

STATEMENT

STATE OF TEXAS
COUNTY OF TRAVIS

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Offense No. 09-1310302
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At 15:03, on May 11, 2009, at 715 E. 8th st., in Austin, Travis County, Texas, I gave the following voluntary statement to Detective Andrew Romero #4427, I swear this statement is true and correct to the best of my knowledge.

I have been informed that under the penal code of the State of Texas, Section 37.02: A person commits the offense of perjury if, with intent to deceive and with the knowledge of the statements meaning, he/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 to be made under oath.

My name is John Alexander Hitzelberg. I am employed by the city of Austin Police Department. I am currently assigned to the Edward 200's patrol shift. Edward sector is the north east area of the city. We are currently scheduled to work Friday thru Monday 8:30 PM until 6:30 AM.

Recently, there has been series of Robbery/ Shootings in Edward sector. During a previous response to a report of a Robbery, Officer L. Quintana, who works on my shift, learned that a white older model van with rust on the roof was the suspect vehicle used in this incident. The suspects in his incident were described as three young black males.

Officer Quintana later located white van matching this description and performed a stop and I.D check on the occupants. At that time, the van did not contain occupants matching the suspects in the robbery, however during that stop, Officer Quintana learned the names of possible suspects that did match the description of the robbery suspects.

Officer Quintana learned that 6409 Springdale, among others, was a possible address for one of these suspects.

On the evening of Friday May 8th another robbery occurred in Edward sector with suspect descriptions that matched the previous robbery. A white van was also used in this robbery. Witnesses were able to get a partial license plate number of the suspect vehicle. These numbers were similar to the license plate on the vehicle that Officer Quintana stopped. During a check of the various possible addresses for the suspects, the white van that Officer Quintana had previously stopped was located at 6409 Springdale.

In speaking with witnesses at the scene it was learned that the occupants of the white van had transferred weapons to another vehicle and left the scene. This vehicle was described as a champagne, brown or gold colored early 90's model Mercedes Benz model station wagon. Neighbors also complained that there were frequent shots fired in the complex and they felt they were related to the occupants of apartment 126 and to the Mercedes Benz station wagon. We were unable to locate this vehicle or the suspects on Friday night.

On Sunday May 10th, I began my patrol shift at 8:30pm. I have been working night hours for about 6 weeks. I have adjusted my sleeping pattern and slept about 7 hours last night. I responded to various calls during the evening. I ate my lunch that I packed myself at about 2 or 3 am.

At about 5 AM I was parked at Nelson Field. Officer Quintana came up on the radio and requested the information of the vehicle description related to the recent series of robberies involving the white van and Mercedes Benz station wagon. I repeated the information over the air. Officer Quintana advised that he was out on the vehicle at 6409 Springdale. I concluded that Officer Quintana was possibly out on armed Robbery/Shooting suspects. I responded to that location. I heard Officer Siddiqui come up on the radio and advise that he was responding as well.

While I was en route, I heard Officer Quintana run warrant check on a name and date of birth. This told me that Officer Quintana was in fact, out on possible Robbery/Shooting suspect or suspects.

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I arrived in the complex and entered into the north driveway of 6409 Springdale. This is normally the exit, but the gate is broken and you can enter that way. 6409 Springdale is a multi building apartment complex. The complex is comprised of several two story apartment buildings. All the buildings share a common driveway and parking lot. At some point, I turned my headlights off when I entered the complex so as to not backlight Officer Quintana when I approached him.

I located Officer Quintana's Patrol car. It was at an angle facing the driver's side and rear of an early 90's model Mercedes Benz station wagon. Officer Quintana had activated his spotlight which was pointed at the driver's side of the vehicle. The station wagon was parked in a parking space. There was a fence directly in front of the station wagon. There was a vehicle parked in the space adjacent to the passenger side of the vehicle. There was no vehicle parked adjacent to the driver's side of the station wagon. I observed Officer Quintana leading a handcuffed person to the back seat of his patrol car. The person was a young black male wearing white shirt and dark shorts or pants. He was handcuffed with his hands behind his back.

I pulled my vehicle past Officer's Quintana's patrol car and parked with the front of my cruiser facing the rear passenger corner of the station wagon.

I exited my patrol car. I intended to assist Officer Quintana put the person in his patrol car, he advised me that there was still one person passed out in the vehicle. I then walked toward the station wagon.

I approached the suspect vehicle on the driver's side. I was standing by the rear driver's door of vehicle. The windows of the station wagon were tinted. I could see into the vehicle by shining my SL20 into the window. I shined my flashlight into the vehicle and observed that there were two occupants in the vehicle. One was in the rear driver's side position. That suspect was a young black male wearing a red t-shirt and dark pants or shorts. He was sitting upright with his head tilted towards the center of the vehicle. He looked to be asleep or passed out. The other suspect was seated in the front passenger position. He was a young black male wearing a white t-shirt and I couldn't see his pants. He looked to be asleep or passed out as well. At about this time, Officer Siddiqui arrived on scene. He parked his cruiser facing the suspect vehicle from the passenger side. At this time, all the doors on the station wagon were closed.

I advised Officer Siddiqui to watch the guy in the front passenger seat. Officer Siddiqui stood by the front passenger seat. I observed him shining his SL20 flashlight into the front passenger window.

I was looking at the suspect in the rear driver's side of the vehicle. I was watching his hands and looking for weapons. I did not see any weapons at this time. The suspect's hands were around his lap area.

I think I made the comment to Officer Quintana about which suspect he wanted to start with. Officer Quintana responded back by saying "lets start with the one in the back". We intended to remove the male in the backseat and secure him, and then remove the male in the front seat. Officer Quintana and I did not want to wake the male in the front seat until after we had secured the rear passenger. Due to these being suspects in aggravated robberies and a shooting, we felt that they both might be armed with firearms. I felt that we would have a tactical advantage if we handled one at a time.

I opened the rear driver's side door of the suspect vehicle. Officer Quintana reached in and nudged the young black male by the shoulder. There was no response. Officer Quintana then performed a sternum rub with what I believe was his knuckle. The male started raise his head in and upward position but then tilted his head back to the center of the car. I did not smell the odor of an alcoholic beverage in the vehicle. It was my opinion that the occupants were under the influence of alcohol or drugs and unconscious. This was due to the ineffectiveness of Officer Quintana's attempts to wake the suspect in the backseat. I believe enough pressure was placed on his chest that a reasonable person would have awoken.

I was standing in the doorway of the rear driver's side of the vehicle. Officer Quintana was standing in front of me closer to the backseat. Officer Quintana and I were both shining our SL20 flashlights at the suspect in the backseat. We were both concerned that he may have a firearm.

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Officer Quintana lifted up the suspect's shirt to look for a weapon in the suspect's waistband. At this time the suspect reached with his hands to push away Officer Quintana's hands. I observed the suspect struggle to either push Officer Quintana's hands away or to grab an item concealed in his waistband. I could not see the suspect's waistband because both Officer Quintana's hands and the suspect's hands were blocking my view.

I could see the suspect's eyes. He was looking down at his waist area. At that point, Officer Quintana yelled "10-32, 10-32". Officer Quintana might also have yelled "He has got a gun". I saw the suspect move towards the open doorway in an attempt to exit the vehicle. I felt at this time that the suspect had a firearm and was attempting to exit the vehicle and shoot us with that firearm. I felt that my life was in danger at that moment. I felt like the suspect could have exited the vehicle and shot myself or Officer Quintana.

Officer Quintana and I retreated to the rear of the station wagon. Both Officer Quintana and I drew our pistols as we retreated. I was directly behind the station wagon close to the left rear bumper. Officer Quintana continued to retreat past the rear of the vehicle on the passenger side. As I was retreating I had almost reached the rear bumper of the station wagon. I heard what I think was two gunshots. I saw a bullet hole appear in the rear window of the station wagon on the driver's side. I felt glass fragments from the window strike my face. I thought that the suspect had shot through the back window at us. I saw a muzzle flash from Officer Quintana's gun and I thought he was returning fire at the suspect.

I positioned myself at the driver's side rear bumper with my gun drawn and pointed at the open rear driver's doorway. I was anticipating that the suspect in the backseat would exit the vehicle with a firearm. He did not exit the vehicle.

I did not fire my weapon up to that point, as during our retreat, Officer Quintana was in front of me and I did not have a clear shot at a target. I also had not seen a gun myself up to that point. I expected the suspect to exit the vehicle with a pistol and I expected to fire my weapon if he did so.

I observed Officer Quintana continue away from the vehicle, on the passenger side. I observed the young black male who was in the front passenger seat exit the vehicle and run towards Officer Quintana. I was concentrating on the open doorway. I do not recall anything being said by the suspect or Officer Quintana as the suspect ran towards him. I heard one more shot as I observed the suspect running towards Officer Quintana. I saw the suspect that was running towards Officer Quintana fall down and land face down.

I did not see where Officer Siddiqui came from as he approached Officer Quintana and the fallen suspect. Officer Siddiqui assisted Officer Quintana by covering that suspect. Officer Quintana then returned to assist me.

I approached the open door of the suspect vehicle. I saw blood on the doorway and on the back of the suspects head. His head with tilted forward on his chest. He was bent slightly forward. He appeared to have his hands in his lap area. My pistol was in my left hand. With my right hand, I reached in to the vehicle and pulled the suspect out of the vehicle by his left arm. He fell out of the vehicle and landed face down. After the suspect was removed from the vehicle I observed a black semi automatic handgun in the seat where the suspect had been sitting. I observed blood on the pistol. The barrel of the pistol was pointed outwards toward the open door.

I believe that the pistol I observed in the seat came from the suspect's waistband. I believe this because that is the area where Officer Quintana was searching, that is the area that the suspect was struggling to keep Officer Quintana away from or to recover and item from, and during this time, Officer Quintana was yelling "10-32".

The suspect that I removed from the backseat continued to take slow deep breaths. There was blood pooling under him from a wound to the back of his head. I rolled the suspect onto his side to insure that he did not choke on the pooling blood. I assisted the suspect in this position until EMS and Fire personnel arrived.

I observed EMS transport the front passenger suspect from the scene. I observed them cut off his white T-shirt. This was stained in blood. I concluded from this that he was shot by Officer Quintana.

After the scene was under control and other Officers had arrived. I stood by with the suspect that Officer Quintana had placed in the back of his patrol car. It had been decided that he would be removed from the back of Officer

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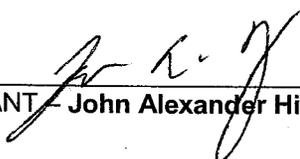
Quintana's patrol car and guarded by me as he waited on a curb. The handcuffs were moved from being behind him to in front of him. This decision was made by Sgt Erin Zumwalt.

The suspect said that he was at a club earlier in the evening. He said that at the club he ran into the two individuals in the car with him. He said that he did not go to the club with them. He said that he knew the front seat passenger but did not know the rear passenger. He had agreed to drive them from the club to that apartment complex on Springdale due to their being intoxicated on either drugs or alcohol.

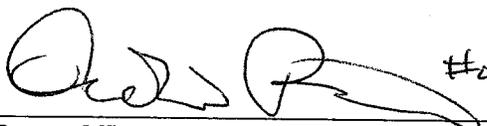
He said that he had just parked the vehicle when Officer Quintana first parked the vehicle. He observed Officer Quintana loop back around and approach his vehicle and so he exited his vehicle.

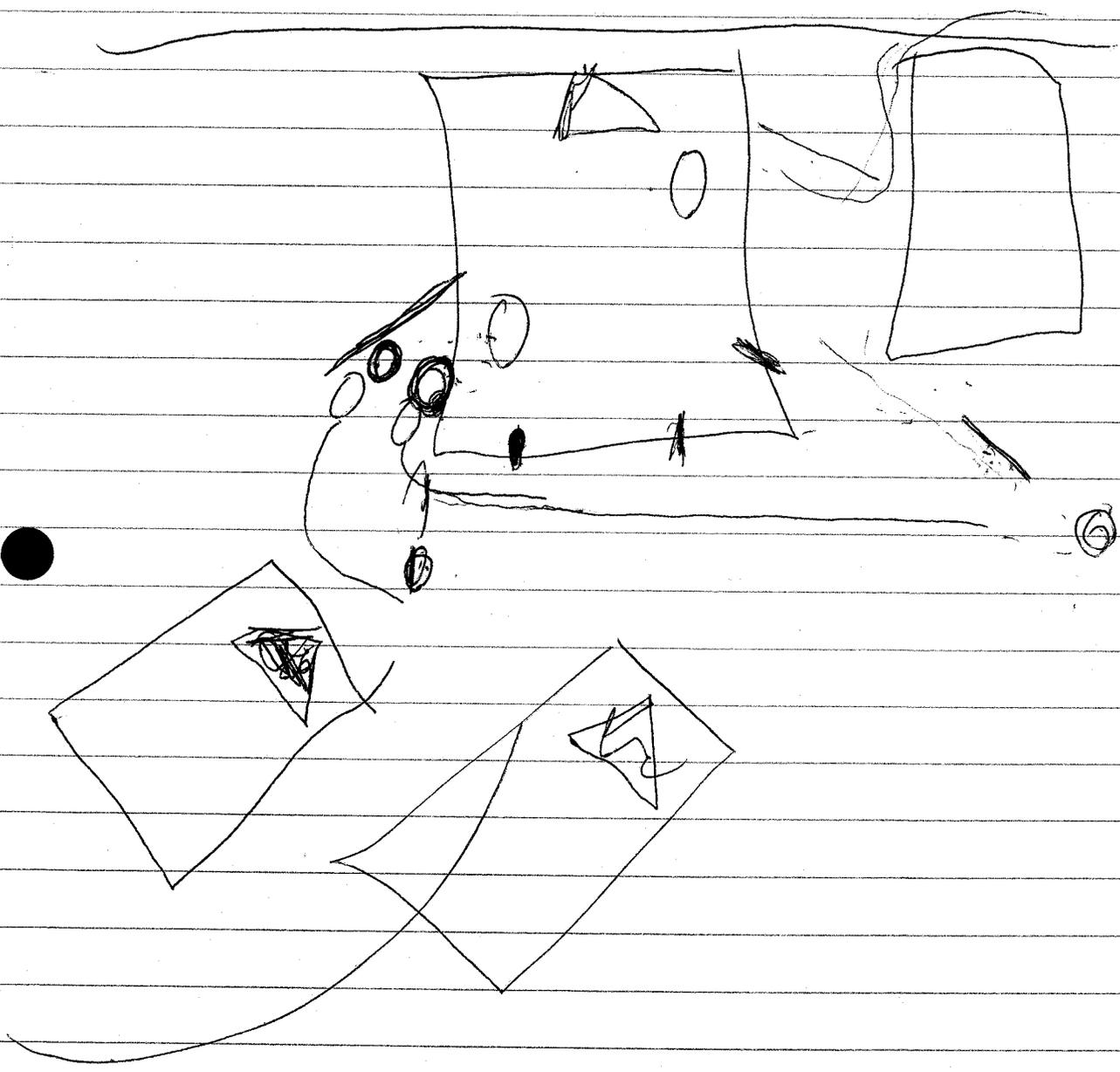
I was advised to come to the main police station and I did. I am in the Robbery office, providing this statement to Detective Andrew Romero.

The above statement is true and correct to the best of my recollection without having viewed video or audio or written reports of the incident. This statement is voluntary. I've not been promised anything nor have threats been made toward me regarding my making this Statement.


AFFIANT **John Alexander Hitzelberg**

Subscribed and sworn
before me this 11th of May, 2009.

 #4427
Peace Officer in and for the State of Texas
Detective Andrew Romero #4427



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