

1 (A recess was taken.)

2 (Open court, Defendant present.)

3 THE COURT: All right. Are both sides
4 ready for the jury?

5 MS. ALLEN: Yes, Your Honor.

6 MR. DAVIS: I was trying to go through
7 these documents, but I can finish that later.

8 THE COURT: Okay. Bring them in.

9 THE BAILIFF: Rise for the jury.

10 (Jury enters courtroom.)

11 THE COURT: Be seated, please.

12 Call your next witness.

13 MS. ALLEN: Officer Huston.

14 THE COURT: All right.

15 Officer Huston, just have a seat.

16 WITNESS: Yes, ma'am.

17 THE COURT: Ms. Allen, you may proceed.

18 MS. ALLEN: Thank you, Your Honor.

19 **JOHN HUSTON,**

20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MS. ALLEN:

23 Q. Would you please tell the ladies and gentlemen
24 of the jury your name?

25 A. John Huston.

1 Q. How are you employed?

2 A. With the Houston Police Department.

3 Q. How long have you been with HPD?

4 A. 28 years.

5 Q. Where are you currently assigned?

6 A. To the narcotics division.

7 Q. And are you in the same unit as Officer Rosales
8 currently is?

9 A. Yes, ma'am.

10 Q. And did you work with he and Officer
11 Vanderberry and Sergeant Ohland back on November 30th of
12 2009?

13 A. Yes.

14 Q. What was your original role in the
15 investigation on November 30th, the investigation at
16 7823 Sarita?

17 A. Are you talking about Sarita?

18 Q. Sarita, right.

19 A. I got called while they were already at the
20 location. And when I got there, they were already in
21 the process of either following him or making the
22 traffic stop, him being the Defendant.

23 Q. And then did you have an opportunity there to
24 talk with Officer Vanderberry and Sergeant Ohland about
25 what they had seen at the Sarita address?

1 A. Yes.

2 Q. As a result of your conversations with them,
3 did you go somewhere and do something?

4 A. Yes, I did.

5 Q. What did you do?

6 A. Officer Vanderberry asked --

7 MR. DAVIS: I object to the hearsay.

8 THE COURT: That's sustained.

9 Q. (BY MS. ALLEN) Just what did you do?

10 A. I got information from Officer Vanderberry. I
11 then went to my office and typed the search warrant.

12 Q. Did you, in fact, then present that search
13 warrant to a magistrate?

14 A. Yes, I did.

15 Q. And did the magistrate sign that warrant?

16 A. Yes.

17 Q. During the time that you were preparing the
18 search warrant, did you, if you had any questions, were
19 you able to communicate with Officer Vanderberry or
20 Sergeant Ohland?

21 A. Yes, by phone.

22 MS. ALLEN: Your Honor, may I approach the
23 witness?

24 THE COURT: You may.

25 Q. (BY MS. ALLEN) Let me show you what's been

1 marked as State's Exhibit 21. Do you recognize that?

2 A. Yes.

3 Q. And what is it?

4 A. It's the warrant --

5 Q. And that's a copy?

6 A. -- for the affidavit.

7 Q. That was actually signed by the magistrate here
8 of Harris County, Texas, Frank Aguilar; is that correct?

9 A. Yes, ma'am.

10 MS. ALLEN: Your Honor, at this time I
11 would tender State's Exhibit 21 to Defense counsel and
12 ask that it be admitted into evidence.

13 (State's Exhibit No. 21 offered.)

14 THE COURT: Is there any objection?

15 MR. DAVIS: I just want to read it for a
16 second and make sure this is what I've seen.

17 There's no objection, Your Honor.

18 THE COURT: State's Exhibit No. 21 is
19 admitted without objection.

20 (State's Exhibit No. 21 admitted.)

21 Q. (BY MS. ALLEN) Did you have an opportunity
22 after the warrant was signed by the magistrate to go
23 back to the Sarita address?

24 A. Yes, I did.

25 Q. When you arrived there, what was going on?

1 A. They were about to leave the location. I maybe
2 stepped inside, and they were getting ready to leave the
3 location around 10 o'clock, I think, something like
4 that.

5 Q. Did you that night come into possession of
6 anything that was taken from the Sarita address?

7 A. Yes.

8 Q. How did that happen?

9 A. We took the property that was recovered back to
10 our office, decided who was going to do what. And I
11 ended up with most of the, or all of the non-narcotic
12 property which was seized; and I tagged that in the
13 property room at HPD.

14 MS. ALLEN: May I approach again, Your
15 Honor?

16 THE COURT: You may.

17 MS. ALLEN: Justin, did you mark this?

18 MR. KEITER: No, ma'am.

19 Q. (BY MS. ALLEN) Let me show you a box marked
20 State's Exhibit 13. Do you recognize it?

21 A. Yes.

22 Q. How do you recognize it?

23 A. My initials are on the tape.

24 Q. And is that common when you admit or submit
25 evidence to the property room that it can be contained

1 in a box that you then initial the evidence tape on?

2 A. Once it's sealed, yes.

3 Q. And is that what you did on November 30th or
4 maybe December 1st depending on what time it was?

5 A. Yes, ma'am.

6 Q. All right. And is this the box that you put
7 all of the non-narcotic evidence in on that night?

8 A. I believe it was, yes.

9 Q. Let me show you what has been marked as State's
10 Exhibit 53. Do you recognize that?

11 A. Yes.

12 Q. Again, how do you recognize it?

13 A. My initials.

14 Q. So, whatever the contents of State's Exhibit 53
15 were put into the envelope marked State's Exhibit
16 No. 53, you sealed it and put your initials on it; is
17 that correct?

18 A. The property room actually seals it, and we do
19 the initialling.

20 Q. So, at the property room?

21 A. Yes.

22 Q. And then all of the evidence is put into the
23 box and sealed there?

24 A. Correct.

25 MS. ALLEN: Your Honor --

1 Q. (BY MS. ALLEN) I'm going to show you State's
2 Exhibit 54. Do you recognize it?

3 A. Yes.

4 Q. And do you recognize it for the same reason
5 that your initials are on there?

6 A. Yes, ma'am.

7 Q. And State's Exhibit 49, do you recognize it?

8 A. Yes.

9 Q. And, again, were these items that were
10 recovered from the Sarita location placed into this
11 plastic bag and then tagged in the property room?

12 A. Yes.

13 Q. And were they put in the box marked State's
14 Exhibit 10?

15 A. I believe so, yes.

16 Q. State's Exhibit 51, do you recognize it?

17 A. Yes.

18 Q. And are those your initials on it?

19 A. Yes, they are.

20 Q. And was the same procedure used with that?

21 A. Yes, ma'am.

22 Q. And State's Exhibit 64, do you recognize that?

23 A. Yes.

24 Q. And was the same procedure -- did you recognize
25 that because of your initials?

1 A. Yes.

2 Q. And was the same procedure used for all of the
3 other exhibits?

4 A. Yes.

5 Q. Showing you State's Exhibit 67, again, do you
6 recognize your initials on it?

7 A. Yes.

8 Q. And was the same procedure used on State's
9 Exhibit 67 as all of the other exhibits?

10 A. Yes, it was.

11 Q. Showing you State's Exhibit 14, do you
12 recognize your initials on that box?

13 A. Yes.

14 Q. And were the items in State's Exhibit 14 placed
15 into State's Exhibit 14 after being recovered from the
16 Sarita location?

17 A. Yes.

18 Q. And did you put them into the property room on
19 November 30th or December 1st of 2009?

20 A. Yes, ma'am.

21 Q. State's Exhibit 52, do you recognize it?

22 A. Yes.

23 Q. And do you recognize it from your initials on
24 it?

25 A. Correct.

1 Q. And, again, was the same procedure used in
2 State's Exhibit 52 as it was in all of the other
3 exhibits?

4 A. Yes.

5 Q. And showing you State's Exhibit 50, do you
6 recognize that and your initials?

7 A. Yes.

8 Q. And was the same procedure used on State's
9 Exhibit 50 as in all of the other exhibits?

10 A. Yes.

11 MS. ALLEN: Your Honor, at this time I
12 would tender State's Exhibits 48, 50, 52, 53, 54, 57,
13 64, 67, 49 and 11 to Defense counsel, and ask that they
14 each with their contents be admitted into evidence.

15 THE COURT: 57 is what item?

16 MS. ALLEN: You know what, Judge, it's not
17 57, it's 51.

18 (State's Exhibit Nos. 11, 48, 49, 50, 51,
19 52, 53, 54, 64 and 67 offered.)

20 THE COURT: All right.

21 MR. DAVIS: Can I have just one moment,
22 Your Honor?

23 THE COURT: Yes.

24 MS. ALLEN: Your Honor, also tender State's
25 Exhibit 66 and 65.

1 (State's Exhibit Nos. 65 and 66 offered.)

2 THE COURT: All right. Is there any
3 objection?

4 MR. DAVIS: One moment, Your Honor.

5 THE COURT: Are these the items that you
6 reviewed earlier?

7 MR. DAVIS: No, these are not the items
8 from earlier, Your Honor.

9 THE COURT: All right.

10 MR. DAVIS: There's no objection, Your
11 Honor.

12 THE COURT: All right. State's Exhibits 48
13 through 54 and 64 through 67 are admitted without
14 objection.

15 MS. ALLEN: Also, Your Honor, 11 and I
16 think it was 46.

17 MR. DAVIS: Also, 65 as well.

18 THE COURT: I admitted 65. State's
19 Exhibit 11, and is it 44?

20 MR. DAVIS: 54, Your Honor.

21 THE COURT: State's Exhibits 48 through 54
22 including 49, 50, 51, 52, 53 are admitted without
23 objection, 64 through 67 are admitted without objection,
24 State's Exhibit No. 11 is admitted without objection,
25 and I believe there's a 44; is that correct?

1 (State's Exhibit Nos. 11, 48, 49, 50, 51,
2 52, 53, 54, 64, 65, 66 and 67 admitted.)

3 MR. DAVIS: I'm not sure about a 44, Judge.
4 I will look and see.

5 MS. ALLEN: 44 is a scene photo.

6 THE COURT: All right.

7 MS. ALLEN: Thank you, Your Honor.

8 I have no further questions, Your Honor.
9 I'll pass the witness.

10 THE COURT: All right, Mr. Davis.

11 MR. DAVIS: Very briefly, Your Honor.

12 **CROSS-EXAMINATION**

13 BY MR. DAVIS:

14 Q. Officer, you never did, Officer Huston, you
15 never did anything in regards to the search of the home?

16 A. No, sir.

17 Q. And you had no hand in the surveillance,
18 either?

19 A. No, sir.

20 Q. So, basically, the decision as to what items
21 were seized, you had no hand in that?

22 A. No, sir.

23 Q. You only took possession of the items that
24 were, in fact, seized and handed over to you?

25 A. Correct.

1 Q. In fact, I don't think you even went inside the
2 house; is that right?

3 A. Momentarily when they were about to leave is
4 what I remember.

5 Q. So, you were there when they were securing the
6 place?

7 A. Correct.

8 MR. DAVIS: No other questions, Your Honor.

9 THE COURT: All right. May Officer Huston
10 be excused?

11 MS. ALLEN: Yes, Your Honor.

12 THE COURT: Thank you, Officer. You may
13 step down.

14 WITNESS: Thank you, Judge.

15 THE COURT: Call your next witness.

16 MR. KEITER: State calls Mariam Kane, Your
17 Honor. This witness has not been sworn.

18 THE COURT: All right, thank you.

19 THE BAILIFF: This witness has not been
20 sworn.

21 THE COURT: All right. Please raise your
22 right hand to be sworn in.

23 (Witness sworn.)

24 THE COURT: You may be seated.

25 Mr. Keiter, you may proceed.