

EX PARTE	§	IN THE DISTRICT COURT
	§	TARRANT COUNTY, TEXAS
BARTON R. GAINES	§	213TH JUDICIAL DISTRICT

Applicant's Notice Of Deposition On Written Questions for **John C. Hubbard**

To: **John C. Hubbard**, 205 Brookview Dr, Decatur, Wise County, TX 76234-4223, (940)

389-5347, Emails: ghubbard205@yahoo.com gayle.hubbard@comcast.net

1. Please take notice that, under *Texas Rule of Civil Procedure* 200.1, Applicant, Barton R. Gaines, will take the deposition on written questions of **John C. Hubbard** on (date):
_____, at (time): _____, at 401 W. Belknap St., Ft. Worth, TEXAS
76196, in the aforementioned Judicial District Court.
2. The deposition will continue from day to day until completed.
3. The deposition will be taken by the 213th Judicial District Court's Court Reporter, Shelia Walker.

Respectfully submitted,

By: _____
BARTON R. GAINES, Pro Se
244 Siesta Court
Granbury, Texas 76048
Tel.: 682-500-7326
Email bartongaines@gmail.com

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The State of Texas Subpoena Deposition

To: Any sheriff or constable of the State of Texas or other person authorized to serve and execute subpoenas as provided in Texas Rule of Civil Procedure 176.5.

You are commanded to summon **John C. Hubbard**, who may be found at **205**

Brookview Dr, Decatur, Wise County, TX 76234-4223, (940) 389-5347, Emails:

ghubbard205@yahoo.com **gayle.hubbard@comcast.net**, or wherever found, to appear at 401 W. Belknap St., Ft. Worth, TEXAS 76196, in the aforementioned Judicial District Court, on (date): _____, at (time): _____.

To attend and give testimony at a deposition in this case on behalf of the Applicant, and to remain in attendance from day to day until lawfully discharged.

Duties of Person Served with Subpoena. You are advised that under Texas Rule of Civil Procedure 176, a person served with a subpoena has certain rights and obligations. Rule 176.6 provides the following:

(a) Compliance required. Except as provided in this subdivision, a person served with a subpoena must comply with the command stated therein unless discharged by the court or by the party summoning such witness. A person commanded to appear and give testimony must remain at the place of deposition, hearing, or trial from day to day until discharged by the court or by the party summoning the witness.

(b) Organizations. If a subpoena commanding testimony is directed to a corporation, partnership, association, governmental agency, or other organization, and the matters on which examination is requested are described with reasonable particularity, the organization must designate one or more persons to testify on its behalf as to matters known or reasonably available to the organization.

(c) Production of documents or tangible things. A person commanded to produce documents or tangible things need not appear in person at the time and place of production unless the person is also commanded to attend and give testimony, either in the same subpoena or a separate one. A person must produce documents as they are kept in the usual course of business or must organize and label them to correspond with the categories in the

demand. A person may withhold material or information claimed to be privileged but must comply with Rule 193.3. A nonparty's production of a document authenticates the document for use against the nonparty to the same extent as a party's production of a document is authenticated for use against the party under Rule 193.7.

(d) Objections. A person commanded to produce or permit inspection or copying of designated documents and things may serve on the party requesting issuance of the subpoena - before the time specified for compliance - written objections to producing any or all of the designated materials. A person need not comply with the part of a subpoena to which objection is made as provided in this paragraph unless ordered to do so by the court. The party requesting the subpoena may move for such an order at any time after an objection is made.

(e) Protective orders. A person commanded to appear at a deposition, hearing, or trial, or to produce and permit inspection and copying of designated documents and things, and any other person affected by the subpoena, may move for a protective order under Rule 192.6(b) - before the time specified for compliance - either in the court in which the action is pending or in a district court in the county where the subpoena was served. The person must serve the motion on all parties in accordance with Rule 21 a. A person need not comply with the part of a subpoena from which protection is sought under this paragraph unless ordered to do so by the court. The party requesting the subpoena may seek such an order at any time after the motion for protection is filed.

(f) Trial subpoenas. A person commanded to attend and give testimony, or to produce documents or things, at a hearing or trial, may object or move for protective order before the court at the time and place specified for compliance, rather than under paragraphs (d) and (e).

Contempt. Failure by any person without adequate excuse to obey a subpoena served on the person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement or both. Tex. R. Civ. P. 176.8(a).

DO NOT FAIL to return this writ to [identify court in which case is pending] with either the attached officer's return showing the manner of execution or the witness's signed memorandum showing that the witness accepted the subpoena.

' This subpoena was issued at the request of Applicant Barton R. Gaines, whose attorney of record is Barton R. Gaines, 244 Siesta Court, Granbury, Texas, 76048, Tel: 682-500-2753. You may contact Barton R. Gaines's attorney to arrange another time and date.

ISSUED on _____, 2021.

By: _____
Deputy District Clerk
_____, District Clerk
Tarrant Co., Tex.
401 W. Belknap
Ft. Worth, Texas. 76196

Return of Service of Subpoena

I, _____, delivered a copy of this subpoena to **John C. Hubbard** in person at _____, in _____, County, Texas, on _____, 2021, at _____ o'clock __.m., and tendered to the witness a fee of \$ _____ in cash.

I, _____, was unable to deliver a copy of this subpoena to [name of witness] for the following reasons: _____

By Deputy: _____

Sheriff/Constable _____

Tarrant County, Texas

Acceptance of service of subpoena by Witness under Texas Rule of Civil Procedure 176

I accept service of this subpoena.

Witness

Date

FEE FOR SERVICE OF SUBPOENA: \$ _____

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Deposition on Written Questions for John C. Hubbard

(1. Hubbard called Stephen; a bullet?)

On 11/25/02 Tarrant County District Attorney Investigator John Courtney Hubbard contacted Stephen A. Ancira, and arranged for him, Hubbard, and Tarrant County District Attorney Investigator Juan Deleon, Stephen, Jheen Marie Ancira, Richard L. Weaver, or Rick, Gregory a Peterson, or Greg, and Joel Chandler to meet them, Hubbard and Deleon, at the Cotton Patch restaurant the following day 11-26-02 at 5 p.m. When talking to Stephen on the phone, if known, did Stephen tell Hubbard that he had a piece of metal, or bullet fragment, from the bullet that hit Rick and, if yes, did Hubbard ask him, Stephen to bring it, the bullet fragment, to the restaurant the following day?

(2. Show pictures & tell facts; influence?)

While at the Cotton Patch restaurant or the Erath County Sheriff's Office where Hubbard and/or Deleon wrote they relocated next, if known, did Hubbard or Deleon show them pictures of their suspect's, Barton R. Gaines's, or Bart's, truck and rifle and tell them where they found it, the rifle, that is, in the toolbox where they said they seem the suspect digging before being fired upon, and where Bart's girlfriend Tiffani lived, that is, a few short miles away from where Rick was shot? In other words, did they try to convince them that there was a real chance their suspect, Bart, was the one who shot at them and Rick?

(3. Mugshot suggestive)

Deleon and Hubbard then wrote that everybody then relocated to the Erath County Sheriff's Office for the purpose of using their interrogation room to show them a six-man photo lineup to see if they could individually and separately identify their suspect, Bart. If known, who built the photo spread, or whose idea was it to use Bart's 3-7-02 mugshot of him after he spent two weeks at the luxurious, hole-in-the-wall Detention Facility in Mansfield, otherwise known as the Mansfield Detention Center? That is, nobody thought the picture was rather suggestive or that Bart's picture was rather dissimilar from the other pictures, or was that the idea? To use a picture of Bart that stuck out; it sure did match Jheen's prior description of the suspect looking to have been "drunk or something."

(4. Jheen prior description; influence?)

If known, did anybody remind Jheen of her prior description of the suspect looking to have been drunk before, during, or after this identification procedure, or otherwise try to influence the procedure or single out Bart's photo? What about Stephen? Did anybody try to draw his attention away from photo 6 to photo 3?

(5. Confirm dreams identification?)

After Jheen's tenuous response or identification, if known, did anybody inform her she identified their suspect, Bart?

(6. tamper info against inconsistencies)

If known, did anybody tell Jheen or the others that Bart was about six inches taller and 25 lb. heavier than what Stephen described the suspect to be and who, Stephen, stood face-to-face with the suspect?

(7. Activities outside the interrogation room?)

If known, was anybody monitoring or watching the witnesses outside the interrogation room? In other words, if known, was Jheen able to pass off information to Stephen that she identified their suspect, Bart, and that he was in position six, that is, before he, Stephen, was able to take his turn trying to identify Bart?

(8. Frustrated w/Stephen?)

If known, who was marking the time and initialing the witnesses', Greg's, Jheen's, and Stephen's, photo spread, and why didn't you mark the time Stephen identified his suspect? In other words, it appears that whoever was marking it gave up in frustration when Stephen failed to identify your suspect, Bart, despite your attempts to the contrary. Was Stephen dead set on the man in position six?

(9. Bullet fragment?)

At the restaurant where you wrote Stephen just simply handed you the piece of metal or bullet fragment. Did you ask him, Stephen, if known, or did he, Stephen, tell you:

1. how he (Stephen) found it, or how he came upon it,
2. when he found it,
3. what he used to dig it out or extract it from its embedment,
4. who all else he showed, or who all else got to see, touch, and handle it,
5. how he or they handled it, in other words, did they handle it with gloves, tweezers, and care, and if so, why,
6. how he stored it or kept it from getting lost or scratched; and
7. why didn't he think to call the cops when he found it, in other words, why he was just now telling the authorities about it?

(10. any other notes/summaries?)

If known, besides the 11-26-02 notes/summary, were there any other notes, documents, or summaries drawn up as a result of the meeting with Stephen, Jheen, Rick, Greg, and Joel and if yes, when and who drew them up and where are they at now, and if no, why not?

(11. Convey/brief the ADAs on the inv.?)

If known, were Tarrant County District Attorney's, Hartman and Foran, informed or told about the results of questions 9, 7, 6, 5, 4, 3, 2, and 1?

(12. Conveyed/briefed the FWPDCL on bullets history?)

Robert L Atkins, who worked for the Fort Worth Police Department crime lab, wrote that Deleon took the piece of metal, or bullet fragment, to the Fort Worth Police Department crime lab on 12-3-02 at 10 a.m. If known, did Deleon tell Atkins about the approximate year-long gap in the chain of command of the bullet fragment, or that nobody could say, at least in law enforcement, for sure the origins of the piece of metal? In other words, that information in question 9; did anybody tell Atkins any of the information gathered from questions 9?

(13. Brief FWPDCL on consistencies; influence?)

If known, did you inform Atkins or anybody else associated with the Fort Worth Police Department crime lab that Jheen identified Bart, or tell them that Bart drove a similar vehicle to that described by Jheen, and others, and that they found the rifle in the same place where Jheen, and others, saw the suspect digging before they were fired upon, or that Bart's girlfriend Tiffani lived a few short miles away from where the shooting occurred?

(14. Temper info against inconsistencies; FWPDCL?)

If known, did you inform Atkins or anybody else associated with the Fort Worth Police Department crime lab that Bart was about six inches taller and 25 pounds heavier than Stephen described whom he, Stephen, stood face-to-face with? In other words, did you try to temper the supporting evidence with the contradictory evidence? In other words, did you or anybody, if known, try to influence the Fort Worth Police Department crime lab results?

(15. Question Stephens "helping" story?)

On 2/23/02 @ 325 hrs. reporting officer Goin was notified of a shooting that occurred on U.S. 377 West and the victim would be at Meyer Quick Stop Grocery in Tolar. ¶ The witnesses to this incident were then interviewed and written statements were obtained. They all stated they went to JJ's hideaway in Fort Worth to attend a birthday party for a friend and were returning to Stephenville. Near the electric substation at U.S. 377 they observed a pickup sitting on the shoulder facing the opposite direction. As they approached the truck flashed his headlights and thinking he needed to stop, they turned around to tell if they could assist. The driver of the truck said he had engine trouble and asked if they had any tools. Stephen Ancira told the driver he didn't have any tools and began to leave. He said the driver opened the tailgate of the pickup and got in the bed of the truck and started opening the toolbox as they were leaving. At about that time Stephen heard what appeared to be a gunshot then discovered Richard Weaver, seated in the rear seat, had been shot. They called 911 and were instructed to go to Meyers Quick Stop and await the ambulance. If Stephen was telling the truth, did you ask or wonder why if Stephen pulled over to help, why he just simply got in his car to go? In other words, why didn't he offer the to-be suspect and his dark-haired mistress either a ride or their phone to call somebody for help or a ride?

(16. Goin's CSI work conveyed to the FWPDCL?)

"An examination of the victim's vehicle revealed a single gunshot entering the trunk area," according to Goin, "separating, and two holes penetrating the back seat." But Goin noted no evidence of remnants of the bullet remaining. Was this information related back to the Fort Worth Police Department crime lab and the Tarrant County District Attorney's office, and if not, why not?

(17. Rick's double puncture wounds/1-shrapnel; FWPDC?)

Goin then wrote that he "Then went to Harris Hospital in Fort Worth and interviewed the victim[.]" and noted "two wounds in the lower left abdomen area but only one piece of shrapnel was located." If known, was this information ever passed along to the Fort Worth Police Department crime lab or Hartmann and Foran and, if not, why not? In other words, how could Stephen have found the other piece of the bullet stuck in the backseat if it had obviously penetrated the backseat and struck Rick? In other words, it appears that although it, the bullet, broke the skin, it, the other piece of the bullet, didn't penetrate, enter, the skin, and fell away, quite possibly, and forgotten about and lost during the ensuing first aid administered to Rick in route to the hospital.

(18. Another photo lineup; Goin?)

Fort Worth Police Department detective Charla Beth Smith and Hood County Sheriff Office Goin noted that she contacted Goin regarding Rick's visit to her Hospital, where he, Rick, was treated for the gunshot wound, then she sent Goin copies of her photo spreads with Bart in position three, plus pictures of Bart's truck and rifle, along with his girlfriend's, Tiffani's, contact information. If known, did Goin conduct any follow-up investigation with Stephen, Jheen, and Greg to identify Bart? If he did, if known, what were the results and, if not, if known, why not?

(19. Follow up investigation on Stephen's car?)

What about Stephen's car? Did anybody, beside Stephen, ever conduct a follow-up inspection and search for the mysteriously elusive other piece of shrapnel and, if yes, what were the results and, if not, why not?

(20. Follow up investigation on Carey and Stanley?)

Goin noted he found "An expired license plate MHP22L registered to Carrie Davis who [wa]s in Hood County jail" when he was looking for evidence and bullet casings. And that he interviewed her "On 2/25/02 and she stated that she'd given this vehicle to Stanley Thomas over a year ago because it was inoperable." He further noted that "the phone number for Thomas was 910-1159 and that it had been disconnected and contact had not been made" with Thomas. Stephen noted in his original statement to the authorities that there was a "Dark hair[ed]" girl in the "truck." When was Davis admitted into the jail? In other words, did it give her an alibi? And did anybody ever do, to anybody's knowledge, a follow-up investigation on Thomas? In other words, did he have an alibi? How tall was he, five foot six inches tall? How much did he weigh, a hundred and fifty pounds? And if yes, what were the results and, if not, why not? And did he know anything about the hard hat Goin noted he found at "MKR #340"? In other words, did it fall out of the back of his truck, along with the license plate to Davis's car?

(21. Goin tell Charla she closed the file; why?)

On 10-4-02 Goin wrote that he "Closed" the "Case file" on Rick "For lack of any new information & the girlfriend", Tiffani? "Of the suspect [w]as not ... Contacted because there wa[s] insufficient information to conduct an interview with her." And that Charla then contacted Hartmann, who was prosecuting Charla's case, who, Hartman, then asked Hubbard to contact Goin on 10-16-02 to obtain his, Goin's, case file, who, Hubbard, Goin wrote "Requested" it on "10/31/02" and whom Goin said he then "Faxed" it to him on 11-19-02. If known, did Goin tell Charla he closed the file and, if yes, why? And if no, if known, how did Charla find out Goin closed it? And what all was included in the case file Goin faxed Hubbard, if known?