

1 MS. BARNETT: Thank you.

2 RAYMOND TOMMY,  
3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. BARNETT:

6 Q. Would you please state your name for the  
7 record, sir?

8 A. Raymond Kye Tommy.

9 Q. And how are you employed?

10 A. I'm employed as a peace officer for the  
11 Harris County Sheriff's Office.

12 Q. How long have you worked for the sheriff's  
13 office?

14 A. Been employed with the sheriff's office  
15 approximately eight years now.

16 Q. Where are you assigned?

17 A. I'm assigned to the patrol division in the  
18 north district of Harris County.

19 Q. What's the north district?

20 A. The north district is between 249 and I 45.

21 Q. Does that include the Katy area?

22 A. No, ma'am, it does not.

23 Q. When you say you're assigned to patrol,  
24 what does that mean exactly?

25 A. We answer calls for the district, calls for

1 service. People who call 911 or the nonemergency  
2 number, we're the first responders to most scenes.

3 Q. Let me take you back to the day of  
4 September 28th, 2011, and ask if you were working  
5 patrol in the north district that day?

6 A. I was working patrol but in the northwest  
7 district.

8 Q. In the northwest district is that Katy?

9 A. No, ma'am, it is just north of Katy.

10 Q. It's a separate district from the Katy  
11 district?

12 A. Yes, ma'am.

13 Q. For example, Deputy Byrd would he have been  
14 in a different district from you if he was in the  
15 Katy district?

16 A. Yes, ma'am, he would. He would have been  
17 in district 4 as it's drawn out now.

18 Q. On that day, September 28th, 2011, what was  
19 your shift that day, if you recall?

20 A. I was working the evening shift.

21 Q. What does that mean?

22 A. From 2 p.m. to 10 p.m.

23 Q. Were you dispatched to any type of  
24 burglary?

25 A. Yes, ma'am, I was.

1 Q. Tell me about that.

2 MS. BARNETT: Your Honor, May I  
3 approach?

4 THE COURT: You may.

5 Q. (BY MS. BARNETT) On September 28th of 2011,  
6 what time were you dispatched, sir?

7 A. I'd have to refer to my notes here.  
8 Dispatch time was approximately 3:45 in the  
9 afternoon.

10 Q. In the afternoon. Is this going to be a  
11 residential area or apartment complex?

12 A. It was a subdivision.

13 Q. You said 3:45?

14 A. Yes, ma'am.

15 Q. Did you meet with the person?

16 A. Yes. I met with complainant Mr. Whitlow.

17 Q. Do you know his first name?

18 A. William, William Whitlow.

19 Q. Mr. William Whitlow. All right. Now, what  
20 were you -- what did you talk to Mr. Whitlow about?

21 A. Mr. Whitlow had called in reference to the  
22 burglary of his house that day.

23 Q. All right. When you got to his house could  
24 you tell the house had been burglarized?

25 A. Yes, ma'am.

1 Q. How so?

2 A. The back door showed signs of forced entry  
3 which were consistent with either kicking the door or  
4 using bodily force due to the damage of the trim on  
5 the interior of the door and the part where the  
6 deadbolt secures the door to the door frame, the  
7 point of impact appeared to be consistent with  
8 forcing the door open at the dead bolt which should  
9 have been locked. And in addition to that, looking  
10 through the residence in several areas to include  
11 particularly the master bedroom, the master bathroom  
12 and the master closet, numerous items had been dumped  
13 over and moved about. According to Mr. Whitlow they  
14 were not that way when he left. It appeared to be  
15 rummaged through thoroughly, ransacked and pretty  
16 obvious a burglary had occurred, at least based on my  
17 prior training and experience.

18 Q. Let me go back to that back door -- well,  
19 first of all, did it look like the front door had  
20 been molested at all?

21 A. No. The front door had no signs of forced  
22 entry.

23 Q. And the back door, I'm not sure I  
24 understood what you were talking about. There was a  
25 dead bolt?

1           A.       Yes, ma'am.  When you secure the door with  
2           a deadbolt, the bolt slides into like a face plate,  
3           if you will, on the outside of the door frame which  
4           when using bodily force or kicking the door as  
5           opposed to breaking a window and than latching the  
6           door, most of the force is pushing on the door frame  
7           from that dead bolt because that is what is  
8           physically holding the door from swinging open at  
9           that point.

10          Q.       Is that how you could tell there was force  
11          used against the door, some type of kicking or body?

12          A.       Yes.

13          Q.       Was the door something that was destroyed  
14          or was it easy to repair or could you tell?

15          A.       That door was somewhat damaged, I don't  
16          remember to what extent.  The strip, the interior  
17          trim was definitely torn off and I believe part of  
18          the frame, like I said the frame around the dead  
19          bolt.

20          Q.       Was this a one story or two story or do you  
21          remember?

22          A.       It was a one story house.

23          Q.       Were part of it ransacked, the whole thing  
24          or do you recall?

25          A.       I don't recall as far as to the rest of the

1 house, just in particular the master bedroom, master  
2 closet and master bathroom.

3 Q. Were you able to take a report of things  
4 that were taken in Mr. Whitlow's burglary?

5 A. Yes, I did.

6 Q. Do you know whether or not he was living  
7 there at the time of the burglary?

8 A. To my knowledge Mr. Whitlow was living  
9 there at the time of the burglary.

10 Q. And how did he go about telling you what  
11 was taken? Did he take you throughout the house or  
12 what happened?

13 A. I started systematically with Mr. Whitlow.  
14 I said, Okay, lets start at this location from what  
15 you know what has been stolen from this location and  
16 he pointed out various locations as to where items  
17 had been taken from inside the residence as we went  
18 through.

19 Q. What types of things -- did you make note  
20 of all those things?

21 A. Yes, ma'am.

22 Q. What types of things were taken?

23 A. As far as to the initial list that I got  
24 from Mr. Whitlow that day, digital camera and an iPod  
25 Touch were stolen from the kitchen counter, an iPod

1 or -- excuse me -- an iPhone was also located on the  
2 kitchen counter, also had a Seagate 1 terabyte  
3 external hard drive, Toshiba laptop computer. Most  
4 of those were in the breakfast area. Playstation 3  
5 game system which was located by the television in  
6 the living room.

7 He also had a safe deposit box that  
8 was stolen which contained social security cards,  
9 savings bonds, expired passport, a gold ring with  
10 diamonds, a gold tear drop necklace with diamonds, a  
11 gold diamond stud earring set, white gold necklace.

12 Also had a 30.06 Remington pump rifle  
13 with wooden stock and scope, .22 caliber Ruger model  
14 10/22, 12 gauge BPS Browning pump shotgun with wood  
15 stock, a .22 caliber Springfield bolt action rifle  
16 and a maroon piggy bank with cash and coins,  
17 approximate value \$50. The safe deposit box and the  
18 guns and the piggy bank were in a gun safe in the  
19 master bedroom closet.

20 He also had a Toshiba portable DVD  
21 player stolen and that was located in the master as  
22 well opposite the wall.

23 Q. Just looked like this house was total --  
24 they took everything?

25 A. Yes.

1                   MR. JONES: I object to that  
2 characterization. Object to the form of the  
3 question.

4                   THE COURT: Rephrase.

5                   MS. BARNETT: May I approach the  
6 witness?

7                   THE COURT: You may.

8           Q.       (BY MS. BARNETT) Deputy Tommy, did you  
9 write down everything that was taken that you  
10 described to us?

11           A.       That was what Mr. Whitlow recalled at the  
12 time.

13           Q.       I'm showing you what's been marked State's  
14 Exhibit 40. Does this appear -- do you recognize  
15 this?

16           A.       Yes, ma'am, I do.

17           Q.       What is this?

18           A.       That is the excerpt of the items stolen as  
19 reported to me by Mr. Whitlow on the day of the  
20 burglary.

21           Q.       September 28th, 2011?

22           A.       Yes.

23                   MS. BARNETT: Offer this into evidence  
24 as State's Exhibit No. 40.

25                   MR. JONES: May I take him on voir



1 dire?

2 *THE COURT:* You may.

3 **VOIR DIRE EXAMINATION**

4 Q. (BY MR. JONES) Deputy, have you compared  
5 this State's Exhibit 40 with your offense report?

6 A. Yes, I have.

7 Q. When did you do that? When did you  
8 compare?

9 A. When did I compare?

10 Q. Yes.

11 A. Just now, sir.

12 Q. You looked at your offense report and you  
13 looked at this to make sure these were the same just  
14 then?

15 A. They appear to be.

16 Q. Would you look at it and make sure they are  
17 the same?

18 *MS. BARNETT:* That's an enlargement of  
19 the offense report.

20 *THE COURT:* Let's move on.

21 *MR. JONES:* If it's an enlargement of  
22 his offense report, I have no objection.

23 *THE COURT:* Thank you. Forty is  
24 admitted. Move on.

25 *MR. JONES:* I'll pass on voir dire,

1 Judge.

2 *THE COURT:* Any other questions?

3 *MS. BARNETT:* No, Judge, I don't.

4 *THE COURT:* Thank you, you may step  
5 down.

6 *MR. JONES:* I have a question.

7 **CROSS-EXAMINATION**

8 BY MR. JONES:

9 Q. Did you ever take and return any of this  
10 property to Mr. Whitlow?

11 A. No, sir, I didn't.

12 Q. Did you ever determine if any of this  
13 property had been found?

14 A. No, sir, I didn't.

15 *MR. JONES:* May we approach?

16 **(At the Bench)**

17 *MR. JONES:* Is there a connection  
18 between?

19 *MS. BARNETT:* Yes. After he crosses,  
20 may we take a break? I've got a witness out there  
21 but I'm not sure who's out there.

22 *MR. JONES:* Don't let him go until  
23 somebody can show there's a relationship between --

24 *MS. BARNETT:* I can, yeah.

25 **(End of Bench Discussion)**

1                   MR. JONES: Your Honor, pass witness  
2 at this time subject to recall.

3                   THE COURT: Thank you. Any other  
4 questions?

5                   MS. BARNETT: Not at this time.

6                   THE COURT: Wait in the hallway,  
7 please.

8                   Call your next witness.

9                   MS. BARNETT: I need a second -- may  
10 we approach the bench?

11                  THE COURT: You may. Ladies and  
12 gentlemen, it's a good time to take our mid afternoon  
13 recess. Take 15 minutes. Keep in mind the  
14 instructions I have given you.

15                   **(Recess taken)**

16                   **WILLIAM WHITLOW,**  
17 having been first duly sworn, testified as follows:

18                   **DIRECT EXAMINATION**

19 BY MS. BARNETT:

20                  Q.     Would you please state your name for the  
21 record, sir?

22                  A.     William Eric Whitlow.

23                  Q.     Mr. Whitlow, I want to talk to you about a  
24 burglary that occurred at your home on September 28th  
25 of 2011. Let me ask you a question, do you remember