

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

Applicant's Notice Of Deposition On Written Questions for **Charla B. Smith**

To: **Charla B. Smith**, 112 Prairie View St, Aledo, Parker County, TX 76008-4716, (817) 476-4200, POSSIBLE EMAILS alexhill.1951nicole@gmail.com she2214@att.net, RELATED LINKS <https://www.linkedin.com/in/charla-sheeran-6167011a>

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 **Charla B. Smith** 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 **Charla B. Smith**, who may be found at **112 Prairie View St, Aledo, Parker County, TX 76008-4716, (817) 476-4200, POSSIBLE EMAILS**

alexhill.1951nicole@gmail.com she2214@att.net, RELATED LINKS

<https://www.linkedin.com/in/charla-sheeran-6167011a>, 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 **Charla B. Smith** 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 **Charla B. Smith** 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 Charla Beth Smith

(1. Charla ask Jerri & Mindy where Bart was; find out)

After you left Mindy's, Keisel's, you wrote that her mom, Jerri, called you back that she, Jerri, found out Mindy lied to you that she, Mindy, didn't know that Mike and Andy were robbed and shot, and then they, Mindy and Jerri, were scared of your suspect, Barton R. Gaines, or Bart, if he found out that they, Jerri and Mindy, were talking to you, or talking to the police, because he had already threatened to kill them once and go to Mexico if they talked, snitched, and that they had already seen him once outside their house. Did you ask Jerri and Mindy if they knew where Bart was and, if so, did they tell you that they would find out and let you know?

(2. Bart's parents find out?)

A little while later did Jerri and Mindy call you back that Bart's parents found out about Bart and would be calling you to let you know where Bart was?

(3. Called 911; Bush dispatched?)

Was a 911 dispatcher ever contacted where Bart was and, if so, was the person who contacted the dispatcher Brett Tucker and, if so, was the officer dispatched to the same Raymond O. Bush?

(4. Mindy and Jerri call back where Bart was?)

Did Jerri and Mindy also ever call you back that they found out where Bart was, and to see if you knew, etc.?

(5. Hide Bart out till 12 am?)

Did Sergeant Hanlon, of the criminal Response Team, whom you wrote you briefed on Bart's warrant, which you noted you got signed by the Fort Worth Magistrate Judge at 10:25 p.m. on 2-23-02, warrant number 02-F-0365-SD, take, hide, Bart, out at, to your office, interrogation room, off West Bolt Street at 3128, until you were able to get back with a warrant, and / or did you keep him there until after midnight, detained or otherwise, when officer Joseph F. Shipp, Shipp, wrote the Criminal Response Team arrested him and Bush and took him to MLEC, jail, etc.?

(6. Bart requested to speak to you?)

You wrote that Hanlon took part to see you because he asked and really wanted to talk to you, but that when he, Bart, got there and you met with him and asked him, Bart, to sign the Miranda waiver and he hesitated that you, the epitome of ethics, terminated the interview, despite the fact, you wrote, that he just really wanted to talk to you. But you left the interview room anyway.

How was Bart able to request to speak with you when he had never seen or met you a day in his life? You suggest that he told Hanlon on the way to jail to stop off at 3128 West Bolt so that he could speak to you, like you were old friends or something?

(7. Bond?)

You also wrote that on their way to see you that Bart just up and volunteered to Hanlon that the \$100,000 bond that he had not yet been given, that he had no idea he would be given, would not be a problem because he had a \$50,000 trust fund,¹ and among his friends they knew, would be out in no time. And that you therefore went before the magistrate a second time and got another warrant with a \$350,000 bond, that is, so that he wouldn't be able to get out, kill your witnesses, and go to Mexico. How was Bart able to tell Hanlon before the fact that a \$100,000 bond would not be a problem for him when it hadn't even been yet given? Was Bart a fortune teller or Clairvoyant? Could he tell the future?

(8. The back and forth with Charla on Miranda?)

You wrote that after you exited the interrogation room after Bart refused to sign your Miranda waiver that he told you that he didn't do anything wrong, and you responded asking him if that was so then why he was trying to crawl out the back window of the house he was arrested at. And that he responded back swearing on his life that it was not him. You further wrote that this was in spite of the fact that Shipp positively identified Bart doing so. How did this supposed conversation between you unfold? That is, much like where you wrote that he said his parents would vouch for his whereabouts the Thursday before his arrest, were you in a room somewhere nearby the interrogation room doing the jail paperwork when Bart said he didn't do anything wrong? Was the door(s) open or closed? Did you holler back why he was seen crawling out the window by Shipp if he didn't do anything wrong, or did you walk back into the room and ask him? Bart says he told you to talk to his lawyer when you first tried to talk to him, and that he said nothing else. Is that true, or did you really have this long drawn-out conversation or screaming match that you said you had, and if so, how did it unfold?

(9. DMV; Charla?)

At approximately 2 a.m. on 2-24-02, you, badge number 2214, queried the Department of Motor Vehicles, DMV, database to see whose vehicle you, or officer Corey Allen Hysmith, confiscated, who it belonged to, some two hours, by your account, after you rested Bart, 5 by his. Did you not know whose vehicle you confiscated? Would you not find out whose vehicle you seized before going out and seizing it?

(10. Trouble for seizing bef. confirming; truck?)

At Bart's trial you testified that, since Bart's arrest, you had been demoted or moved from the general investigations division to exclusively investigating sexually based offenses against children. And that you were currently still a peace officer, like you may not be one in the future because, if nothing else, it was standard procedure for you to find out who the owner of a vehicle was before going and seizing it. Did you mean to suggest that you got in trouble for seizing or stealing Bart's truck, if nothing else, before finding out whose truck it was, or whom it belonged, and that you were still currently a peace officer because you didn't know whether you

¹ It was \$100,000, but who's counting.

were going to be able to continue being a peace officer in the future because you had gotten in trouble?

(11. Call Bart's parents; Charla?)

Bart's parents, one of who works for the city of Fort Worth, said that you called them around 4 in the morning to tell them that you had arrested him for a capital murder. Did you call them and, if you did, how did you get their number? Do you normally call the parents of the people you arrest, or were you calling them to see if they were the ones who put Brett up to calling 911 on Bart's cell phone? In other words, were you trying to figure out whether you needed to report or include information about the 911 call? In other words, whether they wanted Bart arrested or whether they were on his side?

(12. Why is the police reports chronology backwards?)

You and Shipp wrote Bart's arrest before writing about how you were able to develop him, Bart, as a suspect, or Mike's Identification or anything. Why? Did you arrest Bart before Mike identified Bart?

(13. Who got out of the hospital first; Mike or Andy?)

You wrote, or at least tried to give the impression that you were saying, that Andy got out of the hospital before Mike. Andy's injuries, however, were approximately 2.33 or 7/3rds times worse than Mike's, or Mike got hit with three Buckshots, while Andy got hit with seven. Did you only suggest Andy got out first to leave you a way out in case somebody checked the hospital records to see whether Mike was discharged from the hospital before Andy? In other words, if Mike got out before Andy, then Mike would have gotten out before you were able to go to Mindy's, the Crowley Police Department, and build a profile, or photo spread, for Mike to identify Bart. In other words, if Mike got out first, then you didn't verify what Jerri and Mindy said about Bart before arresting Bart, or you didn't have probable cause to arrest Bart.

(14. Why is Andy's statement more descriptive than Mike's?)

Why is Andy's deposition or statement so much more descriptive than Mike's? In other words, Andy describes the suspects by skin tone, race, height, weight, overbites, clothing, age, shape, accent, and hair color, whether they were clean shaven, while Mike only described the suspects with pronouns like he, him, they, them, there, the driver, the passenger, etc. In other words, it sounds like Andy got out after you went by Mindy's and the Crowley Police Department, and you were able to ask him a lot more pointed questions because you knew more before you did and it sounds like Mike got out before you did because you knew less than before you did and were therefore unable to **"ask"** him, Mike, as many more pointed questions about their, the suspects, accents and race, etc. In other words, did Andy get out before or after Mike, or did you talk to Andy before or after you went to Mindy's and the Crowley Police Department? What about Mike?

(15. Redo and notarized Mike statements; ID?)

Did you and Hanlon get back with Mike the day after you arrested Bart to add the last paragraph to his affidavit, deposition, or statement that he, Mike, positively identified Bart before you arrested him, Bart, that is, to substantiate your arrest warrant for Bart's arrest? In other words,

was Hanlon the only one you trusted enough to vouch for you or to notarize, fabricate, the day Mike identified Bart was before you arrested Bart?

(16. Where is Jason's photo spread?)

You said that you had Mike try to identify Bart's co-defendant, Jason Tucker, at the same time you had him, Mike, try to identify Bart, but that he, Mike, was unable to. What's more, the Fort Worth Police Department no longer has a copy of the photo spread results from when he, Mike, did, try to identify Jason. Did you ever even try to have Mike identify Jason? After all, if you and Hanlon were fabricating documents to substantiate your arrest warrant for Bart, Jason was unnecessary to substantiate your warrant. In other words, is that why Jason's photo spread results from when you wrote you had Mike try to identify him, doesn't exist, that is, because it never existed or was done in the first place?

(17. Redo and notarize Mindy's and Tarah's statements?)

Between 2-24-02 and 2-26-02 when you wrote narrative supplement number five, you wrote that you went to talk to the assistant district attorney, Foran, to see if there was anything else you needed to do, or if there was anything you had overlooked. Did Foran "ask" you to go back and "ask" Mindy and Tarah, two of your witnesses, whether they called Bart while Bart and Jason and their other co-defendant, Daniel Aranda, were at Walmart, and whether Bart told Mindy and Tarah that he, Bart, was there buying bullets in case Mike and Andy were strapped? Like in a helping-Bart-kind-of-way? It sure did help Foran prove their state of mind. And how-come Mindy's in Tarah's deposition statements weren't notarized with a seal? You couldn't find anybody else to help you fabricate their redone affidavits to this fact while at the same time overlooking the date, that is, you left the date the same, or was it just not a crucial point like the procedural matter when you arrested Bart and seized his truck?

(18. Did surveillance video show Bart on phone?)

Although Mindy and Tarah said they called Bart while he was at Walmart and that he, Bart, told them why he was there, that is, to get bullets, did the surveillance video show whether Bart received a call while at the Walmart store?

(19. Didn't know Mindy and Jerri were lying?)

You wrote that Mindy told you that:

1. Jerri didn't know Mindy knew Bart, Jason, and Daniel robbed and shot Mike and Andy.
2. After you first came by her, Mindy's, house to ask her, Mindy, who the guys were who she was with at the rice paddy, that Bart called her, Mindy, after you left.
3. Jerri answered the phone and told Bart that she, Mindy, couldn't talk.
4. She, Mindy, told Jerri that if she, Mindy, didn't let Mindy call Bart back that Bart was going to think that she, Mindy, was telling, snitching, on him, Bart, for robbing and shooting Mike and Andy. And,
5. When she called Bart back, he, Bart, asked her what she, Mindy, and Tarah, were going to do for the evening.

But didn't you write that Mindy told Jerri that she didn't know what happened after they left the rice paddy. If Mindy didn't know, then how could Bart think that Mindy was telling on him for something she didn't supposedly know anything about (robbing and shooting Mike and Andy)? Why would Jerri let Mindy call Bart back to keep Bart from thinking Mindy was telling on him if Bart didn't think she, Mindy, knew anything to tell on him about?

(20. Ever get # from Paul?)

You also wrote that Mindy told you that Mike used Bart cell phone to call his friend, Paul Griffin, and that Paul still had Bart's cell phone number on his caller ID. Did you ever go to Paul's to get the number and, if not, why not? And if you did, what was the number and how-come you didn't narrate that you did, and the number traced back to Bart? Or did the number trace back to Tarah's mom's (Tarah's mom, let her, Tarah borrow it) cell phone? If the number traced back to Bart's cell phone, it seems like a lot easier of a way to find Bart, opposed to just driving around house to house in Fort Worth looking for Bart, that is, calling him and telling him you wanted to talk to him. After all, according to you and Hanlon, he really wanted to talk to you.

(21. How & when find out; extraneous?)

How and when did you find out about the extraneous offense or shooting in, near, or around Granbury? In other words, did you check the hospitals in Fort Worth whether anybody was admitted on or around when Mindy was saying that Bart just up and for no reason at all conveniently confessed to her, among other things, that he committed another robbery / shooting? And when did you send the Hood County Sheriff's deputy, Goin, your undated letter encouraging him, to say the least, to investigate Bart for the extraneous in Granbury, in addition to whatever else he wanted, and do you normally "hope" a suspect is the perpetrator? It sounds sort of tunnel visioned or biased, don't you think?

(22. Rifle in toolbox?)

On 2-28-02 you wrote that you and the Fort Worth Police Department Crime Scene Investigator found a rifle in the toolbox on Bart's truck. Bart, however, last recalled it in the cab of the truck, not in the toolbox. The extraneous witnesses claimed the suspect was digging around in the toolbox before they turned around in the opposite direction and were fired upon. Did you or did you have somebody move, much like Jason's photo spread results, the rifle from the cab of Bart's truck to the toolbox in an effort to essentially try and frame him for the extraneous in Granbury? After all, you really did "hope" and believe that Bart should be locked up for the rest of his natural born life, didn't you? In other words, you just really believed in hope Mindy, Jerri, Tarah, Kodi, and Jason were telling the truth that much, that you were able to give it an extra push in that direction, so that he wouldn't ever be able to get out and hurt them, or disprove them, right?

(23. What happened to the shotgun shells)

What happened to the shotgun shells? It looks like they were run through a blender. Did you or did you have somebody with the Fort Worth Police Department grind up the shotgun shells so that he (Bart) and his lawyers couldn't hire an expert to test them and match them back to Jason so that they could disprove your theory that he (Bart) shot Mike and Andy?

(24. Bart's storage)

Did you and / or your subordinates (Hanlon, et al) break into Bart's storage to try and find the shotgun so that he and his lawyer could not hire an expert to dust the shotgun for fingerprints and match the shotgun back to Jason, Mindy, and Tarah (i.e., did you know Mindy and Tarah shot the shotgun at the rice paddy and why didn't you say so if you did?) so that they could disprove your theory that he (Bart) shot Mike and Andy? After all, beside you and your subordinates (like Hanlon who fished the keys out of his pocket after arresting him), the only other person to have a key to the lock on his storage was his parents, who a few days after Bart

was arrested, went to his storage and found, after unlocking it (at least y'all were nice enough to lock it back), it ransacked. That is, did you know the reason why you didn't find it there was because it had been stolen some 26-days before he was arrested on 1-26-02, i.e., did you know that Mindy, Jerri, and Jason were sending you on a wild goose chase to look for a shotgun that didn't exist?