

EDWARD SHANE LUCAS vs RYAN MULCAHY
2:24-CV-0006 - RYAN MULCAHY

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

EDWARD SHANE LUCAS,
Plaintiff,

vs.

CIVIL ACTION NUMBER
2:24-CV-0006

COPY

RYAN MULCAHY, A LONG COUNTY DEPUTY SHERIFF,
Defendant.

-----/

The deposition of RYAN MULCAHY, a
defendant in the above-entitled cause, taken
pursuant to Notice and agreement, before Kyle J.
Saniga, Certified Court Reporter and Notary
Public, at the Law Offices of Oliver, Maner, 218
West State Street, Savannah, Georgia, on the
21st day of August 2024, commencing at or about
the hour of 3:00 p.m.



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2

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16 ALSO PRESENT:

17 Maddie Hoss
18 Christopher Lucas

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1 (Disclosure was made pursuant to
2 O.C.G.A. annotated 9-11-28
3 (c) and (d) and 15-14-37
4 (a), (b) and (c).)

5 RYAN MULCAHY,
6 having been produced and first duly sworn as a
7 witness, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. LUCAS:

10 Q How do you do, Mr. Mulcahy?

11 A Good. How are you?

12 Q Good. Can you state your full name,
13 please.

14 A Ryan Christopher Mulcahy.

15 Q Who is your employer?

16 A I'm currently working for RTS Homes.

17 Q How long have you been employed by the
18 Sheriffs Office of Long County?

19 A I was there approximately four years.

20 Q Okay. And what was your job title?

21 A I worked as a road deputy and then was
22 promoted to Narcotics.

23 Q Okay. As an deputy, please define your
24 work -- working understanding of probable cause.

25 A Probable cause is -- would lead a



1 reasonable prudent person to believe a crime is
2 or has been committed.

3 Q Is that your full answer --

4 A Yes, paraphrased.

5 Q -- definition of probable cause? You
6 said yes, correct?

7 A Yes.

8 Q Allow me take you back to the events of
9 March 21st 2019. It was in the evening when you
10 stopped me, the plaintiff in this case, when I
11 was driving on Darwell Long Road where it
12 changes from Palmer Road at the four-way
13 intersection of Lanier --

14 MR. TUTEN: Object to the form.

15 Mr. Lucas, you should ask a question,
16 not give a narrative.

17 MR. LUCAS: Okay. Thank you.

18 BY MR. LUCAS:

19 Q Is it true, back in March 21st 2019,
20 was the evening when you stopped me, the
21 plaintiff in this case, when I was driving on
22 Darwell Long Road where it changes from Palmer
23 Road to Lanier Road at the four-way
24 intersection?

25 A Yes.



1 Q Okay. I want to ask you a few
2 questions about that night. Okay?

3 You have -- I don't think it's marked
4 but Exhibit 1 -- which is the transcript of the
5 probable -- I mean of the Motion to Suppress
6 hearing --

7 A Yes, sir.

8 Q -- that was held on July 19th 2021.
9 (Whereupon, Plaintiff's Exhibit
10 Number 1 was marked for
11 identification.)

12 MR. O'CONNOR: For the record, are
13 you marking the whole book as Exhibit
14 1?

15 MR. LUCAS: No, sir. It's divided
16 up in there.

17 MR. O'CONNOR: All right. Are the
18 sections --

19 MR. LUCAS: Yes, sir.

20 MR. O'CONNOR: -- numbered?

21 MR. LUCAS: I haven't numbered
22 them yet. I left them blank with a
23 divider page in between each section.

24 BY MR. LUCAS:

25 Q Would you like me to mark that for you,



1 please?

2 A Sure.

3 Q Thank you, sir.

4 MR. O'CONNOR: For the record
5 he'll read and sign.

6 BY MR. LUCAS:

7 Q Do you recall providing testimony
8 related to your arrest of me, the plaintiff in
9 this case, in front of Judge Charles Paul Rose
10 at the Motion to Suppress hearing?

11 A Yes, sir.

12 Q Okay. Let me okay turn your attention
13 to page seven of the Motion to Suppress hearing
14 transcript.

15 Start at line 20 through 25. Let me
16 read your answer out loud on the record for the
17 Motion to Suppress hearing and tell me if I've
18 read your testimony correctly.

19 Yes, ma'am. So I just -- I just left
20 a call. I believe it was a 1090 and Palmer
21 Place and I was heading toward Rye Patch to go
22 patrol to the area. And that's when I came to
23 the intersection of Darwell Long and Monticello
24 and Lanier Road and that is where I met Mr.
25 Lucas at the four-way intersection. Did I read



1 that correctly?

2 A Correct.

3 Q Okay. Continue to page eight. 1
4 through 13. You want to read the question --
5 answers down to line 13 where you answer. Your
6 answer is initially no.

7 And when you say 'met' what do you mean
8 by that? Like at the four-way intersection.
9 That's where we -- where our paths crossed.

10 Okay. And so you observed he was
11 driving. Was he driving or walking?

12 Yes. He was driving.

13 Okay. And what was he driving?

14 A truck. I believe it was a GMC
15 Chevy Silverado.

16 Now, when you saw this vehicle,
17 were you, for any reason, interested in
18 it or were you just behind it or beside
19 it or what was the situation?

20 Initially no.

21 Did I read that correctly?

22 A Yes.

23 Q So I did read that section correctly,
24 right?

25 A Correct.



1 Q Looking across the four-way
2 intersection at that moment, you would agree
3 that you did not have any probable cause to
4 suspect me of any criminal suspicious activity.
5 Am I correct?

6 A Correct.

7 Q All right. Let me take your attention
8 to page six of the hearing transcript where the
9 attorney first stated -- asked you a question.
10 Okay?

11 From page six all the way through page
12 eight and the sections that we just discussed,
13 do you see that there is no mention that you or
14 even that you are even looking at your own
15 police report from that day as you testified at
16 the Motion to Suppress hearing?

17 A Can you rephrase that question for me?

18 Q Okay. If you'd look back from page six
19 through page eight --

20 A Uh-huh.

21 Q -- of this section that we've just
22 discussed, do you see that there is no mention
23 that you are even looking at your own police
24 report from that day as you've testified at the
25 suppressive hearing?



1 A All right, so I'm going to answer your
2 question with a question. So you're -- you're
3 asking if I see that I testified that I was
4 reading from my report?

5 Q No, sir. I asked do you see that you
6 wasn't reading from your report while you
7 testified from page six to page eight?

8 MR. TUTEN: Mr. Lucas, I'm going
9 to object to form.

10 MR. LUCAS: Uh-huh.

11 MR. TUTEN: Because I think you're
12 really asking him to speculate whether
13 he was reading from his report and -- I
14 mean the transcript says what it says.
15 But if he can't define whether he was
16 reading his record from that or not.

17 MR. LUCAS: Let me rephrase then.

18 BY MR. LUCAS:

19 Q Do you recall if you was reading from
20 your police report or was it memory?

21 A I don't recall.

22 Q Okay. But -- okay. So yet, two years
23 later, at the suppressive hearing you were still
24 able to recall the make and model of my truck as
25 you sat across from me at the intersection,



1 correct?

2 A Line eight page eight clearly says a
3 truck. I believe it was a GMC should say or
4 Chevy Silverado.

5 Q Okay.

6 A I wasn't sure what your vehicle was.

7 Q And you will agree that even before you
8 put your eyes on my truck at the stop sign that
9 evening, your department was told to
10 specifically be on the lookout for me, Edward
11 Shane Lucas, as I was suspected of criminal
12 activity of night hunting. Agreed?

13 A So I can explain that a little further.
14 Like during shift changes and stuff
15 like that bulletins are given for certain things
16 that come from certain people and at that time
17 your name had come up in briefing.

18 And it was alleged that you had been
19 night hunting and to -- that you may or may not
20 have ran from a game warden and got away and
21 just to, you know, be on the lookout for you.

22 I had never seen you, seen a picture of
23 you, knew what you drove until that day
24 specifically.

25 Q What -- what timeframe did this alleged



1 night hunting running from the DNR occur?

2 A I don't recall.

3 Q So you don't -- you don't recall if it
4 was recent? Past? That day? Two years
5 earlier?

6 A No, sir.

7 Q Okay. Do you admit that the moment you
8 saw me that night at the intersection, seeing me
9 alone just at the intersection doing nothing
10 already caused you to assist some type of law
11 enforcement presence against me?

12 A No, sir.

13 Q The idea that I was engaged in a
14 suspected criminal activity of night hunting,
15 would you say this idea, alone, consisted your
16 probable cause for pulling me over?

17 A No, sir.

18 Q All right. Go back to the suppressive
19 hearing. Turn to page eight lines ten through
20 15 and I'll read aloud.

21 A Can I clarify something for him?

22 MR. TUTEN: Let's just wait until
23 the end.

24 BY MR. LUCAS:

25 Q Now, when you saw his vehicle, were



1 you, for any reason, interested in it or were
2 just behind it, beside it or what was the
3 situation? Did I read that correctly?

4 A What lines again?

5 Q 10 through 15.

6 A Okay.

7 Q You want me to read it again?

8 A No.

9 Q So I did read that correctly?

10 A Yes.

11 Q All right. Same page, page eight lines
12 13 through 21.

13 Initially no. Until he pulled off and
14 I got behind him I started observing him not
15 maintaining his lane. He was touching the
16 center line.

17 Uh-huh. And then as we approached the
18 curb on Darwell Long where the big oak tree is I
19 observed him leave the roadway and come
20 extremely close to striking that tree and snatch
21 the wheel back and that's when I was like, okay,
22 something's going on here. Did I read that
23 correctly?

24 A Correct.

25 Q Okay. We're going to watch the entire



1 time you were following me that evening up until
2 the time you actually pulled me over and was
3 communicating with me. Okay?

4 A (Witness nods head.)

5 Q I know this is a small. We'll kind of
6 slide it around or whatever we need to do.

7 A No, that's fine.

8 (Whereupon, video was
9 played back.)

10 BY MR. LUCAS:

11 Q If you really can see me do anything
12 that consists of me running off the road, please
13 let me know so I can mark that spot on the
14 video.

15 We can replay it but can you please
16 identify the place on the video where I ran off
17 the road so that we can later show the jury.

18 But I would like to jump ahead a bit.

19 Let me take you to time stamp 1 hour
20 and 13 minutes through 1 hour and 13:46.

21 It'll take me a second here.

22 (Whereupon, an off-the-record
23 discussion was held from 3:16 p.m.
24 to 3:17 p.m.)

25 BY MR. LUCAS:



1 Q Would you agree that your memory of
2 tailing me and watching me go off the road would
3 have been better as you were telling the officer
4 your observation as compared to two years later
5 at the Motion to Suppress hearing?

6 A One more time.

7 Q I said would you agree that your memory
8 of tailing me and watching me go off the road
9 would have been better as you was telling the
10 Georgia State Patrol officer as compared to
11 two years letter at the Motion to Suppress
12 hearing?

13 A Yeah.

14 Q Okay. Understand I'm in no hurry and
15 we can play it as many times as you want so you
16 can get a good look at it.

17 (Whereupon, video was
18 played back.)

19 BY MR. LUCAS:

20 Q Who was you speaking to there, sir?

21 A (Witness shakes head.)

22 Q You can grab it or whatever you need to
23 do with it.

24 A I don't recognize him.

25 Q Okay. When you saw me go off the road



1 as you described it while following me, did you
2 have probable cause in what you observed and
3 recorded per the objective video that showed
4 what my vehicle was actually doing?

5 MR. TUTEN: Object to form. It's
6 a compound question and it's calling
7 for a legal conclusion.

8 BY MR. LUCAS:

9 Q Did you have probable cause when you
10 served me and did you have recording per the
11 objective video showing my vehicle actually
12 leave the road?

13 MR. TUTEN: Object to form, calls
14 for a legal conclusion but Ryan, you
15 can answer.

16 THE WITNESS: Okay. Initially
17 that's what drew my attention to your
18 vehicle is watching what I observed as
19 the right side of your vehicle kicking
20 dust and gravel up, which led me to
21 believe that you were off the roadway.

22 Now, the video didn't show it,
23 which later ADA Poole and one of the
24 other ADA's got with me and they said
25 that they slowed the video down and



1 observed what we were -- what I was
2 talking about.

3 But I thought I was very clear
4 that the dash cameras don't do the
5 greatest of job showing what our naked
6 eye sees from the vehicle.

7 BY MR. LUCAS:

8 Q So you're saying that you did have
9 probable cause because of that particular
10 incident where I kicked up the dust?

11 MR. TUTEN: Same objection but you
12 can answer.

13 THE WITNESS: That's what drew my
14 attention to you and that's that made
15 me, you know, close the distance, run
16 your tag, see who you were, observe
17 that your registration was suspended
18 and your licensed was also expired.

19 BY MR. LUCAS:

20 Q So you're testifying that would give
21 you probable cause?

22 MR. TUTEN: Same objection. You
23 can answer.

24 THE WITNESS: Yes.

25 BY MR. LUCAS:



1 Q Okay. Do you agree that Judge Paul
2 Rose had a different opinion of the video?

3 MR. TUTEN: Object to form, calls
4 for speculation but you can answer.

5 THE WITNESS: One more time.

6 BY MR. LUCAS:

7 Q I said, would you disagree that Judge
8 Paul Rose had a different opinion of the video?

9 A Yes, I would agree.

10 Q Do you recall what his opinion was?

11 A No, I do not.

12 Q Okay. On that same night, March 21st
13 2019, how, on this date, did you know that my
14 mother owned a moving company and where it was
15 located?

16 A Say that again?

17 Q On the night of March 21st 2019, how,
18 on this date, did you know that my mother owned
19 a moving company and where it was located?

20 A March 13th of what year?

21 Q March 21st 2019, the night of the
22 arrest.

23 A I don't recall stating -- making those
24 statements.

25 Q Okay. Would you agree that you had



1 personal information about me and my family that
2 I had never shared with you?

3 A Ask that again.

4 Q Do you agree that you had personal
5 information about me and my family that I had
6 never shared with you?

7 A No. Disagree.

8 Q Okay. I want to play a section of the
9 video and ask you about it. We'll go to time
10 stamp 113.

11 (Whereupon, video was
12 played back.)

13 BY MR. LUCAS:

14 Q Would you want to hear that again?

15 A Had we spoken prior to that point?

16 Q Not to my knowledge. I've never met
17 you.

18 A On the traffic stop.

19 Q Yes. That was at the end of it.

20 A And I was wrapping up searching your
21 vehicle due to the odor of marijuana and there
22 was documents in your vehicle that led me to
23 believe you worked for Lucas Moving Company.

24 Q What documents was those?

25 A I don't recall.



1 Q Okay. So do you agree that in this
2 section we just played, you did tell a gentleman
3 that my mother owned a moving company and you
4 confirmed to him its whereabouts in town?

5 A Play it again. I guess I wasn't -- I
6 didn't hear that.

7 (Whereupon, video was
8 played back.)

9 THE WITNESS: So what's your
10 question?

11 BY MR. LUCAS:

12 Q Do you agree that this section just
13 played, you tell the other gentleman that my
14 mother owned a moving company and you confirmed
15 to him it's whereabouts in town?

16 A I would say I confirmed that your
17 mother owned a moving company. And probably
18 based off of information in your vehicle it was
19 reasonable to assume it was in Hinesville.

20 Q And you're saying you got this
21 information out of my truck?

22 A I don't recall.

23 MR. TUTEN: Don't guess if you
24 know.

25 THE WITNESS: I don't recall.



1 BY MR. LUCAS:

2 Q Did you just say, previously, that you
3 acquired that information from finding documents
4 in my vehicle?

5 A That would explain why I knew to tell
6 that gentleman that, yes.

7 Q So you do recall?

8 A No, I don't recall actually physically
9 seeing documents, no but business cards.

10 Q So you're assuming the information came
11 out of my truck?

12 A It's reasonable for me to believe, yes.
13 Because I've never had any interactions with you
14 other than a short briefing in passing.

15 Q Okay. Not through the Disney channel
16 or ESPN through the sheriffs office you heard
17 that I am suspected of criminal activity of
18 night hunting before you ever pulled me over,
19 correct?

20 A Correct.

21 Q Did you tell Dispatch, prior to pulling
22 me over, that I did some strange pull-off or
23 just passed the intersection, which gave you
24 reason to follow me because it seemed odd or
25 particular? Am I right about that?



1 A I don't recall.

2 Q And you never told -- did you ever tell
3 Dispatch, prior to pulling me over, that I
4 almost hit a tree by leaving the road within
5 seconds of leaving the stop sign at Monticello?

6 A I don't recall.

7 Q Would you agree that you overstated or
8 exaggerated what you saw when you were following
9 to the first officer that arrived on the scene
10 that night?

11 A One more time.

12 Q Would you agree that you overstated or
13 exaggerated what you saw when you were following
14 me to the first officer that arrived on the
15 scene that night?

16 A No.

17 Q Okay. I'm going to play a little
18 segment of the video once he gets it ready.

19 Who was the officer that assisted you?

20 A I believe it was Trooper Hashtown and
21 Sergeant First Class Horton.

22 Q Okay. Thank you. Do you agree that
23 you told him that you were behind me when you
24 saw me off the road and nearly pummeled a tree
25 that had reflectors on it?



1 (Whereupon, video was
2 played back.)

3 BY MR. LUCAS:

4 Q That was you, correct?

5 A Yes. So you're asking if I exaggerated
6 that?

7 Q Yes.

8 A No.

9 Q Okay. Again, your memory about
10 following me and watching me drive off the road
11 and nearly pummeling a tree would have been much
12 sharper and clearer when you were telling the
13 officer what you claim to have seen than it
14 would have been two years later. Agreed?

15 A That's correct.

16 Q Okay. Have you viewed the video since
17 the Motion to Suppress hearing?

18 A Yes.

19 Q Does any of this video from your
20 cruiser show me leave the roadway before the
21 moment you pulled me over?

22 Now, if you want to watch the video
23 again, the first initial two minutes before you
24 answer, that's fine, too. I mean I know it's
25 been awhile.



1 A So the video that we have is not the
2 video that was shown at the suppression hearing.

3 Q Why would that be?

4 A I -- no earthly idea.

5 Q So you're saying there's parts missing
6 from this evidence?

7 MR. TUTEN: Let's go off the
8 record for a second.

9 MR. LUCAS: Sure.

10 (Whereupon, an off-the-record
11 discussion was held.)

12 THE WITNESS: That specific video,
13 no. No, sir.

14 BY MR. LUCAS:

15 Q Okay. So this video, in particular,
16 you would admit it doesn't show evidence that
17 amounted to probable cause. Does it?

18 MR. TUTEN: Object to form, calls
19 for a legal conclusion but you can
20 answer.

21 THE WITNESS: Ask that question
22 again.

23 BY MR. LUCAS:

24 Q You will admit that the video that
25 we're viewing, up to the time you actually



1 stopped me, does not contain any objective
2 evidence that would amount to probable cause?

3 MR. TUTEN: Object to form, calls
4 for a legal conclusion. You can
5 answer.

6 THE WITNESS: This specific video,
7 again, the video is not going to show
8 what I see with my eye, unfortunately.

9 But there was a couple times where
10 you had weaved within -- within your
11 lane on Darwell Long.

12 BY MR. LUCAS:

13 Q Does any part of this video show me
14 leave the roadway?

15 A Not leave the roadway, no, sir.

16 Q Thank you. Had I done anything
17 consistent with night hunting at the moment you
18 stopped me?

19 A No, sir.

20 Q Yet you do comment and remark about me
21 having night vision while you were searching my
22 truck, correct?

23 A Correct.

24 Q So you knew the department was on the
25 lookout for me, correct?



1 A Mr. Lucas, we're on the lookout for a
2 lot of people at any given time.

3 Q I'm talking about me specifically,
4 Edward Shane Lucas.

5 A I was aware, yes, that you may or may
6 not. You allegedly were involved in criminal
7 activity, yes.

8 Q Okay. And you did know about my mother
9 owning a business and its address?

10 A I'm going to agree to knowing your mom
11 owned a business but not its address.

12 Q Okay. And you was also aware --

13 A Not prior to that stop. Not prior to
14 that stop.

15 Q Okay. And you were even aware, on your
16 own, about your law enforcement department
17 beating up my girlfriend. Am I right?

18 MR. TUTEN: Object to form,
19 relevance.

20 BY MR. LUCAS:

21 Q Let me take you there.

22 MR. TUTEN: You can answer but --

23 THE WITNESS: Okay.

24 MR. TUTEN: Ask it again.

25 THE WITNESS: Repeat the question



1 again, Mr. Lucas.

2 BY MR. LUCAS:

3 Q Did you have prior knowledge, before
4 pulling me over, the law enforcement department
5 beat up my girlfriend?

6 A I had heard there was an incident at a
7 road check.

8 Q Involving me?

9 A Involving what was the name? A Ms. --
10 what -- Rohaus maybe. (Phonetic) And that she
11 failed to comply with lawful commands, therefore
12 she was taken into custody.

13 Q And how did you know she was connected
14 to me?

15 A Were you on scene at that time?

16 Q I'm just concerned about how do you
17 know she's connected to me, sir?

18 A I don't recall.

19 Q Okay. Play that part of the video,
20 please.

21 (Whereupon, video was
22 played back.)

23 BY MR. LUCAS:

24 Q Would you find it strange, Deputy
25 Mulcahy, if a deputy, who you do not know, has



1 this amount of knowledge about your mother, your
2 girlfriend and the idea that you're a criminal
3 suspect for doing some illegal night hunting
4 before you ever pulled me over?

5 A One more time.

6 Q Would you find it strange if a deputy,
7 who you do not know, has this amount of
8 knowledge about your mother, your girlfriend and
9 the idea that you are a criminal suspect for
10 doing some illegal night hunting before he ever
11 pulls you over?

12 MR. TUTEN: Object to form.

13 You're asking him to speculate how
14 you're feeling. You can answer, Ryan.

15 THE WITNESS: I didn't even know
16 what you looked like, man, what you
17 drove, anything.

18 I mean this is all alleged. Until
19 you gave me a reason to interact with
20 you I'm not just going to go out of my
21 way looking for you. Does that make
22 sense? So no.

23 BY MR. LUCAS:

24 Q Okay. So when you said you was aware
25 of what I was talking about --



1 A Uh-huh.

2 Q -- on what we just played on the video.

3 A Uh-huh, verbal judo.

4 Q How was that possible? Where did you
5 become -- where did you come about this
6 information?

7 A Perhaps we were just talking on the
8 side and I was just agreeing with you. Not that
9 I had prior knowledge or anything like that.

10 Q I believe you answered, if I'm correct,
11 that you knew what I was talking about. You was
12 aware of what I was talking about?

13 A Uh-huh. Yeah.

14 Q Okay. Do you admit that you were
15 optimistically looking for fruits of the crime
16 from the search you intended to conduct of my
17 truck, correct?

18 A Can you rephrase that?

19 Q And you do admit that you were
20 optimistically looking for fruits of the crime
21 from the search you intended to conduct of my
22 truck?

23 A I was conducting a probable cause
24 search of your vehicle.

25 Q Play that part, please.



1 (Whereupon, video was
2 played back.)

3 BY MR. LUCAS:

4 Q Let me ask you a truly hypothetical
5 question, okay?

6 Do you agree that if a law enforcement
7 officer singled out one specific person from the
8 public and created false observations to give
9 himself probable cause to arrest a subject, that
10 would be a constitutional violation. Would you
11 agree?

12 MR. TUTEN: Object to form. Calls
13 for a legal conclusion. You can answer
14 if you know.

15 THE WITNESS: Mr. Lucas, I had
16 probable cause to stop you.

17 On three different -- you know,
18 two -- two being your license being
19 expired and your registration being
20 suspended.

21 BY MR. LUCAS:

22 Q My license was expired. You knew that
23 before you pulled me over?

24 A I don't recall but typically it does
25 show up in GCICS the standing.



1 Q So you knew I was driving the vehicle
2 before you pulled me over?

3 A Just the tag's registered to you, so,
4 it's reasonable to assume.

5 Q It's possible anybody could have been
6 driving --

7 A Oh absolutely.

8 Q Okay. So back to the question, if one
9 person was singled out from the public and
10 created false observations to give himself
11 probable cause to arrest a subject, would that
12 be a constitutional violation?

13 MR. TUTEN: Object again to form
14 for calling for a legal conclusion and
15 being irrelevant but you can answer if
16 you know the answer.

17 BY MR. LUCAS:

18 Q Simple yes or no.

19 MR. TUTEN: Don't guess.

20 THE WITNESS: I did a poor job of
21 articulating to you what was going on
22 at that time.

23 Initially, when I walked up to
24 your window I detected the odor
25 commonly associated with marijuana



1 emitting from the vehicle.

2 So that, in the State of Georgia,
3 is sufficient probable cause to conduct
4 a search of your vehicle before it's
5 turned back over to anybody.

6 BY MR. LUCAS:

7 Q Okay. I'm going to ask it a little
8 different.

9 If one specific person from the public
10 can create false observations to give himself
11 probable cause for an arrest of the subject,
12 that would be a constitutional violation, yes or
13 no?

14 MR. TUTEN: Object to form.
15 Again, calls for a legal conclusion.

16 THE WITNESS: I'm not going to
17 answer that.

18 BY MR. LUCAS:

19 Q You refuse to answer yes or no?

20 A I'm not understanding what you're
21 trying to say here.

22 Q I'm saying if one specific person from
23 the public was targeted and false observations
24 was given to create probable cause, would that
25 be a constitutional violation, yes or no?



1 MR. TUTEN: Same objection. Ryan,
2 you've got to answer his question but
3 if you don't know you don't know.

4 THE WITNESS: I don't know.

5 BY MR. LUCAS:

6 Q Okay, thank you. Let me ask you this,
7 have you ever been trained in observing behavior
8 to see physical tales and body language as part
9 of a law enforcement training?

10 A In regards to?

11 Q Would you agree that when a subject is
12 trying to mask their intentions or when they are
13 trying to hide something, their fingers and
14 extremities are known to be a sign that
15 something is off?

16 A I wasn't trained in body language if
17 that's what you're asking. I was trained in
18 standardized field sobriety and advance roadside
19 impairment detection.

20 Q So the answer was no, correct?

21 MR. TUTEN: Why don't you ask your
22 question again.

23 BY MR. LUCAS:

24 Q Have you ever been trained in observing
25 behavior to see physical tales and body language



1 as part of law enforcement training?

2 A No.

3 Q I want you to look at this section of
4 the video and let me ask you -- well, you know
5 what, skip that one. I apologize.

6 What is the normal amount of time it
7 would take to properly administer a horizontal
8 gaze field sobriety test?

9 A I don't remember.

10 Q What would you estimate the normal
11 amount of time it would take to properly
12 administer a horizontal gaze field sobriety
13 test?

14 A I don't recall.

15 Q So your answer is you don't know the
16 normal amount of time it takes to perform a
17 horizontal gaze field sobriety test?

18 MR. TUTEN: Object -- object to
19 form. That's not what he said.

20 THE WITNESS: At the time I could
21 have answered your question, yes.

22 BY MR. LUCAS:

23 Q Well I'm going to ask it again. What
24 is the normal amount of time that it takes to
25 properly administer a horizontal gaze field



1 society test?

2 A I don't recall off the top of my head
3 and I'm not going to give an estimate because
4 I --

5 Q So that's not part of your training?

6 A It is part of the training, yes.

7 Q And you have no recollection of your
8 training --

9 A I --

10 Q -- as far as horizontal gaze test?

11 A I haven't been on the road for a couple
12 years now.

13 Q Okay. Would you agree that shining two
14 lights in the suspect's eyes for a full six
15 minutes while standing in the dark is an
16 extensive long horizontal gaze test?

17 MR. TUTEN: Object to form. That
18 characterizes facts not in evidence but
19 you can answer, Ryan, if you want to.

20 THE WITNESS: Can you rephrase
21 that question?

22 BY MR. LUCAS:

23 Q Would you agree that shining two lights
24 in the subject's eyes for a full six minutes
25 while standing in the dark is an extensively



1 long horizontal gaze test?

2 A No, sir. I wouldn't.

3 Q Okay. Are you aware of potential
4 problems of shining two strong flashlights in a
5 subject's eyes for six nonstop minutes?

6 A No, sir.

7 Q Is it possible the results could be
8 compromised for flaws due to eye fatigue?

9 A I don't know.

10 Q Okay. When you had my license and
11 information directly from my hand that evening,
12 did you tell or communicate with Dispatch that
13 you smelled cannabis or marijuana on me or
14 coming out of my truck?

15 A I don't recall.

16 Q If you had smelled those things upon my
17 window being down, me getting out of my truck
18 and standing there talking to you, that would be
19 the kind of law enforcement observation that you
20 should have reported to Dispatch, correct?

21 A No, not at all. Typically no.

22 (Witness shakes head.)

23 Q And as I stood there talking to you, as
24 you were getting ready to head back to your
25 cruiser to run my credentials past your



1 Dispatch, did you, at any moment, have probable
2 cause for illegal night hunting on my part?

3 A No.

4 Q Okay.

5 MR. TUTEN: Shane, we've been
6 going for about an hour. You want, for
7 the record, to take about a five-minute
8 break?

9 MR. LUCAS: Sure. Sure.

10 (Whereupon, an off-the-record
11 discussion was held from 3:49 p.m.
12 to 4:00 p.m.)

13 BY MR. LUCAS:

14 Q Mr. Mulcahy, each time you have made an
15 arrest of someone for suspected DUI or under the
16 influence of alcohol or drugs, do you have a
17 hundred percent consistent record of therefore
18 performing a full vehicle search and inspection?

19 A Can you rephrase that for me?

20 Q Each time you have arrested someone for
21 a suspected DUI or being under the influence of
22 alcohol or drugs, do you have a hundred percent
23 consistent record of thereafter performing a
24 full vehicle search and inspection?

25 A So just to clarify, you're asking if I



1 have records?

2 Q No. I'm asking, every time you've made
3 an arrest for DUI drugs or alcohol in an
4 automobile do you, one hundred percent of the
5 time, do a full vehicle search?

6 A Depending on the situation, DUI
7 alcohol, the vehicle needs to be inventoried
8 before it's put on.

9 But if I were to suspect DUI drugs
10 during my, you know, field sobriety and advance
11 roadside impairment detection testing, that
12 would be sufficient probable cause to search the
13 vehicle, yes. That's DUI, you know, driving
14 while impaired.

15 Q What roadside --

16 A From --

17 Q I'm sorry. Go ahead. I apologize.
18 What training, as far as drugs, did you have on
19 March 21st 2019?

20 A Just standardized field sobriety
21 advance roadside impairment detection.

22 Q And that's related to drugs, alcohol or
23 both?

24 A Both.

25 Q Okay. Was you a Dray officer



1 (phonetic) March 21st 2019?

2 A No, sir.

3 Q Okay.

4 A DRE, drug recognition expert, no, sir.

5 Q Okay. If you'll flip through I think
6 you'll find an official report from the GBI.
7 I'm going to mark that as Exhibit 2.

8 (Whereupon, Plaintiff's Exhibit
9 Number 2 was marked for
10 identification.)

11 MR. LUCAS: There's probably some
12 things in front of it probably further
13 back.

14 BY MR. LUCAS:

15 Q Okay. If you look at that report, Mr.
16 Mulcahy, do you see the results of my BAC test?

17 A Yes. Ethyl alcohol results are
18 negative.

19 Q Okay. Thank you.

20 A But there should be a continuation of
21 the narcotics that were in your system.

22 Q I wasn't asking about that but that's
23 okay. We'll get to that here momentarily.

24 If you don't mind we're going to watch
25 the video, time stamp 2038 to 2055.



1 And I want to ask you if you hear
2 yourself say, 'and it's known I guess he was
3 night hunting one time. The sheriff said we
4 need to be looking for him.'

5 A I know what you're talking about.

6 Q Play it.

7 (Whereupon, video was
8 played back.)

9 BY MR. LUCAS:

10 Q So that is correct?

11 A Yes.

12 Q Okay. Now, earlier you said there was
13 a -- I might get my words wrong -- bulletin or
14 some type of announcement about me possibly
15 night hunting and evading DNR officers?

16 A I said BOLO, which is be on the look
17 out for.

18 Q Would that be like an official report?

19 A No.

20 Q What was -- what is a BOLO? Sorry.
21 I'm sorry, I don't really know that.

22 A So, typically a BOLO comes out if no
23 one's in the area, someone calls. Say you're on
24 the interstate driving speeding recklessly
25 Dispatch will give a BOLO out.



1 Q So it'd be like --

2 A So be on the lookout for such and such.

3 Q Current events. Correct? It wouldn't
4 be -- a BOLO wouldn't be for years past?

5 A It -- at the time I was under the
6 impression it was current, yes.

7 Q Okay. Did you did you contact DNR
8 officers after you pulled me over?

9 A No.

10 Q Even though there was a BOLO looking
11 for me for possibly evading the DNR?

12 A BOLO is nothing official. I still need
13 probable cause to stop you.

14 Q Right. But once you stopped me did you
15 inform the DNR that you had me?

16 A I don't recall.

17 Q I want to see if you hear this on the
18 video where you made the statement, 'because
19 he's got a case coming up and he's already --
20 yeah, let's do that actually.'

21 (Whereupon, video was
22 played back.)

23 BY MR. LUCAS:

24 Q That is you, correct?

25 A Yes.



1 Q Okay. Did you actually test any
2 alleged marijuana in my vehicle?

3 A No, sir.

4 Q Okay. How did you become to assume it
5 was marijuana?

6 A Based on my training knowledge and
7 experience.

8 Q Do you -- are you aware of the
9 similarity between hemp and marijuana?

10 A I am, yes.

11 Q Do they look alike?

12 A Yes.

13 Q Do they smell alike?

14 A Yes.

15 Q How would you determine the difference?

16 A That's on a certified marijuana expert.
17 Examiner would have taken a look at it and
18 distinguished the difference.

19 Q Did that happen?

20 A Yes.

21 Q When and by who?

22 A It is performed by Derrick Howard
23 August 3rd 2019.

24 Q So that was some five months later,
25 correct?



1 A Yes, sir.

2 Q But I was charged for it on the --
3 March 21st 2019, correct?

4 A Yes.

5 Q Okay. Based on your opinion of it
6 being marijuana, correct?

7 No one else had tested it, at that
8 point, when I was arrested, correct, until the
9 eighth month?

10 A Based on my training, knowledge and
11 experience at that time it was reasonable for me
12 to believe it was marijuana.

13 Q But you did not test it to verify?

14 A Personally, no.

15 Q Okay. There was an alleged substance
16 alleged to be cocaine and a dollar bill that was
17 removed from my wallet. Do you recall that?

18 A Yes.

19 Q Why did you suspect it to be cocaine?

20 A Based on my training, knowledge and
21 experience at that time it appeared to be
22 cocaine consistent with what I had observed as
23 cocaine.

24 Q So you can identify a substance by
25 merely looking at it or does it need to be



1 tested?

2 A It needs to be tested.

3 Q Did you test it?

4 A I believe Investigator Ward tested it.

5 Q So you didn't test it?

6 A No, sir.

7 Q Did you see it get tested?

8 A No, sir.

9 Q Did you see the results of any tests?

10 A Can you ask that again?

11 Q Did you witness or see any results of
12 it being tested and being positive for cocaine?

13 A No, sir.

14 Q So would it or would it not be
15 procedure to have a alleged substance tested for
16 identification for before someone's charged with
17 it?

18 A Typically we don't do that on the road
19 level at Long County.

20 If we have, you know, test kits on the
21 side of the road, then sure, but and that's only
22 a, you know, preemptive test. That's not
23 confirmed that that -- the substance got sent
24 off to the GBI crime lab where it was confirmed
25 and the charge was supposed to be updated.



1 Q What was it confirmed to be?

2 MR. TUTEN: If you don't know
3 don't guess.

4 THE WITNESS: I don't recall.

5 BY MR. LUCAS:

6 Q So why -- why would you assume it was
7 cocaine rather than just an unknown substance
8 that's suspected to be drugs or some type of
9 illegal narcotic?

10 Out of all the drugs out there, why did
11 you specify it was cocaine?

12 A It was consistent based off my
13 training, knowledge and experience at that time
14 with being a white powdery substance consistent
15 with cocaine.

16 Q Do you know of any other substance that
17 may have the same appearance as what you'd seen
18 that may not be cocaine? Say, for example, like
19 Anthrax?

20 A No, I'm not aware.

21 Q So I'm trying to figure out, why,
22 instead of you putting it as a substance to be
23 tested to find out the results, you
24 automatically assumed and charged me with having
25 possession of cocaine?



1 A It should have been Schedule 2. I
2 don't know why it specified cocaine.

3 Again, at that time I was fairly new to
4 the road and learning.

5 So I wouldn't -- I wouldn't have even
6 have obtained those warrants for you, the felony
7 warrants. I only did everything on the
8 roadside, misdemeanor wise.

9 Q Right. But you --

10 A Investigator Ward was the one that was
11 -- tested it, package it. Sent it to the GBI
12 crime lab for chemical analysis.

13 Q But you wrote it up as cocaine, not as
14 a substance that needed tested or illegal?

15 A Yes, sir. Clearly here on the
16 evidence, it says -- (inaudible)

17 Q Uh-huh.

18 A -- folded, which contained a white
19 powdery substance suspected to be cocaine.

20 Q Okay. And you've never seen that get
21 tested?

22 A I personally, no, did not see it get
23 tested.

24 Q Okay. And where was that found?

25 A I don't recall.



1 Q Okay. Do you remember where my wallet
2 came from? Did you take it off of my person or
3 did you find it in my vehicle?

4 A I don't recall.

5 Q Refer back to the transcript where you
6 actually said that you took it off me -- to
7 arrest. Let me find it here. And then again
8 you said it was in the vehicle.

9 But until I find it, if you look at the
10 top of that report you was just looking at it's
11 talking about the cocaine and dollar bill where
12 it said it was found in the dash area.

13 And the reason I ask that is we've got
14 three different places the substance possibly
15 could have been. So this is kind of here nor
16 there but --

17 Right at the top there, yes sir.
18 What's it say right there?

19 A Vehicles dash area.

20 Q Okay. So your report says that the
21 substance alleged to be cocaine was found in the
22 vehicle dash area?

23 A This is just a property receipt. I
24 don't recall what the report said -- police
25 report, the official report.



1 Q Well, that's your document, correct,
2 you signed?

3 A Yes.

4 Q Okay. What did you do with the alleged
5 substance once you located it?

6 A I don't recall.

7 Q Did you photograph it?

8 A I don't recall.

9 Q Did anyone witness you find it?

10 A I don't recall.

11 Q Do you recall what you did with the
12 alleged marijuana when you found it?

13 A No, sir.

14 Q Okay. What is policy or procedure when
15 you find an alleged substance? How do you
16 handle that?

17 A Typically at that time we would take
18 possession of it and secure it in our vehicle,
19 front seat of our vehicle or package it in
20 evidence bags if we had evidence bags at that
21 time.

22 Q And you say you don't recall doing
23 that?

24 A I don't recall, no, sir.

25 Q Okay.



1 MR. LUCAS: All right. We can go
2 off the record, please.

3 (Whereupon, an off-the-record
4 discussion was held from 4:17 p.m.
5 to 4:21 p.m.)

6 (Whereupon, Plaintiff's Exhibit
7 Number 3 was marked for
8 identification.)

9 BY MR. LUCAS:

10 Q Do you recall, during the Motion to
11 Suppress hearing, answering Ms. Poole's question
12 of when did the other deputies arrive on scene,
13 was it in the beginning or the tail end?

14 A No, sir, I don't recall.

15 Q Okay. Do you recall Ms. Poole asking
16 you if anyone helped with your search and the
17 answer you gave was no?

18 A I don't recall that.

19 Q Okay. So do you remember anyone
20 helping with you the search or not?

21 A I don't recall, Mr. Lucas.

22 Q Well I don't want to watch the whole
23 hour and 17 minutes but there's quite a bit on
24 there where multiple officers searched.

25 A Yes, sir.



1 Q And I just wanted to clarify that.

2 A Yes, sir.

3 Q So that was possibly a mistake? Is
4 that possible, Mr. Mulcahy, it was a mistake
5 when you said you had searched alone?

6 This is kind of hard to hear. I'm
7 going to slide this all the way over here to
8 you, but I want to ask why you commented to
9 Deputy Horton's comment when he opened my
10 briefcase and said this is documents related to
11 his court case coming up. And your reply, if
12 I'm correct, was excellent.

13 (Whereupon, video was
14 played back.)

15 BY MR. LUCAS:

16 Q My question is, what was excellent
17 about going into my private documents?

18 A I don't recall. It's been so long.

19 Q That's fair. I'll show you a video of
20 you searching inside my vehicle gas cap.

21 My question is, what was you looking
22 for?

23 MR. TUTEN: Is that a question,
24 Mr. Lucas or are you going to play the
25 video?



1 MR. LUCAS: Yeah, I'm going to
2 play the video but then my question
3 would be what was you looking for
4 inside my gas cap?

5 THE WITNESS: Fruits of the crime.
6 It's reasonable to assume somebody
7 could put anything in the gas cap,
8 specifically narcotics.

9 BY MR. LUCAS:

10 Q Okay. Do you need to view that or are
11 you --

12 A No, sir.

13 Q Okay. We're through with that one.
14 Also same situation. How about underneath the
15 motor compartment of my vehicle?

16 A Yes, sir. We had been receiving, you
17 know, information that people were using magnet
18 boxes --

19 Q Uh-huh.

20 A -- to store narcotics and stuff like
21 that.

22 Q And what narcotics would you have been
23 looking for?

24 A All of them. I guess it just depends.

25 Q Do you recall arresting me for driving



1 under the influence of alcohol?

2 A So at that point in the video I know
3 what you're referencing.

4 I had misspoken to you. Again, based
5 on my training, knowledge and experience at that
6 time, you know, based on the totality of the
7 circumstances surrounding the stop, the odor of
8 marijuana, the clues I observed during the field
9 sobriety and ARIDE it led me to believe that you
10 were under the influence of both alcohol and
11 drugs or a combination of the two.

12 Q What type of drugs?

13 A I -- I can't give that determination.
14 I'm not a DRE.

15 Q So how would you come to that
16 conclusion? How would you come to the
17 conclusion I was possibly under the influence
18 drugs if you didn't have any DRE training?

19 A Based on my training through advance
20 roadside impairment detection and the clues that
21 were given to me during your exercises.

22 Q Do you recall what those might have
23 been?

24 A I don't recall.

25 Q Okay. I would like to mark this as



1 Exhibit 4.

2 (Whereupon, Plaintiff's Exhibit
3 Number 4 was marked for
4 identification.)

5 BY MR. LUCAS:

6 Q It is the results of your sobriety
7 test. If you'll look at that. It says the
8 affects is obvious for alcohol, is that correct?

9 A Based on my training, knowledge and
10 experience, yes, sir.

11 Q After what you learned today from the
12 GBI report saying I was negative for alcohol
13 would you say maybe you was wrong?

14 A No, sir.

15 Q So the GBI was wrong?

16 A No, sir.

17 Q Well --

18 A It only confirmed my suspicion that --

19 Q Well, I'm trying to understand if I was
20 arrested for alcohol, you made the statement
21 that I had way too much to drink but the GBI
22 blood results says my results was negative.

23 A Based on my observations at the time,
24 yes.

25 Q So would an observation be better than



1 a chemical test?

2 A So again, like early on I explained I
3 did a poor job of articulating of what I was
4 doing to you and also misspoke saying alcohol
5 only.

6 Now, had I suspected only alcohol, yes,
7 I would have done a breathalyzer test. Yes, I
8 would have, you know, done everything.

9 But the clues I was seeing and your,
10 you know, behavior and demeanor suggested
11 otherwise and that's why I decided to read you
12 for blood.

13 Q But you also, by your observation,
14 assumed I was under of the influence of alcohol
15 to the point where it was illegal, correct?

16 A So typically through advance roadside
17 impairment detection and training, knowledge and
18 experience different substances can I guess mask
19 themselves as alcohol. So, for instance,
20 opiates. Opiates get the same nystagmus as
21 alcohol.

22 Q Did you suspect me of being on opiates?

23 A I couldn't make a determination, again,
24 because I'm not a drug recognition expert at
25 that time.



1 Q Looking at everything now, would you
2 agree with me that you arrested me under false
3 pretense?

4 A No, sir.

5 Q So you still said or you still say I
6 was under the influence of alcohol to the point
7 where it was illegal by your observations alone?
8 Watch out now.

9 MR. TUTEN: Object to form. One,
10 you're characterizing facts that are
11 not in evidence. You were not charged
12 with DUI alcohol, you were charged with
13 DUI drugs.

14 MR. LUCAS: No, sir. The tape
15 will clearly play it. We can play it
16 again.

17 MR. TUTEN: Mr. Lucas, you can
18 play the tape all you want to but you
19 can read what you were actually charged
20 with. The criminal records that we
21 produced to you in discovery and Mr.
22 Mulcahy's incident report, which all
23 reflect that you were charged with DUI
24 drugs.

25 MR. LUCAS: I was arrested for



1 under the influence of alcohol. It's
2 clearly on the tape.

3 BY MR. LUCAS:

4 Q So under your experience you may have
5 handled it incorrectly?

6 MR. TUTEN: Object to form, again.

7 Mr. Mulcahy you can answer.

8 THE WITNESS: I misspoke, yes.

9 BY MR. LUCAS:

10 Q So misspoke in what sense?

11 A Instead of saying drugs and alcohol, a
12 combination therein, I just quickly said alcohol
13 based on the odor of alcoholic beverages
14 emitting from --

15 Q What part of my field sobriety test
16 would indicate any type of drug use?

17 A Horizontal gaze nystagmus.

18 So I observed lack of smooth pursuit
19 and maximum deviation, which would, based on my
20 training, knowledge and experience, lead me to
21 believe that you were around the legal limit for
22 the consumption of alcohol.

23 Q Are you provided an instrument to test
24 to be more accurate than just your assumption?

25 A Yes, sir.



1 Q And why was it not used?

2 A Again, based on the totality of
3 circumstances it was reasonable for me to
4 believe that there was a combination of
5 substances onboard not just alcohol.

6 Q But the breathalyzer machine y'all had,
7 that's for alcohol, correct?

8 A Are you referring to the intoxilyzer?

9 Q Yes, sir. The one you do the little
10 breathalyzer thing with the little blow.

11 A The PBT.

12 Q And that tests for alcohol, correct?

13 A Right. And the results are only
14 positive or negative for the presence of
15 alcoholic beverages.

16 Q Do you recall, at the beginning of the
17 sobriety test, you said you was concerned
18 because you smelled alcohol on my breath?

19 A Yes, sir.

20 Q Okay. And you was giving me a field
21 sobriety test based on the smell of alcohol on
22 my breath?

23 A So standardized field sobriety, the
24 first, you know, which would be the horizontal
25 gaze nystagmus, the walking, turn, and the



1 one-leg stand would be indicative alcohol.

2 And then I would take it just a little
3 bit further to confirm my suspicions to see if
4 there were other substances onboard with my
5 advance roadside impairment detection and
6 training, which was the lack of convergence in
7 both eyes, the body tremors, eyelid tremors.

8 And you estimated 24 seconds to be 30
9 seconds during modified Romberg. And that's
10 indicative of your internal clock being sped up
11 and your perception of time is just a little bit
12 off.

13 Q Let me ask you this, you remember all
14 of that about training but you don't remember
15 how long it takes to do a horizontal gaze?

16 A No, sir. It's specific. I don't
17 remember and I don't want to speak on that.

18 Q Okay. So could you have dispelled your
19 assumption of alcohol by using a breathalyzer or
20 confirmed?

21 A After conducting the ARIDE testing I
22 was confident that there was other substances
23 onboard.

24 Q Okay. If the field sobriety test is
25 not done correctly, would that be indication of



1 drug use or indication of fault of the
2 administer?

3 A Can you rephrase that.

4 Q If the sobriety test is performed
5 incorrectly, would that be a problem from the
6 administrator or would that be proof of
7 intoxication of the suspect?

8 A I don't know. I don't --

9 Q So if you had performed the sobriety
10 test incorrectly, then -- how do you say it --
11 failed to perform incorrectly, then obviously
12 you couldn't rely on it for any type of totality
13 to back up your suspicions, correct?

14 A So you're insinuating that I conducted
15 my testing incorrectly?

16 Q I'm asking you first.

17 A No, I didn't.

18 Q No. I'm saying if it was done
19 improperly, would that go against totality of
20 the situation that someone was impaired?

21 A No, sir.

22 Q So even if it's performed -- not
23 performed accurately or not performed correctly,
24 the results would be the same?

25 Let me clarify it. If you performed it



1 incorrectly, would it have the same standing in
2 court as if you performed it inaccurately?

3 MR. TUTEN: Object to form. Calls
4 for a legal conclusion but you can
5 answer, Ryan.

6 THE WITNESS: I mean I get what
7 you're getting at.

8 Typically we do it all
9 step-by-step by the numbers. So I mean
10 the clues are the clues and they're
11 only clues regarding the totality of
12 everything, driving behavior, your
13 behavior.

14 BY MR. LUCAS:

15 Q The majority of the information you
16 obtained from the sobriety test comes from
17 horizontal gaze, correct?

18 A No, sir.

19 Q No?

20 A No, sir.

21 Q What would be the main part of your
22 sobriety test to come to the conclusion if
23 someone's impaired or not?

24 A The whole test and then, of course, the
25 driving behavior and --



1 Q No, just on the sobriety test. What
2 part of the sobriety test would be the most
3 important?

4 A I can't answer that. That's all --
5 it's all just a totality thing.

6 Q Well, the horizontal gaze, is that one
7 of the first things you'd learned?

8 A Yes. Yes, sir.

9 Q So that's pretty basic for all police
10 officers with the training, sobriety tests, they
11 would know about horizontal gaze?

12 A Yes, sir.

13 Q And they would know the approximate
14 time it would take to perform that?

15 A I'd venture to say that, yeah, at that
16 time if they were, you know, working patrol and
17 everything, yeah, they should be able to answer
18 that question.

19 Q So you don't recall an average time to
20 perform a horizontal gaze test?

21 A No, sir, I don't recall.

22 Q But you recall the signs of failing
23 one?

24 A Again, they're not -- it's not pass or
25 fail. It's just a totality of all of the clues



1 combined that would believe -- lead me to
2 believe --

3 Q Okay. So extending the horizontal gaze
4 past the normal time, would it effect the
5 outcome of your results?

6 A I can't answer that. I'm not an
7 expert.

8 Q Just for the purpose of pure honesty,
9 if you had to do it again today, would you have
10 done anything differently?

11 A I'd articulate it a little bit more of
12 what was going on to you.

13 Q You would have still charged me for
14 marijuana?

15 A Yes, sir.

16 Q And cocaine?

17 A Yes, sir.

18 Q Based on --

19 A Training, knowledge and experience. I
20 mean it's not my realm to decide what is and
21 what isn't.

22 Those charges get updated as the
23 substances are tested.

24 Q I thought the charges got applied as
25 the substance was tested not before. Like if



1 you had a --

2 A I didn't --

3 Q Like you had a substance, you didn't
4 know if it was heroine, whatever, cocaine, salt,
5 beach sand you'd have to wait for some type of
6 lab result to come back to charge an individual.
7 Isn't that normal procedure?

8 A So -- okay, I get what you're getting
9 at. A Schedule 2 is what should have been
10 charged.

11 Q But should it have been charged before
12 a test was done on it to confirm the substance?

13 A Okay now you're getting into --

14 Q That's just police procedure. Would
15 you normally charge someone with something that
16 you don't know what it is? Because I'm assuming
17 you assumed it was cocaine, correct?

18 A Based on my training, knowledge and
19 experience at that time, yeah.

20 Q But you was wrong, correct?

21 A Per the --

22 Q How about the alcohol, were you wrong
23 about that?

24 A So you admitted to drinking alcoholic
25 beverages. And everybody, of course, downplays.



1 It's normal to downplay their --

2 Q Is that illegal?

3 A -- drinking. But based off this, you
4 know, field sobriety testing, you know, either,
5 one, you were lying to me about how much you had
6 to drink, or number two, there was other
7 substances in your system.

8 Q You was the one that brought up I
9 smelled like alcohol, correct?

10 A Yes, sir.

11 Q Okay. Is drinking illegal in Georgia?

12 A Inherently, no.

13 Q So what part of my smell of alcohol
14 made you think I was over the legal limit?

15 A Drinking and operating motor vehicles
16 is against the law. So that's where we come in
17 to dispel or see where you're at within the
18 legal limit.

19 Q And that --

20 A Which would give us, you know, probable
21 cause --

22 Q Right.

23 A -- to make an arrest.

24 Q And that's why you issued a
25 breathalyzer test, correct?



1 A I didn't issue a BBC test.

2 Q No, but I'm saying that's why you're
3 issued one like it's standard equipment.

4 A At that time I don't recall if I was or
5 wasn't issued a PBT.

6 Some of that stuff is like grant funded
7 through the state.

8 Q So you don't even know if you had one
9 available?

10 A We had an intoxilyzer.

11 Q Okay. So my question is, if someone
12 has the BAC level of 0.1, is that DUI?

13 A No.

14 Q Okay. What was my BAC?

15 A Per the lab results, they were
16 negative.

17 Q So that would be zero, correct?

18 A (Witness nods head.)

19 Q So it's safe to assume you was wrong?

20 A It's safe to assume that I misspoke to
21 you.

22 Q Is it --

23 A I should have said drugs and alcohol.

24 Q -- safe to assume that I was not under
25 the influence of alcohol to a point that is



1 illegal?

2 A At the time your -- at the time your
3 blood was drawn and, you know, it's very
4 possible that you were able to expel the --

5 Q Is it possible you were incorrect?
6 That I wasn't intoxicated to the point I wasn't
7 legally allowed to drive?

8 A No, sir.

9 Q So you're saying --

10 A You were less safe to operate a motor
11 vehicle.

12 Q So you're saying I was over .08, which
13 is the law, right?

14 A I can't make that determination on the
15 side of the road because I wasn't a DRE.

16 All I can tell you is the clues that
17 were given to me that led me to believe that you
18 were less safe to operate a motor vehicle.

19 Q Could you have contacted someone had
20 them come out that maybe had the -- something to
21 verify this?

22 A There's only a handful of DRE's in the
23 state and at that time --

24 Q I'm talking breathalyzer?

25 A Yeah, of course. But at that time,



1 again, I misspoke to you and said just alcohol
2 when I should have said alcohol and drugs.

3 Q Right. But I'm saying you said I was
4 past the legal limit of alcohol.

5 A When did I --

6 Q Specifically alcohol.

7 A When did I say that?

8 Q When you said I had way too much to
9 drink to drive and you arrested me for being
10 under the influence of alcohol. That means you
11 assumed I was over the legal limit, correct?

12 A Amongst other things, yeah.

13 Q Okay. Was you wrong about me having
14 cocaine?

15 A I don't recall what it tested positive
16 for.

17 Q Okay.

18 A I know it was probably Schedule 2,
19 yeah.

20 Q So you was wrong?

21 A Yes. The charge was wrong, yes.

22 Q And you was wrong about me being past
23 the legal limit of alcohol?

24 A Yes.

25 Q Is it also possible you was wrong about



1 marijuana. It could have been hemp?

2 A Again, I'm not a marijuana examiner. I
3 don't get into the weeds of that.

4 Q Okay. So you charged me with the
5 alcohol, marijuana, cocaine. But none of it
6 you're qualified --

7 A At the time, no.

8 Q That makes sense.

9 A -- up to the examiners and the
10 investigators.

11 Q I'm going to stop there.

12 MR. TUTEN: Give me ninety
13 seconds.

14 MR. LUCAS: Yes, sir.

15 (Whereupon, a short break was
16 taken 4:44 p.m. to 4:45 p.m.)

17 CROSS-EXAMINATION

18 BY MR. TUTEN:

19 Q Mr. Mulcahy, would you agree with me
20 that the video we've watched today does not
21 display the entirety of the time you were behind
22 Mr. Lucas?

23 A Yes, sir.

24 Q And you'd agree with me that the video
25 we watched today does not show the oak tree with



1 all the reflectors on it --

2 A Yes.

3 Q -- where you first were tipped off to
4 his driving might be a problem?

5 A Yes, sir.

6 Q When you got behind Mr. Lucas, you were
7 able to run his tag, right?

8 A Correct.

9 Q And when you ran his tag, what
10 information were you given?

11 A The MVT would return that, you know,
12 his registration was suspended and any other
13 deficiencies with his license which at the time
14 was expired.

15 Q When someone's licensed expired and
16 their registration's suspended, does that give
17 you reasonable suspicion to pull them over?

18 A Yes, sir.

19 Q And that's what you did, right?

20 A Yes.

21 Q When you approached Mr. Lucas' vehicle,
22 did you detect any odors emitting from it?

23 A Yes, sir. Based on my training,
24 knowledge and experience at that time on my
25 initial approach I detected the odor commonly



1 associated with marijuana emitting from the
2 vehicle.

3 Q And when you spoke with Mr. Lucas did
4 you detect any other odors?

5 A Once I removed him from the vehicle and
6 we talked face-to-face I detected the odor
7 commonly associated with alcoholic beverages
8 emitting from his person.

9 Q So at the very beginning of this stop
10 you had smelt the odor commonly associated with
11 marijuana and the odor commonly associated with
12 alcohol?

13 A Yes, sir.

14 Q At that point you chose to perform a
15 battery of field sobriety tests on him, right?

16 A Correct.

17 Q And you walked him through the field
18 sobriety tests which determine both, impairment
19 -- alcohol impairment and drug impairment or
20 chronic impairment, right?

21 A Correct.

22 Q Did you perform those tests correctly?

23 MR. LUCAS: Object to form. No,

24 I'm kidding.

25 THE WITNESS: Yes, sir.



1 BY MR. TUTEN:

2 Q You performed those tests correctly?

3 A Yes, sir.

4 Q And consistently with the training and
5 experience that you had at that point?

6 A Yes, sir.

7 Q Did you shine -- did you perform a
8 six-minute horizontal gaze nystagmus test on Mr.
9 Lucas?

10 A I don't recall the time stamp of it. I
11 don't recall. I did perform horizontal gaze
12 nystagmus but as far as timing goes I -- I
13 couldn't tell you how long it took.

14 Q From the HGN test did you detect four
15 of the six clues --

16 A Yes.

17 Q -- that constitute that test?

18 A Yes, sir.

19 Q And you performed a walk and turn test?

20 A Yes, sir.

21 Q And you detected three of the eight
22 clues that constitute that test?

23 A Yes, sir.

24 Q And you performed the one-leg stand
25 test?



1 A Yes, sir.

2 Q And you detected two of four clues that
3 constitute that test?

4 A Correct.

5 Q And you also determined that he had
6 lack of convergence in both of his eyes?

7 A Correct.

8 Q You determined that he had eyelid
9 tremors?

10 A Correct.

11 Q You determined that he had body
12 tremors?

13 A Correct.

14 Q And during his modified Romberg, you
15 determined his internal clock was sped up
16 because he estimated 24 seconds to be 30
17 seconds?

18 A Correct.

19 Q And while he was performing the
20 modified Romberg he also swayed front to back?

21 A Correct.

22 Q The tests we just talked about, lack of
23 convergence, the tremors, the modified Romberg
24 and the swaying, are those more associated with
25 alcohol consumption or the presence of



1 narcotics?

2 A Presence of narcotics.

3 Q So once you had run through that
4 battery of field sobriety tests, you felt
5 confident you could place him under arrest for
6 DUI alcohol and for DUI drugs?

7 A Yes, sir.

8 Q And that's consistent with what your
9 findings were?

10 A Yes, sir.

11 Q Including the detection of the odors?

12 A Correct.

13 Q And his performance on the field
14 sobriety tests?

15 A Correct.

16 Q Along with his driving behaviors?

17 A Correct.

18 Q And your conversation with him?

19 A Correct.

20 Q When you place someone under arrest and
21 tell them what they're under arrest for, is that
22 an official charging document?

23 A No, sir.

24 Q It's whatever you end up writing on
25 their citation, right?



1 A Correct.

2 Q Or which eventually makes it into your
3 incident report?

4 A Correct.

5 Q When you charge someone with a
6 misdemeanor, what is the typical process for
7 that? Are they going to be taken to jail for
8 that?

9 A Depending on what it is. If it was at
10 that time possession of marijuana, yes.

11 Q Okay.

12 A And then, you know, simple traffic
13 infractions, no, but suspended license, yes. No
14 insurance, your vehicle gets towed. So it's
15 just -- it all depends.

16 Q Sure. When you suspect someone of
17 possessing a Schedule 2 drug like cocaine or
18 possessing marijuana, to the extent that it
19 would be a felony, you do not make a
20 determination whether that felony charge sticks
21 or not, right?

22 A Correct.

23 Q What you do is you transport him to the
24 jail and you cite him for it --

25 A Correct.



1 Q -- pending a probable cause analysis?

2 A Correct.

3 Q Or a first appearance hearing?

4 A Correct.

5 Q And typically on a charge like that,
6 you can only hold someone for 48 hours or 72
7 hours before they have to have a first
8 appearance hearing, right?

9 A Correct.

10 Q To determine whether the charge can
11 stick or whether it is a valid charge?

12 A Correct.

13 Q So explain to me the process for that
14 with a drug charge back when you were at Long
15 County Sheriffs Office, what -- if you picked
16 someone up on the road like Mr. Lucas and
17 suspect them of having drugs, what does the next
18 week for them look like?

19 A So typically in the narcotic -- the
20 supervisor would notify narcotics investigator
21 and the investigator would make a determination
22 depending on who, what, where, why, when, how,
23 how much it is, if he was going to respond to
24 the scene or not.

25 And those suspected narcotics would be



1 taken into custody by me and evidence vouchers
2 and evidence bags, it'll be all packaged for the
3 narcotics investigators, which is what happened.

4 The narcotics investigator should
5 conduct a preemptive test of the substance to
6 confirm or deny, you know, Anthrax or cocaine or
7 methamphetamine or -- but, you know, the powder
8 was consistent with our training, knowledge and
9 experience at that time.

10 So, you know, ultimately typically
11 they'll be charged with possession of Schedule
12 2, which I don't -- I don't know why it was so
13 specific for cocaine but that's here nor there.

14 And then warrants would be obtained.
15 You'd be served with the warrants and then
16 they'll be taken before a magistrate judge to
17 see if there's sufficient probable cause to move
18 forward with the case.

19 Q Okay.

20 A And they'll be granted bond. Bond
21 hearing pretty much.

22 Q Sure. I'm going to take a step back.
23 Could you describe what the powder looked like
24 as you observed it that night?

25 A It was a small amount and it was white



1 flaky and at that time based on my training,
2 knowledge and experience I just assumed it was
3 cocaine. No tests were taken. No nothing like
4 that because at the time that's not my job.

5 Q Would a road deputy ever perform a
6 roadside test like that?

7 A If they had the preliminary test, yes.

8 Q But if they didn't they'd just get it
9 to the drug vault?

10 A Yes, yes.

11 Q And the narcotics would --

12 A Yes, sir. Yes, sir.

13 Q Okay. We're kind of going in reverse
14 order here but bear with me.

15 Once you determined that he was likely
16 or you had probable cause that he was driving
17 under of the drugs, driving under of the
18 influence alcohol you placed him in the back of
19 your patrol car, right?

20 A Yes, sir.

21 Q And at that point you agree with me
22 that you had probable cause to perform a search
23 of his vehicle?

24 A Yes, sir.

25 Q For furtherance of the crime?



- 1 A Yes.
- 2 Q Be it narcotics?
- 3 A Correct.
- 4 Q Or --
- 5 A Or open containers or --
- 6 Q Sure.
- 7 A Correct.
- 8 Q So that's what you did, right?
- 9 A Correct.
- 10 Q And you did find what you believed to
11 be narcotics in the car?
- 12 A Correct.
- 13 Q And what did you find in the car
14 specifically?
- 15 A Suspected marijuana. To the best of my
16 knowledge I know that marijuana was in there,
17 the suspected marijuana. But other than that I
18 don't -- I don't recall.
- 19 Q Once you take Mr. Lucas to the jail,
20 drop him off, write-up your report. That's it
21 for your involvement?
- 22 A Yes, sir.
- 23 Q You don't test the drugs?
- 24 A No, sir.
- 25 Q You don't get the warrants?



1 A No, sir.

2 Q You don't take him to his first
3 appearance hearing?

4 A No, sir.

5 Q You're not involved in any of that?

6 A No, sir.

7 Q Your arrest of Mr. Lucas was
8 warrantless, is that right?

9 A Correct.

10 Q You never actually got a warrant for
11 him for anything?

12 A No, sir.

13 Q That was Mike Ward that handled that?

14 A Yes.

15 Q Are you aware of when and how these
16 drugs or suspected substances were tested?

17 A No, sir.

18 Q And you would never know that because
19 like you just said that's not your purview?

20 A Right.

21 Q You make the initial arrest and then
22 you turn it over to someone else to start the
23 legal process against him?

24 A Correct.

25 Q And as far as you're concerned, after



1 that initial arrest is made, you're not involved
2 in the prosecution of Mr. Lucas?

3 A No, sir. Not it being a felony case
4 unless he was --

5 Q Unless there -- go ahead.

6 A The, you know, driving under the
7 influence charge, all that would run.

8 But I would testify to that part, the
9 stop and everything, which we did.

10 And then the investigator would testify
11 to the testing and all of that of the
12 substances.

13 Q I don't know what exhibit this was
14 marked as. You might have it on --

15 MR. LUCAS: Yeah, it's been marked
16 as --

17 THE WITNESS: 3.

18 BY MR. TUTEN:

19 Q At the bottom of Exhibit 3 there is
20 some columns entitled chain of custody.

21 A Yes, sir.

22 Q Would you agree with me that on March
23 21st 2019 this document shows that you
24 relinquished a sample of what you suspected to
25 be cocaine and placed it into the drug vault?



1 A Yes, sir.

2 Q And this claim of custody also shows
3 that you never retrieved it again?

4 A No, sir.

5 Q Now we might be treading the same
6 ground here. You were not involved with the
7 testing of these substances?

8 A No, sir.

9 Q And you would never be involved in the
10 testing of these substances?

11 A No, sir. At that time, no.

12 Q And you had nothing else to do with the
13 criminal case that was pursued against Mr.
14 Lucas?

15 A No, sir.

16 Q Did you assist Investigator Ward in
17 procuring warrants for Mr. Lucas?

18 A No, sir.

19 Q Did he ask you to help him?

20 A No, sir.

21 Q He didn't ask you to help write his
22 affidavit or anything like that?

23 A No, sir.

24 Q Did you even talk to him about it?

25 A I believe Sergeant Horton just gave him



1 a rundown of the stop and stuff. That's pretty
2 typical to call and just let them know what's
3 going on. What's going to be there.

4 Q Sure.

5 A Just to give him a heads up.

6 Q Did you lie about anything in any
7 official report you made to any court?

8 A No, sir.

9 Q And if you misspoke, at any point
10 during this process, you didn't do it
11 intentionally, did you?

12 A No, sir.

13 Q You didn't intend to hurt Mr. Lucas?

14 A No, sir.

15 Q You didn't intend to deprive him of any
16 kind of civil rights that he has?

17 A Absolutely not.

18 Q Because he didn't even know Mr. Lucas?

19 A Correct.

20 Q You didn't even know Mr. Lucas?

21 A Correct.

22 Q In Georgia, is there a crime call DUI
23 less safe?

24 A Yes.

25 Q If you're charged with DUI less safe,



1 does your blood alcohol necessarily have to be
2 .08 or higher?

3 A No, sir.

4 Q It's just if you are under the
5 influence of alcohol to the extent that it's
6 less safe to operate a motor vehicle, correct?

7 A Correct. Yes, sir.

8 Q So the fact that Mr. Lucas' BAC may not
9 have been a .08 --

10 A Correct.

11 Q -- is irrelevant to --

12 A Yes, sir.

13 Q -- the fact that he was charged with
14 DUI?

15 A Yes, sir.

16 Q Alcohol?

17 A Correct.

18 Q Or DUI, period. Because if you look at
19 the charging documents that were brought in this
20 case, he was charged with DUI drugs, is that
21 right?

22 A Correct.

23 Q And that's the case that was pursued
24 against him?

25 A Yes, sir.



1 Q Do you know how Mr. Lucas' criminal
2 case resolved?

3 A No, I don't.

4 Q Because you weren't involved in it?

5 A Correct.

6 Q Did you ever talk to -- well, strike
7 that.

8 Beyond the suppression hearing and your
9 involvement in that, that Mr. Lucas filed in his
10 criminal matter, did you have any communication
11 with the DA's office about this case?

12 A No, sir.

13 Q Besides the suppression hearing, have
14 you talked to Mr. Lucas ever since you arrested
15 him?

16 A No, sir.

17 MR. TUTEN: That's all I've got
18 right now. Do you have anything else,
19 Shane?

20 MR. LUCAS: Yes, sir.

21 MR. TUTEN: Okay.

22 REDIRECT EXAMINATION

23 BY MR. LUCAS:

24 Q Did I just hear you say that you didn't
25 -- you wasn't part of any warrant seeking on my



1 behalf?

2 A You talking about arrest warrants?

3 Which --

4 Q Any warrants?

5 MR. TUTEN: Yeah.

6 THE WITNESS: We should have
7 clarified that.

8 MR. TUTEN: Yeah.

9 (Whereupon, Plaintiff's Exhibit
10 Numbers 5 and 6 were marked for
11 identification.)

12 BY MR. LUCAS:

13 Q Well because I've got two right here.

14 A That's a search warrant for your blood.

15 Q Right. Search warrant?

16 A Search warrant.

17 Q Correct, right.

18 A But the arrest warrants I wouldn't
19 have.

20 Q I just said any warrants. So you
21 misspoke, correct?

22 A Correct.

23 Q Okay. Do you know why the case was
24 dismissed?

25 A No, sir.



1 Q Is it possible because there wasn't any
2 marijuana, any alcohol or cocaine?

3 A No, sir.

4 Q It's not possible?

5 A (Witness shakes head.)

6 Q So what would lead the DA to dismiss
7 the case if there was alcohol, marijuana and
8 cocaine?

9 A That's a question for them.

10 Q So I don't really know how to say it.
11 Obviously Ms. Poole didn't think the
12 evidence was strong enough to continue,
13 apparently.

14 MR. TUTEN: Object.

15 BY MR. LUCAS:

16 Q Would you agree with that?

17 MR. TUTEN: Object to form. Calls
18 for speculation. He doesn't know what
19 Ms. Poole's thinking.

20 BY MR. LUCAS:

21 Q Do you remember the Judge Paul Rose
22 disagreeing with your opinion about me almost --
23 me leaving the roadway, period?

24 A Correct. It's in the transcripts, yes.

25 Q Okay. So he seen it differently than



1 you, correct?

2 A But still granted sufficient probable
3 cause to move forward with the case.

4 Q Well he -- no, that was on the license.
5 That wasn't for the tree incident.

6 We can go back to the transcript and go
7 through it and look at it.

8 But are you positive you got a -- you
9 called in my license plate before you pulled me
10 over?

11 A I don't recall.

12 Q Okay. Would you be surprised if I had
13 the Dispatch and there was no mention of it
14 until after you pulled me over?

15 A That's because we have MDT's in our
16 vehicle and I would have ran it prior to.

17 Q Okay.

18 A Only my own.

19 Q -- Dispatch, they tell you what's going
20 on with the tag? Like if you called in the tag
21 they tell you what the status of the tag is,
22 correct?

23 A Correct.

24 Q Would you be surprised to find out
25 there was no mention of it until after you had



1 pulled me over?

2 A Yes, sir. That wouldn't surprise me.

3 Q So what would be proof that you
4 actually knew my tag was expired and license was
5 expired before you pulled me over?

6 A That's all GCIC questions. I just
7 operate off my MDT and then --

8 Q So there's no proof of that is what I'm
9 saying?

10 A There's probably proof somewhere.

11 Q But to your knowledge there's not?

12 A To my knowledge, no.

13 Q Okay, all right. My license was
14 suspended or was it expired?

15 A Expired.

16 Q Okay.

17 A Your registration was suspended.

18 Q Okay. And watching the video that we
19 watched earlier, was there anything else seen me
20 do that would indicate probable cause to pull me
21 over?

22 A Not other than what was mentioned.

23 Q And you're not surprised it wasn't
24 cocaine?

25 A No. I mean I'm surprised it wasn't



1 cocaine based on my training, knowledge and
2 experience at that time.

3 Q Are you surprised that my BAC level was
4 zero?

5 A No because it confirmed you were
6 telling the truth at least about that, having
7 one drink at Applebee's.

8 Q Did you recall making the statement to
9 the Dispatch that I had had way too much to
10 drink to drive?

11 A I don't recall.

12 Q Okay. Do you recall a lady coming up
13 and tapping on your window, before we left the
14 scene, asking you what you had arrested me for?

15 A No, I don't recall.

16 Q Okay.

17 MR. LUCAS: That's it for now.

18 Thank you, sir.

19 MR. TUTEN: I've probably got
20 three or four more questions and then
21 I'll be done.

22 MR. LUCAS: Be nice now.

23 RE-CROSS-EXAMINATION

24 BY MR. TUTEN:

25 Q Mr. Mulcahy, just to clarify for the



1 record, you did apply for a search warrant
2 because Mr. Lucas referred a blood draw,
3 correct?

4 A Correct.

5 Q You did not and were not involved in
6 the procurement of any arrest warrants for Mr.
7 Lucas?

8 A No, sir.

9 Q Can you explain to me how the GC --
10 whatever you said --

11 A Sure.

12 Q -- system works?

13 A So most vehicles are equipped with
14 mobile data terminals that have GCIC and their
15 NCIC, which is -- they're acronyms for Georgia
16 crime and national crime -- and I don't want to
17 misspeak -- but all that information is
18 compiled.

19 For instance, his registration, if I
20 were to run his tag it would give me all the
21 information that I would need to see if they had
22 insurance. If their registration was okay. If
23 it was a tag for a different vehicle. If it --
24 you know, name it, here.

25 So as you can tell, you know, other



1 deputies were out stopping cars at the time, you
2 know, I was following Mr. Lucas and I probably
3 just leaned over, got all the information I
4 needed to and then, you know, called out the
5 information, where I was for the stop and stuff
6 like that, so.

7 You know, typically at the end, so
8 there's record of it being towed, I would call
9 Dispatch on the radio and give them all the
10 information from the vehicle, the tag, license,
11 what tow company or they'll tell us what tow
12 company and then there'll be a tow sheet issued
13 for them.

14 But yeah, all that information is on
15 GCIC. I don't have to run anything through
16 Dispatch.

17 Q So explain to me, just practically, the
18 mechanics of how that works. If you're behind
19 him, is it an automated thing where it reads his
20 tag or do you have to actually manually enter in
21 the tag number?

22 A So on that vehicle, that specific
23 vehicle I did have tag readers.

24 Q Uh-huh.

25 A But they were not operational.



1 Q Okay.

2 A So some vehicles are equipped with tag
3 readers. But no, I had to go up on it and punch
4 it in and that's when it would have returned,
5 you know, registration suspended, license
6 expired.

7 Q And you did that while you were
8 following behind --

9 A Correct.

10 Q -- Mr. Lucas?

11 A Correct.

12 Q And got that information readout?

13 A Correct.

14 Q And it's -- even if you didn't relay it
15 to Dispatch immediately, is that something you
16 would -- well strike that.

17 That's not -- I think you just
18 testified that's not something you would relay
19 to Dispatch immediately?

20 A Not immediately, no. Especially if
21 there's other things going on or calls coming
22 out or stuff like that then I'll do what I need
23 to do and keep -- or I just call 1038. If they
24 respond they respond. If they don't, it is what
25 it is, which it sounds like this is one of those



1 situations.

2 Q Right.

3 A Either my radio didn't key and they
4 didn't hear me call it out but, you know,
5 typically you'll give, you know, your location,
6 the tag number and what you're doing.

7 Q Sure. And in this situation where you
8 had observed erratic driving behaviors and that
9 was your primary focus, would it be top of mind
10 for you to call out whether his tag was
11 suspended or his license was expired?

12 A No, sir.

13 Q Not until you'd actually stopped him
14 and initiated the traffic stop --

15 A Correct.

16 Q -- and spoken with him and gotten his
17 license?

18 A Correct. Correct.

19 MR. TUTEN: Nothing further for
20 me.

21 MR. LUCAS: Can I have one more
22 and that's it?

23 MR. TUTEN: Sure.

24 REDIRECT EXAMINATION

25 BY MR. LUCAS:



1 Q Why would you have recorded me before
2 you activated your blue lights?

3 A Based on what I observed -- so we're
4 taught that, you know, the camera goes back X
5 amount of minutes.

6 So, you know, when you're looking at a
7 potential DUI case which, you know, obviously we
8 were, I wanted to catch not only what caught my
9 attention, a/k/a that longer video, and then
10 your driving behaviors down Darwell Long so
11 there would be sufficient evidence of what was
12 observed. Now, does the camera do a good job of
13 that? Absolutely not.

14 Q So you was recording me before I ever
15 made any type of possible traffic violation?

16 A No, sir. I hit record to insure for
17 this reason.

18 Q Yeah. When did you hit record? Excuse
19 me.

20 A As soon as and I saw you run off the
21 road because I knew we'd catch that.

22 Q That was at the tree?

23 A Yes, sir. Yes, sir.

24 Q So --

25 A And then it records X amount of minutes



1 before that.

2 Q -- how long before?

3 A I -- I don't recall. Some say 30
4 seconds. Some say minutes. Some say two
5 minutes. Some say it's always recording. I
6 have no idea. I can't -- I can't testify. I'm
7 not an expert on that.

8 Q So there's nothing strange about you
9 recording me the whole time you seeing me?

10 A No, sir.

11 Q Okay.

12 A No, sir.

13 MR. LUCAS: That's it.

14 MR. TUTEN: All right. Thank you.

15 We'll take an E-Tran.

16 MR. LUCAS: And I would like it
17 expedited.

18 (RESERVED SIGNATURE.)

19 (Whereupon, the deposition of
20 Ryan Mulcahy was concluded at
21 approximately 5:09 p.m.)

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C E R T I F I C A T E

STATE OF GEORGIA:

CHATHAM COUNTY:

I, Kyle J. Saniga, Court Reporter and Notary Public in and for the above county and state, do hereby certify that the foregoing testimony was taken before me at the time and place herein-before set forth; that the witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth, that thereupon the foregoing testimony was later reduced by computer transcription; and I certify that this is a true and correct transcript of my stenographic notes so taken.

I further certify that I am not of counsel to either party, nor interested in the event of this cause.

Kyle J. Saniga

Kyle J. Saniga, CCR
Notary Public, B-2038
Savannah, Georgia



1 D I S C L O S U R E

2

3 Pursuant to Article 8.B. of the Rules
4 and Regulations of the Board of Court Reporting
5 of the Judicial Council of Georgia, I make the
6 following disclosure:

7 I am a Georgia Certified Court Reporter.
8 I was contacted by my office of Coastal Court
9 Reporting, Inc. to provide court reporting
10 services for this deposition.

11 I will not be taking this deposition
12 under any contract that is prohibited by
13 O.C.G.A. 15-14-37(a) and (b).

14 I have no contract/agreement to provide
15 reporting services with any party to the case,
16 any counsel in the case or any reporter or
17 reporting agency from whom a referral might have
18 been made to cover the deposition.

19 I will charge its usual and customary
20 rates to all parties in the case, and a
21 financial discount will not be given to any
22 party to this litigation.

23

Kyle J. Saniga

24

25

Date: August 21, 2024
Kyle J. Saniga, CCR, B-2038



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ERRATA

CAPTION: EDWARD SHANE LUCAS
-VS-
RYAN MULCAHY, A LONG COUNTY
DEPUTY SHERIFF

CIVIL ACTION NUMBER
2:24-CV-0006

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury
that I have read the entire transcript
of my Deposition taken in the
above-captioned matter or the same
has been read to me and the same is
true and accurate, save and except for
changes and/or corrections, if any, as
indicated by me on the COASTAL COURT
REPORTING DEPOSITION ERRATA SHEET
hereof, with the understanding that I
offer these changes as if still under
oath. Signed on the _____ day of
_____, 2024.

RYAN MULCAHY (Deponent)

SWORN TO and subscribed before me
THIS _____ day of _____, 2024

NOTARY PUBLIC: _____
My commission Expires: _____



1 DEPOSITION ERRATA
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25 RYAN MULCAHY



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