

The following is a modified transcript from a real trial. The names of everyone involved have been changed and some information was altered to protect anonymity of all participants.

Opening Statements

COURT: We're back on the record in State of Kansas versus Client X, 12AB3456. The defendant and all counsel are present. The jury's present in the jury box.

Welcome back, ladies and gentlemen. At this time, you're going to hear opening statements of the attorneys, and the State will go first. Mr. Abrams.

MR. ABRAMS: Thank you, Judge. Can everybody hear me okay?

(Jury says, "Yes.")

Ladies and gentlemen, the case that's going to be presented to you today is a very straight-forward one. The State's evidence is going to be that in the early evening hours of October 28 2018, Deputy Jonathan Carter with the Johnson County Sheriff's Office was conducting routine patrol on westbound K-10 highway in Johnson County, Kansas. During this patrol, he observed an SUV in the eastbound lanes of K-10 that was traveling at a high rate of speed. Deputy Carter activated his radar unit that's in his patrol vehicle and determined that the SUV was traveling at 86 miles per hour in a 70 mile per hour zone. Deputy Carter then turned his patrol vehicle around so that he can get behind that SUV in the eastbound lanes of traffic, and he begins to initiate a traffic stop on that SUV. While he's positioned behind that SUV, he'll testify that he sees a puff or mist of liquid come out of the driver's side window, and that very quickly afterwards, since he's behind that vehicle, some type of liquid and mist covers his windshield. The SUV finally stops just west of the K-10, K-7 exchange, and Deputy Carter approaches that vehicle.

During this stop, he will identify the driver as the defendant, Client X. But before Deputy Carter can identify himself or to even tell the defendant anything, the defendant already has his arm held out of the driver's door with two IDs. One of those is a driver's license, and one is a Basehor Police Commission Card which represents the defendant to be a police officer with the Basehor Police Department. Immediately, the defendant admits that he was speeding, but indicates that his wife is in contractions. You will see the video today that it's very clear the defendant does not want to be stopped by the officer and does not want to remain at the scene.

When the deputy makes contact with the defendant, he can smell the odor of alcohol coming from the defendant, and he begins a DUI investigation suspecting that the defendant could be driving under the influence of alcohol. Over the next 20 to 25 minutes, Deputy Carter attempts to complete a DUI investigation. He will explain to you all, during his testimony today, the different phases of that investigation and what he's generally doing in order to determine whether there's probable cause to make an arrest for DUI. The video and Deputy Carter's testimony will show you that the defendant was uncooperative at times during this investigation and became very difficult, very clearly did not want to be investigated for DUI and did not want to remain at the scene during this incident.

During this entire investigation, the defendant becomes difficult enough that when the deputy first makes contact and then goes back to his patrol vehicle to run the driver's license information for the defendant, the defendant gets out of his vehicle on K-10. Deputy Carter will testify it's a very high traffic night. The defendant starts walking towards the patrol car saying that his wife was in contractions, and that he needed to be let go from the scene.

During the DUI investigation, the defendant eventually declines to conduct SFSTs, which we consider the standardized field sobriety testing which include the walk-and-turn, one-leg stand, and ultimately would lead to a preliminary breath test. Because he declined those tests, Deputy Carter believed, based on the information that he had collected during this limited investigation, that he did not have probable cause to arrest the defendant for DUI. And at the scene, the decision is made to have the defendant picked up because the deputy suspected that he was intoxicated and not safe to drive but didn't have enough to make an arrest. So, they required him to be picked up by someone in his family.

Based on his interaction with the defendant and how he was behaving, the decision was made by Deputy Carter's sergeant with the Johnson County Sheriff's Office, Sergeant Black, to contact the Basehor Police Department and let them know that they had stopped one of their police officers and attempted to do a DUI investigation. Which even though it did not end up as an arrest, they felt that the department needed to be aware of that occurring as well as to point out the general difficultness in attitude they felt was poor for the defendant during this stop.

When Sergeant Black contacts Basehor Police Department shortly after the stop, the sergeant that was on duty on that day for Basehor Police Department states that, "There is no

police officer employed by Basehor Police Department with the name of Client X.” Upon further investigation, it’s determined that Client X previously worked as a law enforcement officer with the Basehor Police Department but had not worked there since approximately 2009. The State will be presenting testimony from Chief James Elbe with Basehor PD to testify to the fact that at the time the defendant was stopped in October of 2018, he was not a police officer with that department, and he was not authorized to be representing himself as a police officer in any manner, but most certainly not in this situation during a traffic stop to a deputy.

There’s not going to be a lot of evidence presented to you today. There will be the three witnesses: Deputy Carter, Sergeant Black, and Chief Elbe, we will be playing the video, and showing you a picture of the commission card that the defendant presented to Deputy Carter at the time of this incident. But, like I said, it’s a very straight forward. You’re going to be shown all the facts, and the State will ask you at the conclusion of the evidence to find the defendant guilty beyond a reasonable doubt of, one, the speeding which initiated this entire interaction, and two, most importantly, the false impersonation. It’s the State’s argument that in this case by presenting the police commission card and representing himself to be a police officer with Basehor, that the defendant falsely impersonated a police officer and should be found guilty of false impersonation. Thank you.

COURT: Thank you, Mr. Abrams. Mr. Davies.

MR. DAVIES: Basically, I’m going to tell you a lot of the things that he just said, just in a different way.

So, we’re here to talk about actions of a couple of people on the side of the road a couple days before Halloween of 2018. This isn’t a super interesting case. You’re not going to go home and have some story to tell your friends and family about some interesting thing that happened to you because of this. That doesn’t downplay the importance of it.

This is the part where we talk about the evidence that we think is going to be brought before you. And like Mr. Abrams says, it’s a pretty straight-forward case. We have a good idea of what we know is going to be brought before you. What you’re going to see is Client X was speeding. He was speeding and got pulled over by a deputy. And you’re going to see the entire interaction on the video here. When the deputy comes up to the window, you’re going to see

Client X hand him two things: one is a valid Kansas driver's license, and the other is a commission card. I don't need to explain what a driver's license is; we all know what that is. A commission card is something that is given to an officer when they get hired on as an officer. Part of the evidence in this case is a picture of that commission card. You're going to see Client X. You're going to see how he interacts with the police officer. You might think that he's intoxicated. You might see the other officer get mad at him, and the other officers join in as well at being mad at Client X. You're going to see Deputy Carter call his supervisor and talk about Client X. Then you're going to see and hear Deputy Carter decide to cut Client X loose after the talks to his supervisor, after he talks to his boss. He's going to cut Client X loose. You're going to hear something along the lines of "We'll handle this with his supervisor." You're going to see the deputy pull his car off on the side of the road and be nice to him and send him on his way without even a traffic ticket. Then you're going to hear the testimony that they called up the Basehor Police Department to try to get Client X in trouble for whatever reason. They say, "He hasn't worked here in over ten years." Then you're going to hear that they went and arrested him. They go out and get Client X, and they give him a traffic ticket to boot. It's going to play out like this: when they thought he was a cop he got a pass. He got to go home. His wife comes and picks him up, and he doesn't even get a traffic ticket. Then when they thought he wasn't a cop, they go out and arrest him and charge him with this crime, and a traffic ticket. You're going to see a lot of investigation about a DUI stop. Remember that Client X is not charged with a DUI. You're going to see all kinds of investigation about DUI. Then you're not going to hear a single question about whether he's a current police officer. You're going to watch this video, and you're not going to hear, "Why did you hand me this commission card? Is this commission card still active? Are you an officer? This picture looks old. Why'd you hand me this, man?" You're not going to hear any of that. In fact, you're going to hear and see the entire interaction between Client X and the officer, and all the other officers involved. You're not going to hear the word "cop" or "officer" or "look at this guy, he's a cop." You're not going to hear any of that. That's by design. They don't want it on video. They're cutting Client X loose because they think he's an officer. This evidence is going to show you one thing: that the good-old-boys-club is alive and well in Johnson County, if you're a cop.