

1 A. Well, if you have some more to say.

2 Q. No, ma'am.

3 MR. JONES: I pass the witness.

4 THE WITNESS: Thank you.

5 MS. BARNETT: I don't have anymore
6 questions.

7 THE COURT: May she finally be
8 excused?

9 MS. BARNETT: She may.

10 MR. JONES: She may, Judge.

11 THE COURT: You're excused.

12 Call your next witness.

13 MS. BARNETT: Deputy Arhelger.

14 THE COURT: Deputy, raise your right
15 hand, please.

16 *(The witness was sworn.)*

17 MS. BARNETT: May I proceed?

18 THE COURT: You may.

19 **STEVEN ARHELGER,**

20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MS. BARNETT:

23 Q. Would you state your name for the record?

24 A. Steven Arhelger.

25 Q. And how are you employed, sir?

1 A. I'm employed as a Harris County deputy
2 sheriff.

3 Q. How long have you been a Harris County
4 deputy sheriff?

5 A. Twenty years.

6 *THE COURT:* Officer, you need to speak
7 up where everyone can hear you.

8 A. Twenty years.

9 Q. (*BY MS. BARNETT*) Where are you currently
10 assigned?

11 A. I'm assigned to District 4 patrol.

12 Q. What does that include?

13 A. West side of Harris County.

14 Q. Is that Katy?

15 A. Yes, ma'am.

16 Q. Let me take you back to the date of October
17 the 12th of 2007 and ask if you were on duty that
18 day?

19 A. Yes, ma'am, I was.

20 Q. Did you respond to any type of burglary
21 calls that day?

22 A. Yes, ma'am. I responded to a burglary that
23 day.

24 Q. Tell me about, the one in Katy.

25 *MR. JONES:* Your Honor, we're going to

1 object based on our previous objections and for the
2 information and extraneous conduct. We'd like a
3 continuing running objection.

4 *THE COURT:* Objection be overruled.

5 Q. (BY MS. BARNETT) Did you respond to more
6 than one burglary that day?

7 A. No, ma'am.

8 Q. Tell me about the one you did respond to.

9 A. I responded to a residential burglary call
10 20803 Lavender Wood, single story residence.

11 Complainant advised that suspects had entered her
12 residence through the back door and removed some
13 property. As I entered the residence, noticed the
14 back door to the residence had been kicked in,
15 several pieces of the wooden door frame were laying
16 inside the residence, the door was still open and at
17 that time the complainant started to advise me of
18 what property was missing from the house that she
19 knew of at that time.

20 Q. Now, what time were you dispatched on
21 October 12th?

22 A. Approximately 1:30.

23 Q. 1:30 in the p.m.?

24 A. P.m, yes, ma'am.

25 Q. What was her state of mind?

1 A. She was very distraught, upset when I
2 arrived, crying and unable to --

3 MR. JONES: Your Honor, I'm going to
4 object to the narrative and I think the question's
5 been asked and answered. I object to relevancy.

6 THE COURT: Overruled.

7 Q. (BY MS. BARNETT) When -- was she able to
8 communicate with you effectively about what had
9 happened as far as what she knew?

10 A. She could describe some of the property she
11 was missing at the time. She was unable to remember
12 exactly what some items were. She was having trouble
13 communicating, she was upset, crying.

14 Q. Is there a way at the sheriff's department
15 for you to call and later amend a list of items that
16 you might think that you'd forgotten about or didn't
17 know it was stolen?

18 A. Yes, ma'am. We have a supplemental form
19 for additional property that you don't realize is
20 missing at the time of the initial report.

21 Q. Is part of your job as an investigator to
22 be able to try and collect clues, if you can, on who
23 might have committed this burglary?

24 A. Yes, ma'am. If there's any evidence at the
25 scene that I can collect, yes.

1 Q. Was there any?

2 A. I did not observe usable latent prints or
3 DNA samples, pieces of evidence.

4 Q. If somebody breaks a window to go in a
5 home, could you possibly get evidence through that?

6 A. If they were to have cut themselves
7 possibly left a blood trace evidence, yes, I could
8 collect that.

9 Q. The back door the way it was with the wood
10 frame, was there any evidence you believe you could
11 have collected from that?

12 A. No, ma'am.

13 Q. Why not?

14 A. That was just forced open, blunt force with
15 either possibly kicked or just forced up, it
16 shattered the door frame. There was no usable
17 footprint or marking on the door.

18 Q. Would that have had to have been replaced,
19 the frame?

20 A. Yes.

21 Q. What about the door?

22 A. The door may have been replaced, I'm not
23 aware at this time.

24 Q. Can you tell jury what the interior looked
25 like?

1 A. The interior of the residence, in the
2 interior of the master bedroom was all the drawers to
3 any furniture items that were in there, chest of
4 drawers, had been removed, turned upside down, the
5 contents were strewn on the floor. And there was
6 several open manila type file folders laying on top
7 of a file cabinet in disarray, appears it wasn't left
8 that way. The rest of the interior of the house was
9 orderly kept, did not appear that the contents of the
10 master bedroom should have been left in that state of
11 disarray from the other sections of the residence.

12 Q. Did the other sections of the residence
13 look like they had been gone through?

14 A. There was small electronics, DVD players
15 that were missing from the two living areas of the
16 residence and there was an obvious open space where
17 they had possibly -- with wires protruding out.

18 Q. Was the TV there?

19 A. Yes.

20 Q. Was the TV left?

21 A. Yes.

22 Q. How big was the TV?

23 A. They were fairly large televisions in the
24 living area.

25 MS. BARNETT: Your Honor, may I

1 approach the witness?

2 THE COURT: You may.

3 Q. (BY MS. BARNETT) Let me show you what's
4 been marked as State's Exhibit No. 10, a Sony
5 Handycam. Would that be consistent -- I'm not asking
6 you if this is anything that was taken from the
7 residence, is this consistent with one of the things
8 that she complained of being stolen from her home?

9 A. Yes, ma'am. It's consistent with two of
10 the items she said were taken from the home.

11 Q. Let me also show you State's Exhibit No.
12 26 which I would purport to be an iPhone or iPod.
13 Would that be consistent with one of the things Ms.
14 Herbert told you or complained that was stolen from
15 the home?

16 A. At the time I took the report I was not
17 aware of the iPod.

18 Q. Of the iPod?

19 A. No, ma'am.

20 Q. Do you know whether or not through an iPod
21 you can collect the owner's name and phone number if
22 you look at it?

23 A. I'm unaware of that.

24 Q. And the place in Katy that you did the
25 investigation for Ms. Herbert, is that located in

1 Harris County, Texas?

2 A. Yes, ma'am, it is.

3 MS. BARNETT: I'll pass witness.

4 THE COURT: Now, Mr. Jones.

5 **CROSS-EXAMINATION**

6 BY MR. JONES:

7 Q. You developed an offense report?

8 A. Yes, sir.

9 Q. Have you had opportunities to review it
10 prior to your testimony?

11 A. Yes, sir.

12 MR. JONES: If I may have a moment,
13 Judge?

14 Q. (BY MR. JONES) State's Exhibit No. 10, the
15 camcorder, is that a still camera?

16 A. No, sir, it's digital video camera. Listed
17 in my report I have two digital video cameras and one
18 digital still camera.

19 Q. Did you attempt to -- you attempt to lift
20 any latent prints?

21 A. I didn't observe any usable latent prints
22 in the residence, sir.

23 Q. Did you look at each and every item that
24 appeared to be touched to determine whether or not
25 latent prints exist?

1 A. The areas around the items that were
2 reported missing as far as small electronics, there
3 were no identifiable latent prints none of the items
4 themselves were missing.

5 Q. Did you dust anything?

6 A. No, sir.

7 Q. And after that day did you have anymore
8 contact with Ms. Herbert?

9 A. No, sir, I didn't.

10 MR. JONES: Pass the witness.

11 MS. BARNETT: May I approach the
12 diagram?

13 THE COURT: You may.

14 **REDIRECT EXAMINATION**

15 Q. (BY MS. BARNETT) I don't remember if I
16 asked you this or not but on October the 12th of
17 2011, what time were you dispatched to that burglary?

18 A. I was dispatched approximately 1:35 p.m. in
19 the afternoon.

20 MS. BARNETT: That's all I have,
21 Judge. Pass the witness.

22 MR. JONES: I have no further
23 questions, Judge.

24 THE COURT: You may step down. Is he
25 finally excused?

1 MS. BARNETT: Yes, Judge.

2 MR. JONES: Yes, Your Honor.

3 THE COURT: Call your next witness.

4 MS. BARNETT: State calls Deputy
5 Borowski.

6 (The witness was sworn.)

7 THE COURT: You may proceed.

8 MS. BARNETT: Thank you.

9 JOHN BOROWSKI,

10 having been first duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 BY MS. BARNETT:

13 Q. Would you state your name for the record?

14 A. John Borowski.

15 Q. How are you employed?

16 A. Harris County Sheriff's Office, burglary
17 and theft.

18 Q. And how long have you worked with the
19 sheriff's office?

20 A. Since 1991.

21 Q. And how long have you been with that?

22 A. Since 2003.

23 Q. What do you do in burglary and theft?

24 A. I investigate residential burglaries and
25 home invasions.