

1                                   **DAVID THOMAS,**  
2   having been first duly sworn, testified as follows:

3                                   **DIRECT EXAMINATION**

4   BY MS. LOGAN:

5           Q.    Good afternoon, sir.  Would you please  
6   introduce yourself to the folks on the jury.

7           A.    Hi there.  My name is David Thomas.

8           Q.    We can see that today you've got a Harris  
9   County Sheriff's Office uniform on.  Was there a time  
10   that you worked for HPD?

11          A.    Yes, ma'am, I did.

12          Q.    How long were you with HPD?

13          A.    Twenty-four-and-a-half years.

14          Q.    And what were your duties when you were  
15   assigned to the Houston Police Department?

16          A.    The first seven years I worked in patrol.  The  
17   last seventeen-and-a-half years I was assigned to the  
18   K-9 Division.

19          Q.    Now, tell us a little bit about the training  
20   and experience that you have as a K-9 officer.

21          A.    I started in K-9 in 1991.  With each new  
22   handler, the K-9 class -- the first K-9 is a 560-hour  
23   class, sixteen weeks of training.  That's eight hours a  
24   day.  At this time it was strictly a patrol dog, which  
25   is used to search for people.  It may be suspects, may

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 be lost people, kids. That's what he was, a single  
2 purpose dog. Like I said, each dog -- the first dog is  
3 about a 560-hour class, and the second one -- because a  
4 lot of that is teaching the handler how to work the dog.

5           The second class, the first dog may work  
6 six, seven, eight years. Each dog is different. But  
7 the next time you train a dog, the class isn't going to  
8 be as long. It's about an eight-week class, because you  
9 don't have to train the handler. It's just a matter of  
10 how to work a new dog. So each class, it can range  
11 from -- anywhere from six to ten weeks of training.

12       Q.    Okay. Now, are you currently a K-9 officer  
13 with the Harris County Sheriff's Office?

14       A.    Yes, I am.

15       Q.    So tell us, did you retire from the Houston  
16 Police Department?

17       A.    Yes, I did.

18       Q.    Okay. And then went to work for the Harris  
19 County Sheriff's Office?

20       A.    Correct.

21       Q.    Okay. When was it that you retired from HPD?

22       A.    I retired in November of 2008.

23       Q.    Okay. So back in June of 2006, for the case  
24 that we're here about today, you were working for the  
25 Houston Police Department, right?

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 A. Yes, ma'am.

2 Q. Okay. And are you a certified peace officer in  
3 the State of Texas?

4 A. Yes, I am.

5 Q. Tell us what the name of your canine was back  
6 in June of 2006.

7 A. His name was Rudy.

8 MS. LOGAN: May I approach the witness,  
9 Judge?

10 THE COURT: You may.

11 Q. (By Ms. Logan) I'm going to show you what I've  
12 marked as State's Exhibit No. 2. Do you recognize it?

13 A. Yes, I do.

14 Q. Okay. Does it fairly and accurately depict  
15 what Rudy looked like back in June of 2006?

16 A. Yes, it does.

17 Q. Okay.

18 MS. LOGAN: Offer into evidence State's  
19 Exhibit No. 2, tendering to defense counsel.

20 MR. EASTERLING: No objection, Your Honor.

21 THE COURT: Okay. State's 2 is admitted.  
22 You may publish.

23 MS. LOGAN: Thank you, Judge.

24 Q. (By Ms. Logan) All right. Deputy Thomas, what  
25 kind of canine was Rudy?

1           A.     Like I said, he was a single purpose canine.  
2 He's a Belgian Malinois.

3           Q.     Do you want to spell that for the court  
4 reporter?

5           A.     B-E-L-G-I-A-N, Belgian, Malinois,  
6 M-A-L-I-N-O-I-S.

7           Q.     And about how many years did you work with  
8 Rudy?

9           A.     I started with Rudy in 1999.

10          Q.     Describe for us a little bit about Rudy and  
11 what kind of dog he was in comparison with some of the  
12 other canines that you've worked with over the years.

13          A.     Rudy was my third dog. First dog I worked on  
14 the street for approximately six years. When he got a  
15 little bit older -- we work them until the handler feels  
16 they're not doing their job properly, and then we'll  
17 retire them.

18                         Second dog was a dog named Simba. I  
19 worked him for about a year-and-a-half. He was  
20 originally trained as a bomb dog, which is a passive  
21 indicator. I'm looking for -- the majority of the time  
22 is looking for suspects, and Simba was a little too  
23 nonaggressive for my purposes. And so, he was retired  
24 and sent to the airport and became a bomb dog, explosive  
25 dog.

1           And that's when I got Canine Rudy. Like I  
2 said, I did eight weeks of training with him. After we  
3 do the eight weeks of training, we still continue to do  
4 training. They like for us to have at least sixteen  
5 hours a month of continuing training for the dogs to  
6 make sure they're doing like they're supposed to be  
7 doing properly.

8           Q.     Okay. And when you have a canine assigned to  
9 you, does that dog, like, come home with you at night,  
10 or what happens?

11          A.     It's forty hours a week at work, and then they  
12 do go home with us. It creates a stronger bond with the  
13 dog. You know, if I take the dog to a kennel, someone  
14 else is feeding them, it's -- the bond is not quite as  
15 strong. So, they do go home with us.

16          Q.     All right. Now, June 15th of 2006, do you  
17 recall being dispatched to the location of Cottage Gate  
18 at Tarberry?

19          A.     Yes, I do.

20          Q.     Can you tell us about what time it was you were  
21 dispatched to that location?

22          A.     It was about 10:50, 10:51 in the morning.

23          Q.     So, I'm guessing you were a day shift unit at  
24 that point?

25          A.     Correct.

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 Q. Are you riding around in a police car like what  
2 we see here in State's Exhibit No. 2?

3 A. Yes.

4 Q. And where does Rudy ride?

5 A. All of the K-9 cars are specifically built for  
6 the canines. They don't have a backseat. The majority  
7 of them have an aluminum cage built into it. They have  
8 a door opener, which is what this is right here. If I'm  
9 struggling with someone on a traffic stop, I can push  
10 it. It opens the back door. They have heat sensors  
11 installed with it inside of the car in case the AC quits  
12 working. If I'm away from the car, it puts the windows  
13 down to let me know the AC is not working. It turns the  
14 lights on, starts honking the horn if it gets too hot  
15 for the dog. So, it's specifically built for the  
16 canine.

17 Q. Okay. And so, that was the patrol unit that  
18 you were driving when you got dispatched to this  
19 location, right?

20 A. Yes. Not this one, but one similar, built the  
21 same way.

22 Q. About how long did it take you -- you got  
23 dispatched at 10:51. About how long till you arrived at  
24 the location?

25 A. I believe I arrived at approximately 10:59.

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 Q. Okay. And when you get there, what's the first  
2 thing that you want to do to decide how you can be of  
3 assistance?

4 A. Well, the call went out as a burglary in  
5 progress; but upon arrival, I was advised that it was  
6 a -- a vehicle was parked at a vacant house, and I was  
7 advised that two robbery suspects left the vehicle.

8 Q. Okay. So let me --

9 MS. LOGAN: May I approach, Judge?

10 THE COURT: Counsel, the food is here.

11 All right. Ladies and gentlemen, we're  
12 going to recess for lunch. And since we started a  
13 little late, we ordered in. And we'll resume testimony  
14 at 1:00 p.m. And we'll leave early today, as well. So,  
15 please remember your admonitions from the Court.

16 (Lunch recess)

17 (Jury enters courtroom)

18 THE COURT: Please be seated.

19 MS. LOGAN: May I proceed, Judge?

20 THE COURT: You may.

21 MS. LOGAN: Okay.

22 Q. (By Ms. Logan) All right. Deputy Thomas, just  
23 before the break for lunch, you and I were talking about  
24 your dog, Rudy, right?

25 A. Correct.

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 Q. And Rudy was the canine that was assigned to  
2 you when you were dispatched out on June 15th of 2006,  
3 correct?

4 A. Correct.

5 MS. LOGAN: May I approach the witness,  
6 Judge?

7 THE COURT: You may.

8 Q. (By Ms. Logan) I'm going to show you what I've  
9 marked as State's Exhibit No. 4. Do you recognize that?

10 A. Yes, I do.

11 Q. Okay. And does it fairly and accurately depict  
12 the area that you were sent out to on June 15th, 2006?

13 A. Yes, it does.

14 Q. Okay. And let me also show you State's  
15 Exhibits 56, 57 and 63. And I want you to tell me if  
16 you recognize those photographs.

17 A. Yes, I do.

18 Q. And do they fairly and accurately depict the  
19 scene from June 15th of 2006?

20 A. Yes, ma'am.

21 Q. Okay.

22 MS. LOGAN: At this time I'd offer into  
23 evidence State's Exhibits 4, 56, 57 and 63, tendering to  
24 defense counsel for inspection.

25 MR. EASTERLING: Okay. No objection,

1 Judge.

2 THE COURT: State's 4, 56, 57 and 63 are  
3 admitted. You may publish.

4 THE COURT: Thank you, Judge.

5 Q. (By Ms. Logan) So, Deputy Thomas, I'm going to  
6 put State's Exhibit 56 up on the document camera. Is  
7 this the first location that you were sent out to  
8 June 15th, 2006?

9 A. Yes, it was.

10 Q. Okay. And tell us what that address is.

11 A. I'm not -- I don't remember the exact address.  
12 I got sent to the intersection of intersecting streets,  
13 which was Tarberry -- and I'd have to look at the map  
14 again to get the intersecting street, or my supplement  
15 and look at it.

16 Q. Okay. All right. Well, so, is that a location  
17 in Harris County, Texas, where you were sent to?

18 A. Yes, it is.

19 Q. Okay. What's the first thing that you do when  
20 you arrived on scene?

21 A. When I first arrived on the scene, I get  
22 information from the officers that were already there.  
23 And I had a sergeant on the scene that was requesting  
24 that I make sure the house was clear. They knew the  
25 house was vacant, and they wanted me to clear the house

1 with my canine to make sure that no one was inside the  
2 house.

3 Q. All right. Now, tell the folks on the jury how  
4 it is that you clear a house or look for suspects inside  
5 of a location such as this.

6 A. Well, like I said, when we do our training,  
7 basically we do building searches. We play hide and  
8 seek with the dog. That's how we start. We start off  
9 real easy. One of the other K-9 handlers, if I'm  
10 training my dog, will go hide in a building. And we may  
11 start just like ten feet in the building. And once the  
12 dog goes in and finds him, we progress to where a small  
13 house like this we can clear in ten, fifteen minutes.

14 And we even do searches -- a lot of the  
15 school districts allows you to use their schools. So we  
16 progress all the way up to where we may clear a whole  
17 first floor of a school. And it's just repetition,  
18 doing it over and over again until the dog -- it's a  
19 learned trait that the dog learns. And he will hit on  
20 any -- alert to me anywhere there is human odor coming  
21 from. Whether it's behind the door, inside of a washing  
22 machine or wherever someone maybe hiding at that has  
23 human odor, he will alert and let me know. He has a  
24 change of behavior that we learn as a team that I can  
25 read, and he lets me know what's ahead of me.

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 Q. Tell us what it was that Rudy would do when he  
2 was giving you an alert signal.

3 A. Well, he's going to change behavior. He gets  
4 real excited. His tail starts wagging. You can tell  
5 the difference in his breathing. If the person is not  
6 hidden good enough to where Rudy can get to him, he will  
7 make contact with them. If they're hidden behind a  
8 door, he will start scratching at the door, start  
9 barking at the door, you know.

10 At that point I know someone's behind the  
11 door, I will back up and challenge them. I know you're  
12 behind the door. Come out. Come out or I'm going to  
13 send the dog in. And then we just cross that bridge at  
14 that time.

15 Q. Okay. Now this house that we see in State's  
16 Exhibit No. 56 here, you and Rudy cleared that location,  
17 correct?

18 A. Yes, ma'am.

19 Q. Okay. Did you-all locate anyone inside that  
20 house?

21 A. No, ma'am.

22 Q. So once you knew that there wasn't anybody  
23 hiding in that house, what was your next course of  
24 action?

25 A. I was advised by one of the perimeter officers

1 that there was a baseball cap on the south side of the  
2 house along the bayou. At that point I took Rudy back  
3 to that starting point and attempted to do a track where  
4 the suspects may have ran.

5 Q. All right. Now you mentioned when you were  
6 inside the house Rudy is going to be reacting to human  
7 odors. When you're outside in an area such as this  
8 where there is grass and vegetation, tell the folks on  
9 the jury, what is he tracking?

10 A. The -- they'll work off human odors, also. But  
11 before I get to what we call a scent comb, if someone  
12 stops --

13 COURT REPORTER: A scent what?

14 THE WITNESS: A scent comb.

15 A. If someone stops in the woods, normally they'll  
16 sit in a certain area with what we call a scent comb.  
17 That odor -- the human odor will grow bigger and bigger;  
18 because the longer you sit there --

19 COURT REPORTER: I'm so sorry. You're  
20 going to have to slow way down.

21 A. Okay. The longer you sit in a certain area,  
22 the odor will build and the scent comb gets larger. But  
23 before I can get to that scent comb, a lot of times we  
24 have to get on an actual track. And so, if you have an  
25 open field, that field smells the same to all of us. Or

1 to the dogs, it smells the same.

2                   When you walk across that field,  
3 everywhere you step you're crushing the vegetation.  
4 When you crush the vegetation, then that's what the dog  
5 picks up on and that's how we track.

6           Q.    *(By Ms. Logan)* Okay. And so, let me show  
7 you -- well, I guess, can you tell us on State's Exhibit  
8 No. 56 what track you sort of took when you began to  
9 search with Rudy?

10          A.    Well, to the right of the house, it's open back  
11 to the bayou back there. So I went along to the back.  
12 Because like I said, they said there was a baseball cap  
13 back there. So I went around to the right of the house  
14 to the baseball cap, and I started my track at the  
15 baseball cap.

16          Q.    Okay. And if we look at State's Exhibit No. 63  
17 here tell us what it is we're looking at.

18          A.    Well, from this angle you can see that's -- to  
19 the right of the house you can see the car back in the  
20 corner, and that's -- I came from where the car was back  
21 around this direction coming toward the bayou.

22          Q.    Okay. And if you go ahead and push on the  
23 screen that's next to you, can you draw for us the route  
24 that you took and the white car you're talking about?

25          A.    Right. I would have come around here and on

1 the other side of the shed and came all the way to the  
2 back to the bayou.

3 Q. And at some point when you're walking this area  
4 with Rudy, is he giving you those reactions that you  
5 were talking about earlier?

6 A. Yeah. Yes. He actually tracked -- most  
7 likely, he tracked the officer that walked back there by  
8 the baseball cap and -- but that officer stopped at the  
9 baseball cap, because he knew not to -- if the officer  
10 walks on the same field, he's going to crush a  
11 vegetation.

12 So a lot of times when we ask the officers  
13 that arrive before we do to hold a perimeter, don't walk  
14 out there. Because if they walk out there, they're also  
15 crushing the vegetation. I don't want to track them. I  
16 want to track the suspect that we're looking for.

17 Q. And at the time that you're doing this  
18 tracking, did you have any information as far as whether  
19 or not the suspects may be armed?

20 A. Yes. Like I said, I was originally dispatched  
21 to a burglary in progress. But once I arrived at the  
22 scene, I was advised that it was a robbery and that the  
23 complainant was shot at the scene, at the original  
24 location.

25 MS. LOGAN: At this time, Your Honor, I'd

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 like to use State's Exhibit No. 4, the big board, and  
2 ask that the witness be allowed to step down a little  
3 closer to the jury.

4 THE COURT: Yes, you may step down.

5 MS. LOGAN: Everybody can see that?

6 Q. (By Ms. Logan) Now, you told us that you were  
7 dispatched. Show us here on State's Exhibit No. 4 where  
8 it was that white car was located and where you were  
9 originally dispatched.

10 A. I was dispatched to the corner of Tarberry and  
11 Cottage Gate, and this would be the home where the car  
12 was located at.

13 Q. Okay. Not everybody can see, so let's scoot  
14 back just a little bit.

15 THE JUROR: Thank you.

16 A. This would be the home where the car was  
17 located, and that's that little shed that was back on  
18 the backside of the home.

19 Q. (By Ms. Logan) Okay. And so, once you  
20 arrived, you cleared the house, show us the route that  
21 you and Rudy took and where that black baseball cap was  
22 located on this map.

23 A. The black baseball cap was -- like I said, we  
24 cleared the house, came back around the gate, came down  
25 the side here, and along this bayou is where the cap was

1 located.

2 Q. All right. Now when we talk about a bayou, in  
3 Harris County we've got big bayous and then we've got  
4 little bayous. Describe for the folks on the jury what  
5 this one looked like.

6 A. It's not real deep, and the water -- I could  
7 just run and jump across the water. It wasn't very  
8 wide.

9 Q. Okay. And so, you went to the black baseball  
10 cap. At that point, was Rudy able, or did he appear  
11 able to pick up a scent?

12 A. Yes.

13 Q. Okay. And did he continue tracking in an area?

14 A. Yes, he did.

15 Q. Okay. Show us on the map where y'all went from  
16 there.

17 A. Okay. From here we worked a little bit south,  
18 going across the little bayou, small creek. We worked  
19 to the west, down south, and then to the west. And we  
20 started working south, continued south, and came along  
21 the west side of this home right here.

22 Q. Okay. And at that point, did it still appear  
23 to you that Rudy was giving you signals that he was  
24 tracking?

25 A. Yes. When I got to the west side of this home,

1 I actually -- I had a backup officer with me.  
2 Generally, I have a cover officer with me; because when  
3 I'm working with a dog, I have a leash. Sometimes I'll  
4 have a flashlight. During the day I carry a flashlight  
5 when --

6 COURT REPORTER: I'm sorry. Can you back  
7 up a little bit, please?

8 A. When I work a dog, I have a leash in one hand  
9 and sometimes I have a flashlight, so I carry a backup  
10 officer with me; because if I come across a suspect and  
11 he presents a threat, it's kind of hard for me to use my  
12 weapon. So, that's what the backup officer does. He's  
13 my cover man.

14 Q. (By Ms. Logan) Okay.

15 A. So when I came to the west side of this home, I  
16 was telling my cover man, be on the lookout. Because I  
17 had a strong behavior change. I actually thought we  
18 were going to find someone underneath the house. That's  
19 how strong his behavior change was. He was actually  
20 attempting to go underneath the house.

21 Q. So this is one of those houses where it's kind  
22 of up on, like, pillars a little bit?

23 A. Correct.

24 Q. And at that point, were you and Rudy able to  
25 locate evidence that you told the other officers about

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 in this case?

2 A. At that point, at the house, no.

3 Q. Okay. Where in proximity to that house did you  
4 find the next piece of evidence?

5 A. Okay. Like I said, he was showing a strong  
6 behavior change, which might have been a scent comb.  
7 And then he kept moving. He kept coming to the south.  
8 And when he got to the sidewalk, there is another little  
9 ditch and a culvert there. Rudy came and went to the  
10 culvert and literally jumped into the pipe. And when he  
11 did, I pulled him back out; and he came out with a black  
12 T-shirt.

13 Q. Okay. So, what did you do with that T-shirt at  
14 that point in time?

15 A. I told Rudy to let go of it, left it there,  
16 told the cover man to leave it there. We'll let someone  
17 else collect it. Let the Crime Unit collect it later.  
18 And we continued our search.

19 Q. Okay. So it's not your job to stop and pick up  
20 that piece of evidence that you and Rudy have found?

21 A. No, I do not want to pick it up, maybe  
22 contaminate, lose evidence. That's not my job.

23 Q. Okay. So after he finds a black T-shirt in  
24 that culvert in front of the house, where did y'all go  
25 next?

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1           A.     Attempted to pick the track up on to the east  
2 and west. I didn't pick anything up. I crossed the  
3 hard surface again. It's a hard surface. There is no  
4 crushed vegetation. So when I got to the other side, we  
5 did not pick up a track. I worked back to the east,  
6 working down toward Prairie View. Didn't get anything.

7                         So at that point, since there was two  
8 suspects, I don't know if I'm tracking two or one. So,  
9 I went -- I backtracked, went back to the bayou and  
10 attempted a second track.

11          Q.     At that point in time, what did you observe  
12 Rudy to do?

13          A.     Again, there was a -- like a little makeshift  
14 bridge, like stuff piled where people would use it to  
15 walk across the water. We started at that point. And  
16 again, he went into the woods. This time he went south,  
17 more of a south direction; and we tracked to some  
18 clothing. We located some clothing in the woods.

19          Q.     Okay. And about how long is all of this  
20 taking? I mean, how long total did you -- from when you  
21 left the house to when you're finding this evidence, how  
22 much time has passed?

23          A.     Less than ten minutes, because he works pretty  
24 fast.

25          Q.     So you-all are running --

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 A. Yes.

2 Q. -- as you're doing this? Okay. And so, what  
3 evidence did you find there at that location?

4 A. There was some clothing. Looked like possibly  
5 a shirt and some pants.

6 Q. Okay. And did you notify other law enforcement  
7 officers, Officer West with Crime Scene, about what you  
8 found at some point?

9 A. Yes. At some point, yes.

10 Q. Okay. And what other evidence do you recall  
11 finding sort of in that area?

12 A. Once we found that set of clothes, I started  
13 walking back to the east. Rudy was pulling on a track;  
14 and we came across some more clothing, a wig that was  
15 hanging on, looked like, a barbed wire strand and some  
16 gloves.

17 Q. Now at any point in time, did you see people  
18 that were outside sort of watching what was going on?

19 A. Yes.

20 Q. Okay. And did you have a conversation with one  
21 of those people?

22 A. Yes, I did.

23 Q. Okay. And was that person talking to you about  
24 what he had just seen happen?

25 A. Yes, he did.

1 Q. Okay. Tell us what he said.

2 MR. EASTERLING: Objection, hearsay.

3 THE COURT: Sustained.

4 MS. LOGAN: It's a present sense  
5 impression.

6 MR. EASTERLING: Not an exception, Judge.

7 MS. LOGAN: Yeah, it is.

8 THE COURT: Overruled. The witness may  
9 answer.

10 A. As I was working to the east there was a  
11 gentleman called us over to his backyard and advised me  
12 that, Officer, are you looking for two gentlemen? I  
13 said, yes. He advised me that he could see two guys in  
14 the wooded area. He advised me they looked like they  
15 were changing clothing. And we had a helicopter  
16 circling, and our helicopter was low on fuel. He left  
17 before I got into the woods. And he said that as soon  
18 as the helicopter left, those two guys got up and ran  
19 off.

20 Q. (By Ms. Logan) Okay. Do you know why the  
21 helicopter wasn't there very long?

22 A. Low on fuel.

23 Q. The items that we're talking about, the  
24 T-shirt, the wig, the pants and the gloves, are all of  
25 these found in a sort of small proximity?

DAVID THOMAS - October 23, 2013  
Direct Examination by Ms. Logan

1 A. Yes.

2 Q. About how far away would you say these things  
3 are strewn from one another, if you can show us?

4 A. I don't remember exactly where it was, but the  
5 two -- the first set of clothes and the second set of  
6 clothes that had the wig and the gloves, I would say no  
7 more than maybe fifty yards apart.

8 Q. I think that's it. If you would, go ahead and  
9 take a seat back on the witness stand.

10 A. (Witness resumes seat)

11 Q. Did you have a conversation with crime scene  
12 officers about the items that you saw while you and Rudy  
13 were tracking in the wooded area back there?

14 A. Yes. I talked to crime scene officer, and also  
15 a -- I believe it was Officer Brown from the Homicide  
16 Division.

17 Q. And certainly, you wrote a supplement report as  
18 far as what your involvement was in this case?

19 A. Correct.

20 Q. And you reviewed that prior to coming and  
21 testifying today?

22 A. Yes, ma'am.

23 Q. Okay. Do you remember mentioning in your  
24 report about a bloodhound?

25 A. Yes.

1 Q. Okay. Tell the folks on the jury what your  
2 thought process was, what you were thinking about doing  
3 as far as a bloodhound canine and why.

4 A. Like I said, we track on crushed vegetation.  
5 Once I went across that hard surface, there was -- I had  
6 a Sergeant Porous (phonetically) from K-9 Division who  
7 was also out there on the scene. I advised him to  
8 contact Sergeant Bickel (phonetically), who has a  
9 bloodhound. They have a much better chance. They are  
10 trained to track on hard surfaces. So I requested him  
11 to respond to the scene, also; because unlike our dogs,  
12 like I said, if someone walks across that vegetation,  
13 the dog's going to track probably the freshest crushed  
14 vegetation, the bloodhound. They will actually come out  
15 and swab the steering wheeling of the vehicle, or like  
16 that baseball cap. And then that dog can actually scent  
17 discriminate and follow where that person that had the  
18 odor is from.

19 Every one of us sitting here, we're losing  
20 skin follicles as we sit here. The skin follicles have  
21 your own individual odor on it. The bloodhound can take  
22 and follow those dead skin follicles, and that's why I  
23 requested him to the scene. Maybe he would have better  
24 luck once they crossed that hard surface in finding the  
25 suspects.

1 Q. Now, do you remember whether or not a  
2 bloodhound ever made the scene?

3 A. Yes. Sergeant Bickel made the scene.

4 Q. And was that dog successful in locating any of  
5 the people that you-all were looking for?

6 A. No, ma'am.

7 Q. Okay.

8 MS. LOGAN: I'll pass the witness, Judge.

9 THE COURT: Okay. Your cross.

10 MR. EASTERLING: Thank you, Judge.

11 **CROSS-EXAMINATION**

12 BY MR. EASTERLING:

13 Q. Hello, Mr. Thomas. How are you doing?

14 A. Doing good.

15 Q. Danny Easterling. I represent Mr. Jones. Who  
16 dispatched you out to the scene?

17 A. The Houston Police Dispatch on the North  
18 Shepherd channel.

19 Q. I guess I meant, was it a supervisor or  
20 sergeant, homicide detective? Do you know who actually  
21 wanted you to come out?

22 A. The call dropped as a burglary in progress.  
23 The dispatcher GBs that on the radio. As a K-9 Unit, I  
24 would respond to that. So, the dispatcher.

25 Q. Okay. So, nobody specifically requested you to

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 go there. You just responded off the dispatch?

2 A. Correct.

3 Q. Okay. There were other patrol officers there  
4 when you arrived at about 10:59 a.m.?

5 A. Yes.

6 Q. Okay. Were you aware that the original  
7 dispatch to the store scene or the first officer was  
8 10:38 a.m.?

9 A. I'm not sure of the exact time, no.

10 Q. Okay. Well, if there has been evidence of that  
11 and you arrived at 10:59, that would be about twenty-one  
12 minutes, if we do the math, from 10:38 to 10:59, to  
13 about twenty-one minutes later, correct?

14 A. Correct.

15 Q. Okay. Do you remember how many patrol officers  
16 were there setting up a perimeter when you arrived?

17 A. No, sir.

18 Q. Just, you don't even know an approximate  
19 number? I'm not trying to pin you down exactly, but was  
20 there two or three?

21 A. Oh, there was at least four or five, yes.

22 Q. Four or five?

23 A. Yes.

24 Q. You saw patrol cars, too?

25 A. Yes, sir.

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 Q. Okay. And you saw neighbors outside?

2 A. Not so much on the Tarberry side, no, sir.

3 Q. More on the other side of the water?

4 A. Yes, sir.

5 Q. Okay. On the Tarberry side there was a small  
6 number of neighbors. More on the other side?

7 A. I didn't spend that much time on the Tarberry  
8 side, so I can't testify to that; because once I got  
9 started, I spent most of my time on the south side of  
10 the bank.

11 Q. Okay. But it wouldn't be unusual for -- if  
12 police officers are pulling up and there is a helicopter  
13 ahead -- for people to start coming out of their houses,  
14 right?

15 A. Correct.

16 Q. Okay. Now your dog, Rudy, whenever he first  
17 cleared the vacant house and did his job there, you  
18 don't know whether he picked up on any scent inside the  
19 house or not, do you, to use to track?

20 A. No. There was no signs of human odor in the  
21 house.

22 Q. Okay. You didn't see any symptoms from the --  
23 I mean, ques from the dog that there was any humans in  
24 there, at least recently?

25 A. Correct, no behavior change.

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 Q. And those human odors, they last for a certain  
2 period of time. I guess they dissipate after awhile?

3 A. Yes.

4 Q. So the first thing was a baseball cap, where an  
5 officer was standing next to it, correct?

6 A. Correct.

7 Q. The first time. Now how far away in terms of  
8 feet was that from that shed that was put up there on  
9 the monitor?

10 A. I don't remember exactly how far it was.

11 Q. I'm not asking you exactly. Approximately how  
12 far away was the baseball cap from the shed?

13 A. Maybe ten, fifteen yards maybe.

14 Q. Okay. So thirty, forty-five feet?

15 A. Correct.

16 Q. Now would that be further down towards this  
17 creek or bayou?

18 A. Correct.

19 Q. Okay. And did it appear to you that this was a  
20 common place for people in the neighbor to walk?

21 A. Yes. There was paths.

22 Q. And because there's actually -- may I use the  
23 board?

24 MS. LOGAN: You may.

25 MR. EASTERLING: Let me see which one --

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 MS. LOGAN: No. 4, Danny.

2 Q. (By Mr. Easterling) Yeah, 4. Cottage Gate at  
3 Tarberry is where you were dispatched, correct?

4 A. Yes, sir.

5 Q. Okay. There is another street on the other  
6 side called Prairie View that runs this direction here  
7 but dead-ends where the water -- or close to the water,  
8 correct?

9 A. Yes, sir.

10 Q. So it's common for neighbors to take this track  
11 in between this intersection and where Prairie View  
12 dead-ends. There seems to be some trails and obvious  
13 paths through here, correct?

14 A. Yes, sir.

15 Q. And then that makeshift trash for the bridge,  
16 right, is in that area, too?

17 A. Yes, sir.

18 Q. Okay. So we're not talking about a rural area  
19 where nobody ever walks, are we --

20 A. No, sir.

21 Q. -- where no human beings walk, right? This is  
22 a neighborhood in the City of Houston, correct?

23 A. Yes, sir.

24 Q. So this crushed vegetation you're talking  
25 about, there is no way that your dog can tell crushed

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 vegetation, whether it's a neighbor that had walked  
2 there thirty minutes prior to that or whether it's a  
3 suspect running?

4 A. That's correct.

5 Q. Okay. And so the first cap you come across,  
6 there was no way that your dog can tell you that that  
7 was worn by a suspect running or a neighbor who had been  
8 walking there earlier in the morning?

9 A. Correct.

10 Q. Or that that -- he can't tell you how long the  
11 cap had been on the ground, right?

12 A. I would argue with that a little bit; because  
13 if it was there for a real long time and there was no  
14 human odor left on it, if the human odor dissipated, as  
15 you stated, he wouldn't show interest in it.

16 Q. Okay. So he showed some interest in the cap?

17 A. Yes.

18 Q. Okay. All right. So, but it could still be  
19 hours --

20 A. Correct.

21 Q. -- that it had been there?

22 A. Correct.

23 Q. Okay. And you're talking about around 11:00  
24 a.m. when this -- or 11:00 to 11:15 a.m. when that cap  
25 was discovered, correct?

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1           A.     Or when I approach it.  It was discovered  
2 before then, but when I approached it.

3           Q.     Because you arrived at one minute till 11:00?

4           A.     Correct.

5           Q.     The track from this that your dog took, your  
6 dog can't tell whether it's the same human wearing that  
7 cap that he's tracking or whether it's some other human  
8 that's walking that direction, can it?

9           A.     No, sir.

10          Q.     Okay.  So, I want to make sure the jury  
11 understood that, that Rudy, your dog, when he smelled  
12 the cap, he's not following an exact trail of where the  
13 person that was wearing that hat was going, correct?

14          A.     He's following --

15          Q.     He's not necessarily following the person that  
16 wore the hat.  Could be somebody else?

17          A.     Yes, sir.

18          Q.     All right.

19          A.     That's why it's very important for me to get a  
20 good description of who I'm looking for, because I have  
21 tracked to homeless people before.

22          Q.     Sure.  Did you have a description?

23          A.     Yes.

24          Q.     Okay.  From who?

25          A.     From the primary unit that was on the scene.

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 Q. Primary unit on what scene?

2 A. At the robbery scene.

3 Q. Do you remember his name? Did you see him  
4 today?

5 A. Yes. It was the first officer that testified.  
6 My mind just went blank.

7 Q. Was it Baldwin?

8 A. Baldwin. That's it.

9 Q. Do you know Officer Baldwin?

10 A. Yes.

11 Q. Did you know him when you were with HPD?

12 A. Yes, just from running calls and running into  
13 him at different --

14 Q. You're a long-time officer. He's a long-time  
15 officer. Y'all have been around a long time even seven  
16 years ago, right?

17 A. Yes.

18 Q. So he told you you were looking for a black  
19 male?

20 A. He give a description of two black males.

21 Q. Okay. Anything else specific?

22 A. Black shirts.

23 Q. Black --

24 A. And --

25 Q. Black clothing?

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 A. Black clothing, correct.

2 Q. And that was about it, right?

3 A. Yes.

4 Q. You never saw black males with black clothing  
5 anywhere in your search in this case, did you?

6 A. No, sir.

7 Q. After you and your dog discover this -- after  
8 you and your dog encounter the cap, the second thing was  
9 crossing over the water; and you discovered the T-shirt  
10 in a culvert pipe, correct?

11 A. Yes, sir.

12 Q. Was the pipe there for a little sidewalk or a  
13 cross over this little ditch?

14 A. Yes.

15 Q. And that was in front of one of these houses,  
16 right?

17 A. Yes, sir.

18 Q. Okay. Was the black T-shirt short-sleeved or  
19 long-sleeved?

20 A. I don't recall.

21 Q. You didn't have time to look at it in detail,  
22 right?

23 A. Correct.

24 Q. I assume you didn't have time to look to see  
25 whether it had anything distinctive, like a picture of a

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 person's head, on the front of the T-shirt?

2 A. I didn't look at the shirt that close, sir.

3 Q. And you didn't look to see whether it had Polo  
4 written on it, either?

5 A. Correct.

6 Q. Now when you say you left both -- let me back  
7 up. You left the cap. Did that officer stay with the  
8 cap that was first there?

9 A. I'm not sure. I wasn't there.

10 Q. Okay.

11 A. So I don't know if he did or not, correct.

12 Q. Black T-shirt. When you left it there by the  
13 culvert, was there any other officers around at the  
14 time?

15 A. By that time we -- I had asked for additional  
16 perimeter units to set up along DeWalt, so we had  
17 officers set up along DeWalt that had a clear view of  
18 DeWalt the whole time.

19 Q. Do you know if anyone went over and guarded the  
20 T-shirt?

21 A. I'm not sure.

22 Q. You went on and did your work, right?

23 A. Correct.

24 Q. You went towards a tree line where the woods --  
25 where it's a thicker vegetation, right?

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 A. Yes, sir.

2 Q. Okay. That's where you found a shirt and a  
3 pair of pants. Describe the shirt.

4 A. I don't recall.

5 Q. You don't recall the color?

6 A. I don't remember, sir.

7 Q. Sweater, short-sleeved, that kind of thing?

8 A. I don't remember.

9 Q. On the pants, do you recall anything about the  
10 pants?

11 A. No, sir.

12 Q. Okay. Not the color or length or anything?

13 A. No, sir.

14 Q. Same questions about the T-shirt, the shirt and  
15 the pants that you came across. Your dog, Rudy,  
16 couldn't tell you how long those things had been laying  
17 there, can he?

18 A. No, sir.

19 Q. And your dog couldn't tell you whether the same  
20 person or a different person had been wearing those  
21 items, if they even had been wearing them, as the person  
22 that had this cap, right?

23 A. That's correct.

24 Q. You came across a wig that was up off of the  
25 ground, correct?

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 A. Yes, sir.

2 Q. What color was it?

3 A. If I remember correctly, the wig was black.

4 Q. Okay. And it was into some vegetation up off  
5 the ground in a barbed wire type of fence, or wire?

6 A. Correct.

7 Q. Okay. It looked like there had been an old  
8 barbed wire fence there at one time separating some of  
9 the property line?

10 A. That's possible.

11 Q. And that was deep in this tree-lined  
12 vegetation, correct?

13 A. Yes, sir.

14 Q. The gloves, where were they found?

15 A. I believe the gloves were --

16 Q. I mean, up, down?

17 A. No. They were on the ground. Yes, sir.

18 Q. On the ground?

19 A. Yes.

20 Q. What type of gloves were they?

21 A. I believe they were latex gloves.

22 Q. Do you remember what color?

23 A. I believe they were white.

24 Q. Okay. Same thing about those items. This wig  
25 and the gloves, your dog couldn't tell you how long

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 those items had been there, correct?

2 A. Correct.

3 Q. Okay. Or who had been wearing them, if they  
4 even had been wearing them, as related to the other  
5 items, correct?

6 A. Yes, sir.

7 Q. A lot more people on the other side of the  
8 water ditch, or whatever we're calling it -- there's a  
9 lot more people over in this area on -- when you cross  
10 over to DeWalt Street and Prairie View Street on these  
11 houses in here, correct? Can you see what I was  
12 pointing to, this area right in here?

13 A. Are you asking whether more people on --

14 Q. More people here than when you first arrived up  
15 here?

16 A. There was more people on the north side of  
17 Tarberry and Castleberry (sic) than there was on this  
18 outside over off DeWalt.

19 Q. Let me back up and make this clearer. When you  
20 first arrived, you're at Cottage Gate at Tarberry?

21 A. Correct.

22 Q. And you testified earlier there wasn't as many  
23 people here as there was down at DeWalt and Prairie  
24 View, correct?

25 A. When you say people, are you saying --

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 Q. Neighbors.

2 A. -- people or officers?

3 Q. Neighbors.

4 A. Neighbors. Yes. I didn't stay at the Tarberry  
5 side that long.

6 Q. Right.

7 A. So when I got to the DeWalt side, there was  
8 people on the DeWalt side.

9 Q. There was more people on the DeWalt side on  
10 this area in here that I'm circling, correct?

11 A. Yes, in my opinion.

12 Q. Where you found a lot more of the items?

13 A. Yes.

14 Q. Now at what point did you stop working Rudy and  
15 talk to Officer West, the Crime Scene Unit Officer?

16 A. I kept working Rudy to the east. I'm pretty  
17 sure I worked all the way to the east, to the first  
18 street east of the location. I don't remember the name  
19 of the street; but we worked, cleared all those yards  
20 all the way to the east till we got to the next street.

21 Q. Didn't find anything else?

22 A. No, sir.

23 Q. No other items, no black male suspects in dark  
24 clothing, correct?

25 A. Correct.

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 Q. Okay. And I want to talk about, you allege  
2 this encounter with somebody you talked to. What was  
3 his name?

4 A. I don't recall, sir.

5 Q. Okay. And you've looked at your supplement  
6 report in preparation for today to refresh your memory,  
7 correct?

8 A. Yes, sir.

9 Q. Can you tell me where your encounter with this  
10 guy is that you talked to that allegedly said these  
11 things, where it is in your report?

12 A. I did not document that.

13 Q. You didn't write it in there, did you?

14 A. No, sir.

15 Q. Now how important do you think it is when  
16 you're out working a scene like this where you heard  
17 about a robbery and somebody has been shot and an  
18 eyewitness says, I saw two guys and it looked like they  
19 were changing clothes and they went that way -- how  
20 important do you think that would be to document in a  
21 report on a capital murder case?

22 A. It would be pretty important, yes, sir.

23 Q. Pretty critical, right?

24 A. Yes, sir.

25 Q. So I would know about it, right?

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 A. Yes, sir.

2 Q. Because I, obviously, get to read this a long  
3 time before today, right?

4 A. Yes, sir.

5 Q. And something for the prosecutor's office to  
6 look at, right?

7 A. Yes, sir.

8 Q. So that they would know about a critical  
9 witness like that, right?

10 A. Yes, sir.

11 Q. And maybe I could go find that witness if you  
12 had gotten his name, address and phone number, right?

13 A. Yes, sir.

14 Q. Okay. I can't do that if it's not in the  
15 report, can I?

16 A. No, sir.

17 Q. Okay. So, what did he look like?

18 A. He was an older black gentleman.

19 Q. Okay. Where did he live?

20 A. I don't remember the exact address, sir.

21 Q. Where was he standing when you allegedly talked  
22 to him?

23 A. In his backyard.

24 Q. Okay. What was he wearing?

25 A. I don't remember.

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 Q. Was he by himself?

2 A. Yes, sir.

3 Q. And how old was he?

4 A. I don't recall.

5 Q. Was he a teenager?

6 A. No, sir.

7 Q. Middle-aged guy?

8 A. I would say middle-aged, yes, sir.

9 Q. Okay. And which way did he point toward? Did  
10 he point?

11 A. Yes, sir. He pointed toward the woods that I  
12 came out of after finding the clothing.

13 Q. Okay. And are you going from seven years of  
14 memory as to what that guy allegedly told you when you  
15 testified today? Because this happened in June of 2006.

16 A. Yes, sir.

17 Q. We're now in October of 2013.

18 A. Yes, sir.

19 Q. So, I'll repeat my question. Are you going  
20 from seven years of memory and hundreds of cases  
21 between -- if not thousands of cases between then and  
22 now -- to remember what that guy told you?

23 A. Yes, sir.

24 Q. When was the first time you told anybody in  
25 this room, if you did, about this guy allegedly telling

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 you this changing clothes and they went that way?

2 A. Me and the prosecutor reviewed this a week ago  
3 when we had a review about this case.

4 Q. Okay.

5 A. And I, also, at the scene, I told Officer  
6 Brown, the Homicide investigator, about that gentleman.

7 Q. Okay. But in this room you told Miss Logan  
8 about it when y'all were getting ready about a week ago,  
9 something like that?

10 A. Yes, sir.

11 Q. Okay. All right. And did you admit to her,  
12 hey, I didn't write it in the report?

13 A. Well, she also has a copy of the report; so  
14 she --

15 Q. So it came up, right, that you didn't write it  
16 in the report?

17 A. Yes.

18 Q. Okay. How can you remember what a guy told you  
19 behind a house with a dog seven years ago? How can you  
20 remember that?

21 A. Certain cases stick in your mind. This is one  
22 of those cases that definitely stuck in my mind, because  
23 if that helicopter had ten more minutes of fuel -- the  
24 helicopter was what I believe to make them suspects lay  
25 down in the woods. So if he had ten more minutes of

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 fuel, to this day, I would have caught them two guys  
2 laying in the woods.

3 Q. Is this the first time a helicopter ever had  
4 any low fuel in your cases?

5 A. No, sir.

6 Q. Happens all the time, doesn't it?

7 A. No, not all the time.

8 Q. Happens often, doesn't it?

9 A. No, sir. A lot of cases, a helicopter is not  
10 even there.

11 Q. But helicopters -- do these small helicopters  
12 HPD uses, they don't have large fuel tanks, do they?

13 A. I flew with them before about an  
14 hour-and-a-half.

15 Q. That's not very long, is it? They have to go  
16 all the way from Hobby, right?

17 A. Yes, sir.

18 Q. Hobby Airport, correct?

19 A. Yes, sir.

20 Q. In case they don't know what Hobby means. So  
21 you say, because you think you might have caught the  
22 guys, you don't know whether they got in a car or  
23 whether they went in a house? You don't know where they  
24 went, do you?

25 A. No, sir.

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 Q. It's pure speculation, right?

2 A. Yes, sir.

3 Q. Y'all didn't catch them, whoever it was --

4 A. Correct.

5 Q. -- bottom line. Now, did this guy give you any  
6 more description of these guys that were allegedly  
7 changing clothes?

8 A. No, sir.

9 Q. And did you ask him how tall were these guys?

10 A. No, sir.

11 Q. Did you ask him what they were wearing?

12 A. No, sir.

13 Q. Did you ask him their build, you know, their  
14 frame?

15 A. No, sir.

16 Q. Ask them that? You had time to do that if you  
17 had wanted to spend thirty seconds and ask those  
18 questions, right?

19 A. I continued my search, working to the east.

20 Q. Maybe you didn't understand my question. You  
21 could have spent thirty seconds to ask them those  
22 critical questions of their height, what they were  
23 wearing, their build, right?

24 A. Correct.

25 Q. Okay. But you didn't?

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 A. No, sir.

2 Q. Okay. And there was another officer with you,  
3 your backup officer, right?

4 A. Correct.

5 Q. And he didn't ask that guy any of those  
6 questions, either, did he --

7 A. No. At that point --

8 Q. Just yes or no.

9 A. No.

10 Q. He didn't, did he?

11 A. No, sir.

12 Q. To the best of your memory, if that's what  
13 you're going on, your seven years of memory, this guy  
14 said, there is two guys that were over there and looked  
15 like they were changing their clothes and they went that  
16 way?

17 A. Yes, sir.

18 Q. Did I get it right from you?

19 A. Yes, sir.

20 Q. Okay. Changing clothes would be taking  
21 something off and putting something back on. That's  
22 what I understand changing clothes means. Is that what  
23 you understand it to mean?

24 A. A change of clothes could mean many things. In  
25 my profession I have come across, many times, suspects

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 wear multiple layers of clothing; so, changing could be  
2 just stripping down one set of clothes to change your  
3 appearance.

4 Q. But the guy didn't say that. He didn't say,  
5 hey, they were taking off stuff over there, and they  
6 went that way. You think he said they were changing  
7 clothes?

8 A. Yes, sir.

9 Q. Okay. And this is June 6th, in Houston, Texas,  
10 when it's hot, right? I mean, it's hot in the summer  
11 here, right?

12 A. Yes, sir.

13 Q. Okay. Now after you showed Officer -- Homicide  
14 Officer Brown, and I think you said Officer West, where  
15 the stuff -- the items were, were you through and went  
16 to another call?

17 A. No, sir. I stayed at the scene.

18 Q. Did you do anything else I need to know about?

19 A. No, sir.

20 Q. That's not in your report?

21 A. No, sir. That's pretty much it.

22 Q. Okay. How long did you stay at the scene?

23 A. Stayed at the scene till Sergeant Bickel  
24 finished his search.

25 Q. Sergeant who?

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 A. Bickel.

2 Q. Pickle?

3 A. Bickel, the one with the bloodhound that  
4 responded to the scene.

5 Q. Oh, that's right. And after that is when you  
6 left?

7 A. Yes, sir.

8 Q. So, you didn't collect any of these items?

9 A. No, sir.

10 Q. Okay. Did you go back to each specific place  
11 with some officer and say, I saw that, or I came across  
12 that?

13 A. Yes, sir.

14 Q. Is that how you did it?

15 A. Yes, sir.

16 Q. Did you see them do anything with those items  
17 when you pointed them out?

18 A. No, sir. I just pointed them to where they  
19 were, and then the Crime Scene Unit that was out there  
20 collected them.

21 Q. Okay. I'm not asking you to speculate about  
22 what you didn't see.

23 Let me back up. When you pointed out to  
24 whoever you pointed out to, did you see that officer do  
25 anything with that item?

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1 A. No, sir.

2 Q. Okay. Like, pick it up and put it in a stack?

3 A. No, sir.

4 Q. Okay. You just went on to the next spot --

5 A. Yes, sir.

6 Q. -- correct?

7 A. Yes, sir.

8 Q. You were just assuming they must have went back  
9 and picked them up. I'm not criticizing you; but that's  
10 generally what would happen, right?

11 A. Yes, sir.

12 Q. But you didn't see that?

13 A. Yes, sir.

14 Q. You don't know how long it took for them to do  
15 that, either?

16 A. No, sir.

17 Q. Now, there wasn't any crime scene tape around  
18 this huge area like there is at a convenience store,  
19 right?

20 A. No, sir.

21 Q. Now, there were some patrol cars on some of  
22 these streets, right?

23 A. Yes, sir.

24 Q. Okay. But there weren't patrol cars on every  
25 single street, was there?

DAVID THOMAS - October 23, 2013  
Cross-Examination by Mr. Easterling

1           A.     When we asked for a perimeter, I had cars along  
2 DeWalt, the south side.

3           Q.     Okay.

4           A.     -- which was the main concern, because going  
5 north you had the bayou.

6           Q.     Right.

7           A.     And you had officers on Tarberry.  So, yes,  
8 there was cars along Prairie View and DeWalt.

9           Q.     When you asked for them, were you on your  
10 radio, which broadcasts out to other patrol officers?

11          A.     Yes, sir.

12          Q.     Did you ever see this gentleman to my right  
13 here out there at the scene, sir?

14          A.     No, sir.

15                   MR. EASTERLING:  I'll pass the witness,  
16 Judge.

17                   THE COURT:  Okay.

18                   MS. LOGAN:  Just briefly, if I may, Judge.

19                   THE COURT:  All right.

20                                   **REDIRECT EXAMINATION**

21 BY MS. LOGAN:

22           Q.     All right.  Deputy Thomas, time is sort of the  
23 essence when you're out there in one of these  
24 situations, right?

25                   MR. EASTERLING:  Objection, leading.

DAVID THOMAS - October 23, 2013  
Redirect Examination by Ms. Logan

1                   THE COURT: Sustained. Rephrase.

2           Q.    (By Ms. Logan) Is time of the essence when  
3 you're out at a situation like this where you're  
4 tracking?

5           A.    Yes, it is.

6           Q.    Okay. So are you stopping to have a chat over  
7 coffee with people that you encounter while you're out  
8 there with your dog?

9           A.    No, ma'am.

10          Q.    Okay. Is it your job to take detailed  
11 statements from those people when you're in the middle  
12 of tracking items with your dog?

13          A.    No, ma'am.

14          Q.    Now, did Rudy go off on a tangent and alert on  
15 all kind of items out there in the woods, or was his  
16 reaction specific to the items that we've talked about  
17 here today?

18          A.    Yes, ma'am, we tracked directly to those items.

19          Q.    And it wasn't like he tracked to one item, then  
20 he went off and frolicked in a field for a little while,  
21 right?

22          A.    Correct.

23          Q.    He was going directly from evidence to evidence  
24 like you described when we were looking at State's  
25 Exhibit No. 4?

1                   MR. EASTERLING: Objection. Leading,  
2 leading, leading, Your Honor.

3                   THE COURT: Sustained. Rephrase.

4                   MS. LOGAN: Yes, ma'am.

5           Q.    (By Ms. Logan) Was he going directly from one  
6 piece of evidence to another?

7           A.    Yes, he was.

8           Q.    Okay. Now, did it look to you like the items  
9 that Rudy was reacting to out there on the scene -- did  
10 it look to you as though they had been there for a long  
11 period of time?

12          A.    No, ma'am.

13          Q.    Okay. Tell us why you think that.

14          A.    Generally when I'm tracking, a lot of times  
15 we'll come across old clothes. You know, someone loses  
16 a tennis shoe or something. It's been rained on. Just  
17 looks very weathered. These clothes looked a lot  
18 cleaner than something that's been out in the weather.

19          Q.    Were there leaves and debris on top of those  
20 items?

21          A.    No, ma'am.

22          Q.    Did it look to you as though those items had  
23 recently been placed where you found them?

24          A.    Yes.

25          Q.    Now, you mentioned that there was sort of a

DAVID THOMAS - October 23, 2013  
Redirect Examination by Ms. Logan

1 makeshift bridge that you crossed or used to cross over  
2 the bayou area, right?

3 A. Yes, ma'am.

4 Q. Did Rudy, in any way, react to that bridge?

5 A. He didn't use the bridge. He didn't really pay  
6 too much attention to it.

7 Q. And what was that bridge made out of?

8 A. Trash, mattress, maybe just stuff that was  
9 piled up. I don't remember exactly what all it was.

10 Q. Okay. And so, he didn't stop and alert on  
11 that, did he?

12 A. No, ma'am.

13 Q. Now the gentleman that you've told us about,  
14 his name you now know is Ricky Rebelector (phonetically),  
15 right?

16 A. Yes.

17 Q. And you know that because the Homicide officers  
18 went out and talked to him, didn't they?

19 A. Yes, ma'am.

20 Q. And so, that information is in the report, to  
21 the best of your knowledge?

22 A. Yes. Not my report, but the Homicide report,  
23 yes, ma'am.

24 Q. Okay.

25 MS. LOGAN: I'll pass the witness.

1                   THE COURT: Okay. Any recross?

2                   MR. EASTERLING: Yes, Your Honor.

3                   **RECROSS-EXAMINATION**

4 BY MR. EASTERLING:

5           Q.     What is your definition of long periods of  
6 time? She asked you that, didn't she? Did it look like  
7 that stuff had been out there a long period of time?  
8 What's your definition of long period of time?

9                   MS. LOGAN: I'm going to object to the  
10 sidebar.

11                  THE COURT: Sustained.

12           Q.     (By Mr. Easterling) She asked you the question  
13 about long periods of time, didn't she?

14           A.     Yes, sir.

15           Q.     What is your definition of long periods of  
16 time?

17           A.     Depends on what you're referencing that to.  
18 I've been a police officer almost thirty years. That's  
19 a long time.

20           Q.     Well, what she's referencing, right? So let's  
21 be more specific. They didn't have dirt on top of them,  
22 right?

23           A.     Correct.

24           Q.     They didn't have falling leaves on top of them,  
25 right?

DAVID THOMAS - October 23, 2013  
Recross-Examination by Mr. Easterling

1           A.     Right.

2           Q.     Leaves don't fall in June, generally, do they,  
3 in the City of Houston?  It's green, correct?

4           A.     Yes, sir.

5           Q.     Okay.  You don't -- you can't tell us when  
6 there was rainfall prior to the morning of June 6th,  
7 when you looked at this stuff, can you?

8           A.     No, sir.

9           Q.     So the items weren't wet like they had been  
10 rained on, right?

11          A.     Correct.

12          Q.     But this was not a rainy day, correct?

13          A.     Correct.

14          Q.     The bottom line is, you can't tell us how long  
15 those things had been there over a specific period of  
16 time, can you?

17          A.     No, sir.

18          Q.     They could have been there hours, right?

19          A.     Correct.

20          Q.     They could have been there days, correct?  Not  
21 a long number of days.  But they could have been there  
22 three, four, five days; and you wouldn't have been able  
23 to tell from what limited contact you had with them,  
24 correct?

25          A.     In my opinion, as many scenes as I've been on,

DAVID THOMAS - October 23, 2013  
Recross-Examination by Mr. Easterling

1 I have come across many sets of clothing in the woods.  
2 Rudy will generally not grab a piece of clothing unless  
3 it has fairly fresh human odor on it.

4 Q. I'm asking you about your opinion. I didn't  
5 ask about the dog. The question was, your opinion, what  
6 did it look like to you? Did it look like to you those  
7 things could have been there for some number of days?

8 A. No, sir.

9 Q. About one day?

10 A. It's possible, yes, sir.

11 Q. That's twenty-four hours, right, in a day?

12 A. Yes, sir.

13 Q. You don't have any specific information beyond  
14 that because it would be speculation on your part,  
15 correct?

16 A. Yes, sir.

17 Q. Okay. Now the scent you're talking about, all  
18 right, is there any scientific articles about how long  
19 the scent of a human will remain on, like, a T-shirt for  
20 a dog like Rudy to want to alert on it?

21 A. I'm sure there has been testing like that. Do  
22 I know exactly the time period? No, sir.

23 Q. The scent could stay for hours. That's a fair  
24 statement, right? That's common sense, right?

25 A. Yes, sir.

DAVID THOMAS - October 23, 2013  
Recross-Examination by Mr. Easterling

1 Q. We know that, just from common sense, that  
2 those had not -- those items hadn't been out there for  
3 months; because they would have been weathered looking,  
4 correct?

5 A. Yes, sir.

6 Q. Okay. So somewhere in between weeks and that  
7 time period, those items, somebody put them there on the  
8 ground or in the woods, right?

9 A. Yes, sir.

10 Q. Okay.

11 MR. EASTERLING: Pass the witness.

12 MS. LOGAN: Just one more question. I  
13 apologize, Judge.

14 **FURTHER REDIRECT EXAMINATION**

15 BY MS. LOGAN:

16 Q. You mentioned that Rudy put his mouth on and  
17 pulled that T-shirt out of the culvert area on DeWalt,  
18 right?

19 A. Yes, ma'am.

20 Q. Did you see him pull any of the other clothing  
21 from where it was, or did he simply alert to its  
22 location?

23 A. I believe the only other clothing that he  
24 touched was the second set of pants and shirt that I  
25 came to.

DAVID THOMAS - October 23, 2013  
Further Redirect Examination by Ms. Logan

1 Q. Okay. So the three items that you recovered  
2 that he touched are going to be what?

3 A. He touched the black shirt in the culvert. The  
4 second set of clothing, I believe the only piece he  
5 touched was the pants.

6 Q. Okay. And at any point in time, did you take  
7 Rudy to any other part of this crime scene, meaning the  
8 convenience store?

9 A. No, we never went there.

10 Q. Y'all never went there. Okay.

11 MS. LOGAN: I'll pass the witness, Judge.

12 **FURTHER RECROSS-EXAMINATION**

13 BY MR. EASTERLING:

14 Q. You brought up one other thing.

15 MR. EASTERLING: Real quick, Judge.

16 Q. (By Mr. Easterling) The car, the white car,  
17 did you ever put Rudy onto the car seats or anything in  
18 there to get a scent and tell him to track from the car?

19 A. No, sir. Again, I explained that earlier. A  
20 bloodhound would be the one that would try to do a scent  
21 discrimination off the vehicle. There was also a  
22 vehicle that I didn't want to go inside. If there was  
23 any evidence in there, I wouldn't want to contaminate  
24 it, also.

25 Q. Right. Okay.

DAVID THOMAS - October 23, 2013  
Further Recross-Examination by Mr. Easterling

1 MR. EASTERLING: Pass the witness, Judge.

2 MS. LOGAN: I think we're all done.

3 THE COURT: All right. You are excused.

4 Thank you.

5 State, would you please call your next  
6 witness.

7 MS. LOGAN: Yes, Your Honor. The State  
8 calls Sergeant West.

9 THE COURT: Let's take a two-minute  
10 recess. Please remember your admonitions from the  
11 Court.

12 *(Brief recess)*

13 *(Jury enters courtroom)*

14 THE COURT: Please be seated.

15 You may proceed.

16 MS. LOGAN: For the record, the State  
17 would call Sergeant West. And this witness has  
18 previously been sworn.

19 **GLEN WEST,**  
20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MS. LOGAN:

23 Q. Sir, would you please introduce yourself to the  
24 folks on the jury?

25 A. My name is Sergeant Glen West.