

STATE OF TEXAS
COUNTY OF TRAVIS

Offense Number: 09-1310302

AFFIDAVIT

Before me, the undersigned authority, on this day personally appeared, Mohammad Siddiqui, after being duly sworn, upon oath deposes and says:

On May 11, 2009 at approximately 12:00 noon I provided a statement to Detective Renee Fox #3108 in the Robbery Unit, Austin Police Department, located at 715 E. 8th, Austin, Texas.

I became commissioned with the Austin Police Department on January 4, 2008. I was assigned to David sector for my Field Training assignment and then was assigned to Edward sector- 200's. I have been with this shift since April 2008 working for Sgt. Erin Zumwalt.

Sometime during my shift of May 8th I heard a call come out of a Robbery of an Individual. Officers were dispatched to Anderson Spring Apartment, Officer Destiny Wilson was the initial officer who responded and took the report. I responded to assist Officer Wilson. The victim, a black male, had been shot in the face and later discovered it was to the nose. The victim from this Robbery said the suspects had just left. The description was a white van and later a partial license plate was provided. There was some discussion over the radio possibly between Cpl. Pete Bonilla, Officer Lenny Quintana, and Officer Destiny Wilson about the white van and a partial license plate. I canvassed the area and I did not locate anything that night.

During the same shift, sometime past midnight, I heard Quintana locate a white van in the apartment complex, 6409 Springdale, the van was unoccupied. I heard Quintana discuss over the radio meeting up at Manor and Loyola, an APD neighborhood center, to come up with a plan of how to approach the complex. I did not assist with this because I was preoccupied with something else.

I don't recall exactly how I heard this information, possibly during show up the next night, but several individuals were identified. The Robbery unit was notified and officers were told to write up a report. I believe the van was seized and processed.

On May 10, 2009 I went on duty at approximately 9pm with show up being at 8:30pm. The evening was steady I had a couple of arrests and reports throughout the evening. It was getting close to the end of duty and I was at the Tiger Mart located at Athletic Drive and Cameron. I heard Quintana asked Officer Hitzelberg about information relating to vehicle involved in some robberies. I don't recall if Quintana asked if it was on a BOLO or if he gave a vehicle description.

Quintana said that he had located the suspect vehicle over at 6409 Springdale and that he was going to go out on it. I advised dispatch that I would be enroute for a back up. As I was traveling southbound on Northeast Drive I could see Quintana's marked patrol unit in the parking lot. I turned onto Springdale and entered the apartment complex. I don't remember if Officer Hitzelberg self assigned or advised on the radio I just recall hearing Hitzelberg advised dispatch he was on scene around the same time I arrived. I turned off my headlights as I approached, leaving my parking light on, trying to avoid drawing too much attention to us.

We have taken calls at this complex before and when police arrive large crowds gather, mostly spectators. This sometimes forces us to focus on the crowd rather than on the situation we are dealing with. I do not recall if Quintana or Hitzelberg had their overhead lights on but I do remember one of the patrol units with a spot light on. Before my arrival I heard Quintana run a warrant check on an individual. As I got out of my patrol unit I saw that Quintana was near the back of a patrol unit. I thought he had an individual in the patrol unit so I did not start my in car camera. I did not know at that point that there were other individuals still in the suspect car. By the time Quintana told me there was someone else in the car I did not go back to start the camera. Hitzelberg was already on scene but I do not recall exactly where he was at. The vehicle, a brown Mercedes, was sitting in a parking spot facing south. I do not know if the vehicle was running or not. Quintana told me there were other subjects in the car I believe he mentioned they were asleep. I approached the Mercedes on the passenger side and could see there were two occupants. One subject, a black male wearing a red shirt was asleep in the back driver's seat and the other black male wearing a white t-shirt was asleep in the front passenger seat.

Quintana and Hitzelberg approached the driver's side of the vehicle and I approached the passenger side. We spent a few moments shining our SL-20 flashlights into the vehicle. I was checking to see if I could see any weapons due to the nature of the previous information about this vehicle. The tint on the vehicle was very dark it was hard to see inside but if you held the flashlight up close you could see the two subjects sleeping. I asked Quintana who he wanted to get out of the vehicle first and he made a motion or stated, I don't recall but I was clear Quintana was going to deal with the subject in the backseat first.

Quintana opened the back passenger door and was trying to wake up the subject who was sitting up right sleeping. I heard Quintana in a normal voice trying to wake up the subject, it was loud but he was not yelling at the subject. I do not recall exactly what Quintana was saying. Hitzelberg at this point was standing behind Quintana. I recall Quintana rubbing on the chest of the subject in an attempt to wake him up. I was positioned by the door frame between the front passenger and back passenger door like on a traffic stop. My attention was mostly focused on the male in the white t-shirt in the front passenger seat. He was also sitting up right with his hands half way tucked in the front of his pants. His pants were partially opened but he was not exposing his genitals.

As I was focusing on the male up front I heard movement in the back seat, I was not sure if Quintana and Hitzelberg had gone hands on or what was happening. I have worked with Quintana since I have been assigned to this shift and have taken many calls with him. This would include calls that would be considered high stress. Quintana is always calm. I knew something was wrong the minute I saw Quintana start to back peddle. In all the calls that I have taken with Quintana I have never seen him afraid to go hands on if needed. I have never seen him retreat, it is hard to describe but when I saw Quintana back peddling the way that he did I had a bad feeling.

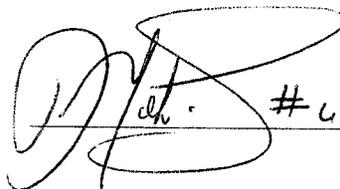
This all took place within seconds. For a second my focus went to the individual in the back seat but before I could even look at him I heard gun shots. My first thought was the shots came from the subject in the backseat of the car. This made the most sense because I saw Quintana back peddling away from that location. I heard 2- 3 shots fired. I dove to the ground and drew my weapon. I attempted to gain some type of concealment by crawling on the ground trying to get behind the green Chevy Cavalier that was parked next to the Mercedes. I got behind the Chevy Cavalier on the back right passenger side of it.

As I am getting to my feet I observe the black male with the white t-shirt, who was originally from the front right passenger side of the Mercedes, heading towards Quintana. The male was moving briskly, not running but not walking. I saw that Quintana had his weapon drawn. The black male went to his stomach and had his hands out to the side. I had lost sight of Hitzelberg at this point. I held my position for a moment and could see that Quintana had the black male with the white t shirt on the ground at gun point. I look over my right shoulder and see that Hitzelberg has his weapon drawn on the area where the black male with the red shirt was originally sitting. I felt like Hitzelberg still had his gun drawn for a reason, there was still a threat and I knew I needed to go assist him.

At some point I heard Quintana in an excited voice state something about "he is 10-32". I told Hitzelberg that I was coming over to where he was at. Hitzelberg held his position until I got over there by him. At that point I observed the black male with the red t-shirt was still sitting in the vehicle. Myself and Hitzelberg approached cautiously until Hitzelberg came within arms reach of the black male with the red shirt. At that point Hitzelberg tugged the black male towards him. The black male fell on the ground onto his belly. It wasn't until that point I observed a black handgun that resembled a glock resting where the black male with the red shirt had originally been sitting.

I heard Quintana advised dispatch over the radio to start EMS. I observed that the black male with the red shirt was still breathing because I could see the rise and fall of his belly. Neither Hitzelberg nor I ever handcuffed the black male with the red shirt. At that point Hitzelberg and I told the black male with the red shirt to keep breathing and that help was on the way. We stood by until EMS arrived.

I have been informed that under the penal code of the State of Texas, Section 37.02, that a person commits the offense of perjury if, with intent to deceive and with knowledge of the statement's meaning he or she makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath. I can read, write and understand the English language. I have read the above statement. It is true and correct to the best of my knowledge and belief without having reviewed any video, audio or reports of the incident.

 # 6-228 5/11/09 4:20 pm
Affiant

Subscribed and sworn to before me by the said, Mohammad Siddiqui, on this Monday, May 11, 2009.

 Fox 3108 5-11-09

Peace Officer in and for
State of Texas