(Open court, defendant and jury present) 1 2 THE COURT: All right. Please be seated. 3 For purposes of the record, call your next 4 witness. 5 MS. DEVINE: State calls Deputy Russell 6 Gonzales. 7 THE COURT: All right. Go ahead. RUSSELL GONZALES, 8 having been first duly sworn, testified as follows: 10 DIRECT EXAMINATION BY MS. DEVINE: 11 Q. Good morning, Deputy. Would you please 12 introduce yourself to the ladies and gentlemen of the 13 14 jury? 15 I'm Russell Gonzales. I'm an investigator with the Harris County Sheriff's Office and I'm currently 16 assigned to the Homicide Division. 17 18 Can I get you to scoot up a little bit into the Ο. microphone for me? 19 20 Are you a certified peace officer in the state of Texas? 21 22 Α. Yes, I am. 23 Q. How long have you been so? 24 A. Eleven years. 25 Q. And have you, for the entire 11 years you've

- 1 been a peace officer, been with the Harris County
- 2 | Sheriff's Office?

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- A. Yes, I have.
- Q. How long have you been with the Homicide Division?
  - A. Approximately three-and-a-half years.
  - Q. And prior to that, where were you assigned?
  - A. I was assigned to the Crime Scene Unit for approximately four years.
- Q. And what were your duties and responsibilities with the Crime Scene Unit?
- 12 Α. In a Crime Scene Unit, my duties and responsibilities were to respond to scenes that involved 13 deaths, shooting investigations in which we would arrive 14 at the scene and we would assess what we had at that 15 scene. From that point, we would take photographs, 16 17 collect evidence. And from that point, depending on the 18 circumstances of that scene, if there was DNA type evidence to be collected, we would do that, attempt to 19 20 locate and lift fingerprints, also.
  - Q. Did your experience as a Crime Scene Unit assist you in assuming your duties as a homicide investigator?
- A. Yes, ma'am.
- 25 Q. Prior to working for Crime Scene, where did you

work?

- A. I was assigned to the Patrol Bureau.
- Q. Can you tell the jury what your duties and responsibilities are as a homicide investigator?
- A. Duties and responsibilities are very similar to that of a Crime Scene Unit. We pretty much have the same functions. We arrive at the scene, we assess the scene, look for evidence. In other aspects from there, we continue on from the location of evidence and the processing of evidence to actually speaking to witnesses, trying to locate suspects, and getting case closure to where we can bring a defendant to getting charged with the offense.
- Q. Have you investigated homicides on few or many occasions?
  - A. Many.
- Q. Can you describe for the jury how the Homicide
  Division is set up?
  - A. Our Homicide Division is comprised of four investigative squads. Each squad is comprised of up to five investigators. Each squad has a supervisor -- supervisory sergeant who is there to oversee everything that we do. When we're called out to scenes, we'll be sent out anywhere from two to all five members of the squad. One person is selected as the lead investigator

- 1 for that case and that person will assign each of us a
- 2 task for that investigation, whether it be document the
- 3 | scene, going out and locating witnesses. Pretty much
- 4 any function that that lead investigator feels that we
- 5 need to cover, we're sent out to do those duties.
- 6 Q. Typically as an investigator, are you dressed
- 7 as you're dressed today?
- 8 A. Yes, ma'am.
- 9 Q. For the most part, homicide investigators
- 10 aren't wearing a uniform as we saw one of the witnesses
- 11 | wearing yesterday?
- 12 A. No, ma'am.
- Q. I'd like to direct your attention to the early
- 14 morning hours of December 3rd, 2009. Were you working
- 15 as a homicide investigator at that time?
- 16 A. Yes, ma'am.
- 17 Q. And were you assigned to the same squad that
- 18 | you're currently assigned to?
- 19 A. Yes, ma'am.
- 20 Q. Do you work a particular shift?
- 21 A. Yes, ma'am.
- 22 Q. And what's your regular shift?
- A. My assigned duty hours are 10:00 a.m. to 6:00
- 24 p.m.
- 25 Q. So, how is it that you would have gotten called

- out to a scene at about 2:00 or 3:00 o'clock in the 1 2 morning?
- Outside of our normal duty hours, we're on a rotation for a call-out. Every fourth week in our office, each squad is on-call for seven days straight, 5 24 hours a day. Any time a murder occurs in Harris 6 7 County, your squad -- your squad is then called to go
- Q. Was your squad on-call on December 3rd, 2009?
- Yes, ma'am. 10

Α.

3

8

- 11 Did you get a call from someone from your squad 0. in the early morning hours of December 3rd? 12
- Yes, I did. 13 Α.
- 14 Who did you get a call from? Q.

out and investigate that crime.

- 15 Α. Sergeant Ben Beall.
- 16 Can you spell his last name for the record? Q.
- B-e-a-1-1. 17 Α.
- 18 And is he your supervisory sergeant? Q.
- 19 Yes, he is. Α.
- 20 Q. Were you directed to contact somebody or to go
- to a specific location? 21
- 22 Α. I was directed to go to the scene on Cadiz
- 23 Circle.
- 24 Q. Okay.
- 25 At that time, I was also advised that

- 1 Investigator Dennis Wolfford would be the lead
  2 investigator.
  - Q. And so, he was calling the shots at that point?
  - A. That is correct.
- Q. What did you do after you received the call from Sergeant Beall?
- A. Got myself prepared, got up, got dressed to go

  8 to the scene. While I was en route to the scene, I

  9 received a phone call from Investigator Wolfford

  10 instructing me to go --
- MR. LOPER: Object to any hearsay if that's going to call for that, Judge.
- THE COURT: Overruled as to that answer.
- 14 You may finish.
- MS. DEVINE: I'll just ask another
- 16 | question.

- Q. (By Ms. Devine) Did you have a conversation with Investigator Wolfford?
- 19 A. Yes, ma'am.
- Q. Did he direct you to go to a location other than the scene at Cadiz Circle?
- A. Yes, ma'am.
- Q. Where did you go?
- A. It was near the intersection of Rollins Street and Homer Street in the Acres Homes community. It was

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actually 2626 Homer.
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2
                 MS. DEVINE: Your Honor, may I approach the
3
   witness?
 4
                 THE COURT: Yes.
             (By Ms. Devine) Deputy Gonzales, I'm showing
5
   you what's been admitted as State's Exhibit No. 67.
6
7
   you recognize or do you see the location where you
   responded to on December 3rd, 2009 (indicating)?
8
        Α.
             Yes, ma'am.
             And where approximately is it located on the
10
        Ο.
11
   exhibit?
12
        Α.
             It's on the lower portion of the map right
   here, 2626 Homer (indicating).
13
14
             What part of town is that?
        Q.
15
             It's just outside the north loop of 610.
   still inside the city of Houston.
16
17
             Also in Harris County, Texas?
        Ο.
18
            Yes, ma'am.
        Α.
             What did you see when you got to 2626 Homer?
19
        Q.
             When I arrived, I noticed that there were
20
        Α.
21
   several officers there from the Houston Police
22
   Department along with deputies from the Harris County
23
   Sheriff's Office. At that time, I also noticed one of
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Q. What specifically did you see at 2626 Homer?

our Crime Scene Units was there, also.

24

A. At 2626 Homer, I was directed to a black Chevy pickup, crew cab pickup that was parked in the driveway of an abandoned house. That pickup truck was sitting there. It was in the off position. The engine was not

running. All the doors were wide open.

- Q. I'm showing you what's been admitted as State's Exhibit No. 75. Is that what you saw when you arrived on scene (indicating)?
  - A. Yes, ma'am.
- Q. With the exception of the doors being opened, that's pretty much what it looked like?
- 12 A. That's correct.
- Q. Was the vehicle running?
- 14 A. No, ma'am.
- Q. Did -- what did you do when you got -- what's the first thing you did when you got there after you saw what you had?
- A. The first thing I did was talk to our crime

  scene investigator, William Campbell, who was there. He

  gave me a brief walk-through of the scene we had at that

  location on Homer Street. I approached the truck,

  looked inside the truck, noticed that there were several

  weapons inside the truck along with other items inside

  the rear cargo area of the pickup bed.
- MS. DEVINE: Your Honor, may I approach the

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witness?
1
2
                 THE COURT: Yes.
3
                 MS. DEVINE: For purposes of the record,
4
   Your Honor, I'm giving the weapons to the deputy to
   clear.
5
6
                 THE BAILIFF:
                                The weapons are clear.
7
                 THE COURT: All right.
             (By Ms. Devine) Deputy Gonzales, I'm showing
8
        Ο.
   you what's been marked as Exhibits 186 and 189.
                                                      Do
   these items look familiar to you (indicating)?
10
11
        Α.
             Yes, ma'am.
12
             Do they appear to be the same weapons that
   you've just described that you saw inside the passenger
13
   compartment of the pickup truck shown in State's 75?
14
             Yes, ma'am.
15
        Α.
16
             Deputy, I'm showing you what's been marked as
   State's Exhibits 94, 95, and 96. Do you recognize
17
18
   what's depicted in those photographs (indicating)?
19
             State's Exhibit 94 --
        Α.
20
        Q.
             Without going into what's in them at this
21
   point, do you recognize them?
22
        Α.
             Yes, ma'am.
23
        Q.
             Have you seen them before your testimony?
24
        Α.
            Yes, ma'am.
25
            Do they fairly and accurately depict what you
        Q.
```

1 saw the night -- the early morning hours of December 2 3rd, 2009? Yes, ma'am. 3 Α. MS. DEVINE: After tendering to defense counsel, which has had an opportunity to view these 5 photographs, I'll offer them for admission. State's 94, 6 95, and 96. 7 (State's Exhibit No. 94 through 96 Offered) 8 9 MR. LOPER: We have no objection, Judge. State's Exhibits 94, 95, and 96 10 THE COURT: 11 are admitted. 12 (State's Exhibit No. 94 through 96 Admitted) 13 (By Ms. Devine) Now, Deputy Gonzales, you 14 Q. 15 testified that you observed items in the bed of the pickup truck that was parked in the driveway at 2626 16 17 Homer. Is that what we see -- is that what you saw when you observed that truck that night (indicating)? 18 Yes, ma'am. 19 Α. 20 Q. After you talked with Crime Scene Unit Campbell, where did you go? 21 22 At that time I was advised that there was a 23 person that had already been detained, that was captured 24 just a short distance away, hiding under a church. 25 Q. Prior to that, was there any additional

evidence located in and around the area of 2626 Homer?

A. Yes. There was another weapon that was found by our Crime Scene Unit in a small little bayou drainage ditch just directly behind that residence on Homer.

MS. DEVINE: Your Honor, may I approach?

THE COURT: Yes.

- Q. (By Ms. Devine) Deputy Gonzales, I'm showing you what's been marked as State's Exhibit 191. Do you recognize this (indicating)?
- A. Yes, ma'am.

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- Q. Does it appear to be the same weapon that was recovered from the drainage ditch behind 2626 Homer on December 3rd, 2009?
  - A. Yes, ma'am.
  - Q. Deputy Gonzales, I'm showing you what's been marked and admitted as State's Exhibit No. 76. Does that accurately show what you saw when the gun was recovered, State's Exhibit No. 191 (indicating)?
    - A. Yes, ma'am.
- Q. Once you received the information that a suspect had been taken into custody nearby, where did you go?
- A. I went over to a deputy's patrol vehicle. It
  was Deputy Wareham. He had a black male seated in the
  back seat of his patrol car at that time.

- 1 0. Where was that?
- 2 A. It was at the end of the culdesac on Homer
- 3 Street.
- 4 Q. And is that where that suspect had been
- 5 apprehended based on the information that you had or was
- 6 he apprehended elsewhere?
- 7 A. From what I understand, he was apprehended on
- 8 Garapan.
- Q. And that was one street over, correct?
- 10 A. Correct.
- 11 Q. Did you have an opportunity to see a person in
- 12 | Deputy Wareham's vehicle?
- 13 A. I'm sorry?
- 14 Q. Did you have an opportunity to view the suspect
- 15 | in the back of Deputy Wareham's vehicle?
- 16 A. Yes, ma'am.
- 17 Q. Do you see that person in the courtroom today?
- 18 A. Yes, I do.
- 19 Q. Can you point to that person and identify an
- 20 article of clothing that he's wearing?
- 21 A. It's the gentleman over here with the white
- 22 | shirt and the gold/brown colored tie.
- MS. DEVINE: Your Honor, may the record
- 24 | reflect the witness has identified the defendant?
- THE COURT: Yes.

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(By Ms. Devine) Deputy, is this an accurate
1
        Ο.
   representation of what the defendant looked like when
2
   you saw him in the back of that patrol car (indicating)?
3
            Yes, it is.
4
        Α.
             In fact, was he taken out of the patrol car for
5
6
   that photograph to be taken?
7
             Yes. I had him removed from the patrol car.
        Α.
            Was there anything else of significance located
8
        Ο.
   in Deputy Wareham's patrol vehicle?
10
             There was also a -- a rifle that was located
11
   near that church area.
12
        Q.
             And was he maintaining custody of that at the
   time?
13
14
             Correct.
        Α.
15
             Showing you what's been marked and entered as
   State's Exhibit 94. Does this show that weapon in the
16
17
   front seat of the patrol car (indicating)?
18
            Yes, ma'am.
        Α.
19
                 MS. DEVINE: Your Honor, may I approach?
20
                 THE COURT: Yes.
21
                 MS. DEVINE: For purposes of the record,
22
   Your Honor, I'm giving the deputy a weapon to clear.
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THE BAILIFF:

THE COURT: All right. Thank you.

The weapon and magazine are

23

24

25

clear.

- Q. (By Ms. Devine) Deputy Gonzales, I'm showing
  you what's been marked as State's Exhibit 195. Do you
  recognize this (indicating)?
- 4 A. Yes, ma'am.

6

- Q. Does it appear to be the same weapon that was located in the front of the patrol car that's shown in the photograph?
- 8 A. Yes, ma'am.
  - Q. Was the magazine in or out?
- 10 A. I believe it was inserted.
- Q. And does this appear to be that same magazine,
  12 State's Exhibit No. 196 (indicating)?
- 13 A. Yes, ma'am.
- Q. You were the primary homicide investigator at this scene, correct?
- 16 A. That's correct.
- Q. What decision was made about what will happen with that truck that's parked in the driveway of 2626 Homer?
- A. At that point I decided that it would be towed to our Crime Scene Unit print stall for further processing due to the weapons being located inside, the items that we had in the rear of the bed also. Since I was advised that there were several other suspects that were in that vehicle that had fled on foot, I wanted to

make sure it was transported to a secure location where it could be processed in a controlled environment.

- Q. And did, in fact, that happen?
- A. Yes, ma'am.

- Q. Now, when you first made contact with this defendant in the back seat of the patrol car, what did you notice about his physical appearance?
- A. I noticed that he was really dirty. His clothing was covered with dirt, almost like mud. He was also missing his shoes. He had dark -- dark shirt, dark pants, and dark socks.
- Q. When you have a suspect in a shooting scene, what is standard procedure, based on your experience as a Crime Scene Unit and a homicide investigator, that happens to that suspect when they're apprehended?
- A. It's pretty much a standard protocol that any time someone is involved in a shooting or suspected to have been involved in a shooting, a gunshot residue test kit is administered to the hands of that subject. And that's to test for any kind of gunshot residue. If they have been in the area of a firearm being discharged or actually discharged a firearm, the elements present in a cartridge would be present on the fingers.
- Q. What did you notice about the defendant's hands at the time that Deputy Campbell was administering that

1 SEM kit?

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- A. They were pretty dirty.
- Q. State's Exhibit No. 95, what is this a photograph of (indicating)?
- 5 A. That is the defendant's hands.
  - Q. And does this show the dirt and the mud and the debris that's on the defendant's hands (indicating)?
  - A. Yes, ma'am.
    - Q. Well, is that pretty accurate?
- 10 A. Yes, ma'am.
- Q. Based on your experience as a Crime Scene Unit, might that affect the ultimate results of an SEM kit?
- 13 A. Absolutely.
- 14 Q. Why?
- 15 When you have another substance that's been overlaid onto the hands, such as this case here -- this 16 could have either been dirt or mud -- it would almost 17 18 have the same effect as washing your hands. Anything that was on the hands prior to the dust or mud would 19 20 have been washed away, wiped away. And dirt being 21 abrasive, it can cause any kind of other materials that 22 were on the hand to disappear or just be washed away in 23 this instance.
- Q. Was it raining out there periodically that night?

- 1 A. It -- there had been somewhat of a small little 2 rainfall.
  - Q. Was the ground wet, also?
- 4 A. Yes, ma'am.
- Q. And would that affect the ultimate results of an SEM?
- 7 A. Yes, ma'am.
  - Q. For the same reason?
- 9 A. Yes.

- Q. After the defendant was photographed and the SEM kit was administered by Deputy Campbell, what was your next directive to your personnel?
- A. For Deputy Wareham to go ahead and transport
  Theadric Lee to the Homicide office. I instructed
  Deputy Campbell to follow the truck down to the print
  stall for it to be towed for examination.
- 17 Q. And then what did you do?
- A. And at that point, I returned to the Homicide
  office to wait for the arrival of Investigator Wolfford.
- Q. Did you do something else at Investigator Wolfford's instruction with respect to the truck?
- A. Yes, ma'am. Once I got to the Homicide office,

  I checked the registration on it and it was noted that

  the registered owner to that truck was Enterprise

  Leasing. I contacted Enterprise Leasing and obtained

1 | the rental information and provided that to Wolfford.

- Q. Now, with the exception of preparing for your testimony today, was that pretty much the extent of your role in this investigation?
  - A. Yes, ma'am.

6 MS. DEVINE: Your Honor, I'll pass the

7 | witness. And for the record, both Mr. Loper and

8 Mr. Graber have had a copy of the offense report

9 containing this deputy's supplement.

10 THE COURT: All right. Mr. Loper.

MR. LOPER: Thank you, Judge.

## CROSS-EXAMINATION

## 13 BY MR. LOPER:

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- 14 Q. Good morning, Deputy.
- 15 A. Good morning.
- Q. A couple questions about your participation in this case. So, it sounded like you were on your way to
- 18 Cadiz Circle, but were rerouted to a different location.
- 19 | Correct?
- 20 A. Yes, sir.
- Q. So, may the jury then assume that you never did quite make it to Cadiz Circle?
- 23 A. That's correct.
- Q. So, you weren't involved in any of the investigation or anything that may have been done at

- 1 | that location, correct?
- 2 A. That's correct.
- Q. Based on talking to other people you learned that these locations may be connected to this address on Homer that you went to, correct?
  - A. That's correct.

- Q. When you went to this particular location -
  8 and I mean the one on Homer that you went to -- at that

  9 point in time, did you say that the doors of the truck

  10 were opened?
- 11 A. Yes. When I arrived, the doors were open.
- Q. Okay. Now, in a photograph that was shown to the jury, we see that the doors are closed, correct?
- 14 A. That's correct.
- Q. Did you close those doors or do you know who did close those doors?
- 17 A. I didn't close them and I'm not aware of who 18 closed those doors.
- Q. Okay. Do you remember if they were closed while you were there?
- 21 A. That's a possibility.
- 22 Q. Do you know why the doors were closed?
- 23 A. No, I don't.
- Q. Wouldn't it be important as a former CSU to take a photograph of the scene exactly as you find it?

1 A. It would be.

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- Q. Did you have any discussion with the CSU -- I assume you didn't take those photographs that night, did you?
  - A. No, I didn't.
    - Q. Okay. But you're certainly present, correct?
- 7 A. That's correct.
  - Q. Did you have any conversation with the CSU who did take the photographs as to why they didn't photograph it in the condition that it was found?
- 11 A. At that time I wasn't aware that they hadn't 12 been photographed while the doors were open.
- Q. Okay. Do you have any -- or were you able to determine, when you arrived, how long other officers were already on the scene there where the truck was located? Had it been just a few minutes, had it been a couple hours, or do you know?
- 18 A. From what I recall, it probably had been about 19 an hour or so.
- Q. And I believe you said that when you got there, there were already several other officers present?
  - A. That's correct.
- Q. And by "several," are we talking about five, ten?
- 25 A. Anywheres in the area of maybe about three to

- 1 five.
- Q. And did that also include the CSU who would
- 3 have been taking whatever photographs this jury has
- 4 seen?
- 5 A. That's correct.
- 6 Q. And what was that person's name again?
- 7 A. William Campbell.
- 8 Q. That was Deputy Campbell?
- 9 A. Yes.
- 10 Q. Now, the weapons that you say that you saw
- 11 inside of the truck, did you make note of where they
- 12 | were found in the truck?
- 13 A. Yes.
- 14 Q. Where was the shotgun found?
- 15 A. In the front passenger compartment near the
- 16 passenger seat.
- Q. And was it laying across the seat, was it
- 18 | sitting up? How was it placed?
- 19 A. It was kind of like a downward angle.
- 20 Q. Okay. Any way for you to determine at that
- 21 point in time who had placed it there?
- 22 A. No.
- Q. And where was the other weapon found, the
- 24 Tec-9?
- 25 A. It was also on the passenger side of the

- 1 front -- the front passenger side of the vehicle.
- Q. So, both weapons were found in the front passenger compartment of the truck?
- 4 A. That's correct.
- Q. Okay. And same question about the Tec-9. Any way to determine who placed that there?
- 7 A. No, sir.
- Q. Okay. And because you're in Homicide and not a

  Graph CSU anymore, you were not involved in the taking of any

  the evidence, collecting evidence, doing the swabs

  for the gunshot residue, or anything, correct?
- 12 A. That is correct.
- Q. That was another deputy who would have done that?
- 15 A. That is correct.
- 16 Q. But you were present when it was done?
- 17 A. That is correct.
- Q. As far as you could tell, with your training and experience, the deputy who did the swabs on
- 20 Mr. Lee's hands for a possible GSR residue did it
- 21 correctly?
- 22 A. Yes, sir.
- Q. Okay. You've done that before on many occasions, right?
- 25 A. Yes, sir.

- 1 Q. In your former assignment?
- 2 A. Yes, sir.
- Q. And so, you could tell that he had done it done it
- 5 A. That's correct.
- Q. Okay. And you gave the jury a little bit of your experience about what can affect the presence of gunshot residue. And you're basing that upon your experience as a CSU officer, correct?
- 10 A. That's correct.
- Q. Now, a CSU officer is not the person who does
  the actual chemical determination whether GSR is present
  or not, are they?
- 14 A. No.
- Q. So, that never was, even when you were doing it, your job, correct?
- 17 A. That's correct.
- 18 O. That would be someone else that would do that?
- 19 A. Correct.
- Q. Could you tell the jury who that person would be that would do the actual chemical application?
- A. That would actually be a lab analyst over at the Harris County Medical Examiner's Office.
- Q. Kind of more of a scientist?
- 25 A. Correct.

- Q. Okay. You're just saying to the jury that
  you've seen a lot of swabs for GSR done before and these
  kind of conditions could affect whether GSR was present
- 5 A. Correct.

or not, correct?

- Q. You certainly weren't making any value judgment in this case about whether GSR would ultimately be found or not, were you?
  - A. No.
- Q. And when you determined that the truck had been leased, you determined that, I assume, by making a phone call, didn't you?
- 13 A. Actually, just running the registration through 14 our registration database.
- 15 Q. Okay. In other words, sort of a computer 16 search?
- 17 A. Through DPS, yes.
- Q. When you did that computer search, who did you determine that the truck had been leased to?
- A. After contacting Enterprise, it was determined that it was actually leased or rented to a Jaqueline Mack.
- Q. Okay. So, you did make a phone call to find out who it was leased to by calling Enterprise?
- 25 A. That's correct.

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1
        O.
            Okay. And it was a person named Jaqueline
2
   Mack?
3
            Correct.
        Α.
4
        Ο.
            It was not leased to Theadric Lee, was it?
            No, it was not.
5
        A.
6
                 MR. LOPER: Thank you, sir. That's all I
7
   have, Judge.
8
                 THE COURT: Ms. Devine.
9
                 MS. DEVINE: I have no further questions,
10
   Your Honor.
11
                 May this witness be excused?
12
                 THE COURT: You may step down. You're free
13
   to go.
14
                 Call your next witness.
                 MS. DEVINE: State calls Deputy William
15
16
   Campbell.
17
                 THE BAILIFF: The witness has been sworn.
18
                 THE COURT: All right.
19
                 THE WITNESS: Good morning.
20
                 THE COURT: Good morning. Have a seat.
21
                 Ms. Devine.
22
                 MS. DEVINE: Thank you, Your Honor.
23
                        WILLIAM CAMPBELL,
   having been first duly sworn, testified as follows:
24
25
                       DIRECT EXAMINATION
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