> 5 legal conclusion, and incomplete hypothetical.</p> <p>6 Go ahead.</p> <p><b>7 A Yes. As I stated before, you try to get<br/> 8 the times as accurate as possible. There's many<br/> 9 circumstances that could prevent you from<br/> 10 accurately telling the correct time.</b></p> <p>11 Q What are the circumstances that could<br/> 12 prevent you from getting the time right when<br/> 13 you're just typing up two reports, a vice case<br/> 14 report and an arrest report?</p> <p><b>15 A Again, sir, I don't recall from this<br/> 16 particular date.</b></p> <p>17 Q I mean, are there any that you can think<br/> 18 of when you're just -- why -- any reasons you<br/> 19 could think of why an arrest time --</p> <p><b>20 A Human error.</b></p> <p>21 Q Okay. Do you know why there were two<br/> 22 different attesting officers used on arrest<br/> 23 reports from this reverse sting April 24, 2006?</p> <p><b>24 A No, I do not.</b></p>   | <p>484</p> <p>1 officer who is placing the offender in custody.</p> <p>2 Q And is that the security person or the<br/> 3 drug seller?</p> <p><b>4 A The security person.</b></p> <p>5 Q Got it.</p> <p>6 Are there any documents you can think of,<br/> 7 that you can look at to determine who was doing<br/> 8 security on April 24, 2006?</p> <p><b>9 A Possible but I don't know at this<br/> 10 particular moment.</b></p> <p>11 MR. RAUSCHER: We're going to mark the<br/> 12 next one 48.</p> <p>13 (Smith Deposition Exhibit 48 marked for<br/> 14 identification and attached to the transcript.)</p> <p>15 Q Is this another arrest as part of the<br/> 16 reverse sting on April 24, 2006?</p> <p><b>17 A Yes, it is.</b></p> <p>18 Q Is this a report of -- a vice case report<br/> 19 of John Pierce's arrest?</p> <p><b>20 A Yes, it is.</b></p> <p>21 Q And is that your name in the bottom<br/> 22 left-hand corner, what we call "Box 1"?</p> <p><b>23 A That's correct.</b></p> <p>24 Q And I say "what we call," but I mean it's</p>  |

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44 (487 to 490)

Conducted on March 5, 2020

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|----|--|----|--|
|    | 487  |    | 489  |
| 1  | been referred to in this deposition as Box 1 and         | 1  | Q -- arrest?   |
| 2  | what you all call as Box 1?                              | 2  | <b>A Sitting here today, I do not recall.</b>            |
| 3  | <b>A That's correct.</b>                                 | 3  | Q You don't know if you went off memory or               |
| 4  | Q And Mohammed is in Box 2, which is 46 on               | 4  | if someone gave you that information?                    |
| 5  | the report?  | 5  | <b>A I do not recall.</b>                                |
| 6  | <b>A That's correct.</b>                                 | 6  | Q How are the -- how is the money                        |
| 7  | Q Who signed this report?                                | 7  | inventoried during a reverse sting?                      |
| 8  | <b>A That appears to be my hand signature.</b>           | 8  | <b>A Like I said, I do not recall because I</b>          |
| 9  | Q Do you know why -- did you sign for both               | 9  | <b>wasn't part of the security team. Somehow they</b>    |
| 10 | 10 of you?   | 10 | <b>would keep track of it. They were -- like I said,</b> |
| 11 | <b>A Yes.</b>  | 11 | <b>maybe make a note of it, for whatever that</b>        |
| 12 | Q Do you know why you signed this one and                | 12 | <b>particular offender might -- the amount of money</b>  |
| 13 | Mohammed signed the last one we just looked at for       | 13 | <b>that a particular offender offered or tendered to</b> |
| 14 | Cleothus Morris?   | 14 | <b>purchase whatever said drug of choice that they</b>   |
| 15 | <b>A I could not tell you.</b>                           | 15 | <b>were asking for.</b>                                  |
| 16 | Q Does it look like it's your handwriting,               | 16 | Q Do you think that you memorized how much               |
| 17 | the rest of the things that are written in here?         | 17 | money each person asked you; or when you prepared        |
| 18 | <b>A Yes, it is.</b>                                     | 18 | 18 this report, would you have had to go back and        |
| 19 | Q All right. How did you get the date of                 | 19 | 19 look at something or ask someone?                     |
| 20 | arrival time?  | 20 | <b>A Again, I'm not certain how it was done,</b>         |
| 21 | <b>A I don't recall, sir.</b>                            | 21 | <b>and I can't speak from -- recall from April 24th.</b> |
| 22 | Q As you see it now, 11:15, do you think                 | 22 | Q Would you and Mohammed have been switching             |
| 23 | it's wrong or right?                                     | 23 | 23 on and off roles of who would be selling the drugs    |
| 24 | <b>A Sitting here today, I don't recall.</b>             | 24 | 24 and who would be collecting the money?                |
|    | 488  |    | 490  |
| 1  | Q And you know that Lionel White's arrest                | 1  | <b>A I don't recall from April 24th.</b>                 |
| 2  | report says 11:30 arrival time.                          | 2  | Q What about normally how would it work                  |
| 3  | <b>A I don't recall.</b>                                 | 3  | 3 during a reverse sting?                                |
| 4  | Q You don't recall that?                                 | 4  | <b>A Sometimes we would.</b>                             |
| 5  | <b>A I don't recall without looking at the</b>           | 5  | Q Okay. Do you see where it says,                        |
| 6  | <b>Lionel White report, and it states one time -- if</b> | 6  | "nickname, DJ," on here?                                 |
| 7  | <b>I stated a different arrival time, someone made a</b> | 7  | <b>A Yes.</b>  |
| 8  | <b>mistake. Like I said, sometimes you do have human</b> | 8  | Q Do you know if that's John Pierce's                    |
| 9  | <b>error that occurs.</b>                                | 9  | 9 nickname?  |
| 10 | Q And then date of arrest time -- well,                  | 10 | <b>A If it's written in the report, yes. I</b>           |
| 11 | sorry, it says "date of occurrence" in Box 5.            | 11 | <b>would have had to have discovered that by</b>         |
| 12 | That time is supposed to signify the time                | 12 | <b>interviewing him when I was processing him or</b>     |
| 13 | 13 of arrest; right?                                     | 13 | <b>somehow by running his name.</b>                      |
| 14 | <b>A Yes. And I also said the times are</b>              | 14 | Q You don't know who John Pierce is, do you?             |
| 15 | <b>approximated also.</b>                                | 15 | <b>A As stated before, I do not recall him at</b>        |
| 16 | Q Understood. I just want to make sure                   | 16 | <b>this present moment, and I don't recall ever</b>      |
| 17 | because it says "occurrence." I want to make sure        | 17 | <b>seeing him prior to this arrest.</b>                  |
| 18 | 18 that we mean -- we're talking about arrest when it    | 18 | Q And it says "number of arrestees" and                  |
| 19 | 19 says that. I know you've said they're                 | 19 | "number of offenders," and it says one in both of        |
| 20 | 20 approximate.  | 20 | 20 those?  |
| 21 | <b>A That's correct.</b>                                 | 21 | <b>A That's correct.</b>                                 |
| 22 | Q Do you know how you came up with 11:35 for             | 22 | Q Why does it say that instead of listing                |
| 23 | John Pierce's --   | 23 | 23 all the people arrested during the reverse sting?     |
| 24 | <b>A No, I do not.</b>                                   | 24 | <b>A Again, I don't know. Because like I said,</b>       |

## Transcript of Elsworth Smith, Jr., Volume II

45 (491 to 494)

Conducted on March 5, 2020

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|--|-----|--|-----|
|  | 491 |  | 493 |
| <b>1 it's probably an error.</b>                             |     | 1 drugs? Why not just use the report you already             |     |
| 2 Q Should it -- for a reverse sting, should                 |     | 2 have?  |     |
| 3 it list everybody who was arrested?                        |     | 3 MR. KOSOKO: Objection. That's fine.                        |     |
| <b>4 A Generally, it should state that; but like</b>         |     | <b>4 A People have a different choice of drugs or</b>        |     |
| <b>5 I said, there is a -- people do make mistakes, and</b>  |     | <b>5 different preferences for drugs that they use.</b>      |     |
| <b>6 there is a chance that it was a mistake.</b>            |     | <b>6 BY MR. RAUSCHER:</b>                                    |     |
| 7 Q Is there a chance that you swept someone                 |     | 7 Q Yeah. But so what? It's illegal to ask                   |     |
| 8 up in this reverse sting who didn't come and ask           |     | 8 for drugs. What's the difference if the report             |     |
| 9 for drugs?   |     | 9 says blow or crack or a name or anything else?             |     |
| <b>10 A No, sir, because we never did that.</b>              |     | <b>10 A Because I wouldn't try to falsify a</b>              |     |
| 11 Q And it says again in here, an                           |     | <b>11 report, and I would put down what they asked for.</b>  |     |
| 12 undercover -- offender approached an undercover           |     | 12 Q What would be false if you said that they               |     |
| 13 officer and asked to purchase quote, "blow," end          |     | 13 asked for blow but they really asked for crack            |     |
| 14 quote, which is a street terminology for heroin.          |     | 14 cocaine?  |     |
| 15 Do you see that?  |     | <b>15 A Because they asked for one particular drug</b>       |     |
| <b>16 A Yes, I do.</b>                                       |     | <b>16 instead of the other.</b>                              |     |
| 17 Q Is that an actual quote?                                |     | 17 Q So it's not false to say they asked for                 |     |
| <b>18 A That is not an actual quote.</b>                     |     | 18 blow because they asked for a different kind of           |     |
| 19 Q And you did that because you were trained               |     | 19 heroin, but it is false to say they asked for blow        |     |
| 20 to do it exactly that way?                                |     | 20 if they asked for crack cocaine?                          |     |
| 21 MR. STEFANICH: Objection; asked and                       |     | <b>21 A Blow is --</b>                                       |     |
| 22 answered.   |     | 22 MR. STEFANICH: Objection to form.                         |     |
| <b>23 A As I stated before, based off of my</b>              |     | <b>23 A As I said, blow is the street terminology</b>        |     |
| <b>24 memory, that is the way I was trained to write the</b> |     | <b>24 for heroin. Whether -- I am aware -- like I said,</b>  |     |
|  | 492 |  | 494 |
| <b>1 report.</b>   |     | <b>1 I don't recall all the different names of the</b>       |     |
| 2 Q And so maybe we can save some time today.                |     | <b>2 different heroin lines that they used in Ida B.</b>     |     |
| 3 If every report, every vice case report                    |     | <b>3 Wells.</b>  |     |
| 4 from this reverse sting says the exact same thing,         |     | <b>4 We used blow to cover all of the different</b>          |     |
| 5 is it fair to say none of them are actual quotes           |     | <b>5 heroin that was sold. Heroin is heroin. Whether</b>     |     |
| 6 attributed to the person who was arrested?                 |     | <b>6 they called it, whatever, X-Box or what other</b>       |     |
| <b>7 A That's correct.</b>                                   |     | <b>7 names they were using in the Ida B. Wells. Heroin</b>   |     |
| 8 Q Do you know whether there are any reports                |     | <b>8 is heroin. Blow is the street terminology for</b>       |     |
| 9 out there from April 24, 2006, for people asking           |     | <b>9 heroin. That's why we would put blow in the</b>         |     |
| 10 for any drugs other than heroin?                          |     | <b>10 reports. Based off of my training, that's what I</b>   |     |
| <b>11 A I don't believe so. I would have to see</b>          |     | <b>11 said.</b>  |     |
| <b>12 all the reports.</b>                                   |     | <b>12 Now, someone else might have written their</b>         |     |
| 13 Q Would you ever arrest someone during a                  |     | <b>13 report differently than I did, but that's the</b>      |     |
| 14 reverse sting who came up and asked for drugs but         |     | <b>14 way -- based off of my training and what I recall,</b> |     |
| 15 not specifically heroin? Would you ever use a             |     | <b>15 how I've written my reports.</b>                       |     |
| 16 vice case report saying they asked for blow, or           |     | 16 Q Do you think that that was sensible                     |     |
| 17 would that be wrong?                                      |     | 17 training you received?                                    |     |
| <b>18 A As I stated before, if they asked for</b>            |     | 18 MR. STEFANICH: Objection; foundation,                     |     |
| <b>19 anything other than blows, then I would reflect</b>    |     | 19 form.   |     |
| <b>20 that they asked for crack cocaine. I would have</b>    |     | <b>20 A Well, you would have to talk to someone in</b>       |     |
| <b>21 put crack cocaine in the report or put rocks,</b>      |     | <b>21 the training academy at the Chicago -- the Chicago</b> |     |
| <b>22 which is street terminology for crack cocaine.</b>     |     | <b>22 Police Academy.</b>                                    |     |
| 23 Q What's the difference? Why would it                     |     | 23 Q About whether -- well, no, I want to know               |     |
| 24 matter if they're just coming there asking for            |     | 24 if you have an opinion.                                   |     |

## Transcript of Elsworth Smith, Jr., Volume II

46 (495 to 498)

Conducted on March 5, 2020

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| 495   | 497   |
| <p>1 Does it make sense, as a police officer a<br/>     2 long time, to write something specific that<br/>     3 somebody didn't actually say as opposed to just<br/>     4 saying a general they asked for drugs or they<br/>     5 asked for heroin?</p> <p>6 MR. STEFANICH: Objection; form<br/>     7 foundation.</p> <p>8 MR. BURNS: Join.</p> <p>9 <b>A Sir, again, if the person asks for blows,</b><br/>     10 <b>okay, or whatever, they're saying they're coming</b><br/>     11 <b>to buy X-Box or whatever, they're still asking for</b><br/>     12 <b>heroin. And, like I said, I put -- and I can't</b><br/>     13 <b>speak for other members of my team. I'm speaking</b><br/>     14 <b>for myself based off of how I've written my</b><br/>     15 <b>reports.</b></p> <p>16 <b>From the best of my memory, I put blows in</b><br/>     17 <b>there because I didn't remember all of the</b><br/>     18 <b>different dope lines that they used in the Ida B.</b><br/>     19 <b>Wells because they would change the names of the</b><br/>     20 <b>dope lines frequently. They would change them</b><br/>     21 <b>every week. They would change them monthly. I</b><br/>     22 <b>could not keep track of all the times that they</b><br/>     23 <b>changed the names of the lines of dope that they</b><br/>     24 <b>had.</b></p>  | <p>1 <b>or another.</b></p> <p>2 <b>But this do look like it could have been</b><br/>     3 <b>my report; but, like I said, I don't recall the</b><br/>     4 <b>arrest. And this is a truthful report. Nothing</b><br/>     5 <b>in this report is false.</b></p> <p>6 Q Well, it is false if you were attributing<br/>     7 a quote to someone they didn't say?</p> <p>8 <b>A It's not a direct quote. As I stated</b><br/>     9 <b>before, the blow is not directly what they said,</b><br/>     10 <b>just because blow is in quotation marks.</b></p> <p>11 Q It doesn't say that on the report, though;<br/>     12 right? You're explaining it now, but it doesn't<br/>     13 say what you're saying on the report, does it?</p> <p>14 <b>A No. It doesn't state specifically that</b><br/>     15 <b>they asked for X-Box or China White. I can't</b><br/>     16 <b>remember all the different names of the different</b><br/>     17 <b>heroin lines in the Ida B. Wells, and I've stated</b><br/>     18 <b>that many times. I stated that during my COPA</b><br/>     19 <b>investigation. I've said that several times this</b><br/>     20 <b>afternoon.</b></p> <p>21 Q It does say they specifically asked to<br/>     22 purchase, quote/unquote, "blow."</p> <p>23 <b>A It does not state that specifically, that</b><br/>     24 <b>they --</b></p> |
| 496   | 498   |
| <p>1 <b>BY MR. RAUSCHER:</b></p> <p>2 Q Would it have been more accurate to just<br/>     3 wait until you did the reverse sting and actually<br/>     4 do the reports based on what happened?</p> <p>5 <b>A Sir, if a person was coming to buy dope,</b><br/>     6 <b>my job is to arrest them. And I -- this is a</b><br/>     7 <b>truthful report. They're coming to buy heroin.</b><br/>     8 <b>It doesn't mean that they actually -- as I stated</b><br/>     9 <b>before, that they actually said let me buy blows</b><br/>     10 <b>or whatever.</b></p> <p>11 <b>If they stated they was coming to buy</b><br/>     12 <b>X-Box, it's still blow. It's -- X-Box is blow,</b><br/>     13 <b>heroin. Blow is the street terminology for</b><br/>     14 <b>heroin, and I would try to keep it -- that was my</b><br/>     15 <b>practice.</b></p> <p>16 Q I thought that you said earlier you don't<br/>     17 remember if you're the one who wrote this report.</p> <p>18 <b>A I don't recall, but like I said, this is</b><br/>     19 <b>based -- based on the way I'm looking at it, like</b><br/>     20 <b>I said, sitting here today, it looked like I may</b><br/>     21 <b>have wrote this -- written this report. But I</b><br/>     22 <b>don't recall from -- you know, like I said, all</b><br/>     23 <b>the people assisting me on this, on my team</b><br/>     24 <b>helping prep these reports, I can't state one way</b></p> | <p>1 Q I just read it. Are you saying I misread<br/>     2 that?</p> <p>3 <b>A Yes, you are.</b></p> <p>4 Q All right.</p> <p>5 <b>A You're misinterpreting it. It says in</b><br/>     6 <b>summary --</b></p> <p>7 Q Right. But hold on. I'm asking you a<br/>     8 different question.</p> <p>9 Did I misread it?</p> <p>10 <b>A Yes. You are misreading it.</b></p> <p>11 Q So you're saying it does not say here<br/>     12 asked to purchase, quote/unquote, "blow."</p> <p>13 <b>A As I said, quote/unquote blow --</b></p> <p>14 Q Does it say that?</p> <p>15 <b>A It says "blow," and blow is in quotation</b><br/>     16 <b>marks --</b></p> <p>17 Q So I accurately --</p> <p>18 <b>A -- but that doesn't mean that they --</b></p> <p>19 Q Hold on. Please hold on.</p> <p>20 I want to make sure for the record that<br/>     21 you are not saying -- I understand. You may have<br/>     22 a disagreement on how to interpret this, but I<br/>     23 think it's important --</p> <p>24 <b>A You're misinterpreting it.</b></p>   |

## Transcript of Elsworth Smith, Jr., Volume II

47 (499 to 502)

Conducted on March 5, 2020

|    |  |    |   |
|----|--|----|---|
|    | 499  |    | 501   |
| 1  | Q Hold on. Okay. Sir, just hold on a                 | 1  | are we fabricating times, I don't recall ever             |
| 2  | second.  | 2  | doing anything of that nature. Whatever time that         |
| 3  | MR. STEFANICH: Let him answer -- or let              | 3  | was reflected on the report is the time that --           |
| 4  | him ask the question.                                | 4  | approximation time. As I stated before, we would          |
| 5  | Q I want to make sure for the record that it         | 5  | try to keep the times as close to the actual              |
| 6  | is clear that you are not saying that I am           | 6  | occurrence.   |
| 7  | misstating or misreading what it says.               | 7  | Q How would the flow of traffic work during               |
| 8  | The words on there are "asked to purchase            | 8  | reverse stings? Would a lot of people come up at          |
| 9  | 'blow.'" Blow is in quotes; correct?                 | 9  | once? Would it be spaced out --                           |
| 10 | <b>A That is correct.</b>                            | 10 | MR. STEFANICH: Objection; form.                           |
| 11 | Q All right.   | 11 | Q -- a certain amount of time?                            |
| 12 | <b>A And you're misinterpreting --</b>               | 12 | <b>A And that varies. It happened at various</b>          |
| 13 | Q That's my question.                                | 13 | <b>amount of times. I can't sit here and say what</b>     |
| 14 | <b>A -- that.</b>                                    | 14 | <b>happened exactly on April 24th, but sometimes it</b>   |
| 15 | Q Okay. Your attorney can ask you follow-up          | 15 | <b>would happen at different times, varying -- you</b>    |
| 16 | 16 questions later. We may have exhausted this topic | 16 | <b>know, sometimes it could happen all at once. I</b>     |
| 17 | 17 for now.  | 17 | <b>don't recall from April 24th.</b>                      |
| 18 | MR. RAUSCHER: We're going to mark                    | 18 | Q Would there be times when there would be a              |
| 19 | Exhibit 49.  | 19 | line of people waiting to buy drugs?                      |
| 20 | (Smith Deposition Exhibit 49 marked for              | 20 | <b>A They would not be lined up waiting to buy</b>        |
| 21 | identification and attached to the transcript.)      | 21 | <b>drugs.</b>   |
| 22 | Q Have you had a chance to review this               | 22 | Q How would you -- where would they be                    |
| 23 | 23 report?   | 23 | waiting to buy drugs?                                     |
| 24 | <b>A Yes, I have.</b>                                | 24 | <b>A They would be waiting in many different</b>          |
|    | 500  |    | 502   |
| 1  | Q Robert Gonzalez is the attesting officer?          | 1  | <b>locations.</b>   |
| 2  | <b>A Yes.</b>  | 2  | Q During a reverse sting, where would people              |
| 3  | Q And so does that mean he likely created            | 3  | wait to buy drugs?  |
| 4  | this report?   | 4  | <b>A During a reverse sting operation, I don't</b>        |
| 5  | <b>A That is likely.</b>                             | 5  | <b>know where they would be lined up. But if you're</b>   |
| 6  | Q And do you know where he got the 11:40             | 6  | <b>asking me as my experience as a police officer, if</b> |
| 7  | arrest time from?                                    | 7  | <b>people were coming to purchase, to buy drugs, they</b> |
| 8  | <b>A I do not recall.</b>                            | 8  | <b>would be waiting all over the place. The Ida B.</b>    |
| 9  | Q You don't remember talking to him about            | 9  | <b>Wells was a pretty big area.</b>                       |
| 10 | 10 the arrest time?                                  | 10 | MR. RAUSCHER: All right. We're going to                   |
| 11 | <b>A I do not recall.</b>                            | 11 | mark Exhibit 50.  |
| 12 | Q Other than human error, do you have any            | 12 | (Smith Deposition Exhibit 50 marked for                   |
| 13 | 13 explanation for why the times of arrest don't     | 13 | identification and attached to the transcript.)           |
| 14 | 14 match between the vice case report and the arrest | 14 | Q You've had a chance to look at this?                    |
| 15 | 15 report?   | 15 | <b>A Yes, I have.</b>                                     |
| 16 | <b>A As I'm sitting here today, no, I do not.</b>    | 16 | Q You're Box 1?   |
| 17 | Q Did you ever see during reverse stings             | 17 | <b>A Yes.</b>   |
| 18 | 18 people have inventory kits?                       | 18 | Q Kallatt Mohammed is Box 2?                              |
| 19 | <b>A I don't recall, sir.</b>                        | 19 | <b>A That's correct.</b>                                  |
| 20 | Q When you created vice case reports from            | 20 | Q Who signed this report?                                 |
| 21 | 21 reverse stings, did you try to space out the time | 21 | <b>A That's not my hand signature. I don't</b>            |
| 22 | 22 of arrests in sort of even increments on the      | 22 | <b>know if Mohammed signed for me or if someone else</b>  |
| 23 | 23 reports?  | 23 | <b>on my team signed for me, but it wouldn't have</b>     |
| 24 | <b>A I don't recall. If you're trying to say</b>     | 24 | <b>happened without my authorization.</b>                 |

## Transcript of Elsworth Smith, Jr., Volume II

48 (503 to 506)

Conducted on March 5, 2020

|   |  |  |     |
|---|--|--|-----|
|   | 503  |  | 505 |
| 1 Q   | Is that Ronald Watts' signature on the       | 1 report?  |     |
| 2 bottom right-hand corner.                               |  | 2 <b>A Yes, I have.</b>                                    |     |
| 3 MR. BURNS: Object to foundation.                        |  | 3 Q Again, you're Box 1. Mohammed is Box 2.                |     |
| 4 <b>A Based on my memory, it appears to be so.</b>       |  | 4 <b>A That's correct.</b>                                 |     |
| 5 Q   | That looks like his handwriting to you?      | 5 Q This is your signature this time?                      |     |
| 6 <b>A Based on my memory, it appears to be so.</b>       |  | 6 <b>A Yes, it is.</b>                                     |     |
| 7 Q   | Did he authorize people to sign his name     | 7 Q Do you know why you signed some and                    |     |
| 8 on reports, to your knowledge?                          |  | 8 Mohammed signed some?                                    |     |
| 9 MR. KOSOKO: Objection.                                  |  | 9 MR. STEFANICH: Objection; asked and                      |     |
| 10 <b>A I don't recall.</b>                               |  | 10 answered.   |     |
| 11 Q  | Do you remember anything about the arrest    | 11 <b>A No, I cannot guess. I mean, I could give</b>       |     |
| 12 of Cleveland Smith?                                    |  | 12 you a guess, and I do not know from this                |     |
| 13 <b>A No, I do not.</b>                                 |  | 13 particular day --                                       |     |
| 14 Q  | Do you know who Cleveland Smith is?          | 14 Q All right.  |     |
| 15 <b>A No, I do not, sir.</b>                            |  | 15 <b>A -- other than he was my partner, and I</b>         |     |
| 16 MR. RAUSCHER: Let's mark 51. This is                   | 16 <b>authorized him to sign my reports.</b> |  |     |
| 17 going to be the arrest report.                         |  | 17 Q Yeah. I guess I will take -- is that the              |     |
| 18 (Smith Deposition Exhibit 51 marked for                |  | 18 only reason? Like was it just a workload thing          |     |
| 19 identification and attached to the transcript.)        |  | 19 you think, or is there any particular reason why        |     |
| 20 Q  | Leano is the attesting officer here?         | 20 you would have split up signing?                        |     |
| 21 <b>A That is correct.</b>                              |  | 21 <b>A As I stated earlier, when we did reverse</b>       |     |
| 22 Q  | That means he likely created the report?     | 22 <b>sting operations, we all assisted one another</b>    |     |
| 23 <b>A That's correct.</b>                               |  | 23 <b>because we were dealing with multiple offenders.</b> |     |
| 24 Q  | And do you know where he got the             | 24 Q And this one again says 11:15 arrival                 |     |
|   | 504  |  | 506 |
| 1 information to put in this report from?                 |  | 1 time?  |     |
| 2 <b>A Just guessing, he would have probably</b>          |  | 2 <b>A That's correct.</b>                                 |     |
| 3 <b>gotten it from me or possibly from the vice case</b> |  | 3 Q You don't know where that came from, do                |     |
| 4 <b>report.</b>  |  | 4 you?   |     |
| 5 Q   | Do you know whether you were in the room     | 5 <b>A No. Like I said, probably an approximated</b>       |     |
| 6 with him when he completed this report?                 |  | 6 time.  |     |
| 7 <b>A I do not recall, sir.</b>                          |  | 7 Q Do you know how you approximated the time?             |     |
| 8 Q   | Actually, just looking at the picture in     | 8 <b>A As of today, I do not recall.</b>                   |     |
| 9 the top right-hand corner on the front of               |  | 9 Q Do you know Lorainer (phonetic) or Lorener             |     |
| 10 Exhibit 51, does that refresh your recollection as     |  | 10 Williams?   |     |
| 11 to whether you know Cleveland Smith?                   |  | 11 <b>A No, I do not recall that name.</b>                 |     |
| 12 <b>A It's not a clear picture of him. We have</b>      |  | 12 Q Do you remember anyone with the name                  |     |
| 13 <b>the same last name, but he's definitely not</b>     |  | 13 Peaches being around Ida B. Wells?                      |     |
| 14 <b>related to me. As I sit here today, I don't</b>     |  | 14 <b>A No, I do not.</b>                                  |     |
| 15 <b>recall Cleveland Smith.</b>                         |  | 15 Q Or do you know anyone by the name Peaches             |     |
| 16 Q  | Would the arrest report narratives be        | 16 from anywhere from your police work?                    |     |
| 17 filled out before you went out on the reverse          |  | 17 <b>A No, I do not.</b>                                  |     |
| 18 stings, or would that all be done after?               |  | 18 MR. RAUSCHER: All right. We're going to                 |     |
| 19 <b>A That would be done after.</b>                     |  | 19 mark Exhibit 53.  |     |
| 20 MR. RAUSCHER: We're going to mark                      |  | 20 (Smith Deposition Exhibit 53 marked for                 |     |
| 21 Exhibit 52.  |  | 21 identification and attached to the transcript.)         |     |
| 22 (Smith Deposition Exhibit 52 marked for                |  | 22 Q You had a chance to look at this?                     |     |
| 23 identification and attached to the transcript.)        |  | 23 <b>A Yes, I have.</b>                                   |     |
| 24 Q  | Have you had a chance to look at this        | 24 Q Do you know why Leano is the attesting                |     |

## Transcript of Elsworth Smith, Jr., Volume II

49 (507 to 510)

Conducted on March 5, 2020

|    |  |    |  |
|----|--|----|--|
|    | 507  |    | 509  |
| 1  | officer?   | 1  | been pre-prepared?   |
| 2  | <b>A Probably because he was assisting us in preparing these reports.</b>  | 2  | <b>A Because the space for the amount of money that was tendered is left blank and there's no -- the names on this report, just looking at the report, are handwritten for the names of the offenders.</b> |
| 3  |  | 3  |  |
| 4  | Q You don't know why that work was split up between Leano and Gonzalez that day?   | 4  | Q And everything else in the narrative is  |
| 5  |  | 5  | the same in all of them; correct?  |
| 6  | <b>A Because he probably was also assisting us. That's the only thing I can assume, sir.</b>   | 6  | <b>A That is correct. And the times have not been -- they were handwritten also.</b>   |
| 7  |  | 7  |  |
| 8  | Q Were the vice case reports definitely signed on April 24, 2006?  | 8  |  |
| 9  |  | 9  |  |
| 10 | <b>A Like I said, I don't recall if on that particular time. The best off of my memory, the reports were signed on the day that the reports were prepared.</b> | 10 |  |
| 11 |  | 11 | Q Okay. On a day when you preplanned a reverse sting, how did you approach the building typically? I know you don't remember this day  |
| 12 |  | 12 | specifically, but how did you typically approach a building where you were going to conduct a reverse sting when you had preplanned the sting?   |
| 13 |  | 13 |  |
| 14 | Q And they were typically prepared -- from a reverse sting, they would be prepared the day of the sting?   | 14 |  |
| 15 |  | 15 |  |
| 16 |  | 16 |  |
| 17 | <b>A No. But I meant by prepared on the day that the actual arrests were made.</b>   | 17 | <b>A We would come from different locations -- different -- different positionings.</b>  |
| 18 |  | 18 |  |
| 19 | Q They were signed after the arrests?  | 19 | Q Tell me about -- tell me what you mean by  |
| 20 | <b>A Yes.</b>  | 20 | 20 that.   |
| 21 | Q Were the reports prepared on a day that was before the arrest?   | 21 | <b>A We used all types of different methods.</b>   |
| 22 |  | 22 | <b>Sometimes we would come on foot. Sometimes we</b>   |
| 23 | <b>A Like I said, if we did a reverse sting operation, sometimes we did some on the fly and</b>  | 23 | <b>would come by vehicle.</b>  |
| 24 |  | 24 | Q And then when you got there, how did you   |
|    | 508  |    | 510  |
| 1  | <b>sometimes we prepared for them.</b>   | 1  | get into the building? What did you do to get in   |
| 2  | <b>Now, if the reports -- if we were -- knew</b>   | 2  | the building?  |
| 3  | <b>that we were going to do a reverse sting</b>  | 3  | <b>A Again, we used different methods.</b>   |
| 4  | <b>operation, we might have prepared those reports</b>   | 4  | <b>Usually, like anyone else, when you walk -- you</b>   |
| 5  | <b>the day before.</b>   | 5  | <b>have to walk into the building.</b>   |
| 6  | Q Got it.  | 6  | Q You just walked in?  |
| 7  | These -- the way that these read, where  | 7  | <b>A We would run sometimes, might walk. Like</b>  |
| 8  | they're identical with spaces for the money, that  | 8  | <b>I said, it varied from time -- each day. I don't</b>  |
| 9  | suggests to you this was a preplanned reverse  | 9  | <b>recall from this particular date.</b>   |
| 10 | sting; right?  | 10 | Q Was it more common that you'd walk in or   |
| 11 | <b>A I don't recall. I can only guess. I</b>   | 11 | run in?  |
| 12 | <b>don't recall --</b>   | 12 | <b>A I don't recall each time how specifically</b>   |
| 13 | Q What's your guess?   | 13 | <b>that we did it. Sometimes if -- it depended on</b>  |
| 14 | <b>A -- on this particular day.</b>  | 14 | <b>how many people were out there doing security and</b>   |
| 15 | Q I know you don't recall this date, but I   | 15 | <b>stuff. I don't recall each time.</b>  |
| 16 | mean, looking at the reports, they are all   | 16 | Q When you say depended on how people are  |
| 17 | identical, the space for money.  | 17 | out there doing security, do you mean civilians  |
| 18 | Does that suggest to you, based on your  | 18 | who are working security for drug sales outside of   |
| 19 | practice, that it was a preplanned reverse sting?  | 19 | the building?  |
| 20 | MR. KOSOKO: Objection; form.   | 20 | <b>A Wherever they had working security.</b>   |
| 21 | <b>A Like I said, I don't recall from this</b>   | 21 | Q But do you mean -- you mean civilians who  |
| 22 | <b>particular date. It looked like it could have</b>   | 22 | 22 are working security for drug sales?  |
| 23 | <b>been pre-prepared. I don't recall, sir.</b>   | 23 | <b>A Everybody we encountered were civilians.</b>  |
| 24 | Q Why is it that it looks like it could have   | 24 | Q Well, I'm trying to draw a distinction   |

## Transcript of Elsworth Smith, Jr., Volume II

50 (511 to 514)

Conducted on March 5, 2020

|   |  |
|---|--|
| 511   | 513  |
| <p>1 between you doing pretend security on a reverse<br/>     2 sting and civilians doing security.<br/>     3 You're talking about civilians.<br/>     4 <b>A Yes. Like I said, yeah, they were not the</b><br/> <b>5 police.</b><br/>     6 Q So you would approach; and depending upon<br/>     7 how much security there was, that might change<br/>     8 whether you walk or run into the building?<br/>     9 <b>A It might change our approach and how we'd</b><br/> <b>10 do it, if we ran or walk. Like I said, I don't</b><br/> <b>11 recall how we did it each specific time.</b><br/>     12 Q And you don't recall how you did it<br/>     13 April 24, 2006?<br/>     14 <b>A No, I do not.</b><br/>     15 Q Did people frequently yell "clean up" or<br/>     16 something like that when you approached the<br/>     17 buildings?<br/>     18 <b>A Sometimes.</b><br/>     19 Q Was there some period of time between when<br/>     20 you got to the building and when you started the<br/>     21 reverse sting?<br/>     22 <b>A I'm sorry?</b><br/>     23 Q So when you got to a building, did it take<br/>     24 some time to get set up for a reverse sting?</p>   | <p>1 sorry.<br/>     2 <b>A Sometimes it would be short. Sometimes it</b><br/> <b>3 could be long. And I don't recall how long -- how</b><br/> <b>4 many minutes. I don't recall it being an hour,</b><br/> <b>5 but I couldn't give you -- again, give you an</b><br/> <b>6 exact time.</b><br/>     7 Q You're saying you don't recall it ever<br/>     8 taking an hour, or you're just not sure?<br/>     9 <b>A Like I said, I'm not certain.</b><br/>     10 Q Is there anywhere you could look? Like,<br/>     11 did you keep records of that type of information?<br/>     12 <b>A From the best of knowledge, I don't know</b><br/> <b>13 if they kept time on that or not.</b><br/>     14 Q If you arrested someone -- so, say, you<br/>     15 had a reverse sting planned. You got to the<br/>     16 building. You immediately arrested somebody<br/>     17 before you started the reverse sting.<br/>     18 Would you write in the report that you<br/>     19 went to the building to conduct a reverse sting?<br/>     20 <b>A I'm certain we probably did. I'm not</b><br/> <b>21 certain how we did it from time to time.</b><br/>     22 Q Just quickly going back to Exhibit 53, the<br/>     23 narrative says "he approached an undercover<br/>     24 officer," but it's talking about a female</p> |
| 512   | 514  |
| <p>1 <b>A I'm certain it probably did.</b><br/>     2 Q What steps did you have to take typically<br/>     3 to get set up for a reverse sting once you got to<br/>     4 the building?<br/>     5 <b>A I don't recall each particular time. If</b><br/>     6 <b>we were coming down there, if people were buying</b><br/>     7 <b>drugs, we would place some people in custody. We</b><br/>     8 <b>would try to get people out of that area that do</b><br/>     9 <b>not belong. That was the main objective, trying</b><br/>     10 <b>to clear the people out.</b><br/>     11 Q How long would it typically take to clear<br/>     12 out the area so that you could set up a reverse<br/>     13 sting?<br/>     14 <b>A I couldn't give you a time frame. I</b><br/> <b>15 couldn't tell you how long it took.</b><br/>     16 Q 5 minutes? 10? 15? An hour?<br/>     17 <b>A I don't recall if it was five minutes or</b><br/> <b>18 an hour. I can't recall how long it took. I</b><br/> <b>19 can't --</b><br/>     20 Q Do you think sometimes it was really<br/>     21 short, and sometimes it might have even been up to<br/>     22 an hour?<br/>     23 <b>A It depends.</b><br/>     24 Q Would there be anywhere you could -- I'm</p> | <p>1 offender.<br/>     2 Do you see that?<br/>     3 <b>A Yes, I do.</b><br/>     4 Q Do you know why it says "he" instead of<br/>     5 "she"?<br/>     6 <b>A I don't know. It probably was a mistake.</b><br/>     7 Q But this information was not -- this<br/>     8 wasn't pre-prepared; correct?<br/>     9 <b>A No. The arrest reports are not pre--</b><br/> <b>10 preprinted because they have a CB number, and each</b><br/> <b>11 CB number gets generated -- the number is</b><br/> <b>12 generated, and it cannot be prepared in advance.</b><br/>     13 (Smith Deposition Exhibit 54 marked for<br/>     14 identification and attached to the transcript.)<br/>     15 Q We're on Exhibit 54.<br/>     16 You've had a chance to look at this?<br/>     17 <b>A Yes, I have.</b><br/>     18 Q Is this a report you prepared or someone<br/>     19 else?<br/>     20 <b>A I don't -- can't tell if I prepared it</b><br/> <b>21 or not but that's my -- appears to be my signature</b><br/> <b>22 at the bottom.</b><br/>     23 Q All right. Does it look like you signed<br/>     24 for Mohammed also?</p>   |

## Transcript of Elsworth Smith, Jr., Volume II

51 (515 to 518)

Conducted on March 5, 2020

|  |     |  |     |
|--|-----|--|-----|
|  | 515 |  | 517 |
| 1 <b>A Yes, it does.</b>                             |     | 1   Q When you -- back at the time, would it                 |     |
| 2   Q And so you filled in the date of arrest        |     | 2   have been your practice to review this type of           |     |
| 3   and date of arrival at the top?                  |     | 3   arrest report when you were first arresting              |     |
| 4 <b>A It appears so.</b>                            |     | 4   officer even if Gonzalez or Leano prepared the           |     |
| 5   Q The date of arrival -- it says, Date R/O       |     | 5   report?  |     |
| 6   arrived, dash, time.                             |     | 6 <b>A Yes, as long -- as well as the sergeant</b>           |     |
| 7   Does that signify when you arrived at the        |     | 7 <b>and also the watch commander also.</b>                  |     |
| 8   building?  |     | 8   Q If you would have caught the difference in             |     |
| 9 <b>A And as I stated many times before, all of</b> |     | 9   times on the arrest reports versus the vice case         |     |
| 10 <b>the times are approximated.</b>                |     | 10   reports, would you have corrected it?                   |     |
| 11   Q Let me re-ask that one.                       |     | 11   MR. KOSOKO: Objection; form.                            |     |
| 12 <b>A That's what's stated on the report.</b>      |     | 12 <b>A If I noticed the times in the arresting --</b>       |     |
| 13   Q I know that you're saying they're             |     | 13 <b>I mean, my supervisor also as well as the watch</b>    |     |
| 14 approximate. I just want to make sure that what   |     | 14 <b>commander should have noticed that. The final</b>      |     |
| 15 it is supposed to signify is when you got to the  |     | 15 <b>determination on these or the final approval is</b>    |     |
| 16 building, not some other time.                    |     | 16 <b>given by the watch commander. So if he -- if I</b>     |     |
| 17 <b>A That is correct.</b>                         |     | 17 <b>didn't notice it, he didn't notice it either.</b>      |     |
| 18   Q Okay. Do you know who Lynn Howard is?         |     | 18   Q Let me try that again.                                |     |
| 19 <b>A No, I do not.</b>                            |     | 19 <b>A I understand your question, sir.</b>                 |     |
| 20   Q And I'm going to -- well, do you know         |     | 20   Q Can you answer it, please?                            |     |
| 21 where the time of arrest came from?               |     | 21 <b>A I do not have an answer for that. I gave</b>         |     |
| 22 <b>A No, I do not.</b>                            |     | 22 <b>you an example.</b>                                    |     |
| 23   MR. RAUSCHER: We'll mark the arrest             |     | 23   Q You don't have -- all right. Well, let me             |     |
| 24 report as 55.                                     |     | 24 just make sure you did answer the question because        |     |
|  | 516 |  | 518 |
| 1   (Smith Deposition Exhibit 55 marked for          |     | 1   you answered a different one.                            |     |
| 2 identification and attached to the transcript.)    |     | 2   The question was if you would have caught                |     |
| 3 BY MR. RAUSCHER:                                   |     | 3   the difference in time on the arrest time from the       |     |
| 4   Q Does seeing this report refresh your           |     | 4   arrest report and the vice case report, would you        |     |
| 5 recollection about who Lynn Howard is?             |     | 5   have corrected it?                                       |     |
| 6 <b>A No, it does not.</b>                          |     | 6 <b>A Yes, I possibly would have.</b>                       |     |
| 7   Q Do you see the picture in the top              |     | 7   Q You're just not sure either way if you                 |     |
| 8 right-hand corner?                                 |     | 8   would have?  |     |
| 9 <b>A Yes, I do.</b>                                |     | 9 <b>A I would have probably corrected it, sir.</b>          |     |
| 10   Q That doesn't help you remember who he is?     |     | 10   Q And why would you have wanted to correct              |     |
| 11 <b>A No, it does not.</b>                         |     | 11   it?   |     |
| 12   Q Robert Gonzalez is the attesting officer.     |     | 12 <b>A Again, like I said, these times are</b>              |     |
| 13   That means he likely is the one who filled      |     | 13 <b>approximated; but if I noticed that, then I would</b>  |     |
| 14 out this report?                                  |     | 14 <b>have probably corrected it and made it the correct</b> |     |
| 15 <b>A That is correct.</b>                         |     | 15 <b>time.</b>  |     |
| 16   Q And he would have needed to get the           |     | 16   Q Because you want your reports to be                   |     |
| 17 substantive information from you or Kallatt       |     | 17 accurate.   |     |
| 18 Mohammed?   |     | 18 <b>A Yes, and this report is accurate.</b>                |     |
| 19 <b>A That is correct.</b>                         |     | 19   Q One of the two is not accurate in some                |     |
| 20   Q You don't know why the arrest time on this    |     | 20 ways; right?  |     |
| 21 report doesn't match up to the time on the vice   |     | 21 <b>A As again --</b>                                      |     |
| 22 case report that you prepared?                    |     | 22   MR. KOSOKO: Object to form.                             |     |
| 23 <b>A No. Again, I just attribute it to human</b>  |     | 23   MR. STEFANICH: Join.                                    |     |
| 24 error.  |     | 24 <b>A Just because the times are off by a few</b>          |     |

## Transcript of Elsworth Smith, Jr., Volume II

52 (519 to 522)

Conducted on March 5, 2020

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|--|---|-----|
|  | 519   | 521 |
| 1 minutes here or there does not mean that the<br>2 narrative part or the portion of the incident that<br>3 is described in the narrative is not accurate.<br>4 Again, the times are approximated, but that does<br>5 not mean that the -- like I said, the incident<br>6 which occurred that led to the arrest is false.<br>7 BY MR. RAUSCHER:<br>8 Q All right. So it doesn't really matter if<br>9 the time of arrest is right.<br>10 MR. KOSOKO: Objection to form, misstates<br>11 testimony.<br>12 A No. You keep making that assumption, and<br>13 I've never said that.<br>14 Q Okay. Does it matter?<br>15 A The time -- yes, it does. You try to be<br>16 as accurate as possible, sir, but there is human<br>17 error. And when you're out there in the field, we<br>18 don't have -- you know, like I said, you don't<br>19 always look at your watch. I don't know how we<br>20 determined the times. These times are<br>21 approximated. We try to be as close to the time<br>22 as possible.<br>23 Q One of them is wrong, though. It has<br>24 to be.                            | 1 a mistake. One person might have reported the<br>2 time differently than another person. That does<br>3 not mean that the information or that what had<br>4 occurred, the incident that occurred is false.<br>5 Q That's not the only detail that's not<br>6 accurate because we've already established that<br>7 nobody actually asked to purchase, quote/unquote,<br>8 "blow"; right?<br>9 MR. KOSOKO: Objection; form, misstates<br>10 prior testimony.<br>11 MR. STEFANICH: Join.<br>12 A Sir, I did not state that they -- it<br>13 specifically stated to buy blows. Blow is, like I<br>14 said, the street terminology for heroin. You keep<br>15 putting that in my mouth and saying that I said<br>16 that. I did not say that.<br>17 Q So you're saying somebody did come up and<br>18 say they wanted to purchase, quote/unquote,<br>19 "blow"?  |     |
|  | 520   | 522 |
| 1 A Yeah. But I'm still not going to admit<br>2 that that is -- the time is off by five minutes or<br>3 two minutes or whatever, that that makes the<br>4 report false. That is a human error.<br>5 As you see, this report was attested by<br>6 Robert Gonzalez. At some point in time, he may<br>7 have made a mistake when he was preparing the<br>8 arrest report as far as the time that was -- the<br>9 offender was placed in custody.<br>10 Q It's your position that the reports are<br>11 accurate because these people were coming to<br>12 purchase heroin; is that right?<br>13 A That is correct.<br>14 Q And so if you got the details wrong, it<br>15 doesn't mean that the report is inaccurate?<br>16 A The details are not wrong, sir. The<br>17 information is truthful that they came to purchase<br>18 narcotics.<br>19 Q That's a summary of what happened, but the<br>20 details aren't all accurate.<br>21 A The details --<br>22 MR. KOSOKO: Objection; form.<br>23 A -- are accurate. Like I said, again, the<br>24 times are approximated; and the person could make | 1 BY MR. RAUSCHER:<br>2 Q I'm not asking you what you meant by it.<br>3 What I'm saying is can we agree that the<br>4 people who were arrested on this date did not come<br>5 up to you and say they wanted to, quote, "purchase<br>6 blow," end quote?<br>7 MR. STEFANICH: Objection; asked and<br>8 answered.<br>9 You can answer it again.<br>10 A And that's not what I'm saying, that they<br>11 specifically asked to buy blow.<br>12 Q You're agreeing with me that that didn't<br>13 happen that way?<br>14 A No, I am not agreeing with you.<br>15 Q So they did ask to purchase,<br>16 quote/unquote, "blow"?<br>17 A Not quote/unquote "blow." They attempted<br>18 to purchase blow or heroin, which is street<br>19 terminology. That's why -- you keep saying that<br>20 they specifically asked for blow, and I did not<br>21 say what they specifically said. All I said is<br>22 that they came to purchase blow, and that does not<br>23 mean that they exactly said "blow."<br>24 Nobody is going to walk up to an officer |     |

## Transcript of Elsworth Smith, Jr., Volume II

53 (523 to 526)

Conducted on March 5, 2020

|   |  |
|---|--|
| <p style="text-align: right;">523</p> <p>1 and say "blow." Like looking at them, what do you<br/>   2 mean by blow? Because if we -- I'm not going to<br/>   3 get in that because blow could be something more<br/>   4 porn- -- if you want to get into the terminology,<br/>   5 more pornographic than anything.</p> <p>6 So they did not specifically say "blow."<br/>   7 They were attempting to purchase blow, which is<br/>   8 the street terminology for heroin.</p> <p>9 Q Why didn't you put quotes around any other<br/>   10 words in here?</p> <p>11 A Sir, I stand by my report.</p> <p>12 MR. RAUSCHER: All right. We're going to<br/>   13 mark Exhibit 56.</p> <p>14 (Smith Deposition Exhibit 56 marked for<br/>   15 identification and attached to the transcript.)</p> <p>16 Q Have you had a chance to look at this?</p> <p>17 A Yes, I have.</p> <p>18 Q Do you know who Teresa Butler is?</p> <p>19 A No, I do not.</p> <p>20 Q Who signed this report?</p> <p>21 A I don't know by the handwriting, but<br/>   22 that's not my signature. But, again, like I said,<br/>   23 if someone on my team signed for me, it would not<br/>   24 have been without my authorization.</p> | <p style="text-align: right;">525</p> <p>1 And I'd like to point --</p> <p>2 MR. STEFANICH: There's no question<br/>   3 pending.</p> <p>4 BY MR. RAUSCHER:</p> <p>5 Q Go ahead. What do you want to point out?</p> <p>6 A In the narrative of the arrest reports,<br/>   7 "blows" is not in quotation marks.</p> <p>8 Q So that's violating your training?</p> <p>9 A No.</p> <p>10 MR. BURNS: Objection; foundation.</p> <p>11 A It's not violating my training. But, like<br/>   12 I say, if we're making a big issue about the exact<br/>   13 word "blow" being in quotation marks, it's not<br/>   14 quoted (phonetic) -- in quotation marks on the<br/>   15 narrative of the arrest report.</p> <p>16 Q So are you saying you were trained only to<br/>   17 use the word quotes and blows on -- I mean, I'm<br/>   18 not going to ask it that way.</p> <p>19 You can't be saying that you were trained<br/>   20 to only use the word quotes and blows on vice case<br/>   21 reports and not arrest reports; right?</p> <p>22 A I'm not saying that.</p> <p>23 MR. BURNS: Objection; form, foundation.</p> <p>24 A I'm not saying that, sir.</p> |
| <p style="text-align: right;">524</p> <p>1 Q You don't know where the time of arrest<br/>   2 came from on this report?</p> <p>3 A No, I do not.</p> <p>4 MR. RAUSCHER: We're going to mark this<br/>   5 as 57.</p> <p>6 (Smith Deposition Exhibit 57 marked for<br/>   7 identification and attached to the transcript.)</p> <p>8 Q Do you recognize Teresa Butler in the<br/>   9 picture here?</p> <p>10 A No, I do not.</p> <p>11 Q Again, this also refers to "he" in the<br/>   12 narrative for a female arrestee.</p> <p>13 A Yes, I see that.</p> <p>14 Q And this is -- Leano was the attesting<br/>   15 officer here?</p> <p>16 A That is correct.</p> <p>17 Q That means he's likely the one who typed<br/>   18 that; is that correct?</p> <p>19 A That is correct.</p> <p>20 Q Just a typo you think?</p> <p>21 A I would assume so.</p> <p>22 Q Do you know where he got that<br/>   23 12:00 o'clock arrest time from?</p> <p>24 A No, I do not.</p>  | <p style="text-align: right;">526</p> <p>1 BY MR. RAUSCHER:</p> <p>2 Q All right.</p> <p>3 A You're just trying to make -- like I said,<br/>   4 errors can occur in the reports; and you're making<br/>   5 a big issue about the word being quoted in the<br/>   6 vice case report.</p> <p>7 And also -- and as far as the difference<br/>   8 of times and all of that, like I said, it could be<br/>   9 a mistake that occurred. I'm just trying to point<br/>   10 out that the word "blow" is not quoted -- in<br/>   11 quotation marks in the narrative of the arrest<br/>   12 report.</p> <p>13 Q All right. So was it a mistake to use<br/>   14 quotes in the vice case report?</p> <p>15 A I'm not saying that it is a mistake<br/>   16 at all.</p> <p>17 Q So why are you pointing out that it's not<br/>   18 in quotes in the arrest report?</p> <p>19 A I'm just trying to reflect --</p> <p>20 MR. STEFANICH: Objection; asked and<br/>   21 answered.</p> <p>22 A -- that matter.</p> <p>23 Q Why? What is the difference to you?</p> <p>24 A It's the same difference as you saying</p>   |

## Transcript of Elsworth Smith, Jr., Volume II

54 (527 to 530)

Conducted on March 5, 2020

|  |   |   |
|--|---|---|
|  | 527   | 529   |
| 1 that they said specifically -- according to my<br>2 vice case report, that they specifically said<br>3 "blow."<br>4 Q One has quotes and one doesn't, which<br>5 wouldn't that suggest that the quote is a quote?<br>6 A I didn't state that they specifically said<br>7 "blows." Because if they had said -- you know,<br>8 like I said, blow, I put in quotation marks is to<br>9 signify -- this is based on my knowledge or my<br>10 training that I received. Blow is in quotation<br>11 marks; and as I stated before earlier, each person<br>12 write their reports differently.<br>13 Q So they may not --<br>14 A Blow is just to signify that it's the<br>15 street terminology for heroin.<br>16 Q Leano and Gonzalez may have had different<br>17 training, and they may not have been trained to<br>18 put the word "blow" in quotation marks?<br>19 MR. BURNS: Objection; form, foundation.<br>20 A I don't know. You would have to ask them.<br>21 Q Well, I'm asking because you said other<br>22 people may have had different training, and you're<br>23 pointing out a difference in the reports.<br>24 A I don't know why they wrote that. I'm | 1 Q I never said --<br>2 A -- put words in my mouth.<br>3 Q Sir, I never said anything at all remotely<br>4 like what you just said about --<br>5 A Yes, you did. When you said --<br>6 Q About being pornographic?<br>7 A -- the offenders -- no, I was making an<br>8 example --<br>9 Q Okay. But I didn't ask you anything like<br>10 that.<br>11 A -- what the word could be also used for.<br>12 Because as I said, you know, street terminology<br>13 could mean different things.<br>14 Q But no -- I'm sorry.<br>15 A You specifically said that each individual<br>16 that was arrested during this reverse sting<br>17 operation came and asked to buy blows. I did not<br>18 state in my reports, and it's not reflected that<br>19 just because the word "blow" is in quotation<br>20 marks, that that's what they said. Because if<br>21 they just came up to me and said "blow," that<br>22 would suggest something else. I don't know what<br>23 you mean by blow.<br>24 Q When you say, I don't know what you mean, |   |
| 1 just saying -- trying to point out the difference.<br>2 Q Why go to the trouble of explaining that<br>3 blows is street terminology for heroin instead of<br>4 just saying they wanted to purchase heroin, if<br>5 you're not trying to attribute something to the<br>6 person who is doing the potential buying?<br>7 MR. STEFANICH: Objection; asked and<br>8 answered.<br>9 A Again, as I stated before, we put blows in<br>10 there because, like I said, that was the street<br>11 term for heroin.<br>12 Q I thought you said nobody used that term<br>13 because it was pornographic?<br>14 A No. I said you're making the -- you're<br>15 trying to say that they specifically said "blows."<br>16 And I'm saying blow could mean many different<br>17 things. There's a pornographic terminology for<br>18 blow also. I'm not going to go into that.<br>19 Q But just to be clear, nobody today at all<br>20 has said anything like that except for you;<br>21 correct?<br>22 A No. I'm just bringing -- making an<br>23 example. You're trying to twist my words<br>24 around --   | 528   | 530<br>1 you're talking about --<br>2 A I said they came to ask to buy blows.<br>3 They came to -- they asked to buy blows. I didn't<br>4 say that they specifically said "blows."<br>5 Q So you're saying if someone came up to you<br>6 during a reverse sting and said I want to buy<br>7 blows, you would not know what they meant?<br>8 A It does say in the report --<br>9 Q I'm asking you a question.<br>10 A And I'm trying to answer the question.<br>11 It does not say that I want to buy blows.<br>12 It does not say in quotation marks in my report,<br>13 in the vice case reports that I want to buy blows.<br>14 It said that they came and I -- you're trying to<br>15 be in quotation marks specifically what they're<br>16 saying.<br>17 Q I'm not trying to be. It says it on the<br>18 report. I'm reading from the report.<br>19 A Okay. And it does not state specifically<br>20 that they said, "I came to buy blows." They asked<br>21 to purchase blow.<br>22 Q And are you saying to me that if someone<br>23 came up to you during a reverse sting and said<br>24 they want to purchase blows, you might have |

## Transcript of Elsworth Smith, Jr., Volume II

55 (531 to 534)

Conducted on March 5, 2020

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|----|---|----|--|
|    | 531   |    | 533  |
| 1  | misinterpreted that to be --                                | 1  | <b>A Yes.</b>  |
| 2  | <b>A No, I'm not.</b>                                       | 2  | Q And did you do that when you were a member             |
| 3  | Q -- a pornographic --                                      | 3  | of the Watts tac team?                                   |
| 4  | <b>A You're misinterpreting the report.</b>                 | 4  | <b>A Yes, I did.</b>                                     |
| 5  | MR. RAUSCHER: All right. We're on                           | 5  | Q And was that -- other members of the team,             |
| 6  | Exhibit 58.   | 6  | did they participate in those?                           |
| 7  | (Smith Deposition Exhibit 58 marked for                     | 7  | <b>A Yes, they did.</b>                                  |
| 8  | identification and attached to the transcript.)             | 8  | Q Where did those happen?                                |
| 9  | BY MR. RAUSCHER:  | 9  | <b>A They happened in different areas in the</b>         |
| 10 | Q Have you had a chance to review this?                     | 10 | <b>10 2nd District. I don't remember all of the</b>      |
| 11 | <b>A Yes, I have.</b>                                       | 11 | <b>11 specific locations.</b>                            |
| 12 | Q Did you sign this?  | 12 | Q Did it happen at Ida B. Wells?                         |
| 13 | <b>A Yes, I did.</b>  | 13 | <b>A From the best of my -- what I recall, I</b>         |
| 14 | Q You also filled in the handwritten parts?                 | 14 | <b>14 don't recall it happening in the Ida B. Wells.</b> |
| 15 | <b>A It appears to be my writing, yes.</b>                  | 15 | Q You do not recall participating in such an             |
| 16 | Q Do you know who Charles Riley is?                         | 16 | operation at Ida B. Wells; is that what you're           |
| 17 | <b>A No, I do not.</b>                                      | 17 | 17 saying?   |
| 18 | Q No memory of arresting Mr. Riley or                       | 18 | <b>A From the best of my knowledge, I do not</b>         |
| 19 | participating in his arrest?                                | 19 | <b>19 recall.</b>  |
| 20 | <b>A I do not recall the arrest of anyone. I'm</b>          | 20 | MR. RAUSCHER: All right. We're going to                  |
| 21 | <b>21 not saying I wasn't there because, obviously, I</b>   | 21 | mark the next one as 59.                                 |
| 22 | <b>22 was there; but I do not recall Charles Riley or</b>   | 22 | (Smith Deposition Exhibit 59 marked for                  |
| 23 | <b>23 the individuals on April 24th, 2006.</b>              | 23 | identification and attached to the transcript.)          |
| 24 | Q All right. You're not sure when -- where                  | 24 |  |
|    | 532   |    | 534  |
| 1  | the time came from; is that right?                          | 1  | BY MR. RAUSCHER:   |
| 2  | <b>A No. Again, like I said, it was probably</b>            | 2  | Q Is this a five-page report in your copy,               |
| 3  | <b>3 an approximated time.</b>                              | 3  | sir?   |
| 4  | Q I am going to ask you a question. I am                    | 4  | <b>A Yes, it is.</b>                                     |
| 5  | not trying to dwell on this point, but did you              | 5  | Q Do you recognize the person in the                     |
| 6  | ever participate in reverse stings or anything              | 6  | first -- upper right-hand part of the first page?        |
| 7  | like that of like fake prostitution stings?                 | 7  | <b>A No, I do not.</b>                                   |
| 8  | <b>A Yes, we have.</b>                                      | 8  | Q All right. This is an arrest report of                 |
| 9  | Q You have. That was part of the Watts tac                  | 9  | Charlie Riley, it says, from the same day as the         |
| 10 | team?   | 10 | 10 vice case report?                                     |
| 11 | <b>A It wasn't just a part of the Watts tac</b>             | 11 | <b>A That's correct.</b>                                 |
| 12 | <b>12 team. It was a part of all tac teams in the</b>       | 12 | Q Leano is the attesting officer?                        |
| 13 | <b>13 Chicago Police Department, not just in the</b>        | 13 | <b>A Yes.</b>  |
| 14 | <b>14 2nd District.</b>                                     | 14 | Q So he created the report?                              |
| 15 | Q So you've done it -- you've been in                       | 15 | <b>A Yes, it appears so.</b>                             |
| 16 | reverse prostitution stings throughout the Chicago          | 16 | Q And do you know where he got the 12:05                 |
| 17 | Police Department?  | 17 | 17 arrest time from?                                     |
| 18 | <b>A I'm not saying throughout the Chicago --</b>           | 18 | <b>A No, I do not.</b>                                   |
| 19 | <b>19 just in the 2nd District. I'm just trying to make</b> | 19 | MR. RAUSCHER: Let's take a quick break                   |
| 20 | <b>20 you aware that that's a mission that was done by</b>  | 20 | 20 actually.   |
| 21 | <b>21 other tac teams in all the districts in the</b>       | 21 | MR. STEFANICH: Sure.                                     |
| 22 | <b>22 Chicago Police Department.</b>                        | 22 | THE VIDEOGRAPHER: Off the record, 4:03.                  |
| 23 | Q I'm just asking about your personal                       | 23 | (A recess was taken from 4:04 p.m. to                    |
| 24 | experience.   | 24 | 24 4:11 p.m.)  |

## Transcript of Elsworth Smith, Jr., Volume II

56 (535 to 538)

Conducted on March 5, 2020

|   |     |   |     |
|---|-----|---|-----|
|   | 535 |   | 537 |
| 1        THE VIDEOGRAPHER: Back on the record,            |     | 1        officer for 61 means he likely is the one who  |     |
| 2 4:11.   |     | 2        created this report?                           |     |
| 3        MR. RAUSCHER: We're going to mark this as        |     | 3 <b>A Most likely, yes.</b>                            |     |
| 4 Exhibit 60. Maybe it will speed it up, maybe now        |     | 4        Q Using information from you or Mohammed?      |     |
| 5 let's just mark Exhibit 61 at the same time.            |     | 5 <b>A That is correct.</b>                             |     |
| 6        (Smith Deposition Exhibits 60 and 61             |     | 6        MR. RAUSCHER: All right. Let's mark            |     |
| 7 marked for identification and attached to the           |     | 7 Exhibit 62 as the vice case report and 63, the        |     |
| 8 transcript.)  |     | 8 arrest report.  |     |
| 9        MR. KOSOKO: Vice is --                           |     | 9        (Smith Deposition Exhibits 62 and 63           |     |
| 10      MR. RAUSCHER: Vice is 60.                         |     | 10 marked for identification and attached to the        |     |
| 11      MR. KOSOKO: Vice is 60?                           |     | 11 transcript.)   |     |
| 12      MR. RAUSCHER: And the arrest report is --         |     | 12      Q Have you had a chance to look at these two    |     |
| 13 right?   |     | 13 reports?   |     |
| 14      MR. KOSOKO: 61, yeah.                             |     | 14 <b>A Yes, I have.</b>                                |     |
| 15      MR. RAUSCHER: Yes, 61.                            |     | 15      Q Do you recognize the man whose picture        |     |
| 16 BY MR. RAUSCHER:                                       |     | 16 appears on the top right-hand corner of              |     |
| 17      Q Have you had a chance to review these two       |     | 17 Exhibit 63?  |     |
| 18 reports?   |     | 18 <b>A No, I do not.</b>                               |     |
| 19 <b>A Yes, I have.</b>                                  |     | 19      Q Is it your handwriting on Exhibit 62?         |     |
| 20      Q Is it your handwriting on Exhibit 60?           |     | 20 <b>A It does not appear to be.</b>                   |     |
| 21 <b>A No, it is not.</b>                                |     | 21      Q These are both reports of an arrest of        |     |
| 22      Q All right. You think it might be                |     | 22 Timothy Brown on April 24, 2006; correct?            |     |
| 23 Mohammed's?  |     | 23 <b>A That's correct.</b>                             |     |
| 24 <b>A I don't recall if it was Mohammed's hand</b>      |     | 24      Q And do you know where the -- do you know      |     |
|   | 536 |   | 538 |
| 1 <b>signature. Someone on my team, probably with my</b>  |     | 1        where the time of arrest comes from on the two |     |
| 2 <b>authorization, signed the report.</b>                |     | 2        reports -- or the times I should say?          |     |
| 3        Q And given your roles in the reverse sting,     |     | 3 <b>A I do not recall.</b>                             |     |
| 4 it's likely it was your -- or it's likely               |     | 4        Q For the arrest report, Gonzalez is the       |     |
| 5 Mohammed; right?  |     | 5        attesting officer.                             |     |
| 6 <b>A Again, I don't recall Mohammed's</b>               |     | 6        That means he likely created the report        |     |
| 7 <b>handwriting. As I said, it could be possibly</b>     |     | 7        but with information from you or Mohammed?     |     |
| 8 <b>someone else on the team; but it would have been</b> |     | 8 <b>A That is correct.</b>                             |     |
| 9 <b>someone I authorized to sign for my report.</b>      |     | 9        MR. RAUSCHER: All right. We'll mark two        |     |
| 10      Q Do you know Dale Morrow?                        |     | 10 more. 64 will be the vice case report, and 65        |     |
| 11 <b>A No, I do not.</b>                                 |     | 11 will be the arrest report.                           |     |
| 12      Q Looking at his picture on the top               |     | 12      (Smith Deposition Exhibits 64 and 65            |     |
| 13 right-hand corner of the first page of Exhibit 61,     |     | 13 marked for identification and attached to the        |     |
| 14 does that refresh your recollection as to whether      |     | 14 transcript.)   |     |
| 15 you knew him?  |     | 15      MR. KOSOKO: Vice is 64?                         |     |
| 16 <b>A No, it does not.</b>                              |     | 16      MR. RAUSCHER: Yes. And the arrest report        |     |
| 17      Q He doesn't look familiar to you?                |     | 17 is 65.   |     |
| 18 <b>A No, he does not.</b>                              |     | 18      Q Have you had a chance to look at these        |     |
| 19      Q Where did you get the information, if you       |     | 19 reports?   |     |
| 20 know, it says "vehicle used by offender," and it       |     | 20 <b>A Yes, I have.</b>                                |     |
| 21 says "on foot."  |     | 21      Q Do you recognize George Green in the          |     |
| 22 <b>A I do not recall.</b>                              |     | 22 picture in Exhibit 65?                               |     |
| 23      Q All right. We'll mark -- actually right         |     | 23 <b>A No, I do not.</b>                               |     |
| 24 before we do that, Gonzalez as the attesting           |     | 24      Q You have no memory of participating in the    |     |

## Transcript of Elsworth Smith, Jr., Volume II

57 (539 to 542)

Conducted on March 5, 2020

|    |  |    |  |
|----|--|----|--|
|    | 539  |    | 541  |
| 1  | arrest of Mr. Green on April 24, 2006?                   | 1  | <b>uncommon.</b>   |
| 2  | <b>A I do not recall the arrest on April 24th,</b>       | 2  | Q If you did spend that much time with the                   |
| 3  | <b>2006.</b>   | 3  | reverse sting, would the date and time arrived               |
| 4  | Q On Exhibit 65, Leano is listed as the                  | 4  | still be incorrect?  |
| 5  | attesting officer; right?                                | 5  | <b>A I don't recall why I put that date and</b>              |
| 6  | <b>A That is correct.</b>                                | 6  | <b>time of arrival at that time -- using that time on</b>    |
| 7  | Q And so he likely created the report but                | 7  | <b>that particular date.</b>                                 |
| 8  | with information from you or Mohammed?                   | 8  | Q But that isn't when you arrived at 575                     |
| 9  | <b>A That is correct.</b>                                | 9  | East Browning on April 24, 2006.                             |
| 10 | Q Is it your handwriting and signature on                | 10 | <b>A Again, it had to be an error. I don't</b>               |
| 11 | Exhibit 64?  | 11 | <b>recall, sir.</b>  |
| 12 | <b>A It appears it is.</b>                               | 12 | Q The arrest time on George Green's arrest                   |
| 13 | Q So you filled out this report, the                     | 13 | report and on his vice case report appears to be             |
| 14 | typed -- you filled out the handwritten portions         | 14 | 14 hours off to me.  |
| 15 | of Exhibit 64?   | 15 | Am I reading that incorrectly?                               |
| 16 | <b>A It appears so.</b>                                  | 16 | <b>A No, you're not.</b>                                     |
| 17 | Q Why did you put 1438 for the time of                   | 17 | Q Do you have any opinion as to which one,                   |
| 18 | occurrence and time of arrival?                          | 18 | 18 if either, is accurate?                                   |
| 19 | <b>A I have no clue, sir.</b>                            | 19 | <b>A I am not certain, sir.</b>                              |
| 20 | Q Those are incorrect.                                   | 20 | Q Is there anything you could look at to                     |
| 21 | <b>A I'm just guessing it could be. I have no</b>        | 21 | 21 help you determine which, if either, are                  |
| 22 | <b>clue, sitting here today.</b>                         | 22 | 22 accurate?   |
| 23 | Q Well, do you think you did two reverse                 | 23 | <b>A At the present moment, I don't know.</b>                |
| 24 | stings that day?   | 24 | <b>Maybe if there was some type of reflection on an</b>      |
|    | 540  |    | 542  |
| 1  | <b>A I don't recall, sir.</b>                            | 1  | <b>A&amp;A sheet or some -- or PCAD to show what time</b>    |
| 2  | Q There is -- 11:15 to 1438, how many hours              | 2  | <b>that we were down on the -- in total during this</b>      |
| 3  | are there in between there?                              | 3  | <b>reverse sting operation.</b>                              |
| 4  | <b>A From what time to what time?</b>                    | 4  | Q I'm sorry. So if you had an A&A sheet and                  |
| 5  | Q From 11:15 in the morning or 11:30 in the              | 5  | it said what time you ended and if it was before             |
| 6  | morning to 1438, how many hours?                         | 6  | 1438, then you would know that -- you'd think 1225           |
| 7  | <b>A That was probably at least three hours</b>          | 7  | 7 is more accurate; is that what you're saying?              |
| 8  | <b>or so.</b>  | 8  | <b>A I'm saying if I had the A&amp;A sheet, we</b>           |
| 9  | Q Do you think you left 575 East Browning at             | 9  | <b>could probably -- or the PCAD, which is like an</b>       |
| 10 | some point and then came back at 1438?                   | 10 | <b>event history, to document how many times -- how</b>      |
| 11 | <b>A I don't recall, sir.</b>                            | 11 | <b>much time we spent on this event. It would</b>            |
| 12 | Q That would be, what, 2:38?                             | 12 | <b>probably let me know what the accurate times were.</b>    |
| 13 | <b>A Yeah, 2:38.</b>                                     | 13 | Q Would they specify what time you were                      |
| 14 | Q So about three some hours in there?                    | 14 | 14 arresting people?   |
| 15 | <b>A Yes.</b>  | 15 | <b>A I'm not certain. I'm not a supervisor,</b>              |
| 16 | Q Do you think you spent about three hours               | 16 | <b>and I don't recall.</b>                                   |
| 17 | at 575 East Browning running a reverse sting that        | 17 | Q Have you ever seen an A&A sheet that                       |
| 18 | day, April 24, 2006?                                     | 18 | 18 listed arrest times on it?                                |
| 19 | <b>A I don't recall, but it is possible.</b>             | 19 | <b>A It wouldn't be on the attendance sheet.</b>             |
| 20 | Q Would that be on the long side for a                   | 20 | <b>I'm sorry. I misspoke and said attendance -- the</b>      |
| 21 | reverse sting?   | 21 | <b>A&amp;A sheet. It would be on the PCAD, which is like</b> |
| 22 | <b>A Again, like I said, I don't recall how</b>          | 22 | <b>an event history of the arrest.</b>                       |
| 23 | <b>many -- how much time we spent on a reverse sting</b> | 23 | Q Got it.  |
| 24 | <b>operation but it's not -- it would not be</b>         | 24 | Have you reviewed PCADs as a police                          |

## Transcript of Elsworth Smith, Jr., Volume II

58 (543 to 546)

Conducted on March 5, 2020

|    |   |    |  |
|----|---|----|--|
|    | 543   |    | 545  |
| 1  | officer?  | 1  | reports, at least that I've seen, of the reverse         |
| 2  | <b>A Yes, and it's been years ago.</b>            | 2  | sting -- or a complete list of arrestees for the         |
| 3  | Q Do you know if any such records exist           | 3  | reverse sting that you participated in April 24,         |
| 4  | of these arrests, the ones we've just been        | 4  | 2006.  |
| 5  | looking at?                                       | 5  | None of them tried to purchase anything                  |
| 6  | <b>A I do not know.</b>                           | 6  | other than heroin, according to the reports; is          |
| 7  | (Smith Deposition Exhibits 66 & 67 marked         | 7  | that true?   |
| 8  | for identification and attached to the            | 8  | <b>A That appears to be so.</b>                          |
| 9  | transcript.)                                      | 9  | Q Did you let anybody go who tried to                    |
| 10 | MR. RAUSCHER: All right. We're going to           | 10 | purchase a different type of drug like crack             |
| 11 | mark 66 and 67. The vice case report will be the  | 11 | cocaine?   |
| 12 | first one.  | 12 | <b>A I do not recall the arrest and what</b>             |
| 13 | Q Have you had a chance to look at these?         | 13 | <b>occurred on that date; and from my knowledge and</b>  |
| 14 | <b>A Yes, I have.</b>                             | 14 | <b>experience doing the reverse sting operations, I</b>  |
| 15 | Q Do you recognize Thomas Mitchell in the         | 15 | <b>don't recall us ever letting anyone go.</b>           |
| 16 | picture in the first -- or in the arrest report,  | 16 | Q So if someone would have tried to purchase             |
| 17 | first page?                                       | 17 | crack cocaine, you would have arrested them?             |
| 18 | <b>A No, I do not.</b>                            | 18 | <b>A That is possible.</b>                               |
| 19 | Q Do you know who Mr. Mitchell is?                | 19 | Q It's possible or that's what would have                |
| 20 | <b>A No, I do not.</b>                            | 20 | happened?  |
| 21 | Q Is it your handwriting on Exhibit 66?           | 21 | <b>A That's what would have happened.</b>                |
| 22 | <b>A It appears to be.</b>                        | 22 | Q You would not have picked a day and said               |
| 23 | Q Again, do you know why it says arrival          | 23 | we're only arresting the people that try to buy          |
| 24 | time was 1438?                                    | 24 | heroin today.  |
|    | 544   |    | 546  |
| 1  | <b>A Again, I do not know.</b>                    | 1  | <b>A Based on my memory, we did not do that.</b>         |
| 2  | Q On that one you didn't put any time of          | 2  | Q So does that mean that nobody tried to                 |
| 3  | arrest; right?                                    | 3  | purchase any drugs from you on April 24, 2006,           |
| 4  | <b>A Yes, it appears to be an error.</b>          | 4  | during the reverse sting other than heroin?              |
| 5  | Q And so do you know how Gonzalez got a           | 5  | <b>A That's what I'm saying.</b>                         |
| 6  | 12:30 arrest time when he filled out the arrest   | 6  | Q That's -- you don't have a memory, but                 |
| 7  | report?   | 7  | that's how it looks based on the reports?                |
| 8  | <b>A No, I do not, sir.</b>                       | 8  | <b>A Based on the reports, that's what's in the</b>      |
| 9  | Q And I guess I should back up a step.            | 9  | <b>reports, yes.</b>                                     |
| 10 | Gonzalez, as the attesting, likely is the         | 10 | Q And was that a common occurrence where                 |
| 11 | 1 person who created this arrest report?          | 11 | 11 people throughout a whole reverse sting would only    |
| 12 | <b>A That appears to be true.</b>                 | 12 | 12 try to buy one kind of drug?                          |
| 13 | Q And he would have had to use information        | 13 | <b>A I don't know if it's common or uncommon.</b>        |
| 14 | from you or Mohammed to do that?                  | 14 | Q Would that happen more frequent -- was it              |
| 15 | <b>A Apparently so.</b>                           | 15 | 15 more common that people would try to buy different    |
| 16 | Q You have no idea whether Mr. Thomas was         | 16 | 16 kinds of drugs throughout the reverse sting or        |
| 17 | arrested at 12:30 on April 24, 2006, do you?      | 17 | 17 that every single person who came through tried to    |
| 18 | <b>A I don't recall.</b>                          | 18 | 18 buy the same kind of drugs?                           |
| 19 | MR. PALLES: I believe you mean                    | 19 | <b>A I couldn't tell you how often it happened.</b>      |
| 20 | Mr. Mitchell.                                     | 20 | <b>I didn't keep a record of how often a person came</b> |
| 21 | MR. RAUSCHER: Yeah, I do. Thank you.              | 21 | <b>to buy one particular drug or another.</b>            |
| 22 | <b>A I don't recall.</b>                          | 22 | Q How -- was it more common that you'd have              |
| 23 | Q All right. We've looked at, what I will         | 23 | 23 to fill out -- I'm going to rephrase that.            |
| 24 | represent, what I believe is the complete list of | 24 | Did you commonly create narrative sections               |

## Transcript of Elsworth Smith, Jr., Volume II

59 (547 to 550)

Conducted on March 5, 2020

|   |   |
|---|---|
| <p>547</p> <p>1 of vice case reports in advance of reverse stings<br/>2 that had different kinds of drugs? So you'd have<br/>3 one that said heroin and one that said crack<br/>4 cocaine. Was it common that you did that, or was<br/>5 that infrequent?</p> <p>6 <b>A Again, as I stated, sir, I don't recall</b><br/>7 <b>how we did it on that particular day. Like I</b><br/>8 <b>said, at some point in time we may -- it's</b><br/>9 <b>possible that we did for both heroin and crack</b><br/>10 <b>cocaine.</b></p> <p>11 Q It's possible that you did it that way,<br/>12 and it's possible you didn't do it that way?</p> <p>13 <b>A It's possible that we probably did not</b><br/>14 <b>also, but I don't recall on that particular day.</b></p> <p>15 Q You said it's possible that you probably<br/>16 did not do it that way also, where you filled out<br/>17 two different kinds of reports?</p> <p>18 <b>A There's a possibility; but to the best of</b><br/>19 <b>my memory, we did both.</b></p> <p>20 Q Your best memory is that you usually would<br/>21 have both reports ready to go?</p> <p>22 <b>A From the best of my memory, yes.</b></p> <p>23 Q And that's frequently how you did it?</p> <p>24 <b>A I wouldn't say how frequently that we did</b></p> | <p>549</p> <p>1 MR. RAUSCHER: RD numbers. Thanks.</p> <p>2 <b>A Yes. You can get an event number prior to</b><br/>3 <b>you obtaining an RD number. So based off of my</b><br/>4 <b>information, you can get the RD number after the</b><br/>5 <b>event had occurred.</b></p> <p>6 <b>BY MR. RAUSCHER:</b></p> <p>7 Q You'd get the RD number after the event<br/>8 had occurred.</p> <p>9 <b>A I said you can, but I can't recall how it</b><br/>10 <b>was done on that day.</b></p> <p>11 Q You could get it --</p> <p>12 <b>A You can generate an event number prior to</b><br/>13 <b>generating an RD number.</b></p> <p>14 Q So just looking at the RD number up here<br/>15 in the right-hand corner, when is that number<br/>16 generated?</p> <p>17 <b>A I don't know if it was done before or</b><br/>18 <b>after the offenders were placed in custody.</b></p> <p>19 Q And you don't know whether it was done<br/>20 before or after they were taken back to the<br/>21 2nd District?</p> <p>22 <b>A No, I do not.</b></p> <p>23 Q Do you know where Lionel White, Sr., was<br/>24 arrested on April 24, 2006? It's not in there</p>   |
| <p>548</p> <p>1 <b>it; but to the best of my memory, we did it.</b></p> <p>2 Q And so presumably on this day, you had<br/>3 both kinds of reports ready to go, but nobody came<br/>4 up and tried to buy anything other than heroin.</p> <p>5 <b>A I cannot state; but if it's in the report</b><br/>6 <b>that's all they asked for, and that's what we</b><br/>7 <b>arrested these individuals for, for blows, then</b><br/>8 <b>yes, I stand by the report.</b></p> <p>9 Q What's the number on the top -- it says RD<br/>10 number in the top right-hand corner.</p> <p>11 <b>A That's a report number -- record number.</b></p> <p>12 Q When does that number get generated or how<br/>13 does it -- well, how and when does the RD number<br/>14 get generated?</p> <p>15 <b>A On the date and time of the occurrence.</b></p> <p>16 Q Once you're back at the station?</p> <p>17 <b>A No. You can ask for an event number on</b><br/>18 <b>scene.</b></p> <p>19 Q Okay. If during a reverse sting -- would<br/>20 you ever get event numbers during the sting, or<br/>21 would it at least wait until after the reverse<br/>22 sting was over?</p> <p>23 MR. STEFANICH: Event numbers or RD<br/>24 numbers?</p>   | <p>550</p> <p>1 from what you've seen so far. I'm asking if you<br/>2 know.</p> <p>3 <b>A Off the top of my head, no, I do not.</b></p> <p>4 Q Do you know where he first encountered<br/>5 police officers on April 24, 2006?</p> <p>6 <b>A Not off the top of my head, no.</b></p> <p>7 Q Do you know whether he was taken down to<br/>8 the lobby of 575 East Browning by officers from an<br/>9 apartment on a higher floor?</p> <p>10 <b>A From the best of my memory, no.</b></p> <p>11 Q That didn't happen to the best of your<br/>12 memory.</p> <p>13 <b>A To the best of my memory, no, it did not.</b></p> <p>14 Q Is that an independent memory or something<br/>15 that you are basing on reading in reports?</p> <p>16 <b>A It's not based on what I read. If you --</b><br/>17 <b>I recall the arrest that was made of Lionel White;</b><br/>18 <b>and though I don't recall the incident that</b><br/>19 <b>occurred from the arrest or the physical</b><br/>20 <b>altercation that was described in the report, but</b><br/>21 <b>there's nothing in the reports that I believe that</b><br/>22 <b>he was taken from another location and brought to</b><br/>23 <b>a different location and processed and arrested.</b></p> <p>24 So I'm saying I -- you know, I do not</p> |

## Transcript of Elsworth Smith, Jr., Volume II

60 (551 to 554)

Conducted on March 5, 2020

|   |     |   |   |
|---|-----|---|---|
|   | 551 |   | 553   |
| <p>1 <b>believe that he was at a different location prior</b></p> <p>2 <b>to being arrested at the address that is listed in</b></p> <p>3 <b>the reports.</b></p> <p>4 Q I'm not even saying a different building.</p> <p>5 I'm just saying from one place in the building to</p> <p>6 another, from an apartment to the lobby.</p> <p>7 A <b>I don't believe so.</b></p> <p>8 Q And now you're saying you don't believe</p> <p>9 that it happened.</p> <p>10 Is that because the reports don't reflect</p> <p>11 that or because you have a memory of where you saw</p> <p>12 him being arrested?</p> <p>13 A <b>I don't recall the -- all of the incident,</b></p> <p>14 <b>like I said, what had occurred on that date; but</b></p> <p>15 <b>based on my knowledge of working with the officers</b></p> <p>16 <b>on my team, I do not think that they would falsify</b></p> <p>17 <b>a report.</b></p> <p>18 Q So you're basing it on reports, not your</p> <p>19 personal memory. That's all I'm trying to say.</p> <p>20 A <b>Based on my personal memory and also the</b></p> <p>21 <b>reports.</b></p> <p>22 Q Okay. Which part of Lionel White's arrest</p> <p>23 do you remember?</p> <p>24 A <b>Like I said, all I remember, as I stated</b></p>  |     | <p>1 <b>typically worked. It could depend on -- it</b></p> <p>2 <b>depends.</b></p> <p>3 Q Is it fair to, at least, say that the</p> <p>4 physical scuffle didn't happen when he was being</p> <p>5 placed into the transport vehicle?</p> <p>6 A <b>Yes. The altercation could have happened</b></p> <p>7 <b>before -- had to happen before he was placed into</b></p> <p>8 <b>custody.</b></p> <p>9 Q Because you didn't see it.</p> <p>10 A <b>Yes. As I state in my to/from report, I</b></p> <p>11 <b>wasn't in a position to observe the physical</b></p> <p>12 <b>altercation which took place.</b></p> <p>13 Q Do you remember which other officers were</p> <p>14 around, if any, when you placed Lionel White into</p> <p>15 the transport vehicle?</p> <p>16 A <b>I don't recall.</b></p> <p>17 MR. RAUSCHER: All right. We're going to</p> <p>18 mark Exhibit 68, a vice case report.</p> <p>19 (Smith Deposition Exhibit 68 marked for</p> <p>20 identification and attached to the transcript.)</p> <p>21 Q Have you had a chance to review this</p> <p>22 report?</p> <p>23 A <b>Yes, I have.</b></p> <p>24 Q All right. This is a vice case report of</p> |   |
| <p>1 <b>before, at some point in time that there was a --</b></p> <p>2 <b>Lionel White, he was transported -- I placed him</b></p> <p>3 <b>in the transport vehicle to take to the</b></p> <p>4 <b>2nd District and also there was him talking trash</b></p> <p>5 <b>to Alvin Jones at some point in time, and that's</b></p> <p>6 <b>all I can recall.</b></p> <p>7 Q You remember that you placed Lionel White</p> <p>8 in the transport vehicle?</p> <p>9 A <b>Yes. And I believe -- and I don't recall</b></p> <p>10 <b>the exact words I used, but it was in my to/from</b></p> <p>11 <b>report that I stated that.</b></p> <p>12 Q Okay. What -- tell me about getting</p> <p>13 Lionel White into the transport vehicle.</p> <p>14 A <b>I don't recall. Like I said, just based</b></p> <p>15 <b>off of my to/from report, that they asked me what</b></p> <p>16 <b>physical contact did I have with Lionel White on</b></p> <p>17 <b>that date. I stated in my to/from report that I</b></p> <p>18 <b>put him in the transport vehicle.</b></p> <p>19 Q All right. And was he brought to you,</p> <p>20 or did you have to go get him to bring him out</p> <p>21 to the --</p> <p>22 A <b>I do not recall, sir.</b></p> <p>23 Q How would it typically work?</p> <p>24 A <b>I do not recall. I can't say how it</b></p> | 552 |   | <p>1 Lionel White's arrest on April 24, 2006, at 575</p> <p>2 East Browning; correct?</p> <p>3 A <b>That's correct.</b></p> <p>4 Q The same location as the reverse sting</p> <p>5 that we just looked at on all those reports on the</p> <p>6 same day at the same building; right?</p> <p>7 A <b>That's correct.</b></p> <p>8 Q Did you prepare this report?</p> <p>9 A <b>It doesn't appear to be.</b></p> <p>10 Q Your name is Box 2; right?</p> <p>11 A <b>That's correct.</b></p> <p>12 Q That's actually Box 46 but referred to as</p> <p>13 Box 2?</p> <p>14 A <b>That's correct.</b></p> <p>15 Q What does it mean that your name is Box 2</p> <p>16 on this report?</p> <p>17 A <b>That I was working with Alvin Jones at</b></p> <p>18 <b>this particular time.</b></p> <p>19 Q You were working with Al Jones when Lionel</p> <p>20 White was arrested?</p> <p>21 A <b>I was working with him on that day.</b></p> <p>22 Q Why is your name Box 2 on this report with</p> <p>23 Jones but Box 1 with Mohammed and not Jones on all</p> <p>24 the other reports?</p> |

## Transcript of Elsworth Smith, Jr., Volume II

61 (555 to 558)

Conducted on March 5, 2020

|  |   |
|--|---|
|  |   |
| 555  | 557   |
| <p>1    A I have no idea, sir. At some point in<br/>     2 time, like I said, obviously, if he's listed on<br/>     3 this report, we had to be working together at some<br/>     4 point in time. That's all I can state. I don't<br/>     5 know why. Alvin Jones prepared this report, so I<br/>     6 can't answer for him.</p> <p>7    Q But you would have reviewed it.</p> <p>8       Well, who signed your signature? Is that<br/>     9 your handwriting or his?</p> <p>10    A It appears to be Alvin Jones' signature.</p> <p>11    Q But you reviewed this before he signed it<br/>     12 because you wouldn't have had him sign it if he<br/>     13 wasn't authorized to.</p> <p>14    A That's his signature; but I'm certain if<br/>     15 he signed for me, I would have not allowed him to<br/>     16 sign my name if I did not review it. And I can't<br/>     17 recall the incident which occurred, but I<br/>     18 definitely would not have allowed him if I<br/>     19 believed the information in the report was false.</p> <p>20    Q Why didn't you -- did you ask him at the<br/>     21 time why are you putting me as the second?</p> <p>22    A I don't recall what I asked him on that<br/>     23 day.</p> <p>24    Q You don't know whether any of the</p> | <p>1    Q So this is one -- this was completed after<br/>     2 the arrest of Mr. White; right?</p> <p>3    A I would assume so.</p> <p>4    Q That would be the practice for a fully<br/>     5 typed report like this; wouldn't it? It would be<br/>     6 done after an arrest?</p> <p>7    A That is generally the practice; but, like<br/>     8 I said, I do not recall on this particular date.</p> <p>9    Q Do you know why this report lists so many<br/>     10 people as witnesses and the other reports from<br/>     11 that day didn't list anybody?</p> <p>12    A I do not know, sir. It's two different<br/>     13 type of arrests.</p> <p>14    Q What's the differences between the<br/>     15 arrests?</p> <p>16    A One is for an actual possession of a<br/>     17 controlled substance, and I don't know if he was<br/>     18 charged with aggravated battery, it doesn't appear<br/>     19 to be listed on this report or not, and the other<br/>     20 one was part of a reverse sting operation.</p> <p>21    Q So Lionel White was not part of the<br/>     22 reverse sting arrests?</p> <p>23    A Like I said, I don't recall but to the<br/>     24 best -- based on the best of my memory, I do not</p> |
| 556  | 558   |
| <p>1 substantive information in this report is<br/>     2 accurate, do you?</p> <p>3    A I believe it's accurate because based on<br/>     4 my experience of working with him, that I wouldn't<br/>     5 believe that he would falsify a report.</p> <p>6    Q All right. There's something -- a<br/>     7 notification to Detective Cisco.</p> <p>8       Do you see that?</p> <p>9    A Yes, I do.</p> <p>10    Q What does that mean?</p> <p>11    A That he had to notify the detectives.</p> <p>12    Q Do you know why?</p> <p>13    A Because if he -- there was a fight or<br/>     14 physical altercation between himself and an<br/>     15 offender, he probably was trying to charge the<br/>     16 offender with a battery to a police officer, and<br/>     17 that's why he would have to contact the<br/>     18 detectives.</p> <p>19    Q This report is almost entirely printed<br/>     20 except for the signatures; right?</p> <p>21    A That's correct.</p> <p>22    Q There may be a couple things filled in<br/>     23 like age or end of an inventory number; right?</p> <p>24    A That's correct.</p>  | <p>1 believe so.</p> <p>2    Q Well, if you don't recall, how do you have<br/>     3 a memory of it?</p> <p>4    A Like I said, based on the best of memory,<br/>     5 I don't recall.</p> <p>6    Q So you don't know one way or the other<br/>     7 whether he was part of the reverse sting arrests?</p> <p>8    A No, I do not.</p> <p>9    Q Did you do any of the inventorying of the<br/>     10 material that was taken from Lionel White?</p> <p>11    A I don't recall, sir.</p> <p>12    Q Do you know whether the times on this<br/>     13 report are accurate as to the occurrence time and<br/>     14 the arrival time?</p> <p>15    A I'm not the arresting officer. I'm the<br/>     16 second reporting officer, and I do not know. I<br/>     17 believe that my partner prepared this report, that<br/>     18 the times would be as close to -- as accurate as<br/>     19 possible.</p> <p>20    Q When did you review this report at the<br/>     21 time -- around the time? Would it have been the<br/>     22 same day, April 24, 2006?</p> <p>23    A Yes. Possibly, I would have.</p> <p>24    Q I'm sorry. Go ahead.</p>  |

## Transcript of Elsworth Smith, Jr., Volume II

62 (559 to 562)

Conducted on March 5, 2020

|  |     |   |
|--|-----|---|
|  | 559 | 561   |
| 1 <b>A No. I'm just saying I don't recall the</b><br>2 <b>arrest, but I would have possibly reviewed it.</b>   |     | 1 bringing Lionel White to the transport, or are you<br>2 just basing that off of the fact that you wrote<br>3 something like that in a to/from report a long<br>4 time ago?  |
| 3    Q Would that have been your practice, to<br>4 review the vice case report the same day as the<br>5 arrest?  |     | 5    MR. STEFANICH: Object; asked and<br>6 answered.  |
| 6 <b>A Yes. That's what you do.</b>  |     | 7 <b>A I don't recall this -- the date of this</b><br>8 <b>arrest or the incident that occurred; but I would</b><br>9 <b>not have wrote something in a to/from, which is</b><br>10 <b>also an official police document -- and also I</b><br>11 <b>know the ramifications of lying on or falsifying a</b><br>12 <b>report. No, I would not have done that.</b> |
| 7    Q So at the time, you would have known<br>8 whether the date of occurrence and date of arrival<br>9 time was correct; right?  |     | 13 BY MR. RAUSCHER:   |
| 10 <b>A Again, like I said, the times are</b><br>11 <b>approximate and may be overlooked at times. It</b><br>12 <b>could have been an error.</b>   |     | 14   Q I'm not asking you that right now. I'm<br>15 asking you --   |
| 13   Q When your name is going on somewhere as<br>14 the second reporting officer, when your signature<br>15 is going on there, what does that mean? What does<br>16 it signify?   |     | 16 <b>A Just because I don't -- sitting here</b><br>17 <b>today, I don't recall the arrest or the incident</b><br>18 <b>which occurred, at that time I probably did have</b><br>19 <b>knowledge of it.</b>  |
| 17 <b>A That you was assisting in some -- at some</b><br>18 <b>part of the arrest or something, or you was just</b><br>19 <b>working with that individual on that particular</b><br>20 <b>day of the arrest.</b>   |     | 20   Q That's actually my question is just do you<br>21 have a personal recollection of bringing Lionel<br>22 White to the transport, or were you saying that<br>23 because you wrote it in a to/from? I'm not trying<br>24 to give an -- I'm just asking you a question.   |
| 21   Q Why -- what would be the purpose of<br>22 putting your name in there and signing a report if<br>23 all you did was work with somebody or you didn't<br>24 have anything to do with the arrest?  | 560 | 562   |
| 1 <b>A That's typically how we did it. I was</b><br>2 <b>assigned to work with this person, and that's how</b><br>3 <b>we would do it. We would work -- put the</b><br>4 <b>individual who you was working with at the</b><br>5 <b>particular time of the incident which occurred.</b> |     | 1 <b>A I don't recall. Sitting here today, I do</b><br>2 <b>not recall.</b>   |
| 6    Q Did you ever think about why you were<br>7 doing it that way?   |     | 3    MR. RAUSCHER: All right. Let's mark this<br>4 as Exhibit 69.   |
| 8 <b>A No, I did not.</b>  |     | 5    (Smith Deposition Exhibit 69 marked for<br>6 identification and attached to the transcript.)   |
| 9    Q Have you given it any thought since you<br>10 stopped working on the 2nd District Watts team?   |     | 7 BY MR. RAUSCHER:  |
| 11 <b>A No, I have not.</b>  |     | 8    Q Do you recognize this document?  |
| 12   Q As you look at the report now, can you<br>13 think of any good reasons why someone who may not<br>14 have been in the arrest at all should be listed as<br>15 the second reporting officer and sign the report?   |     | 9 <b>A This is an inventory report.</b>   |
| 16 <b>A No, I do not.</b>  |     | 10   Q For Lionel White's April 24, 2006, arrest?   |
| 17   Q Are you signing onto the accuracy of the<br>18 report when you put your name and your signature<br>19 on there?   |     | 11 <b>A That is correct.</b>  |
| 20 <b>A Yes. Again, like I said, I would not have</b><br>21 <b>allowed Officer Jones or any other officer to sign</b><br>22 <b>my name on a report if I didn't feel that the</b><br>23 <b>information in the report was accurate.</b>  |     | 12   Q Did you prepare this report?   |
| 24   Q Do you have a personal recollection of  |     | 13 <b>A It doesn't appear to be.</b>  |
|  |     | 14   Q And why do you think you didn't prepare<br>15 it?  |
|  |     | 16 <b>A Because that's not my PC number at the</b><br>17 <b>bottom of the -- in the left-hand -- very bottom</b><br>18 <b>left-hand corner.</b>   |
|  |     | 19   Q Do you know whose PC number that is?   |
|  |     | 20 <b>A No, I do not.</b>   |
|  |     | 21   Q Do you know how this report was created?   |
|  |     | 22 <b>A It was created on the computer.</b>   |
|  |     | 23   Q Do you know where the information came<br>24 from to go into this report?  |

## Transcript of Elsworth Smith, Jr., Volume II

63 (563 to 566)

Conducted on March 5, 2020

|   |     |   |     |
|---|-----|---|-----|
|   | 563 |   | 565 |
| 1 <b>A No, I do not.</b>                                    |     | 1    Q And is everything in this to/from report       |     |
| 2    Q Did you ever create inventory reports as a           |     | 2 accurate?   |     |
| 3 part of the Watts tac team?                               |     | 3 <b>A Yes, it is because I would not falsify a</b>   |     |
| 4 <b>A Yes, I have.</b>                                     |     | 4 <b>report.</b>                                      |     |
| 5    Q And how did you -- what was your practice            |     | 5    Q Why did you start the to/from report by        |     |
| 6 for creating inventory reports? How did you get           |     | 6 saying, "This statement is not being given          |     |
| 7 the information you needed?                               |     | 7 voluntarily, but under duress. I am only giving     |     |
| 8 <b>A As I'm sitting here, I can't recall how I</b>        |     | 8 this statement at this time because I know that I   |     |
| 9 <b>did it. Based off of information or -- whatever</b>    |     | 9 could lose my job if I refuse the direct order      |     |
| 10 <b>occurred that day, you know, based off of my own</b>  |     | 10 being given to me."                                |     |
| 11 <b>observation; or if I'm helping assist another</b>     |     | 11    MR. KOSOKO: Objection to form. It may           |     |
| 12 <b>teammate or my partner, based off the information</b> |     | 12 also possibly call for a legal conclusion.         |     |
| 13 <b>that they provided to me.</b>                         |     | 13 <b>A Because we are always advised by the FOP,</b> |     |
| 14    Q Do you remember a time when you were                |     | 14 <b>the Fraternal Order of Police, to begin our</b> |     |
| 15 sending Fentanyl to the DEA?                             |     | 15 <b>to/froms with that statement.</b>               |     |
| 16 <b>A Do I recall specifically myself?</b>                |     | 16    Q Do you have any issue with OPS or IPRA or     |     |
| 17    Q Was there a program in place that you               |     | 17 COPA investigating civilian complaints?            |     |
| 18 remember where heroin -- or some of the heroin or        |     | 18 <b>A No, I do not.</b>                             |     |
| 19 Fentanyl that the team recovered would go to the         |     | 19    Q So is it true that you were only giving       |     |
| 20 DEA?   |     | 20 this statement under duress?                       |     |
| 21    MR. KOSOKO: Objection; form.                          |     | 21    MR. KOSOKO: Objection to the form,              |     |
| 22 <b>A From the best of my memory, I do not</b>            |     | 22 foundation, may possibly violate attorney/client   |     |
| 23 <b>recall.</b>   |     | 23 privilege, and may call for a legal conclusion.    |     |
| 24  |     | 24  |     |
|   | 564 |   | 566 |
| 1    MR. RAUSCHER: Okay. We're going to                     |     | 1    BY MR. RAUSCHER:                                 |     |
| 2 mark 70.  |     | 2    Q Does that -- can you answer that without       |     |
| 3    (Smith Deposition Exhibit 70 marked for                |     | 3 revealing any attorney/client discussions?          |     |
| 4 identification and attached to the transcript.)           |     | 4 <b>A What was your question again?</b>              |     |
| 5 BY MR. RAUSCHER:  |     | 5    Q Were you giving this statement under           |     |
| 6    Q Do you recognize this document?                      |     | 6 duress?   |     |
| 7 <b>A Yes, I do.</b>                                       |     | 7 <b>A Yes.</b>                                       |     |
| 8    Q And what is this?                                    |     | 8    Q Did you want to cooperate in the               |     |
| 9 <b>A A to/from report.</b>                                |     | 9 investigation into Lionel White's complaint?        |     |
| 10    Q Is this the to/from report you were                 |     | 10 <b>A I'm willing to cooperate in any</b>           |     |
| 11 referring to a little bit ago when you talked            |     | 11 <b>investigation. That's why I'm here.</b>         |     |
| 12 about escorting White to the transport vehicle?          |     | 12    MR. KOSOKO: Can we go off the record.           |     |
| 13 <b>A Yes.</b>  |     | 13    MR. RAUSCHER: Yeah. Sure.                       |     |
| 14    Q Fair to say that at the time you                    |     | 14    MR. KOSOKO: It's important.                     |     |
| 15 drafted -- well, let me ask.                             |     | 15    MR. RAUSCHER: That's fine.                      |     |
| 16    Did you create this by yourself?                      |     | 16    THE VIDEOGRAPHER: Off the record, 4:46.         |     |
| 17 <b>A Yes, I did.</b>                                     |     | 17    (A recess was taken from 4:46 p.m. to           |     |
| 18    Q And did you do that in November of 2006?            |     | 18 4:47 p.m.)   |     |
| 19 <b>A Yes, sir.</b>                                       |     | 19    THE VIDEOGRAPHER: Back on the, 4:47.            |     |
| 20    Q When you drafted this to/from statement,            |     | 20    Q So I just asked you some questions about      |     |
| 21 did you have a memory of transporting White to the       |     | 21 the statement that you wrote, that you were under  |     |
| 22 transport vehicle?                                       |     | 22 duress, and I'm not trying to ask for a legal      |     |
| 23 <b>A If that's what I put in my to/from report,</b>      |     | 23 conclusion about what duress might mean, but I     |     |
| 24 yes.   |     | 24 think you've already answered.                     |     |

## Transcript of Elsworth Smith, Jr., Volume II

64 (567 to 570)

Conducted on March 5, 2020

|   |     |   |
|---|-----|---|
|   | 567 | 569   |
| 1     My question at the end was did you want to<br>2 help in the investigation into Lionel White's<br>3 complaint?   |     | 1 that refers to?   |
| 4 <b>A Not only Lionel White, any investigation.</b><br>5 That's why I'm sitting here today. I'm<br>6 cooperating with this investigation.  |     | 2 <b>A From the best of my memory, I don't recall</b><br>3 <b>chasing Lionel White. I think I would recall</b><br>4 <b>that. But based off of reading this report, A/O,</b><br>5 <b>I would assume that would have been Alvin Jones.</b>  |
| 7     Q And because of that, you told the truth<br>8 when you wrote this to/from statement.   |     | 6     Q What's the 2 -- what's 0271 for the<br>7 transport?   |
| 9 <b>A Yes, I did.</b>  |     | 8 <b>A That's the wagon, Beat 271.</b>  |
| 10    MR. RAUSCHER: All right. We're going to<br>11 mark 71.  |     | 9     Q And do you know how the time for the<br>10 transport is filled in?  |
| 12    (Smith Deposition Exhibit 71 marked for<br>13 identification and attached to the transcript.)   |     | 11 <b>A I don't recall how it was.</b>  |
| 14    Q Do you recognize this document?   |     | 12    Q If the time for the -- the time on the<br>13 transport is the same for Lionel White and<br>14 everybody else, does that mean they were all<br>15 transported in the wagon together?   |
| 15 <b>A Yes, I do.</b>  |     | 16 <b>A Like I said, I don't know how the time was</b><br>17 <b>placed in here. I don't know.</b>   |
| 16    Q Can you tell us what it is?   |     | 18    Q It would have been --   |
| 17 <b>A It's an arrest report.</b>  |     | 19 <b>A So it could have been an approximate time.</b><br>20 <b>I'm not certain.</b>  |
| 18    Q Is it the arrest report of Lionel White<br>19 from April 24, 2006?  |     | 21    Q You don't know how that information gets<br>22 filled into an arrest report about transport<br>23 details?  |
| 20 <b>A That is correct.</b>  |     | 24 <b>A There again, it's been many years since</b>   |
| 21    Q Did Alvin Jones create this report?   | 568 | 570   |
| 22 <b>A Yes, he did.</b>  |     | 1 <b>I've done any report; and, like I said, just</b><br>2 <b>looking at this, referencing these other reports</b><br>3 <b>that you mentioned, the transport time was</b><br>4 <b>similar. Obviously, it was handwritten in here.</b><br>5 <b>So it could have been an error on the reports.</b>      |
| 23    Q And you're listed as the second arresting<br>24 officer because you were his partner that day?  |     | 6     Q No. I'm not saying that they were<br>7 handwritten anywhere. They're typed in the arrest<br>8 reports.  |
| 1 <b>A Yes.</b>   |     | 9 <b>A Or typed in the reports. It could have</b><br>10 <b>been typed in the report. It could have been an</b><br>11 <b>error.</b>  |
| 2     Q Would you have reviewed this report around<br>3 the time it was created?  |     | 12    Q Or they could have been transported at the<br>13 same time. I'm just asking.  |
| 4 <b>A I don't recall if I did, but I'm certain I</b><br>5 <b>possibly did.</b>   |     | 14 <b>A I don't have a -- I don't recall what</b><br>15 <b>time. If they were transported all at the same</b><br>16 <b>time or not, I don't recall.</b>   |
| 6     Q It would have been your practice to review<br>7 this report because your name is listed as the<br>8 second arresting officer?   |     | 17    Q Do you know why the vice case report for<br>18 Lionel White's arrest doesn't list aggravated<br>19 assault of a peace officer?  |
| 9 <b>A Yes.</b>   |     | 20 <b>A No. But just guessing, I don't know. He</b><br>21 <b>had to try to get approval from the state's</b><br>22 <b>attorneys' office. Again, human error, probably</b><br>23 <b>didn't put it on there at that point in time. I</b><br>24 <b>don't know why, but you would have to ask Officer</b> |
| 10    Q Does the second arresting officer signify<br>11 something different than assisting arresting<br>12 officer to you?  |     |   |
| 13 <b>A Well, the second arresting officer could</b><br>14 <b>be also an assisting officer also.</b>  |     |   |
| 15    Q So when you look at a report, unless it<br>16 specifies a particular person's role, you can't<br>17 tell what the second arresting officer did as<br>18 opposed to the assisting arresting officer? |     |   |
| 19 <b>A No, you cannot.</b>   |     |   |
| 20    Q Do you know whether you gave chase to<br>21 Lionel White on April 24, 2006?   |     |   |
| 22 <b>A No, I do not.</b>   |     |   |
| 23    Q It says "A/O gave chase."   |     |   |
| 24    You don't know who that -- do you know who  |     |   |

## Transcript of Elsworth Smith, Jr., Volume II

65 (571 to 574)

Conducted on March 5, 2020

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| <p>1 <b>Jones.</b></p> <p>2 MR. RAUSCHER: All right. Let's take a</p> <p>3 short break.</p> <p>4 THE VIDEOGRAPHER: Off the record, 4:53.</p> <p>5 (A recess was taken from 4:53 p.m. to</p> <p>6 4:55 p.m.)</p> <p>7 THE VIDEOGRAPHER: Back on the record,</p> <p>8 4:55.</p> <p>9 MR. RAUSCHER: I think by agreement of all</p> <p>10 the counsel for scheduling, we are going to end</p> <p>11 today's deposition. We just completed plaintiffs'</p> <p>12 questioning for Officer Smith on Lionel White,</p> <p>13 Sr.'s, arrest, and then we will resume at a</p> <p>14 different date for different cases.</p> <p>15 THE VIDEOGRAPHER: This concludes day two</p> <p>16 of Elsworth Smith, Jr., the time, 4:55.</p> <p>17 (Off the record at 4:55 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> | <p>571</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC</p> <p>2</p> <p>3 I, Joanne Ely, Certified Shorthand</p> <p>4 Reporter No. 84-4169, CSR, RPR, and a Notary</p> <p>5 Public in and for the County of Kane, State of</p> <p>6 Illinois, the officer before whom the foregoing</p> <p>7 deposition was taken, do hereby certify that the</p> <p>8 foregoing transcript is a true and correct record</p> <p>9 of the testimony given; that said testimony was</p> <p>10 taken by me stenographically and thereafter</p> <p>11 reduced to typewriting under my direction; that</p> <p>12 review was requested; and that I am neither</p> <p>13 counsel for, related to, nor employed by any of</p> <p>14 the parties to this case and have no interest,</p> <p>15 financial or otherwise, in its outcome.</p> <p>16 IN WITNESS WHEREOF I have hereunto set my</p> <p>17 hand and affixed my notarial seal this 17th day of</p> <p>18 March, 2020.</p> <p>19</p> <p>20 My commission expires: May 16, 2020</p> <p>21</p> <p>22 </p> <p>23 Notary Public in and for the</p> <p>24 State of Illinois</p> |
| <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2</p> <p>3 I, ELSWORTH SMITH, JR., do hereby</p> <p>4 acknowledge that I have read and examined the</p> <p>5 foregoing testimony, and the same is a true,</p> <p>6 correct, and complete transcription of the</p> <p>7 testimony given by me and any corrections appear</p> <p>8 on the attached errata sheet signed by me.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 (DATE) _____ (SIGNATURE)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>   | <p>572</p>   |

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