

1 THE COURT: All right. Anybody that's
2 going to be called to testify in this matter, please
3 stand up and raise your right hand and be sworn in as a
4 witness, please.

5 (Witnesses sworn).

6 THE COURT: The Rule has been invoked,
7 which means you cannot discuss what goes on inside the
8 courtroom or your testimony with anyone other than the
9 lawyers. It also means that you cannot be in the
10 courtroom while another witness is testifying. So, I
11 need you both to wait in the hallway and you'll be
12 called in as soon as we get to you. But do not discuss
13 your testimony with anyone.

14 Wait in the hallway, please.

15 Go ahead.

16 MS. DOWNING: Thank you, Judge.

17 CODY ROBINSON,

18 having been first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. DOWNING:

21 Q. Officer, would you please just introduce
22 yourself briefly?

23 A. Sure. My name is Officer Cody Robinson. I've
24 been with the department about five and a half years.
25 Came out of the academy in November of 2009. I trained

1 and worked in the southeast Houston area for about four
2 years as a patrol officer, a field trainer/evaluator.
3 And I was a member of the Southeast Differential
4 Response Team where we investigated like neighborhood
5 nuisance issues, game room inspections, convenience
6 store inspections. And enforced city code violations
7 on residential properties and commercial properties.

8 From there, I went to the Southeast
9 Tactical Unit. I was only there about two weeks before
10 I got my call to go to air support. And now, I'm a
11 tactical flight officer in the air support unit.

12 Q. And, Officer Robinson, are you a certified
13 peace officer?

14 A. Yes, I am.

15 Q. And were you on duty in your capacity as an
16 officer on March 6th of 2014?

17 A. Yes.

18 Q. And did you have an opportunity to come in
19 contact with a Vincent Williams?

20 A. Yes.

21 Q. Is he present in the courtroom today?

22 A. He is.

23 Q. Can you describe an article of clothing he's
24 wearing to identify him?

25 A. He's right here on my right wearing an orange

1 top.

2 MS. KELSEY: May the record reflect the
3 witness has identified the defendant?

4 THE COURT: It will.

5 Q. (BY MS. KELSEY) And can you tell the Court
6 how you came in contact with Mr. William?

7 A. Yes. At the time I was in the Differential
8 Response Team and my sergeant called me on my cell
9 phone and said that a complaint came through the
10 storefront on Griggs Road, 5300 Griggs, the Palm
11 Center. Basically, a female contacted police saying
12 that there were some possible trespassers inside her
13 property at 4930 Hull, H-u-l-l. And that the officer
14 that was contacted wanted some other officers to go
15 over there with her to take a look at the property to
16 see what was going on.

17 And so, myself and my sergeant met with
18 her and the reportee, Ms. Johnson -- Geraldine Johnson.

19 Q. And did you go out to the location?

20 A. I did.

21 Q. And what did you find when you got there?

22 A. We got there around 11:00 in the morning. Saw
23 a couple of vehicles parked in the driveway. We
24 knocked on the door. Well, actually we talked to the
25 reportee first to see kind of what was going on with

1 the property. She handed us a handwritten letter from
2 her brother, Eugene --

3 MR. BUNDICK: Objection as to narrative,
4 Your Honor.

5 THE COURT: All right. Let's keep it
6 question and answer, please.

7 Q. (BY MS. KELSEY) Officer Robinson, you said
8 that she handed you something. What was it?

9 A. Yes. She handed me a letter -- a hand written
10 letter from her brother, Eugene. He said he had some
11 concerns about somebody being in the house that wasn't
12 supposed to be there.

13 Q. Okay.

14 A. And he wanted those people removed.

15 Q. And did Ms. Johnson tell you that she owned
16 the house?

17 A. She provided a living will and testament that
18 her and her brother inherited the property. And I also
19 looked up the property on my cell phone through the
20 appraisal district. And it listed I think the Johnson
21 Trust as being the owners of the residence.

22 MS. KELSEY: Permission to approach, Your
23 Honor?

24 THE COURT: Yes, ma'am.

25 Q. (BY MS. KELSEY) Officer Robinson, I'm showing

1 you what's been previously marked as State's Exhibit 1
2 and No. 2. Do you recognize those items?

3 A. Yes, I do.

4 Q. And what do you recognize them to be?

5 A. No. 1 -- this is No. 1?

6 Q. Yes.

7 A. Is a handwritten letter from Eugene Johnson to
8 his sister while he was incarcerated. Basically
9 stating that he believes there's somebody in his house
10 that he doesn't want there.

11 Q. Okay.

12 A. And for her to go out and take a look at that.

13 Q. And Ms. Johnson handed you this when you
14 arrived?

15 A. Yes, she did.

16 Q. And does it appear to be altered or changed in
17 any way?

18 A. Not to my knowledge.

19 Q. Okay. And you were the one that took the
20 photograph of this?

21 A. Yes.

22 Q. Okay. And what is Exhibit No. 2?

23 A. That looks to be the last will and testament
24 that Ms. Johnson provided me on the scene.

25 Q. Okay. And does that appear to be changed or

1 altered in any way since you had it?

2 A. No.

3 Q. And it's -- they're both fair and accurate?

4 A. Yes, they are.

5 MS. KELSEY: State moves to admit State's
6 Exhibit 1 and No. 2.

7 MR. BUNDICK: May I take this witness on
8 voir dire?

9 THE COURT: Sure.

10 VOIR DIRE EXAMINATION

11 BY MR. BUNDICK:

12 Q. Officer Robinson?

13 A. Yes, sir.

14 Q. Are these the documents that you got from the
15 witness that day?

16 A. Those are copies.

17 Q. These are copies?

18 A. Yes, sir.

19 Q. Did you -- have you had care, custody and
20 control of these copies since the witness presented
21 them to you?

22 A. No, I have not.

23 MR. BUNDICK: These are not
24 self-authenticating document. We object to their
25 introduction, Your Honor.

1 MS. DOWNING: Your Honor, the witness has
2 testified that they are true, fair and accurate copies
3 of the documents. And if you need more predicate, we
4 can admit them through Ms. Johnson, if you prefer.

5 MR. BUNDICK: That would be the way we
6 would ask that it be done, Your Honor.

7 THE COURT: What's the purpose of these
8 exhibits?

9 MS. KELSEY: It's state of mind of the
10 officer, Your Honor. It's based on his belief whether
11 or not Ms. Johnson had authority for him to give
12 consent for him to go in there. And so, it -- the
13 whole motion comes down to whether or not the officer
14 believes that there was some kind of lease or whether
15 or not he was there to remove trespassers from the
16 home.

17 THE COURT: And these documents go to
18 that?

19 MS. KELSEY: Yes, because they were
20 provided to him as to who had authority on the house.

21 THE COURT: All right. Your objection is
22 overruled. State's 1 and 2 --

23 MS. KELSEY: Yes, sir.

24 THE COURT: -- will be admitted.

25 MS. KELSEY: Permission to publish?

1 THE COURT: Sure.

2 CONTINUED DIRECT EXAMINATION

3 BY MS. DOWNING:

4 Q. Officer, after you spoke with Ms. Johnson and
5 she provided you this documentation, what did you do
6 next?

7 A. We had her sign a trespass affidavit.

8 Q. And what is a trespass affidavit?

9 A. It's basically a document that says that if we
10 were to find someone on the property that's not
11 supposed to be there, that they would be willing to
12 prosecute for that charge.

13 Q. Did you ask her to sign a consent form for you
14 to search?

15 A. No, I did not.

16 Q. Why not?

17 A. Typically we sign a consent for situations
18 where we're looking for evidence that would be against
19 that person. Like in order to search their property or
20 their car to find evidence that would be used against
21 them.

22 We were just there to clear her house for
23 her.

24 Q. And so, what did you do next?

25 A. We knocked on the door. And knocked on some

1 of the windows, me and my sergeant, for approximately
2 10 minutes.

3 Q. Okay. And after the 10 minutes passed, what
4 happened?

5 A. The front door was unlocked. And that was
6 when my first encounter with Mr. Williams. He opened
7 the front door.

8 Q. The defendant opened the door?

9 A. He did.

10 Q. And what -- what did he say?

11 A. I introduced myself. Told him that we were
12 there to make sure there was nobody at the property
13 that wasn't supposed to be there. And as soon as he
14 opened the front door, I got an heavy odor of marijuana
15 emitting from inside the house or his person. I
16 couldn't tell which one. But he was in the doorway and
17 I smelled marijuana.

18 As he stepped out, I detained him in
19 handcuffs just to get him identified and to keep him
20 away from anything in the house that he could get
21 access to based on that smell of marijuana. And as I
22 was handcuffing him, he tried to step back inside
23 and --

24 MR. BUNDICK: Objection as to narrative,
25 Your Honor.

1 THE COURT: Keep it question and answer,
2 please?

3 THE WITNESS: Yes, sir.

4 Q. (BY MS. KELSEY) As you were handcuffing him,
5 what happened?

6 A. He tried to step back inside and said my
7 girlfriend is inside the residence.

8 Q. Okay. Did he ever object to you guys going
9 inside the house?

10 A. No.

11 Q. Did he ever tell you that he was under the
12 assumption he belonged there?

13 A. No.

14 Q. Okay. After you detained him, what happened
15 next?

16 A. I brought him out to my patrol car. And did a
17 little hybrid search to make sure he didn't have any
18 weapons on his waistband. Put him in the backseat.

19 And the door was open from him opening
20 it. I then entered the house at that point. Called
21 out to his girlfriend, the name that he provided me,
22 Dominique. Called out several times. No -- no
23 response from her.

24 Q. Okay. So, what did you do?

25 A. So, I talked again with Ms. Geraldine Johnson

1 and said hey, we believe there's one more person in
2 there based off his statement. And if I needed to go
3 in there and get her and make contact with her. And
4 she said that was fine, to go in.

5 Q. So, did you go in?

6 A. We did.

7 Q. And what did you find?

8 A. We found Dominique Levi asleep in the north
9 bedroom of the residence.

10 Q. Okay. Did you find anything else?

11 A. We did. On the left-hand side of the
12 headboard, the north side of the headboard, there was a
13 pistol in plain view.

14 Q. Okay.

15 A. And so, based on seeing that, we went ahead
16 and detained her to make sure she wouldn't gain access
17 to that and brought her outside.

18 MR. BUNDICK: Objection as to narrative.

19 Q. (BY MS. DOWNING) After you brought her
20 outside, what happened next?

21 A. We finished looking through the house to clear
22 it of any other people that could be inside.

23 Q. Okay. And when you finished looking through
24 the house, what did you find?

25 A. In that same bedroom, narcotics in plain view,

1 marijuana and crack cocaine.

2 Q. How much crack did you find?

3 A. 1.4 grams.

4 Q. Where did you find it?

5 A. The cocaine was on the north wall. There was
6 a dresser there. It was on top of the dresser.

7 Q. Okay. And what made you believe that the
8 defendant was in possession of the gun and the cocaine?

9 A. Well, seemed to be they were sleeping in the
10 bedroom based on the statement and where we found her
11 and we had a wallet in there with his driver's license
12 sitting on top of that same dresser. And then a little
13 while later, he asked for his wallet and his watch,
14 both on that dresser as well.

15 Q. Okay. So, Officer Robinson, is it your
16 understanding that the people, the defendant and
17 Dominique, did not have permission to be in that house?

18 A. That was my understanding.

19 Q. At any time did you believe that this was any
20 type of eviction or eviction process?

21 A. No.

22 Q. And why not?

23 A. Based on the letter that Eugene wrote, based
24 on Ms. Geraldine Johnson's statements, I had no reason
25 to believe that there was any kind of lease agreement.

1 From the letter, the defendant stated that there were
2 some illegal activities going on in the house and that
3 no one was supposed to be in there.

4 Q. And, in fact, what you discovered matched what
5 he was saying?

6 A. Sure.

7 MS. DOWNING: Pass the witness, Your
8 Honor.

9 THE COURT: Mr. Bundick?

10 MR. BUNDICK: May I proceed, Your Honor?

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. BUNDICK:

14 Q. Officer Robinson, do you frequently get calls
15 to go out and investigate trespassing cases?

16 A. No, sir.

17 Q. Little bit unusual?

18 A. This one was a little bit unusual, yes.

19 Q. Why don't you get more calls to do trespassing
20 cases?

21 MS. KELSEY: Objection, speculation, Your
22 Honor.

23 Q. (BY MR. BUNDICK) If you know.

24 A. Typically trespassers that we come in contact
25 with are through things like working in apartment

1 complexes as extra jobs where we maintain a list of
2 people that aren't supposed to be on the property. And
3 so, it's an active scene. We don't really get called
4 out too much to say that hey, I think, somebody is in a
5 house that's not supposed to be there. Just doesn't
6 happen a lot.

7 Q. Is it the type of thing that you have more
8 contact with when you're doing off-duty work?

9 Do you do off-duty work?

10 A. I work in an apartment complex off-duty.

11 Q. Working security in an apartment --

12 A. Yes, sir.

13 Q. -- complex?

14 Do you participate in evictions at that
15 complex?

16 A. No, sir.

17 Q. Why is that?

18 A. It's a civil process.

19 Q. It's a civil process.

20 Does the Houston Police Department have
21 jurisdiction to do evictions?

22 A. No, sir.

23 Q. By statute police officers, can't do
24 evictions, can they, Houston police officers?

25 A. We -- we cannot because we're not trained to

1 execute civil processes like that.

2 Q. So, who does evictions at the apartment
3 complex that you work at?

4 A. I would assume the management goes through the
5 constables to do it.

6 Q. The constable's office.

7 And is that done by way of a lawsuit
8 being filed in a justice court somewhere?

9 A. I'm not really positive on that.

10 Q. But you know that you can't evict people as a
11 Houston --

12 A. Right.

13 Q. -- police officer?

14 A. Yes, sir.

15 Q. So, you were -- I missed a part. You got
16 information from someone with the Houston Police
17 Department that this woman was saying there were people
18 living in her house without her permission?

19 A. Correct. We have a store front on Griggs
20 Road. And that was the point of contact between
21 Ms. Johnson and the first officer --

22 Q. She went to the storefront.

23 COURT REPORTER: I'm sorry. One at time.

24 A. -- that was at the store front. That's where
25 they first made contact was there.

1 Q. (BY MR. BUNDICK) And someone at the store
2 front called and asked you to investigate?

3 A. Called my sergeant, yes.

4 Q. Okay. And he called you and told --

5 A. Right.

6 Q. -- you to investigate?

7 A. Sure.

8 Q. And so, where did you meet Ms. Johnson?

9 A. She was parked one house to the east of the
10 property on the street there.

11 Q. So, would it be fair to say, you got the
12 address from her and you met her there? Is that --

13 A. My sergeant gave me the address after speaking
14 with the first officer.

15 Q. Okay.

16 MR. BUNDICK: And if I may, Your Honor?

17 THE COURT: Yes, sir.

18 MR. BUNDICK: May I look at the --

19 Q. (BY MR. BUNDICK) You can't say what these are
20 the ones, but she showed you some last will and
21 testament, right?

22 A. I'm sorry?

23 Q. You can't say that this is the original of the
24 last will and testament that she --

25 A. I don't --

1 Q. But she showed you --

2 (Simultaneous speaking).

3 THE COURT: One at a time.

4 A. I don't know if that was original or not.

5 COURT REPORTER: I didn't get all of your
6 question.

7 Q. (BY MR. BUNDICK) You don't know if this was
8 the original will. You don't know if this was the
9 original letter that was allegedly written by someone
10 named Eugene Johnson, Jr.?

11 A. The letter appeared to be handwritten. It
12 wasn't a copy, but the --

13 Q. So, it didn't look like this.

14 For the record, this is clearly a copy.
15 It has different colors that came out in the photocopy.

16 A. Looks like a picture that I took and printed
17 out.

18 Q. This looks like a picture of the letter that
19 you saw?

20 A. Yes. Yes.

21 Q. You didn't know who wrote the letter other
22 than there's a signature evidently, right?

23 A. Yeah.

24 Q. You weren't present when it happened?

25 A. No, I was not.

1 Q. You certainly weren't present when this will
2 was -- a will was written, right?

3 A. That's correct, I was not present.

4 Q. So, you were accepting the word of someone who
5 was telling you look, these are documents that show
6 that I am the owner of the house, the will, right?

7 A. Correct.

8 Q. And that my brother also owns the house and
9 he's written a letter. Here, look at the letter. Is
10 that right?

11 A. Yes. And I also verified it on the appraisal
12 district.

13 Q. Say that again, please. You did some of
14 effort -- some investigation to find out who really
15 owned the house; is that right?

16 A. I looked it up on the Harris County Appraisal
17 District by the address.

18 Q. Did you speak to Eugene Johnson, Jr. before
19 you went there?

20 A. No, I did not.

21 Q. But you were aware that he was also an owner?

22 A. Correct.

23 Q. Did Ms. Johnson tell you that Eugene Johnson
24 had a relationship with someone living at the house?

25 A. I had no idea who was in the house.

1 Q. You didn't -- did you -- did you read the
2 letter that she gave you?

3 A. I did.

4 Q. Did it mention some names in that letter?

5 A. It did.

6 MR. BUNDICK: May I approach?

7 THE COURT: Yes, sir.

8 Q. (BY MR. BUNDICK) Would you look at State's
9 Exhibit 1? Can you tell me what names are put in that
10 letter?

11 A. Let's see. Teddy Brown was looking after the
12 house. Okay. Here we go. Vincent came up here to
13 tell me that Roland has changed the locks.

14 So, Vincent, Roland and a Teddy Brown.
15 Later on it says -- I don't know how Roland and Vincent
16 got in the house in the first place. Everybody needs
17 to be out. Please do this for me. I can't remember
18 any addresses.

19 So, it lists three people's names.

20 Q. And what are those names?

21 A. Vincent, Roland and Teddy Brown.

22 Q. Thank you.

23 And my client's named Vincent, right?

24 A. That is.

25 Q. So, he was listed in the letter that you got

1 purportedly from Eugene Johnson; is that right?

2 A. He was listed in there.

3 Q. Okay. When you were speaking to Ms. Johnson
4 -- Ms. Geraldine Johnson, did you ask her if this was a
5 -- if people had a right to be there, if this was a
6 rental home? Were they rent -- either she or Eugene
7 Johnson renting out the house? Did you ask her that?

8 A. I did not. She just made it clear to me that
9 no one was supposed to be in the house. And she didn't
10 know any of the people that could potentially be in the
11 house.

12 Q. Even though the letter she showed you had
13 Vincent's name on it, right?

14 A. Right. But she doesn't identify with any of
15 those people, to my knowledge.

16 Q. Certainly because you're statutorily
17 prohibited from doing evictions, if you had known that
18 there was a rental agreement here and a potential
19 eviction, you wouldn't have done an eviction; is that
20 fair?

21 A. That's fair.

22 MS. KELSEY: Objection to the --

23 A. I wouldn't have done an eviction if I had
24 known there was a lease agreement.

25 Q. (BY MR. BUNDICK) Because you're statutorily

1 prohibited from doing that?

2 A. Correct.

3 Q. When did you learn that you were prohibited
4 from doing evictions? Did you learn that in the
5 academy?

6 A. Yes, sir.

7 Q. Is that something that you've had occasion to
8 be reminded of several times throughout your career?

9 MS. KELSEY: Objection, relevance.

10 THE COURT: Overruled. I'll let him
11 answer.

12 A. I've been reminded of it through training and
13 things like that.

14 Q. (BY MR. BUNDICK) Certainly.

15 And because of that, if you had any
16 indication that this was a landlord/tenant dispute, you
17 would have stopped; is that fair?

18 A. Yes, that's fair.

19 Q. You indicated that you smelled a strong odor
20 of marijuana; is that right?

21 A. Yes, sir.

22 Q. And is that why you entered the house to
23 search it?

24 A. No, sir.

25 Q. There were no exigent circumstances where you

1 needed to enter the house immediately for something,
2 right?

3 A. No, sir.

4 Q. And in your training and experience, have you
5 learned to stop a search when you have an issue like
6 that?

7 A. Yes, sir.

8 Q. And what would you do then?

9 A. It depends on the situation. In this
10 situation, I felt like we had the home owner there.

11 Q. Yes, sir. But before you got consent, if all
12 you had was a strong odor of marijuana, is it your
13 opinion you could have gone in the house and searched?

14 A. Negative. No.

15 Q. And is it fair that you would have stopped and
16 gotten a warrant, maybe, before --

17 A. Correct.

18 Q. -- you do that?

19 A. With a house, we would have to get a warrant.

20 Q. And certainly there were no exigent
21 circumstances that made you need to go in and search
22 the house immediately; is that right?

23 A. That's correct.

24 Q. And there was no reason that you couldn't get
25 a warrant; is that fair?

1 A. That's fair.

2 Q. Part and parcel of your job as a police
3 officer is evaluating the credibility, the veracity of
4 a witness that's giving you information; is that --

5 A. That's true.

6 Q. You're there to do an investigation?

7 A. Correct.

8 Q. Have you ever had witnesses lie to you?

9 A. Absolutely.

10 Q. If I were to tell you that there was a
11 landlord/tenant relationship between Mr. Eugene Johnson
12 and my client, and that Geraldine Johnson failed to
13 tell you, would that surprise you?

14 A. It would.

15 Q. Why is that?

16 A. Because it was never mentioned in the letter
17 that I assumed that Eugene wrote to his sister.

18 Q. The letter that she gave you that day?

19 A. Correct.

20 Q. And certainly she never told you that there
21 was a potential landlord/tenant relationship?

22 A. That's right.

23 Q. Because if you had known that, you would have
24 stopped your --

25 A. I would have.

1 Q. I believe you indicated that before you went
2 out there, you had her sign -- or maybe I
3 misunderstood.

4 You met her at the scene. So, you got
5 her to sign a trespass affidavit at the scene; is
6 that --

7 A. That's correct.

8 Q. -- fair?

9 But at that point, you did not get a
10 consent-to-search from her?

11 A. That's correct.

12 Q. You knocked on the door and my client answers
13 the door?

14 A. Yes.

15 Q. You smelled the strong odor of marijuana?

16 A. Correct.

17 Q. And you asked if anyone else was in the house?

18 A. Before I even asked, he tried to walk back
19 inside telling me there was someone else in the house.

20 Q. Okay. And he told you that that person's name
21 was Dominique?

22 A. Right.

23 Q. And you began calling her name?

24 A. After I brought him out to the car, I came
25 back to the open door and called her from the doorway.

1 Q. From the outside the door; is that right?

2 A. Yes, sir.

3 Q. No answer?

4 A. No answer.

5 Q. And so, then you went back to Ms. Johnson and
6 asked her to go in the house and look; is that right?

7 A. No. I asked her if she'd like us to go in and
8 see if this person is, in fact, in her house.

9 Q. And she gave you consent to enter the house;
10 is that right?

11 A. Yes.

12 Q. Was that a written consent?

13 A. Verbal.

14 Q. Verbal?

15 A. Yes, sir.

16 Q. So, then you entered the house and went -- I
17 take it, it was a bedroom that you went to?

18 A. The first room was a living room. We made a
19 left turn and then to a hallway. And the second left
20 turn led to the north bedroom.

21 Q. And there in the bedroom you found
22 Ms. Dominique laying in the bed, right?

23 A. Correct.

24 Q. And you found a pistol very near the bed; is
25 that fair?

1 A. On the headboard.

2 Q. On the headboard of the bed?

3 A. Correct. It was one of those beds where there
4 was like some storage shelves on the headboard. And it
5 was lying on the bottom part of the shelving.

6 Q. I assume if she's laying in the bed the way a
7 normal does, it was very near her head; is that --

8 A. Correct.

9 Q. -- fair?

10 And you found some drugs?

11 A. Yes, sir.

12 Q. Where were they?

13 A. On the dresser on the north wall of the
14 bedroom.

15 MR. BUNDICK: Pass the witness.

16 THE COURT: Ms. Downing?

17 MS. KELSEY: No further questions, Your
18 Honor.

19 THE COURT: All right. Thank you, sir.
20 You may step outside, please.

21 THE WITNESS: Yes, sir.

22 THE COURT: Call your next witness.

23 MS. KELSEY: State rests, Judge.

24 THE COURT: All right. Mr. Bundick?

25 MR. BUNDICK: May I have a moment, Your