

1 THE COURT: You may have a seat.

2 JAMES BINFORD,

3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. ALLEN:

6 Q. Good morning.

7 A. Good morning.

8 Q. Would you please state your name for the record
9 and the ladies and gentlemen of the jury?

10 A. My name is James Binford.

11 Q. Are you currently employed?

12 A. I am.

13 Q. How are you employed?

14 A. I am a licensed private investigator in the
15 State of Texas.

16 Q. How long have you been a PI?

17 A. Three or four years.

18 Q. What did you do before that?

19 A. I was a Houston police officer for 40 years.

20 Q. Were you ever assigned to the homicide
21 division?

22 A. For 33 years I was assigned to the homicide
23 division of the Houston Police Department.

24 Q. And as a private investigator, what do you do?

25 A. Well, we are client driven. We are hired by

1 clients to do various tasks, surveillances, armed
2 professional body guard, investigations, security
3 sweeps, security things, there's also some domestic
4 issues that come up. It's a wide range of things. We
5 do not have that criminal arrest power. We're outside
6 of the police. It's a different hat these days.

7 Q. And in certain areas are you able to
8 investigate things differently than the police do
9 because of the legalities involved in the private sector
10 versus the police?

11 A. Yes, the police department is latent with
12 policies and rules and so forth as well they should be.
13 And the private investigators sometimes have more leeway
14 when they're going to work and how they work and who
15 they talk to.

16 Q. And do you work for an investigative company,
17 or are you self-employed?

18 A. No, I work for Premier Protection. It's a
19 state licensed protection investigative concern. They
20 have federal contracts and a pretty wide ranging scope
21 of duties.

22 Q. In that regard as a licensed PI, were you
23 and/or the company hired by Jeff Stern in April of 2010?

24 A. I was, we were.

25 Q. And what was the purpose did you believe of

1 your, or what was your goal after having been hired by
2 Mr. Stern?

3 A. I was informed that his --

4 MR. DAVIS: I'd object to hearsay, Your
5 Honor.

6 THE COURT: Sustained. Just rephrase the
7 question.

8 Q. (BY MS. ALLEN) Okay. Without saying what he
9 said, did Mr. Stern tell you of things that had happened
10 at their home in Bellaire?

11 A. Yes, incidents that were occurring at the home
12 in Bellaire, Texas.

13 Q. Specifically, an April 15th shooting?

14 MR. DAVIS: I'd object to the leading as
15 well.

16 THE COURT: Don't lead your witness.

17 Q. (BY MS. ALLEN) What was your goal after you
18 were hired by Mr. Stern?

19 MR. DAVIS: I'd object this is back door
20 hearsay and denying the Defendant the right to confront
21 the person who is the maker of those statements or
22 setter of those goals.

23 THE COURT: Your objection is overruled.

24 A. To do a security check and to conduct further
25 investigations that may be needed as a security check

1 and the initial investigation continued.

2 Q. (BY MS. ALLEN) In that regard, did you
3 question the Stern family specifically Mr. Stern about
4 anybody he might have thought was a suspect?

5 A. Yes, I had a long conversation with Mr. Stern.

6 Q. As a result of that conversation, did you start
7 looking into a person by the name of Faustino Posada?

8 MR. DAVIS: Again, Your Honor, I'd object
9 this is backdoor hearsay, and the Defendant is being
10 denied the constitutional right to confront his accuser.

11 THE COURT: Your objection is overruled.

12 A. Yes, I started with the name of Tino, only the
13 name of Tino; and I developed and evolved into Tino's
14 real name, Faustino Posada.

15 Q. (BY MS. ALLEN) And did you become aware that
16 Ms. Stern had been shot on May 5th of 2010?

17 A. I did.

18 Q. When you learned of the shooting, approximately
19 how long after the shooting did you find out about it?

20 A. Moments, probably 15, 20 minutes at the most.

21 Q. How did you find out about it?

22 A. Mr. Stern called me on the telephone and told
23 me that his wife had been shot.

24 Q. When Mr. Stern told you that or after Mr. Stern
25 told you that, did you contact the investigators with

1 the Houston Police Department homicide division?

2 A. I later did. First of all, I called the
3 Bellaire Police Department; and I learned that it did
4 not occur in Bellaire. Officers had knowledge of that
5 case. And I was referred back, and I called the
6 homicide division and found out who was working the
7 case.

8 Q. And did you, in fact, tell Sergeant Cegielski
9 about your developing the identity of Faustino Posada?

10 A. Yes, I immediately shared that man's name, his
11 birthday and address that I developed on him, probably
12 two hours earlier.

13 Q. Prior to the May 5th shooting, were there
14 conversations between you and Jeff Stern and Yvonne
15 Stern regarding who might have committed the April 15th
16 shooting?

17 A. Yes, we had long conversations, mostly with Mr.
18 Stern and shortly with Mrs. Stern.

19 Q. And was there one name that kept coming up over
20 and over and over again?

21 A. Tino.

22 Q. So--

23 MS. ALLEN: I have no further questions,
24 Your Honor. I'll pass the witness.

25 THE COURT: All right, Mr. Davis.

1 MR. DAVIS: May I have one moment, Your
2 Honor?

3 THE COURT: You may.

4 **CROSS-EXAMINATION**

5 BY MR. DAVIS:

6 Q. Now, sir, the name Damian Flores never came up
7 in your investigation?

8 A. No, sir, never heard of him.

9 Q. So, you were hired prior to Ms. Stern being
10 shot?

11 A. I was.

12 Q. And so you were saying that you had
13 conversations in April with the Sterns?

14 A. Yes, sir, I did.

15 Q. And you were first hired in what month, sir?

16 A. In April.

17 Q. In April?

18 A. Right, April the 19th.

19 Q. So, around April 19th you get hired. And you
20 were saying during the course of your conversations with
21 the Sterns that the name Tino came up?

22 A. Numerous times, yes, sir.

23 Q. Numerous times?

24 A. Yes.

25 Q. And so was there a dispute with Tino?

1 A. Yes.

2 Q. And so the Sterns had belief that there was a
3 dispute with Tino?

4 A. The Sterns, yes, they were suspect of Tino.

5 Q. They were suspect of Tino because of some type
6 of contracting issue; is that what you learned?

7 A. Yes, Tino was a subcontractor of a contractor
8 who was doing repair and remodeling in the Stern home.
9 And the question was if the contractor had been paid,
10 but he had not paid the subcontractors of which Tino was
11 one of the subcontractors. And that it was felt that
12 Tino was mad and wanted his money and didn't understand
13 that there was a go-between that was causing him not to
14 get his money.

15 Q. So, all of this is before the May shooting?

16 A. Yes.

17 Q. And so do you have any idea why Tino would say
18 there wasn't any dispute?

19 MS. ALLEN: I object, that calls for
20 speculation.

21 THE COURT: You can answer if you know.

22 A. I think that Tino is a craftsman that thought
23 that he did a very good job, and all he wanted was his
24 money. There was no dispute. I just want to be paid is
25 the way I understand it.

1 Q. (BY MR. DAVIS) Is the way you understand it?

2 A. Yes, sir.

3 Q. So, you think Tino would say there was no
4 dispute because he just wanted to get paid?

5 A. I don't know Tino's personality to judge that.
6 The big overall picture to me was that he was a prideful
7 craftsman that wanted to be paid.

8 Q. You've been a police officer for a long time?

9 A. 40 years.

10 Q. And when you were an officer, you had an
11 opportunity to interview suspects?

12 A. I did.

13 Q. And oftentimes when a suspect is in a suspect
14 room, a suspect is nervous in a suspect room, right?

15 A. Oftentimes suspects and just witnesses are
16 nervous in the police presence and the investigation,
17 everybody is nervous.

18 Q. And when you're in a room with a suspect and
19 he's being accused of a crime, oftentimes a suspect will
20 defray attention away from himself?

21 MS. ALLEN: Object to relevance.

22 THE COURT: Sustained.

23 Q. (BY MR. DAVIS) Well, now, based on your
24 training and experience, we're asking a question as to
25 why Tino might say there wasn't a dispute. If there was

1 a dispute that definitely would defray attention to
2 Tino; would you agree?

3 MS. ALLEN: I object, it's speculative.

4 THE COURT: That objection is sustained.

5 Q. (BY MR. DAVIS) So based on your training and
6 experience, you're able to see if people are able to
7 limit their motives, it makes them less likely to be a
8 suspect?

9 MS. ALLEN: I object to relevance of what
10 happens in other investigations.

11 THE COURT: Overruled.

12 A. I am aware that people have tried to change the
13 topic, get away from the point that we're working on.

14 Q. (BY MR. DAVIS) Now, the Sterns were so
15 concerned about Tino that they went out and hired you as
16 a private investigator?

17 A. They did.

18 Q. And they told you about him, right?

19 A. They gave me the name, Tino.

20 Q. And you started looking into him and identified
21 him?

22 A. I started to search for Tino.

23 Q. And you were able to identify him?

24 A. Yes, I was able to identify him on May the 5th.

25 Q. And when the police called and said Mrs. Stern

1 had been shot, you provided information about his
2 identity?

3 A. The police did not call. Mr. Stern called and
4 I called the police.

5 Q. Yes, sir, I'm sorry. I was wrong. When you
6 got information about the shooting and you contacted the
7 police?

8 A. I did.

9 Q. And gave them the identifying information on
10 Tino?

11 A. Yes, I wanted to help the Sterns catch the
12 person that they thought shot her.

13 MR. DAVIS: One moment, Your Honor?

14 THE COURT: All right.

15 Q. (BY MR. DAVIS) Were you told, sir, that one of
16 Faustino Posada's co-workers threw a brick at Ms. Stern?

17 A. No, I had been told that a contractor had
18 pitched a hammer and it was unknown if it was a tomahawk
19 throw or if it was just a angry
20 throw-the-hammer-down-type thing. I did not hear about
21 anybody throwing a brick.

22 Q. So, it was a hammer, I'm sorry. So you heard
23 about one of the contractors throwing a hammer in the
24 direction of Mrs. Stern?

25 A. Flipping a hammer down, and it was viewed as

1 intimidation.

2 Q. And it was because they were upset about
3 payment issues?

4 A. I think the pay issue was building pretty
5 quick.

6 Q. Now, in regards to Michelle Gaiser, did Jeffrey
7 Stern ever tell you anything about a lady named Michelle
8 Gaiser?

9 A. No.

10 Q. Did he ever raise her as a potential suspect?

11 A. No.

12 Q. Did any of your investigation ever lead you in
13 that investigation?

14 A. To Michelle Gaiser? No, I heard about her when
15 the public heard about her.

16 MR. DAVIS: I don't have anything else,
17 Your Honor.

18 THE COURT: All right, Ms. Allen.

19 MS. ALLEN: Nothing further, Your Honor.
20 May this witness be excused?

21 THE COURT: Is there any objection?

22 MR. DAVIS: There's no objection.

23 THE COURT: Thank you, Sergeant Binford.
24 You may be excused.

25 WITNESS: Thank you, Your Honor.