

1 after having been first duly sworn, testified as follows:

2 **DIRECT EXAMINATION**

3 **BY MR. HONG:**

4 Q. Sergeant Schulsky, please introduce yourself to this
5 jury.

6 A. I'm with the Safety Patrol Beat, Sergeant, at Harris
7 County Precinct 6, Constable's Office.

8 Q. How long have you been -- have you worked for
9 Precinct 6?

10 A. A little over 20 years.

11 Q. And what are your duties at the Precinct?

12 A. Right now, I'm assigned as an animal cruelty
13 investigator.

14 Q. And how long have you been an animal cruelty
15 investigator?

16 A. About three years.

17 Q. Do you receive any special training in working with
18 animals?

19 A. Yes. I went to an 80-hour course and became animal
20 control certified through the National Animal Control
21 Association.

22 Q. And that's a national organization?

23 A. Yes.

24 Q. How many animal-related calls do you receive in a
25 given week?

1 A. Probably close to 20, 25.

2 Q. And what is the breakdown of those animal calls for
3 say, cases of neglect versus abandonment versus intentional
4 cruelty?

5 A. About 85 percent are neglect. 10 percent is
6 abandonment. And only about 5 percent would just be
7 intentional cruelty.

8 Q. Now, let me direct your attention to October 6th of
9 2011. Did you respond to a report involving a neglected
10 animal?

11 A. Yes, I did.

12 Q. And how did you first hear about this animal?

13 A. I received an e-mail from our dispatch from a phone
14 call that had been placed talking about a very thin animal with
15 no food, no water, chained on a heavy chain.

16 Q. And what was that address that was reported?

17 A. 12010 Kitty Brook.

18 Q. To your knowledge, is that in Harris County?

19 A. Yes, it is.

20 Q. And how quickly did you respond that e-mail?

21 A. I was out the very next day.

22 Q. Now, tell me what happens in the first part of your
23 investigation.

24 A. I go to the house, try to make contact with the
25 owner, and try to observe the animal to see if any of the facts

1 that were related to me are true.

2 Q. And did that happen in this case?

3 A. Yes, it did.

4 Q. Okay. When you first made it to the house, what were
5 your impressions of the house?

6 A. It looked a little unkept. Yard needed attention,
7 minor repairs needed to be done. Several boards knocked out of
8 the garage, walls and things such as that.

9 Q. Would you say that was in a substantial amount of
10 disrepair?

11 A. Disrepair, not substantial. Not well kept.

12 Q. Not well kept. Were there any indications that
13 anyone lived there?

14 A. Now, there were Halloween decorations out. There
15 were still coverings over the windows. There were locks around
16 the gates and stuff. It looked, to me, like somebody was
17 staying there, yes.

18 Q. And was there anybody in the house?

19 A. Nobody answered the door when I knocked.

20 Q. Now, what kind of animal did you find?

21 A. Well, first I could not find the animal. I looked
22 over all the nearby gates and fences and I couldn't see an
23 animal. I had to drive over a block and approach the house
24 from the back by the neighbor with a pool to get to the back
25 fence. And I found the dog on the northwest side of the

1 garage. The garage had obscured my vision from looking over
2 the fence. The yard was secured. The fence was locked with a
3 chain and a padlock.

4 Q. And what was its color and its breed?

5 A. It was a Pitbull or Pitbull mix and it was white and
6 brown, basically, color.

7 Q. What kind of condition did you find it in?

8 A. It was not in very good condition. It was very thin.
9 You could see its ribs, leg bones, hip bones, its spine. There
10 already been signs that there was muscle loss. Very bad
11 condition, very short chain, no water, no food, no shelter.

12 MR. HONG: Approach the witness, Your Honor?

13 THE COURT: Yes, sir.

14 Q. (BY MR. HONG) Now, Sergeant, as part of your
15 investigation, do you take pictures?

16 A. Always.

17 Q. I want you to go ahead and look at what's been
18 premarked as State's Exhibit No. 1 and 2.

19 A. This is the dog, and this is the condition that it
20 was in. You can see the bone structure.

21 Q. Okay. And did you take these pictures yourself?

22 A. Yes, I did.

23 Q. And would you say that these pictures accurately
24 represent what you remember happened on that day?

25 A. Yes.

1 MR. HONG: Tender to counsel, Your Honor, and
2 then offer into evidence.

3 MR. MILLEDGE, II: No objections, Your Honor.

4 THE COURT: Admitted and it maybe published.

5 MR. HONG: Published, Your Honor?

6 THE COURT: I said, "Admitted and maybe
7 published."

8 MR. HONG: Sorry, Your Honor. I'm actually deaf
9 in my left ear.

10 THE COURT: Uh-huh.

11 Q. (BY MR. HONG) Sergeant Schulsky, you have a screen to
12 your right. Can you see --

13 A. (No response.)

14 Q. Well, let me ask you this: Do you see a picture on
15 the screen?

16 A. Yes, I do.

17 Q. Now, can you tell the jury the -- let's see. Could
18 you go ahead and circle the dog for us? You can use the
19 screen.

20 A. Just the finger.

21 Q. Uh-huh.

22 A. Okay. There we go.

23 Q. All right. And for the record, you're circling in
24 the middle of the screen what appears to be a brown and white
25 dog. You mentioned that there was a chain as well?

1 A. Yes.

2 Q. Okay. At this time, did you come close to the dog?

3 A. I couldn't enter the backyard without trying to crawl
4 over a fence or anything. I did not do that. I stood at the
5 back of the fence and I took these pictures.

6 Q. And let me show you State's Exhibit No. 2; is that
7 the same dog?

8 A. Yes, it is.

9 Q. Okay. Did you happen to see any food or water near
10 that dog?

11 A. No, I did not.

12 Q. Did you notice anything else that was on the ground?

13 A. Not at this particular time. There was some -- some
14 feces, but I couldn't get a good view of the dog from the
15 distance that I was at. I had my camera all the way in focused
16 from a distance just to get this.

17 Q. And very quickly, did you ever take a look at that
18 chain?

19 A. I did when I came back and served a warrant at a
20 later time.

21 Q. Okay. Well, then we'll go back to that later. After
22 you had taken the pictures, what did you do?

23 A. I left the scene. I went and prepared a court
24 affidavit for a seizure of animal. Oh, I'm sorry. Oh, no, I
25 didn't. I went next door and talked to the neighbor, the

1 reportee.

2 Q. Okay. Do you happen to remember the neighbor's name?

3 A. Yes. It was a Patricia Hickman.

4 Q. All right. And without telling us what Ms. Hickman
5 told you, what was the end result of that conversation?

6 A. Ms. Hickman directed me to a case number she had from
7 HPD that involved the neighbor. She -- the neighbor -- she was
8 not aware of the neighbor's name. She gave me the HPD case
9 number and said that it involved her and that neighbor. I -- I
10 went --

11 MR. MILLEDGE, II: I'm going to object, Your
12 Honor, as to hearsay.

13 THE COURT: Sustained.

14 Q. (BY MR. HONG) Did you ever discover the defendant's
15 name in your conversations with her?

16 A. Yes, I did. She gave me a HPD case number and I
17 pulled that report and it identified the suspect.

18 Q. And did Ms. Hickman know the name of the Defendant?

19 A. No, she did not.

20 Q. Did she indicate to you that she could identify him,
21 though?

22 A. Yes.

23 Q. Once you learned of the incident -- once you learned
24 of the case number, were you able to find the defendant's name?

25 A. Yes, I was.

1 Q. All right. And what was the defendant's name?

2 A. Craig Beal.

3 Q. And did it list the suspect as living at that
4 address?

5 A. Yes, it did.

6 Q. Now, after you spoke with the neighbor, what did you
7 do?

8 A. I left the scene and prepared a court affidavit for a
9 seizure of animal.

10 Q. And, just for the non-lawyers here, which court do
11 you go to?

12 A. I submitted this affidavit to court -- the Justice of
13 the Peace Court, Harris County Precinct 6, Position 2.

14 Q. Okay. Now, why didn't you take the animal
15 immediately?

16 A. The animal -- we try to do everything by warrant, if
17 possible. The animal was still up and moving. I had seen ones
18 -- canines in worse condition. I felt I had time to get a
19 warrant and go through the proper channels. I didn't see any
20 emergency circumstances to seize the dog and entering the
21 property at that time.

22 Q. Okay. Now, from the time you first went on to the
23 scene, how long was it until you made it back to the scene to
24 take the dog?

25 A. I submitted my court affidavit to the Court and it

1 was returned to me and signed on October 10th. On October
2 11th, the Court issued my animal seizure warrant and I was back
3 at the scene on October 12th with a warrant.

4 Q. So, within a week?

5 A. Yes.

6 Q. Now, what did you do once you made it back to the
7 scene?

8 A. I went back to the scene. I immediately went to the
9 backyard, the same type place I approached before. And I
10 walked up and made sure the dog was still there, and it was.

11 Q. What was going through your mind when you saw the dog
12 again?

13 A. Nothing. I was glad it was still there and it hadn't
14 been moved. That's sometimes the danger when we take a little
15 longer to get a warrant because sometimes the animal
16 disappears.

17 Q. Was there any food near the animal at this time?

18 A. No.

19 Q. Was there any water near the animal?

20 A. No, I could not see any.

21 Q. Was the dog still chained up?

22 A. Yes, it was.

23 Q. Were you able to get close to the dog?

24 A. After I made sure it was there, I went back around to
25 the front of the house and knocked on the door. I got no

1 response at this time. I called the DA's office to get
2 permission to go ahead and cut the lock to make entry and get
3 the canine.

4 Q. And did you get permission to cut the lock?

5 A. Yes, I did.

6 Q. Once you cut the lock, what did you do?

7 A. Well, technically, after I get permission to cut the
8 lock what I want to do is as little property damage as
9 possible. I cut the last chain link instead of the lock;
10 thereby, giving me access but made the chain and the lock
11 reusable by the owner. I did make entry, and we did walk right
12 up to the dog. It was myself, Deputy Brian Beard from Harris
13 County Precinct 6, and Richard Perez from the Houston Humane
14 Society, who's the animal handler.

15 Q. Let's see. The dog -- was the dog still chained up?

16 A. The dog was still chained up, still had no shelter,
17 no food, no water. I could at this time see the dog was
18 standing in its own feces. They were scattered all around the
19 dogs feet. He only had a very short amount of movement. I
20 measured the chain. I think it was just 3.8 feet as far as the
21 dog was allowed to move from the base of the tree.

22 MR. HONG: Approach the witness, Your Honor?

23 THE COURT: Yes. And both sides may approach
24 the witness as needed so long you have something in your hands
25 to show the witness.

1 Q. (BY MR. HONG) I want to show you what's marked as
2 State's 3 through 6 [sic]. I want you to take a look at those.

3 A. Witness complies.)

4 Q. Do they seem familiar to you?

5 A. Yes.

6 Q. Are these pictures that you took personally?

7 A. Yes, they are.

8 Q. And do they accurately reflect what happened on that
9 second visit?

10 A. Yes. (Tenders back to counsel.)

11 Q. Thank you.

12 MR. HONG: Tender to counsel, Your Honor.

13 (Tenders exhibits 1 through 7 to opposing counsel for
14 inspection.)

15 MR. MILLEDGE, II: No objection, Your Honor.

16 THE COURT: Admitted. Maybe published.

17 MR. HONG: Thank you, Your Honor.

18 Q. (BY MR. HONG) I'm showing you what's been marked as
19 State's Exhibit No. 3. Tell the jury what that is.

20 A. That's the locked gate that I had requested to cut to
21 make entry.

22 Q. And in the very center of that, is that the lock?

23 A. Yes, it is.

24 Q. And that's the one that you cut?

25 A. Yes, I cut the one chain link extending to the lock.

1 Q. Let me show you State's Exhibit No. 4. What is that
2 a picture of?

3 A. The front door of the residence where I posted the
4 copy of the Animal Seizure Warrant and the Notification of
5 Animal Seizure.

6 Q. All right. I want to go over some of the details in
7 this picture. I'm circling some numbers on a column that's on
8 the very right-hand side of that. Could you read for the
9 record what those numbers are.

10 A. My screen is too white. "12010."

11 Q. And is that the address of the location?

12 A. Yes, it is.

13 Q. And circling right here, the middle top of the
14 picture, what are those things I just the circled?

15 A. Halloween decorations.

16 Q. All right. And did they look old to you or new?

17 A. Newish.

18 Q. Would you say that it is consistent with someone
19 living in the home?

20 A. Yes.

21 Q. And I'm circling two pieces of paper that appears to
22 be on top and on the door; what are those?

23 A. The one that is -- looks more solid white is the
24 Animal Seizure Warrant and the one with the red across the top
25 is Notification of Animal Seizure.

1 Q. For the sake of the witness, I'm going to show
2 State's Exhibit No. 5; and what is the notice on No. 5?

3 A. It's the Notice of Animal Seizure of what animals
4 were removed from the property. It's an inventory.

5 Q. Okay. Would you say it has the description of the
6 dog that was taken?

7 A. Yes, it lists one canine and what color it was.

8 Q. I'm going to show you State's Exhibit No. 6. And go
9 ahead and zoom-in a bit.

10 A. (Complies.)

11 Q. And what is this notice of?

12 A. That is a Warrant For Seizure of Animals that was
13 signed by the Court posted at the house notifying the owner
14 where to go for court and when.

15 Q. Does that include any contact information?

16 A. Yes.

17 Q. Whose contact information is on that document?

18 A. On this contact -- on this particular form, the
19 court's. On the other form is my contact information.

20 Q. On the inventory?

21 A. On the inventory.

22 Q. Now, after you put the notices on the door, what did
23 you do?

24 A. We -- we left. That was the last thing we did before
25 we left.

1 Q. Oh, sorry. Did you take the dog?

2 A. Yes, we took the dog. I -- we cut -- cut the padlock
3 and we also cut the chain from around the tree. And we took
4 the chain and the canine. And the canine was very submissive
5 and came with no problem.

6 Q. Thank you. Did you bring that chain with you?

7 A. Yes, I did.

8 Q. Let's see.

9 MR. HONG: Your Honor, approaching the witness.
10 The evidence is already up there.

11 Q. (BY MR. HONG) Now, take a look at this. Has that
12 chain been in your possession, care, custody or control from
13 the first time you received it?

14 A. Yes, it has.

15 Q. And is it in the same or substantially the same
16 condition as when you first retrieved it?

17 A. Yes.

18 MR. HONG: I'm going to go ahead and mark this
19 as evidence.

20 THE COURT REPORTER: 10.

21 MR. HONG: Thank you.

22 I'm marking the chain as State's Exhibit No. 10.
23 I offer this to the defense.

24 MR. MILLEDGE, II: No objections.

25 Q. (BY MR. HONG) Now --

1 THE COURT: Admitted.

2 MR. HONG: Thank you, Judge.

3 Q. (BY MR. HONG) How heavy is this chain, Officer?

4 A. We weighed it to be 7.9 pounds.

5 Q. And did you ever find out how much the dog weighed?

6 A. At the time, when the dog -- the canine was taken
7 straight from the scene to the Humane Society it was weighed at
8 35.2 pounds.

9 Q. So, it's about a sixth of the dog's weight; that
10 would be fair?

11 A. Yes.

12 Q. How long was the chain?

13 A. The way it was tied up to the tree, the dog only had
14 -- I have to check my notes -- 3.8 feet of movement. Part of
15 the chain was wrapped around the tree several times and tied
16 off.

17 Q. And is there anything unusual about this chain;
18 namely, the rust?

19 A. The rust. The fact that it's got other pieces of
20 chain put together with a lock and stuff, not just a straight
21 chain.

22 Q. Thank you, Officer. Just for the sake of clarity, is
23 that the chain -- is that chain, the same as the one that's
24 depicted in Picture 2?

25 A. Yes, it is. You have a link that's greatly shortened

1 from when you have it rolled out. You can see how it's wrapped
2 around the tree specifically tied off. So, it's greatly
3 shortened in length.

4 Q. Now, did you receive a phone call after you made that
5 second visit?

6 A. Yes, I got a call that evening.

7 Q. And did the caller identify himself?

8 A. Yes, as Mr. Beal.

9 Q. And did you ever tell the Defendant that he was under
10 a criminal investigation?

11 A. No, I did not.

12 Q. And just to be clear, what was the nature of that
13 notice that was on the door?

14 A. It was for a civil hearing to determine ownership of
15 the dog whether it should be taken from its current owner.

16 Q. And what did the caller -- what did the caller say to
17 you?

18 A. It was basically --

19 MR. MILLEDGE, II: I'm going to object, Your
20 Honor, on hearsay ground.

21 THE COURT: Any exception that it come in on?

22 MR. HONG: Your Honor, it is a party opponent
23 statement. The fact that the caller identified himself as the
24 Defendant -- the person with the same last name of the
25 Defendant, and also because the Sergeant's phone number is

1 specifically found in that notice.

2 THE COURT: That will be overruled.

3 MR. HONG: Thank you, Judge.

4 Q. (BY MR. HONG) What did the caller say to you?

5 A. He contacted me, identified himself, asked if I was
6 the one that had removed the -- the animal.

7 Q. And did that caller give you have any indication
8 about who owned this property or who lived at that property?

9 A. He said that he was --

10 THE COURT: That's a "yes" or "no" question.

11 A. Oh. Yes.

12 Q. (BY MR. HONG) And what did he tell you?

13 A. He told me that he was leasing the residence to his
14 son -- stepson.

15 Q. Did he mention where the stepson was?

16 A. No.

17 Q. Did he talk about his wife?

18 A. He did mention that his wife was out of town.

19 Q. Did the caller ever explain to you that the dog
20 belonged to someone else?

21 A. No.

22 Q. Did the caller ever talk about who owned the dog?

23 A. No.

24 Q. So the caller just focused on the lock?

25 A. Yes. Wanted to know what the Court case was about.

1 Q. Okay. Was the caller made aware that there was a
2 hearing?

3 A. Yes.

4 Q. And we're talking about the civil hearing, mind you?

5 A. I made it very clear that it was a civil hearing.

6 Q. Now did you go to a civil hearing?

7 A. Yes, sir.

8 Q. And did anyone come forward to claim ownership of
9 that dog?

10 A. No.

11 Q. Did you ever return back to that house?

12 A. Yes, I did.

13 Q. Now on your third visit, was that before the civil
14 hearing or after the civil hearing?

15 A. Before.

16 Q. Did you see anything on your third visit?

17 A. There was a car in the driveway with a paper plate
18 locked behind the gate.

19 Q. I'm going to show you what's been premarked as
20 State's Exhibit No. 11. Take a look at that. Is this the
21 picture you took?

22 A. Yes, it is.

23 Q. Does it fairly and accurately represent what you saw
24 on that day?

25 A. Yes.

1 MR. HONG: Tender to counsel and offer into
2 evidence.

3 MR. MILLEDGE, II: No objection, Your Honor.

4 THE COURT: Number?

5 MR. HONG: I have it as No. 11, Your Honor.

6 THE COURT: Admitted, maybe published.

7 Q. (BY MR. HONG) Do you happen to recall what time of
8 day it was when you went to the Defendant's house for the third
9 time?

10 A. Around 6:30 p.m. on October 18th, a Tuesday.

11 Q. Do you recall -- sorry. It was a Tuesday?

12 A. Yes.

13 Q. Now, I'm showing you State's Exhibit No. 11. What is
14 this general area of?

15 A. This is the back yard of the residence at 12010 Kitty
16 Brook.

17 Q. And what kind of vehicle is in the backyard?

18 A. It is a Range Rover.

19 Q. And were you able to -- I'm circling the license
20 plate on that. Were you ever able to trace back that vehicle?

21 A. Yes. I ran that license plate and it came back to
22 Mr. Beal.

23 Q. Just to clarify, this vehicle was parked in Mr.
24 Beal's backyard on your third visit?

25 A. Yes.

1 Q. And when was the vehicle registered -- or who was the
2 vehicle registered to?

3 A. Craig Beal.

4 Q. Thank you. Now, Officer, have you ever used a photo
5 spread to help you in your investigation?

6 A. Yes.

7 Q. Have you ever received any training on how to use a
8 photo spread?

9 A. Yes, I have.

10 Q. Does your agency have a policy on using these photo
11 spreads?

12 A. Yes, it does.

13 Q. Did you ever talk to the neighbors and use a photo
14 spread?

15 A. Yes, I did.

16 Q. I'm showing you what's been marked as State's Exhibit
17 12. Do you recognize that?

18 A. Yes, I do.

19 Q. Now, who -- and just tell the jury what this is.

20 A. That's a photo spread.

21 Q. Okay. And who generated that photo spread?

22 A. Harris County Sheriff's Department.

23 Q. And to your knowledge, does the sheriff's department
24 have a written policy only photo spreads?

25 A. Yes, they do.

1 Q. And are these people depicted in this photo spread
2 the same ethnicity and gender?

3 A. Yes, they are.

4 Q. Did you show that photo spread to anyone?

5 A. Yes, I did.

6 Q. Who did you show it to?

7 A. I believe his name is Covington, Philip Covington.

8 Q. Who is Mr. Covington in this case?

9 A. He is the residence of the next door neighbor of
10 12010 Kitty Brook.

11 Q. And to be clear, this was shown on your third visit
12 in person?

13 A. Yes, it was.

14 Q. Were there any other officers with you when you
15 showed the photo spread?

16 A. No, there were not.

17 Q. Okay. And did you suggest in any way which picture
18 the Defendant was --

19 MR. MILLEDGE, II: Your Honor, I'm going to --
20 I'm sorry. I'm going to object to this line of questioning on
21 the grounds of relevancy. I believe he said, "Mr. Covington."
22 We have no knowledge of who Mr. Covington is and why it's
23 relevant.

24 THE COURT: Just say the word. Objection,
25 "relevancy."

1 MR. MILLEDGE, II: Objection, relevancy.

2 THE COURT: Overruled.

3 MR. HONG: Okay. Thank you, Your Honor.

4 Q. (BY MR. HONG) I believe the question is: Who is Mr.
5 Covington in regards to this case?

6 A. He's a neighbor.

7 Q. Okay. And did the neighbor identify anybody in this
8 picture?

9 A. Yes, he did.

10 Q. All right. Is the person that was identified here in
11 this courtroom today?

12 A. Yes, he is.

13 Q. Could you please pick him out.

14 A. He's right over here, wearing the white Polo-type
15 shirt with the Polo player on it. (Indicating.)

16 MR. HONG: Your Honor, may the record reflect
17 that the officer has identified the Defendant?

18 THE COURT: Yes.

19 MR. HONG: Your Honor, I would tender State's
20 Exhibit No. 12 and offer it into evidence.

21 MR. MILLEDGE, II: No objection, Your Honor.

22 THE COURT: Admitted. Maybe published.

23 MR. HONG: Thank you, Judge. Your Honor, I will
24 pass the witness.

25 THE COURT: You may inquire, Mr. Milledge.

1 MR. MILLEDGE, II: Thank you. Your Honor, May I
2 move around as well?

3 THE COURT: Yes.

4 MR. MILLEDGE, II: Okay.

5 THE COURT: Move about, like?

6 MR. MILLEDGE, II: The way -- I don't like
7 sitting down too much, Your Honor, because my legs sometimes
8 get tired.

9 THE COURT: You can stand at your place at the
10 desk.

11 MR. MILLEDGE, II: That's fine.

12 THE COURT: That's fine.

13 MR. MILLEDGE, II: That's fine, Your Honor.

14 **CROSS-EXAMINATION**

15 **BY MR. MILLEDGE, II:**

16 Q. Sergeant Schulsky, correct --

17 A. Yes, sir.

18 Q. -- you said you've been working for Precinct 6 for
19 over 20 years?

20 A. Yes.

21 Q. Okay. And pretty much of that time, you've been
22 dealing with the animal cruelty department?

23 A. No, sir. That's more recent.

24 Q. How recent?

25 A. About three years.

1 Q. And you said you received 80 hours of training
2 towards that particular department?

3 A. I got 80 hours to help me in this job from the
4 National Animal Control Association to make me better
5 acquainted with the animals.

6 Q. Okay. Let's go back to October the 6th, 2011. Now,
7 in your testimony, you stated that you received an e-mail
8 concerning an animal that was pretty much abandoned; is that
9 correct?

10 A. I received an e-mail from our dispatcher who had
11 received -- the Humane Society dispatcher received a phone call
12 about a dog that was chained up with a heavy chain with no food
13 or water and was very thin. He then turned it into an e-mail
14 and that's how I got.

15 Q. I gotcha. I just want to make sure I got that clear.
16 Now, upon receiving this, you said you immediately went to the
17 house to investigate yourself this particular allegation?

18 A. I went the next day, October 7th. The complaint
19 came in technically on the 5th. I responded to the complaint
20 and went to the address on the 6th.

21 Q. On the 6th, now, when you were there, were you aware
22 of who made that particular complaint?

23 A. Yes, I was.

24 Q. You were. Did you go talk to that person?

25 A. Yes, I did.

1 Q. And that person was Ms. Hickman, correct?

2 A. That is correct.

3 Q. Now, you referred earlier that Ms. Hickman stated
4 that she did not know the name of the particular -- of Mr. Beal
5 here, but she knew him by sight; is that correct?

6 A. That is correct.

7 Q. Did you show her a photo lineup?

8 A. Not at that time.

9 Q. Not at that time. Okay. Now, Ms. Hickman also gave
10 you, I guess, earlier an incident, HPD Incident Number,
11 correct?

12 A. If that's on that affidavit only.

13 Q. Were you aware what that incident number -- what that
14 incident involved?

15 A. No, I was not at the time it was handed to me.

16 Q. Okay. So, you just looked at it for name purposes of
17 the Defendant?

18 A. Yes.

19 Q. Not once did you check to see what the incident was
20 concerning?

21 A. I actually -- from the scene, I only took the number.
22 I did pull the entire report as part of my case file.

23 Q. Okay. Now, it was your testimony earlier that you --
24 initially, you were unable to see the dog they were speaking
25 of; is that correct?

1 A. That is correct.

2 Q. And Ms. Hickman's house in position to where you
3 were, was that house to the left of Mr. Beal's purported house
4 or was it to the right?

5 A. Which way are we facing? If I'm standing at 10 --

6 Q. I guess if you're from the street looking at the
7 house?

8 A. Okay. So, would -- her house would be to the left.

9 Q. It would be to the left?

10 A. Yes. And then actually it is 12014.

11 MR. MILLEDGE, II: Okay. If I may, Your Honor,
12 if I may have a chance to republish -- I think it was State's
13 Exhibit No. 1 of the house?

14 THE COURT: Sure.

15 The exhibits are available for both sides to
16 use. Let's keep these by the court reporter, please, once
17 they're admitted.

18 Q. (BY MR. MILLEDGE, II) Now, Officer, what I'm showing
19 you here has already been admitted into evidence is State's
20 Exhibit 5. Now, this is an angle from the street; would you
21 agree?

22 A. Yes. Okay.

23 Q. And what you're saying is is that the house to the
24 left right here --

25 A. Yes.

1 Q. -- it's on the other side of the fence and should be
2 their yard?

3 A. Yes, sir.

4 Q. Now, were you able to measure the height of that
5 particular fence?

6 A. No. I think I mention in my report that I did -- I
7 did a guesstimate on how high the fence is. It was I believe
8 about a 6 foot fence.

9 Q. It was about a 6 foot fence. Okay. Now, I know you
10 said on your initial appearance, you were unable to see the
11 particular dog. But once you moved around to a position, I
12 believe you said that you moved to the back of the house?

13 A. The very back fence.

14 Q. The very back fence. So, it was a different street
15 that you were on at that point or --

16 A. Yes. I went around to the back street next to the
17 subdivision corner tennis courts and walked up a grassy way and
18 it takes me directly to the back fence of 12010 Kitty Brook.
19 So, I could see the whole backyard.

20 Q. Yes, sir. Now, at that point, you were able to get a
21 decent look at the animal?

22 A. Yes.

23 Q. Now, your testimony earlier, you stated that you felt
24 like that there was -- the dog was not in any parl or
25 execrative circumstances?

1 A. Not to -- not to go without warrant to enter a
2 property and cut a lock and seize property. I didn't feel
3 there were exigent circumstances to take that step.

4 Q. Now, upon the initial look, you said you didn't
5 notice any food or any water?

6 A. That is correct.

7 Q. But did you bother to go around to the entire house
8 to see if whether or not to see if there were any other type of
9 pans or anything?

10 A. But the dog could only move 3 feet. So, no, I could
11 see everywhere the dog could go. So, the dog had no food or
12 water.

13 Q. But we do know the house was occupied -- from what we
14 could tell from the outside, the house was occupied?

15 A. It appeared.

16 Q. Is it possible to say the dog could have been watered
17 earlier that day?

18 A. Could have been.

19 Q. Is it possible the dog been fed that day?

20 A. Could have been.

21 Q. Could have been. Okay. Now, let's move on from
22 that. So, upon getting this warrant, you came back, I believe,
23 if I have my dates right, I believe you came back on the 11th
24 of October; is that correct? Well, you received the warrant on
25 the 11th -- excuse me.

1 A. It would be the 12th.

2 Q. And you served it on the 12th?

3 A. Yes, sir.

4 Q. And on that warrant, you left notice for the
5 particular owner to call you back concerning the particular
6 dog?

7 A. Yes.

8 Q. And you stated that Mr. Beal called you back?

9 A. That is correct.

10 Q. Now, Mr. Beal never said that he was the owner of
11 that house, correct?

12 A. No, he did not.

13 Q. But what he stated to you is he was subleasing the
14 house; is that correct?

15 A. That is correct.

16 Q. And there was also -- you informed him that there was
17 a hearing to determine ownership of that particular dog?

18 A. Yes, sir.

19 Q. At any point in this conversation, did he mention
20 that the dog belonged to him?

21 A. No, sir.

22 Q. So, at this particular time, you didn't know who the
23 dog belonged to?

24 A. (No response.)

25 Q. It's a "yes" or "no" question?

1 A. Yes, sir.

2 Q. Okay. So, based only him telling you that -- based
3 on him telling you nothing about the dog, you just
4 automatically knew that he was the owner of that dog?

5 A. Yes, sir.

6 Q. Okay. Fair enough. So, now there was a hearing to
7 determine ownership. No one showed up to that hearing?

8 A. That is correct.

9 Q. So, at that hearing by default, was Mr. Beal
10 determined the owner?

11 A. Yes, sir.

12 Q. Okay.

13 MR. MILLEDGE, II: Brief moment, Your Honor?

14 THE COURT: Members of the jury, you've heard
15 some discussion about a police report or an investigative
16 report. That is not evidence in this case. You will not get
17 that report when you go and deliberate your verdict in this
18 case. It's simply used by law enforcement, witnesses to
19 refresh their recollection and for the attorneys to examine
20 them from it only. Okay.

21 MR. MILLEDGE, II: Your Honor, may I continue?

22 THE COURT: You may.

23 MR. MILLEDGE, II: Thank you.

24 Q. (BY MR. MILLEDGE, II) Now, Sergeant Schulsky, on that
25 hearing, did you receive any type of documentation, an order

1 from the Court, declaring Mr. Beal as the owner?

2 A. Yes.

3 Q. You did. Do you have that with you today?

4 A. It was turned over as part of the case file.

5 Q. And again, just to be clear, I know I've asked this
6 question before, but my mind is rumbling -- rambling, I should
7 say. Mr. Beal was not at that hearing so he was not able to
8 testify on his own behalf to refute that claim; is that
9 correct?

10 A. No, he did not appear.

11 Q. Okay. Now, you said on your third visit you came
12 back out and you noticed a vehicle. I believe it was a Range
13 Rover; is that correct?

14 A. That is correct.

15 Q. And upon seeing this Range Rover, you ran the license
16 plate. And the license plate came back registered to Mr. Beal,
17 correct?

18 A. That is correct.

19 Q. Now, in your experience as a police officer, Precinct
20 6, it is known that sometimes vehicles registered to persons
21 aren't owned by that person? Better yet, let me rephrase that
22 question. Is it possible for someone else to be the registered
23 owner but not the driver of that vehicle?

24 A. Yes.

25 Q. You didn't see Mr. Beal drive that vehicle there, did

1 you?

2 A. No, I did not.

3 Q. Okay.

4 MR. MILLEDGE, II: No further questions, Your
5 Honor.

6 THE COURT: Redirect?

7 MR. HONG: Yes, Your Honor.

8 **REDIRECT EXAMINATION**

9 Q. (BY MR. HONG) Sergeant Schulsky, when did you first
10 have a lineup ready to show somebody? Was it your first visit,
11 second visit or third visit?

12 A. Third visit.

13 Q. And on your third visit, was Mrs. Hickman around so
14 that you could show her the photo spread?

15 A. No, she was not.

16 Q. Why do you think the Defendant owns the dog?

17 A. I've connected his name to the property. I've had
18 neighbors inform me that he is the one that maintains the
19 property and comes and goes on a regular basis. I -- he did
20 call me after I left the notice. And I did find the vehicle
21 registered to him on that property. And the final thing is,
22 even if he is subleasing to his stepson, he was still coming
23 and going from this property by his own admittance and he is
24 responsible for it.

25 Q. Now, one last question -- well, one or two. Is it

1 unusual for the owners to not show up at the civil hearing? Or
2 let me rephrase it. Does the owner of a dog in a civil seizure
3 hearing, do they usually show up?

4 A. They seem to run about fifty-fifty.

5 Q. I'm showing you State's Exhibit No. 13. Go ahead and
6 take a look at that.

7 A. (Complies.)

8 Q. Do you recognize that?

9 A. It's the Order For Disposition from the Court on the
10 dog in question.

11 Q. Okay. Thank you.

12 MR. HONG: Your Honor, I would like to go and
13 ahead and offer State's Exhibit No. 13 as a court record
14 certified with -- well, it's a certified copy.

15 MR. MILLEDGE, II: Your Honor, we're going to
16 object on the certification part. We don't see a stamp deeming
17 that it be certified.

18 THE COURT: Wait a second. If we're going to
19 have a discussion about the law, I'd appreciate it done at the
20 bench.

21 MR. MILLEDGE, II: Yes, Your Honor.

22 THE COURT: Let me see that.

23 Relevancy.

24 MS. SMITH: Well, Judge, they were the ones that
25 opened the door and brought into question whether or not their

1 client was named in the civil hearing, and this is
2 documentation that he was. They asked the question.

3 THE COURT: State's 13 is admitted over
4 objection.

5 MR. HONG: Thank you, Your Honor.

6 MR. MILLEDGE, II: Thank you, Judge.

7 Q. (BY MR. HONG) Now, Sergeant, I'm going to show you
8 State's No. 13. Can you tell the jury what that is.

9 A. That's an order of disposition on the canine in
10 question.

11 Q. Does that come from the civil court?

12 A. Yes, it does.

13 Q. And does it name the Defendant on that order?

14 A. Yes, it does.

15 Q. And could you read Paragraph 3 of that order.

16 A. "The Court finds that Craig Beal, date of birth, June
17 19, 1962, is the caretaker, owner of one male, white brown
18 mixed canine, removed from 12010 Kitty Brook Drive, Houston,
19 Texas -- or Houston, Harris County, Texas. The Court finds
20 that the canine was not provided adequate food and water,
21 shelter and veterinarian care."

22 MR. HONG: Thank you, Sergeant. The State
23 passes the witness, Your Honor.

24 THE COURT: Re-cross?

25 MR. MILLEDGE, II: Yes, just briefly, Your

1 Honor.

2

CROSS-EXAMINATION

3 **BY MR. MILLEDGE, II:**

4 Q. Now, when you spoke with the neighbors again, did any
5 neighbor testify as to Mr. Beal being the actual owner of the
6 dog?

7 A. I don't understand the question.

8 Q. My question is -- okay -- let me back up.

9 You stated that the way you connected Mr. Beal
10 as being the owner of the dog was, you spoke to the neighbors
11 that said that he lived there. You spoke to the neighbors that
12 says he comes and goes in the evening. But at any time, did
13 the neighbors say that that dog actually belongs to Mr. Beal?

14 A. Yes.

15 Q. Okay.

16 MR. MILLEDGE, II: No further questions.

17 MR. HONG: Your Honor, may this witness be
18 excused subject to recall?

19 THE COURT: Yes. Call your next witness.

20 MR. HONG: State calls Patricia Hickman.

21 THE BAILIFF: This witnesses has previously been
22 sworn.

23 THE COURT: Good afternoon.

24 THE WITNESS: Good afternoon.

25 **PATRICIA HICKMAN,**