

Trial on the Merits
July 31, 2015

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REPORTER'S RECORD
 VOLUME 5 OF 7 VOLUMES
 TRIAL COURT CAUSE NO. 1401543 FILED IN
 1st COURT OF APPEALS
 HOUSTON, TEXAS
 THE STATE OF TEXAS) IN THE DISTRICT COURT
) 11/17/2015 12:29:59 PM
 VS.) HARRIS COUNTY, TEXAS
) CHRISTOPHER S. PRINE
) Clerk
 MARIO PAREDES) 339TH JUDICIAL DISTRICT

TRIAL ON THE MERITS

On the 31st day of July, 2015, the following
 proceedings came on to be held in the above-titled and
 numbered cause before the Honorable Frank Price, Judge
 Presiding, held in Houston, Harris County, Texas.

Proceedings reported by computerized stenotype
 machine.

Pamela Kay Knobloch, CSR
 Official Court Reporter
 339th District Court
 Harris County, Texas

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1 (Jury brought in and seated)

2 *MS. COLLINS:* May I proceed, Your Honor?

3 *THE COURT:* You may proceed.

4 (This witness has an interpreter and a
5 lawyer present)

6 **NILSON ALVARADO,**

7 having been first duly sworn, testified as follows:

8 **DIRECT EXAMINATION**

9 *BY MS. COLLINS:*

10 Q. Can you please state your name for the Court?

11 A. Nilson Alvarado.

12 Q. How old are you?

13 A. Twenty-one.

14 Q. And what do you do for a living right now?

15 A. Construction.

16 Q. How long have you lived here in the Houston
17 area, Nilson?

18 A. Five years.

19 Q. Who do you live here with?

20 A. With my parents.

21 Q. Do you have siblings, as well?

22 A. Yes.

23 Q. How many siblings do you have?

24 A. I have three.

25 Q. Are you the oldest?

NILSON ALVARADO - July 31, 2015
Direct Examination by Ms. Collins

1 A. Yes.

2 Q. Your father -- what's your father's name?

3 A. Mario Hernandez.

4 Q. Nilson, you understand why we're here today,
5 right?

6 A. Yes.

7 Q. I want to talk to you about a few people I
8 believe you know, okay?

9 A. Okay.

10 Q. Can you see this?

11 A. Yes.

12 Q. I'm going to show you State's Exhibit No. 61.
13 Who do you know this person to be?

14 A. Yes.

15 Q. And who do you know him to be?

16 A. Osmin.

17 Q. And how do you know Osmin?

18 A. Because he's my stepfather's brother.

19 Q. Is that Mario?

20 A. Yes.

21 Q. How long have you known Osmin?

22 A. For a year.

23 Q. For a year from today or a year from when this
24 happened?

25 A. The day of the events.

NILSON ALVARADO - July 31, 2015
Direct Examination by Ms. Collins

1 Q. I'm going to show you State's Exhibit No. 62.
2 This man right here, do you know him, as well?

3 A. Yes.

4 Q. And what did you know him by? What did you
5 call him?

6 A. Pelos.

7 Q. Did you know his real name?

8 A. Mario.

9 Q. Did you know his last name, or did you just
10 know him by Mario?

11 A. Just by Mario.

12 Q. And how did you know Mario?

13 A. Through Osmin.

14 Q. How long had you known Mario when this happened
15 back in 2013?

16 A. Few days before.

17 Q. Few days?

18 A. Yes.

19 Q. Are we talking like a week, months, how long?

20 A. Week.

21 Q. What was the relationship, as far as you knew,
22 between Mario and Osmin?

23 A. I believe they were friends.

24 Q. Okay. Showing you State's Exhibit No. 60. Do
25 you know who this is?

NILSON ALVARADO - July 31, 2015
Direct Examination by Ms. Collins

1 A. Yes.

2 Q. And who is this?

3 A. Gerardo.

4 Q. How did you know Gerardo?

5 A. We were schoolmates.

6 Q. And where did you go to school at?

7 A. Hastings High School.

8 Q. Were y'all the same age?

9 A. I believe so.

10 Q. Okay. I'm showing you State's Exhibit No. 63.

11 Is this you down here?

12 A. Yes.

13 Q. Okay. Now, on the day that this all happened,
14 do you know if Gerardo had ever met Mario and Osmin
15 before?

16 A. No.

17 Q. On the day that this all happened, do you
18 remember going over to Osmin's apartment?

19 A. Yes.

20 Q. Showing you the video surveillance. Do you
21 recognize what we're looking at here?

22 A. Yes.

23 Q. And what is this?

24 A. The parking lot.

25 Q. The parking lot of where?

*NILSON ALVARADO - July 31, 2015
Direct Examination by Ms. Collins*

1 A. Of the apartments.

2 Q. And who lived at those apartments, if you know?

3 A. Osmin.

4 Q. Do you know if anyone else lived at those
5 apartments?

6 A. No.

7 Q. Okay. On the day that this happened, did you
8 go over to Osmin's apartment?

9 A. Yes.

10 Q. Okay. Well, when you got there -- well, how
11 did you get to his apartment? Did you drive?

12 A. Yes.

13 Q. And what kind of car did you have back then?

14 A. A Mitsubishi Eclipse.

15 Q. What color was that car?

16 A. White.

17 Q. Showing you the video up there. Is that the
18 car that you were driving back then?

19 A. Yes.

20 Q. We see you pulling up; is that right?

21 A. Yes.

22 Q. And there is some people standing by your car;
23 is that right?

24 A. Yes.

25 Q. Who all is standing there when you pull up?

NILSON ALVARADO - July 31, 2015
Direct Examination by Ms. Collins

1 A. Osmin, Mario, Gerardo.

2 Q. Other than Osmin, Mario and Gerardo, was
3 anybody else there that day?

4 A. No.

5 Q. When you pull up, do you recall what they're
6 talking about?

7 A. No.

8 Q. Okay. Now, you said that before that day,
9 Gerardo had never met Osmin and Mario? How was he there
10 that day?

11 A. Gerardo was not there yet.

12 Q. How did Gerardo get to the apartments that day?

13 A. I brought him.

14 Q. Okay. And why did you bring him over there?

15 A. Because we were drinking, and he was bored; so,
16 I brought him so he could be with me.

17 Q. Do you remember how long you stayed there in
18 the parking lot?

19 A. No.

20 Q. I'm going to fastforward a little bit. Is that
21 you we see parked over here next to where Mario and
22 Osmin and Gerardo are?

23 A. Yes.

24 Q. Do you recall what you were doing while you
25 were parked there?

NILSON ALVARADO - July 31, 2015
Direct Examination by Ms. Collins

1 A. No.

2 Q. Is that you driving off?

3 A. Yes.

4 Q. Did you know the car that was about to pull in?

5 A. No.

6 Q. Had you heard of someone named Bicho before?

7 A. No.

8 Q. Now, at the point that you pull off and that
9 car pulls in, are Osmin, Mario and Gerardo still there?

10 A. Yes.

11 Q. Okay. Now, I want to fastforward to later in
12 the day. At some point, did you pick these three
13 individuals, Osmin, Mario and Gerardo, up?

14 A. Yes.

15 Q. Okay. Now, at the time that you picked them
16 up -- well, let me ask you this: Who was the first
17 person that you picked up that day?

18 A. Osmin.

19 Q. Okay. Now, when you picked up Osmin, can you
20 tell us about how much time had passed between when you
21 left the apartment and when you picked Osmin up?

22 A. I don't recall the time.

23 Q. Do you remember if it was a little time or a
24 long time?

25 A. Short.

NILSON ALVARADO - July 31, 2015
Direct Examination by Ms. Collins

1 Q. Okay. Do you recall where you picked Osmin up
2 that day? And I'm showing you State's Exhibit No. 106.
3 Is this the area around Osmin's apartment?

4 A. Yes.

5 Q. Okay. Is this the same area where you picked
6 Osmin up?

7 A. Yes.

8 Q. Okay. Now, when you say that you picked Osmin
9 up first, do you know where Mario and Gerardo were?

10 A. No.

11 Q. Did you see them when you picked Osmin up?

12 A. No.

13 Q. How much time passed before you picked Osmin
14 and Gerardo up?

15 A. Minutes. I do not recall the time.

16 Q. Okay. Do you recall where you picked them up?

17 A. Synnot and Eldridge.

18 Q. Okay. And look on the map. Is this Synnot
19 right here --

20 A. Yes.

21 Q. -- labeled?

22 A. Yes.

23 Q. And is this Eldridge right here?

24 A. Synnot and Belfort.

25 Q. Okay. Looking again, is that the same area

NILSON ALVARADO - July 31, 2015
Direct Examination by Ms. Collins

1 right here next to Synnot?

2 A. Yes.

3 Q. Now, Nilson, when Osmin originally got in your
4 car, did he have anything with him?

5 A. No.

6 Q. Okay. When you picked up Gerardo and Mario,
7 were they together or separate?

8 A. Together.

9 Q. Okay. When they get into your car, where did
10 they get in? Were they in the front or the back?

11 A. Back.

12 Q. Now when they get into the back of the car,
13 could you see whether anyone, either Osmin, Mario or
14 Gerardo, had any weapons on them?

15 A. No, but in the back one of them felt --

16 Q. Did you see a weapon in the backseat?

17 A. Yes.

18 Q. Do you recall what type of weapon it was?

19 A. No.

20 Q. Who handled the weapon in the backseat?

21 A. I do not remember.

22 Q. Do you recall giving a statement in this case?

23 A. Yes.

24 Q. Do you remember talking to the police about who
25 you saw with a weapon that day?

NILSON ALVARADO - July 31, 2015
Direct Examination by Ms. Collins

1 A. It was Mario.

2 Q. Is that what you told the police?

3 A. Yes.

4 Q. Now, once all three individuals were in the
5 vehicle that day, where did you take them?

6 A. To the apartments.

7 Q. Okay. When you got to the apartments, did
8 everybody get out of the car or just some people?

9 A. Some of them.

10 Q. Okay. Who got out of the car?

11 A. Osmin and Mario.

12 Q. Okay. Where did Gerardo go?

13 A. To his house.

14 Q. And how did he get to his house?

15 A. I went to drop him.

16 Q. Now, you said that you saw Mario with a gun.
17 Did he take the gun with him, or did it stay in the car.

18 A. He kept it.

19 Q. We've been talking about Mario, Nilson. Do you
20 see him here in the court today?

21 A. Yes.

22 Q. Okay. And can you identify him using an
23 article of clothing he's wearing?

24 A. A blue shirt.

25 MS. COLLINS: May the record reflect the

1 witness has identified the defendant?

2 THE COURT: It will.

3 MS. COLLINS: Pass the witness, Your
4 Honor.

5 MR. MADRID: Cross-examination, Your
6 Honor?

7 THE COURT: All right.

8 CROSS-EXAMINATION

9 BY MR. MADRID:

10 Q. Good morning, Nilson.

11 A. Good morning.

12 Q. Now, when you see these pictures up here in
13 State's 61, this picture, you said this is Osmin, right?

14 A. Yes.

15 Q. Your stepfather. I think you referred to him
16 as your father; but your stepfather is Mario Hernandez,
17 right?

18 A. Yes.

19 Q. And that's his brother?

20 A. Yes.

21 Q. Kind of like a step-uncle?

22 A. Yes.

23 Q. And State's 60, this is your friends, right?

24 A. Yes.

25 Q. Y'all went to Hastings together?

*NILSON ALVARADO - July 31, 2015
Cross-Examination by Mr. Madrid*

1 A. Yes.

2 Q. Now, you've testified that you didn't go
3 down -- you know why you're here, right? This person
4 known as Bicho was killed, right?

5 A. Yes.

6 Q. And it's your testimony that you weren't there
7 on Tambourine Street?

8 A. What street?

9 Q. The street where he was killed, where Bicho was
10 killed.

11 A. No.

12 Q. And would it surprise you that your friend,
13 Gerardo, says you were there?

14 A. How is that?

15 Q. Would it surprise you that your friend,
16 Gerardo, says that you were there when the man was
17 killed?

18 A. Yes.

19 Q. Would it surprise you that Officer Sosa said
20 that you're covering for your uncle?

21 A. No, I am not covering.

22 Q. Well, maybe you're covering for yourself. You
23 understand you're a suspect, or you were in a capital
24 murder, right?

25 A. Suspicious, why? Because I gave a friend a

*NILSON ALVARADO - July 31, 2015
Cross-Examination by Mr. Madrid*

1 ride without knowing?

2 Q. Because you set up Bicho, and you were the
3 getaway driver.

4 A. How is that?

5 Q. Listen to me. You've lied -- let's just get
6 this straight. You've lied in this case before, haven't
7 you?

8 A. I have not lied.

9 Q. Okay. Did you give two statements?

10 A. I do not recall.

11 Q. Do you remember telling Officer Sosa that you
12 were with your girlfriend?

13 A. Yes.

14 Q. And then you changed your story, and you had a
15 second interview with him?

16 A. And what was the other one?

17 Q. Officer Sosa says you straightened it out, and
18 you didn't go to your girlfriend's house.

19 A. I have never said in any of my stories that I
20 was not with her.

21 Q. And it's very important that you tell the truth
22 here; because they can charge you, the State, with
23 aggravated perjury.

24 A. If I would be lying, I would not be here. I'm
25 telling the truth.

1 Q. Do you remember -- do you know Jesus Chulo?

2 A. Yes.

3 Q. Do you remember sending him -- communicating
4 with him through Facebook, telling him you were worried
5 because you were on the video?

6 A. No.

7 Q. And he would be able to tell us that, right?

8 A. He could tell you a lot of things; because I
9 remember that Officer Sosa and Officer Chavez told my
10 mother and my father that he was saying a lot of things,
11 also.

12 Q. Are we talking about Jesus?

13 A. No. I'm just telling you.

14 Q. But are you talking about Jesus when you say
15 he?

16 A. Yes.

17 Q. Okay. So, Jesus was telling a bunch of lies?

18 A. Yes. He was accusing me that I -- that I had
19 killed that person.

20 Q. So, somebody has actually accused you of being
21 the person that killed this person?

22 A. Only Jesus on that day that --

23 Q. Would it surprise you that Gerardo said he was
24 never around drugs or killings until he met you?

25 MS. COLLINS: Objection to a misstatement

1 of facts.

2 THE COURT: Sustained as to the form of
3 the question.

4 Q. (By Mr. Madrid) Do you remember when Gerardo
5 came -- when he started going to Hastings?

6 A. No.

7 Q. On that video that you just saw, it's your
8 testimony that -- if I heard you correctly -- that
9 Gerardo wasn't there yet? Is that what you said?

10 A. That was the first video, right?

11 Q. I don't know. How many videos have you seen?

12 A. I have seen a lot of videos when I enter the
13 first time.

14 Q. When you entered where?

15 A. To the apartments.

16 Q. Who showed you the videos?

17 A. When I was questioned the first time.

18 Q. So, the officers gave you a chance to see the
19 video to see if you were telling the truth or not,
20 right?

21 A. Yes.

22 Q. And it gave you an opportunity to get your
23 story straight, right?

24 A. Correct.

25 MS. COLLINS: Objection, argumentative.

1 THE COURT: Sustained as to the form of
2 the question.

3 Q. (By Mr. Madrid) Did you see the videos?

4 A. Yes.

5 Q. And you were able to describe the videos,
6 right?

7 A. Yes.

8 Q. And you were able to describe what your role
9 was or wasn't, right?

10 A. Yes.

11 Q. So, you were given the opportunity to get your
12 story straight when you saw the videos, right?

13 MS. COLLINS: Objection to argumentative.

14 THE COURT: Sustained.

15 MR. MADRID: May I approach, Your Honor?

16 THE COURT: Sustained.

17 MR. MADRID: I'm not -- during
18 cross-examination --

19 THE COURT: I understand. Go ahead. Ask
20 another question.

21 MR. MADRID: Okay.

22 Q. (By Mr. Madrid) So, how much of the video did
23 you see?

24 A. Just when I go in and out of the apartment.

25 Q. The video that you just saw, we're going to

NILSON ALVARADO - July 31, 2015
Cross-Examination by Mr. Madrid

1 look at it again. You had arrived there -- it was about
2 7:20, okay?

3 A. Yes.

4 Q. When was the time you had been there before?

5 A. The time that I was -- prior, I do not know.

6 Q. Well, I want to know, was it two or three
7 hours? Was it five minutes?

8 A. I do not recall.

9 Q. Well, what were you doing that day?

10 A. I was there with him just spending time.

11 Q. With who?

12 A. With Osmin, Gerardo and Mario.

13 Q. And where did you go?

14 A. I went to my girlfriend's house.

15 Q. How far does your girlfriend live from that
16 apartment?

17 A. About forty minutes.

18 Q. So, the earliest you could have been back at
19 that apartment would have been -- well, tell me this:
20 When you left your girlfriend's house -- how long were
21 you at your girlfriend's house?

22 A. Not much. Not even five minutes.

23 Q. What did you go there to do for five minutes?

24 A. I just went to drop her.

25 Q. So, was she at the apartment then?

*NILSON ALVARADO - July 31, 2015
Cross-Examination by Mr. Madrid*

1 A. No.

2 Q. Okay. I'm trying to figure out when you left
3 those apartments and that parking lot, where did you go
4 and where was your girlfriend?

5 A. My girlfriend was at my house.

6 Q. What was she doing there?

7 A. She was waiting on me.

8 Q. How did she get there?

9 A. Her mother went to drop her at the house.

10 Q. How far is your house from those apartments?

11 A. Not even two minutes.

12 Q. Why did you take her home?

13 A. Because it was the time that her mother had
14 allowed me to be with her.

15 Q. But you weren't with her, so I'm confused.

16 A. When I went to drop her, her and I were mad at
17 each other. When I was with my friends, we were mad.
18 And that's the reason I was with them.

19 Q. So, would it be your testimony when you left
20 the apartments -- not when we're seeing on the video --
21 but the time you left before that, you went, picked up
22 your girlfriend, and you took her home?

23 A. Yes.

24 Q. And I'm -- I'm going to ask you again, how long
25 does it take to get to your girlfriend's house?

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Cross-Examination by Mr. Madrid

1 A. Going and coming back, I believe it's forty
2 minutes.

3 Q. So, to get back to the -- to go to your house
4 and -- who was at your house?

5 A. My parents.

6 Q. Did you see them?

7 A. Yes.

8 Q. What did you do there at your house?

9 A. I ate.

10 Q. So, how long were you at your house?

11 A. About ten minutes.

12 Q. So, the drive going there, meeting your
13 parents, might have taken ten or fifteen minutes?

14 A. Yes.

15 Q. And to drive down and back, forty, forty-five
16 minutes?

17 A. Yes. I do not know exactly for sure the time.

18 Q. So, at least an hour, right?

19 A. Yes.

20 Q. So, you wouldn't be on the video twenty minutes
21 before or fifteen minutes before, would you, I mean, if
22 you're telling the truth? It's real simple; because
23 you're supposed to be telling the truth, right?

24 A. I am telling the truth, but you're confusing
25 me. You're saying other things, the parts -- I did not

1 have a wristwatch to see the time.

2 Q. Come on. It's real easy. You know how long it
3 takes to get to your girlfriend's house, don't you?

4 MS. COLLINS: Objection, argumentative and
5 asked and answered.

6 THE COURT: Sustained. Just --

7 THE INTERPRETER: Your Honor, excuse me.
8 We're switching. Thank you.

9 Q. (By Mr. Madrid) Give me just a second. That
10 was your car that we just saw there, right?

11 A. Yes.

12 Q. And I think you got there about sixteen after.
13 Does that sound about right?

14 A. Yes.

15 Q. So, we're looking at the video camera, same
16 area. You see the car there on the top of the video
17 where -- and I want you to look over here, okay? You
18 see these people out here right? Is that your car?

19 A. Yes.

20 Q. Okay. And the time is 19 -- it's about to be
21 19:01, so that would be 7:01. So, what were you doing
22 there fifteen minutes before if you were gone for an
23 hour? Was that when you were making the plans with your
24 uncle and Gerardo?

25 A. What plans? I didn't know anything.

*NILSON ALVARADO - July 31, 2015
Cross-Examination by Mr. Madrid*

1 Q. Let's just be real clear; because I don't want
2 to put words in your mouth, okay?

3 A. Okay.

4 Q. You left to your parents' house, right?

5 A. Yes.

6 Q. And you went and ate, right?

7 A. Yes.

8 Q. And you went to your girlfriend's house?

9 A. That was later, after I went back to the
10 apartments.

11 Q. After this now?

12 A. You're putting words in my mouth.

13 Q. I'm not putting words in your mouth. I asked
14 you, and I'm asking you again.

15 A. I don't remember how the things happened. It's
16 been a long time.

17 Q. The truth is, you're not telling the truth,
18 right?

19 A. Yes, I am telling it. If not, I wouldn't be
20 here.

21 Q. Well, you're here to testify; and you didn't
22 get charged with any crime, right?

23 A. I haven't committed any crime.

24 Q. Well, you were hoping you didn't get charged;
25 so you gave multiple statements that were lies, right?

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1 MS. COLLINS: Objection to argumentative.

2 THE COURT: I'll allow that question.

3 A. No.

4 Q. (By Mr. Madrid) Do you have a phone?

5 A. Yes.

6 Q. Does it have GPS?

7 A. I don't remember. I have another one.

8 Q. Do you ever use your GPS?

9 A. Now, when I need it for work, yes.

10 Q. Were you using it that night?

11 A. No.

12 Q. Okay. So, how did you know how to get --

13 A. I don't remember.

14 Q. Sorry. How did you know how to get to

15 Tambourine or Synnot or any of these streets?

16 A. You're talking to me about when I went to pick
17 up Osmin?

18 Q. Yes.

19 A. He told me how to get there.

20 Q. How did he know? Was he on foot?

21 A. When I picked him up, yes.

22 Q. Do you know where Panhandle is?

23 A. No.

24 Q. How did you get there?

25 A. Where I picked up -- from where I picked up

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1 Osmin, our home is close by.

2 Q. How about where the burning car was?

3 A. There wasn't a burning car.

4 Q. So you never saw a burning car, either?

5 A. No.

6 Q. Where did you pick up Gerardo and Mario
7 Paredes?

8 A. By Belfort and Synnot.

9 Q. So, Gerardo would be lying if he said that you
10 went to pick them up where the car was burning?

11 A. Yes.

12 Q. Where did you -- and I'm confused here, because
13 you gave a statement. And one time you said Gerardo
14 wasn't there, and another time -- and then later you
15 said you dropped Gerardo after everything happened. And
16 another time you said that you dropped Mario Paredes off
17 at his apartment. So my question is, which one is it?

18 A. Mario Paredes and Osmin, I left them at their
19 apartment and Gerardo at his apartment.

20 Q. And did I hear you say that the gun was left
21 with Mario Paredes?

22 A. I believe so.

23 Q. You didn't see Gerardo with a gun?

24 A. No.

25 Q. Did Gerardo ever have the gun?

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1 A. No.

2 Q. So, you didn't give Mario a ride home, Mario
3 Paredes?

4 *MS. COLLINS:* Objection, asked and
5 answered.

6 *THE WITNESS:* No.

7 *THE COURT:* I'll allow it. Okay.

8 Q. *(By Mr. Madrid)* Do you remember giving a
9 statement? You may not remember the date; but it was
10 September the 12th, 2013.

11 A. No.

12 Q. And you told the officer that you gave Mario a
13 ride home?

14 A. I don't remember.

15 Q. Did you ever call Mario, or did they refer to
16 him as Pelos?

17 A. Yes.

18 Q. Would it help to refresh your memory if you
19 either heard your statement or saw a translation of it?

20 A. Yes.

21 Q. Okay. I'm going to show you your statement.

22 I'm going to have you read this portion to yourself.

23 This is Investigator Chavez, and this is you. And you

24 can read it in English or Spanish. Read this page, and

25 read -- read these two pages to yourself. Okay. Have

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1 you read it?

2 A. Yes.

3 Q. And isn't it true that you told Officer Chavez
4 that you took Mario Paredes, after you dropped your
5 step-uncle off to his -- to Mario Paredes' apartment
6 over off 59 and Bellaire?

7 A. When Chavez asked me that --

8 MR. MADRID: Objection to nonresponsive.
9 It's just whether you told him that or you didn't.

10 THE COURT: I haven't heard his answer.

11 MR. MADRID: Well --

12 Q. (By Mr. Madrid) Okay. Continue.

13 THE COURT: Let him answer, see what he
14 says.

15 A. When Officer Chavez asked me that, I then told
16 him that I was confused because I was nervous and I was
17 telling him lies.

18 Q. (By Mr. Madrid) Okay. So, now you're
19 admitting that you did lie, right?

20 A. That was the first time that I was questioned.

21 Q. So, when I asked you earlier if you gave
22 multiple statements, you did give multiple statements?

23 A. Yes.

24 Q. And you were trying to hide the truth?

25 A. In the first statement, I didn't know what to

1 say.

2 Q. Okay. You were lying?

3 A. I wasn't lying. I was nervous.

4 Q. Maybe I misheard you. And I don't want to put
5 words in your mouth; but you did say that you didn't
6 tell the truth because you were nervous, right?

7 A. That was the first time.

8 Q. Look, the truth is all you're here to do is
9 lie, right?

10 MS. COLLINS: Objection, argumentative,
11 Your Honor.

12 THE COURT: Sustained.

13 Q. (By Mr. Madrid) And all you're here to do is
14 cover yourself so you and your uncle don't get found
15 guilty of this, right?

16 MS. COLLINS: Objection, argumentative,
17 Your Honor?

18 THE COURT: I'll let him answer that.

19 A. I'm not covering my uncle or covering myself.
20 First of all, I don't have anything to do in this.
21 Secondly, I'm here to tell the truth, and I'm not hiding
22 anything. I'm telling the truth.

23 Q. (By Mr. Madrid) So, it's just a coincidence
24 that your car was there twenty minutes before, right?
25 And it's also a coincidence that when Bicho showed up,

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1 you were there. And when they came back --

2 MR. MADRID: Objection, compound question
3 at this point, Your Honor.

4 THE COURT: I'm sorry?

5 MS. COLLINS: Compound question.

6 THE COURT: No. He's just starting a new
7 question.

8 MR. MADRID: It's all kind of one
9 question, Your Honor. I'll break it down.

10 Q. (By Mr. Madrid) That's a coincidence, right?

11 A. You have me all confused now.

12 Q. And it's a coincidence that you picked up your
13 uncle after Bicho was shot?

14 A. I picked him up when he called me to go and
15 pick him up.

16 Q. And it's a coincidence that you picked up
17 Gerardo after he burned the car?

18 A. I didn't know that they were burning it, what
19 he was doing.

20 Q. And it's a coincidence you then show up on the
21 apartment; and on these videos you're back there again
22 when it's all done, right?

23 A. I went to drop them off because they asked me
24 for a ride.

25 Q. And it's the truth that you're not here to tell

1 the truth. You're just here to lie for yourself and
2 your uncle, right?

3 MS. COLLINS: Asked and answered and still
4 argumentative.

5 THE COURT: Sustained.

6 MR. MADRID: Pass the witness, Your Honor.

7 THE COURT: Do you have any questions?

8 MS. COLLINS: I do, Judge. I'll be brief,
9 though.

10 THE COURT: Uh-oh.

11 MS. COLLINS: I know I've said it before.

12 **REDIRECT EXAMINATION**

13 BY MS. COLLINS:

14 Q. Nilson, however much time it was, was there a
15 point when you left Osmin's house and left Gerardo with
16 Osmin and Mario?

17 A. What was that?

18 Q. Was there a point that day where you left
19 Gerardo with Osmin and Mario at Osmin's apartment?

20 A. Yes.

21 Q. And when you did that, fair to say you don't
22 know what happened while you were gone?

23 A. No.

24 Q. Now when you first gave the statement to the
25 police, the very first time, at that point did you know

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1 someone had been killed?

2 A. No.

3 Q. Had you discussed what had happened with
4 Gerardo, Osmin or Mario?

5 A. No.

6 Q. When you picked -- was there a point when
7 Gerardo talked to you about Mario?

8 A. Yes.

9 Q. Let me ask you this: When you picked Mario and
10 Gerardo up, what did Gerardo look like? Excuse me.
11 What did Mario look like?

12 A. Gerardo looked scared.

13 Q. And how did Mario look?

14 A. Normal.

15 Q. Did he seem upset?

16 A. No.

17 Q. I'm going to turn your attention back up to the
18 video. Is that you pulling in?

19 A. Yes.

20 Q. And who is in the car with you at that point?

21 A. Mario, Gerardo and Osmin.

22 Q. Is that you parking?

23 A. Yes.

24 Q. And when we see you sitting there, do you sit
25 there for a few moments?

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1 A. Yes, waiting for them to get out.

2 Q. And how many people get out of your car?

3 A. Two.

4 Q. Why only two?

5 A. Because I had to take Gerardo to his house.

6 MS. COLLINS: Pass the witness, Your

7 Honor.

8 MR. MADRID: No further questions, Your

9 Honor.

10 THE COURT: You may step aside.

11 MS. COLLINS: Your Honor, at this time the
12 State would call Jesus Chulo to the stand.

13 (Witness sworn)

14 MS. COLLINS: May I proceed, Your Honor?

15 **JESUS CHULO,**

16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 BY MS. COLLINS:

19 Q. Can you please state your name?

20 A. Jesus Chulo.

21 Q. Jesus, how old are you?

22 A. Now I'm twenty-two.

23 Q. Twenty-two?

24 A. Yeah.

25 Q. And are you working right now?

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1 A. Yes, I am working.

2 Q. Obviously, you know why you're here today,
3 right?

4 A. Yeah.

5 Q. I'm going to point out a few people and ask if
6 you know them, okay?

7 A. Okay.

8 Q. Looking here at State's Exhibit No. 61, who is
9 this?

10 A. My stepfather.

11 Q. Okay. And what do you call him? What does he
12 go by?

13 A. Osmin Hernandez.

14 Q. How long have you known Osmin?

15 A. Around since 2009.

16 Q. Would you say that you're close with Osmin?

17 A. Not a lot. I hardly did not visit him.

18 Q. Okay. Fair to say the two of you don't really
19 get along all that well?

20 A. Not very well.

21 Q. Looking at State's Exhibit No. 62, do you know
22 who this is?

23 A. Yes.

24 Q. And how did you know him?

25 A. I know him through my stepfather.

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1 Q. And how -- what kind of relationship did Osmin
2 have with this man here in 62?

3 A. They were just friends, and they know each
4 other because they're from the same gang.

5 Q. Okay. When you say the same gang, which gang
6 is that?

7 A. MS-13.

8 Q. MS-13, is that a group from El Salvador?

9 A. Yes.

10 Q. And are Mario and Osmin from El Salvador?

11 A. Yes.

12 Q. Now, do you know this guy here in State's
13 Exhibit No. 60?

14 A. Him, I do not know him. I only seen him that
15 day.

16 Q. Okay.

17 A. That was the first time that I seen him.

18 Q. Okay. Fair to say you didn't know him very
19 well?

20 A. No, I did not know him very well. He came with
21 the young man that is in the picture at the bottom.
22 They were friends.

23 Q. And the man you pointed to in State's Exhibit
24 No. 63, did you know his name?

25 A. Yes.

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1 Q. And what's his name?

2 A. Nilson Alvarado.

3 Q. Okay. Now, back in 2013, when all this
4 happened, do you know whether or not -- and what did you
5 say you called this guy here?

6 A. Mario.

7 Q. Did you know him by any nicknames?

8 A. Yes.

9 Q. What did you know his nickname to be?

10 A. Pelos.

11 Q. What does Pelos mean, if you know?

12 A. Pelos is his nickname. I just don't know why
13 they called him that.

14 Q. Okay. Fair enough. Back in 2013, do you know
15 if Mario was working anywhere?

16 A. Yes. He was working with a contractor.

17 Q. Okay. And do you know where he was living at
18 that time?

19 A. At that time, for sometime he lived at my
20 mother's apartment. But before that, he lived with a
21 friend that he had, female friend.

22 Q. Do you know how long he lived with your mother?

23 A. For about maybe two months.

24 Q. And just to be clear, was Osmin living with
25 your mother at that time?

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1 jail.

2 THE COURT: Been to jail?

3 MR. MADRID: Yes, and I'm concerned.

4 THE COURT: He never said that.

5 MR. MADRID: No. In his statement he gave
6 to the police. And I just wanted to ask the State if
7 they could tell him not to bring that up because --

8 THE COURT: They're not going to bring
9 that up.

10 MR. MADRID: Well, he's going to bring it
11 up.

12 THE COURT: Not if they ask the question
13 properly.

14 MR. MADRID: Okay. Well, I'll object at
15 the time.

16 THE COURT: All I can do is listen to the
17 question. I hope that they wouldn't do it.

18 MR. MADRID: Okay.

19 *(Continuing in jury's hearing)*

20 Q. *(By Ms. Collins)* Okay. Jesus, I'm going to
21 show you a video. Is this the apartment where Osmin and
22 your mother lived?

23 A. Yes.

24 Q. On the day that we're here about, did you visit
25 your mom or Osmin at their house?

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1 A. Yes, I went. It was on a Saturday, and I
2 arrived there early. Since I don't work on Saturdays, I
3 went to their house; and I found them there in the
4 apartment.

5 Q. And who was in the apartment at that time?

6 A. It was Osmin, Mario. They were drinking
7 outside near the tree. And when I arrived, we were
8 there talking.

9 Q. Do you remember what they were talking about?

10 A. Yes. They were talking about that my mother
11 and my stepfather had had an argument.

12 MR. MADRID: Objection to hearsay, Your
13 Honor.

14 THE COURT: Sustained.

15 Q. (By Ms. Collins) Was there anybody with Mario
16 and Osmin?

17 A. Not when I arrived. They were only there by
18 themselves.

19 Q. Okay. How long did you stay at the apartment
20 at that time?

21 A. I was there all day. I left the apartments
22 about 5:00 in the afternoon.

23 Q. Okay. Do you remember where you went?

24 A. Yes. I went to my cousin's, and then I went to
25 pick her up at work, and then we left to her apartment.

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1 Q. About what time did you leave your cousin's
2 apartment?

3 A. I went and dropped her at my aunt's, because my
4 aunt was going to leave to go back to El Salvador. So,
5 my cousin was going to send some things with her; so, we
6 left my cousin's apartment to my aunt's house.

7 Q. Let me ask you this: At some point did you
8 receive a call from your stepfather, Osmin?

9 A. Yes.

10 Q. Do you recall about what time you received that
11 phone call?

12 A. Yes. That was about around 8:20 or 30. He
13 wanted me to go pick up my mother at Sears. And I said,
14 that's fine. I said, just give me time to go drop my
15 cousin at my aunt's house and I'll be there to pick up
16 my mother.

17 Q. Okay. Is that what happened?

18 A. Yes, what happened. So I arrived. When I
19 arrived, he was not outside.

20 MR. MADRID: Your Honor, objection to
21 narrative.

22 Q. (By Ms. Collins) And let me ask you this: You
23 said you were going to pick up your mom from Sears?

24 A. Yes.

25 Q. Did you go straight to Sears, or did you go to

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1 the apartments where Osmin lived?

2 A. First I went to Osmin's apartment.

3 Q. And why did you go there first?

4 A. Because he asked me to go there and pick him up
5 so we could go pick up my mother at Sears.

6 Q. Did you pick Osmin up?

7 A. Yes, Osmin.

8 Q. And is it at these same apartments where you
9 picked him up?

10 A. It's there.

11 Q. Is what we're seeing on the video --

12 A. Okay.

13 Q. -- is that where you picked him up?

14 A. Yes. I did not find him right in front. I
15 went around, because I was thinking that they were going
16 to be at Pelos' apartment.

17 Q. Why did you think they were going to be at
18 Pelos' apartment?

19 A. Because at 6:00 o'clock, when I left, that's
20 where they were at. They stayed there.

21 Q. What time did you get back to the apartments to
22 pick up Osmin?

23 A. It was around 8:00, 8:30, 8:40.

24 Q. When you got there, was he, in fact, with
25 Mario?

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1 A. Yes.

2 Q. And where did you find them when you got there?

3 A. Around right there, the road that guides you to
4 the mailboxes.

5 Q. And if you touch that screen with your finger
6 right next to you, can you show us where you found him?

7 A. Inside, like this. There is a sidewalk where
8 you go through.

9 Q. Can you point to the screen where that sidewalk
10 is and touch the screen?

11 A. It's this one right here.

12 Q. When you picked them up, were Osmin and Mario
13 speaking?

14 A. Yes.

15 Q. Were they happy with each other or unhappy with
16 each other?

17 A. They were arguing.

18 Q. Do you recall -- well, who seemed to be mad at
19 who?

20 A. Mario was mad at my stepfather.

21 Q. Do you recall why he was mad at your
22 stepfather?

23 MR. MADRID: Objection to hearsay if he's
24 going to say why.

25 MS. COLLINS: Statement against interest

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1 and statement by a party opponent. It's Mario Paredes,
2 this defendant.

3 THE COURT: That's overruled.

4 MR. MADRID: Your Honor, may we approach?

5 THE COURT: Sure. Come on up.

6 (At the bench)

7 MR. MADRID: Your Honor, if -- I think
8 what he's going to say, he's going to say he's mad.

9 THE COURT: You think what?

10 MR. MADRID: What I think this witness is
11 going to say is that my client was mad because when he
12 got arrested before in some prior incident.

13 THE COURT: I don't have any idea.

14 MR. MADRID: That's what -- what's in his
15 statement, and that's what he's going to say and --

16 THE COURT: Ask him.

17 MS. COLLINS: I'll re-ask the question and
18 make sure we don't get into any dangerous territory.

19 THE COURT: All right.

20 (Continuing in jury's hearing)

21 Q. (By Ms. Collins) Jesus, when you picked Osmin
22 up, was it just Osmin that went with you to Sears?

23 A. No. Mario also went.

24 Q. Did Mario continue to stay with you throughout
25 the evening?

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1 A. No. I just went to pick up my mother with
2 Mario, Osmin. And my mother was with my sister and my
3 brother, so I went to pick him up at Sears. And we went
4 back again to the apartments, and my brother -- my
5 brother, Osmin and Mario got off, off the car. My
6 mother, my sister and I went to my aunt's house to drop
7 the things that she had purchased at Sears to send them
8 to El Salvador.

9 Q. What time did you leave the apartments that
10 night after dropping your mom off?

11 A. I took my mother to my aunt's house. That was
12 around 8:49, around there.

13 Q. Okay. When you left the apartments, was Mario
14 still with Osmin?

15 A. Yes.

16 Q. Jesus, have you ever seen any of those three
17 men, either Osmin, Mario or Gerardo, with a weapon?

18 A. Sometime back, but not on that day.

19 Q. And who had you seen with a weapon?

20 A. Mario.

21 Q. Are you familiar with guns?

22 A. No.

23 Q. Do you know what type of weapon you saw Mario
24 with?

25 A. Sometime back, the time that he was caught and

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1 deported, he had a nine.

2 Q. And when you say a nine, are we talking about a
3 9-millimeter?

4 A. Yes, 9-millimeter.

5 Q. Is that the only weapon you had ever seen Mario
6 with?

7 A. No. After that he had a forty or a .45,
8 something like that.

9 Q. All semiautomatic guns?

10 A. I do not know if they were.

11 MS. COLLINS: Pass the witness, Your
12 Honor.

13 MR. MADRID: Cross-examines, Your Honor?

14 **CROSS-EXAMINATION**

15 BY MR. MADRID:

16 Q. Good morning, Jesus.

17 A. Good morning.

18 Q. Did -- I want to -- well, I didn't know if I
19 got a clear understanding. Were you friends with Mario
20 Paredes?

21 A. Friend, friend? We know each other, but we
22 have always gotten along well. Not very, very well like
23 blood, but we do get along.

24 Q. Now, your mom would be considered blood, right?

25 A. My mother, yes.

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1 Q. And your mom is married to Osmin, right?

2 A. Not married, but living together.

3 Q. Okay. They live together as husband and wife?

4 A. They used to live.

5 Q. But you didn't know -- you didn't have a
6 separate relationship with Mario Paredes, did you, from
7 Osmin, did you?

8 A. No. I did not get along real, real well with
9 them; but I did talk to them.

10 Q. No. But my question is, did you have some
11 outside relationship away from your family with Mario
12 Paredes?

13 A. No.

14 Q. So, your interactions with him were only
15 through Osmin?

16 A. Yes.

17 Q. And --

18 A. I met Mario through Osmin.

19 Q. And that's where -- what I'm trying -- you
20 testified that you didn't have a good relationship with
21 Osmin, and you hardly ever saw him.

22 A. Yes.

23 Q. But the truth -- and I'm trying to figure out
24 what the truth is here. You then later testified that
25 you've seen Mario multiple times or more than once with

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1 different guns?

2 A. Yes. Not multiple times, but about twice
3 maybe.

4 Q. And in your statement you said that you were
5 drinking with them there in the parking lot till about
6 5:00 o'clock?

7 A. No. That day I was not drinking. They were
8 drinking.

9 Q. You were hanging with them there?

10 A. Yes, I was there with them for a while.

11 Q. How long?

12 A. From the morning till 5:00 in the afternoon.

13 Q. And that's why I'm confused; because you said
14 y'all didn't get along, but you hung out with him all
15 day long?

16 A. Yes. We were there just teasing. And then in
17 the afternoon, they became -- they started arguing about
18 5:00, and I left.

19 Q. Okay.

20 MR. MADRID: Objection to narrative, Your
21 Honor. I think he answered the question.

22 THE COURT: Ask another question.

23 Q. (By Mr. Madrid) Do you know Nilson?

24 A. Yes, I do know him.

25 Q. Do you get along with him?

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1 A. No.

2 Q. Were you lying, making lies about him saying he
3 killed Bicho?

4 A. How is that?

5 Q. Did you lie to people, and were you spreading
6 rumors that Nilson killed the complaining witness in
7 this case?

8 A. No, no. The thing, that's not the way it went.

9 Q. Would it surprise you that he's telling people
10 that?

11 *MS. COLLINS:* Objection, misstatement of
12 the facts.

13 *THE COURT:* Sustained.

14 Q. *(By Mr. Madrid)* Did he reach out to you,
15 speaking of Nilson, and tell you that he was worried
16 because he was on the video?

17 A. I never spoke with him about that. That last
18 time I talked to him, I asked him, I said, why did you
19 say that I have something to do with that?

20 Q. So, he accused you?

21 A. He said things about me.

22 *MS. COLLINS:* Objection to hearsay, Your
23 Honor.

24 *THE COURT:* Do what?

25 *MS. COLLINS:* Hearsay.

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1 THE COURT: We've done a lot of it
2 throughout the whole trial. Why should we object now?
3 Overruled.

4 Q. (By Mr. Madrid) So he accused you, right?

5 A. Yes. I was told that he was saying that I had
6 something to do --

7 Q. Did you?

8 A. Me, myself, no. I didn't have anything to do
9 in this.

10 Q. On this, if you can see the screen there, the
11 monitor, you put a mark there in the corner on the
12 sidewalk?

13 A. Yeah.

14 Q. Now, where did you park when you showed up?

15 A. Not sure whether it was on this side or around
16 here, but it was in that area.

17 Q. What time?

18 A. In front of the apartments.

19 Q. What time did you show up?

20 A. When I arrived, it was in the morning.

21 Q. I'm sorry. When you went later to pick up
22 Flaco to go to Sears.

23 A. When that happened, I went like this, all the
24 way to the back; because I did not see him where he said
25 he was going to be, so I went to the back.

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1 Q. Did you enter that entrance there?

2 A. I entered through here.

3 Q. And what time was it that you went to pick up
4 Flaco to go to Sears?

5 A. Well, he called me to go pick him up. Then I
6 looked for him, did not find him. And it was about
7 8:00, 8:20, 8:30, something like that.

8 Q. Now, you gave a statement to this within weeks
9 of this shooting happening?

10 A. Yes. The police went to where I was working
11 at.

12 Q. So, I understand you can't be exact in times,
13 because I wouldn't remember two weeks ago. But in that
14 statement you said that you got there, like you're
15 telling us now, about 8:20, right?

16 A. Something like that.

17 Q. Do you think that's pretty accurate?

18 A. Adequate to what (sic).

19 Q. When you showed up to pick up Flaco to go to
20 Sears.

21 A. It was about that time.

22 Q. How long did it take to go to Sears?

23 A. Maybe about ten minutes, back and forth.

24 Q. Yeah, because Sears is just right there. What
25 is it, 59 and is it Bellaire?

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1 A. 59 and Bissonnet.

2 Q. 59 and Bissonnet, so it's very close to this
3 apartment complex?

4 A. Yes, just a few lights.

5 Q. And so, if you get there about 8:20, you would
6 have been back about 8:30?

7 A. Around there, because I only went to pick up my
8 mother.

9 Q. When you came back, did you -- well, hold on.
10 I don't think I got one thing clear. When you picked up
11 Flaco -- when you said you went past that area --

12 A. That I passed what?

13 Q. I'm going to start over because I confused
14 myself, so I bet I confused you. I'll forget about that
15 question. When you returned to drop off your mother,
16 did you enter the same entrance?

17 A. Yes.

18 Q. And where did you park to drop her off?

19 A. Here on the side of the tree. They did not
20 stay; because I was taking them, to my aunt's. Here, my
21 brother, Mario and Osmin were the ones that got off.

22 Q. And that was -- that would have been about
23 8:30, right?

24 A. Uh-huh.

25 Q. And so, this whole time would have been, if

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1 we're off by time, say from 8:00 o'clock to 9:00
2 o'clock?

3 A. Okay, yes.

4 Q. I mean, if you were exact in your times, it
5 would be 8:20 to 8:30, right?

6 A. Uh-huh, yes.

7 Q. And then you later left, right? I'm sorry.
8 You took your mother to drop off these gifts that you
9 bought to send to El Salvador, right?

10 A. Yes. We went to -- we went to my aunt's and I
11 was with them till -- we went, and we were there with my
12 aunt. We were there at my aunt's till about midnight.

13 Q. And you came back to your mother's house,
14 right?

15 A. We returned so I could drop my mother and my
16 sister.

17 Q. And then you ate; and then you went home,
18 right?

19 A. I ate with my cousin, and then we went to my
20 cousin's house.

21 Q. And each of those times, you entered and exited
22 through that same area?

23 A. Yes. Sometimes I would enter through here,
24 exit through there, enter through the other side, exit
25 this side.

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1 Q. But the other side you really can't enter. You
2 have to wait till somebody gets out, right?

3 A. No. That's open. Before it was locked, but
4 it's not.

5 Q. Well, I'm talking about this time, about 2013,
6 in August.

7 A. Back then, yes, sometimes it was open,
8 sometimes it was locked.

9 Q. So, I'm not going to make you or the jury sit
10 here through an hour of that video; but you would agree
11 with me that if you entered or exited through those --
12 that gate at that time, your car would be there, right?

13 A. Yes, yes, you could see it.

14 Q. It was a Nissan Ultima, right?

15 A. Yes, Nissan.

16 Q. It's green, right?

17 A. Yes.

18 Q. And you would see people get on and get off of
19 it, right?

20 A. Yes.

21 Q. Because I've looked at all that video, and I
22 don't see your car.

23 *MS. COLLINS:* Objection to counsel
24 attempting to testify.

25 *THE COURT:* Sustained.

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1 Q. *(By Mr. Madrid)* Let's watch the video. We're
2 going to sit here for an hour.

3 *THE COURT:* We're not going to that at
4 all.

5 *MR. MADRID:* I don't want to testify, and
6 that's why I'm asking the question like that.

7 *THE COURT:* You didn't ask the question.

8 Q. *(By Mr. Madrid)* Would it help you to view the
9 video to see if we see your car?

10 A. If it's necessary.

11 *MR. MADRID:* Your Honor, I'm trying to
12 save the Court time. I don't know how to accomplish
13 that without watching the video.

14 *THE COURT:* We're not going to sit here
15 and watch it. I don't even know what relevance any of
16 this has anyway. You're getting so far afield with what
17 this case is all about.

18 *MR. MADRID:* Can I answer that?

19 *THE COURT:* No. I just made a statement.
20 That's all.

21 *MS. COLLINS:* Judge, this is in evidence.
22 It will go back with the jury.

23 *THE COURT:* I'm sorry, what?

24 *MS. COLLINS:* The video, all of the
25 videos, are in evidence. And the jury will have them

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1 for deliberations. They can look for themselves and
2 see.

3 THE COURT: All right.

4 MR. MADRID: I'll proceed, Your Honor.

5 Q. (By Mr. Madrid) So, Jesus, you would agree
6 with me that the jury can watch this video, right?

7 A. Yes.

8 Q. And they can look during that hour from 8:00
9 o'clock to 9:00 o'clock, right?

10 A. Yes.

11 Q. To see if you were there?

12 A. Okay.

13 Q. And to see if Mario Paredes was there?

14 A. Okay. They can see it when I went.

15 Q. And unless you got the wrong date -- you could
16 have got the wrong date, right?

17 A. It was a Saturday. That was a Saturday, that
18 day.

19 Q. Could you have mistaken your Saturdays?

20 A. No. That date was my wife's birthday.

21 Q. So, the video will -- it will answer all the
22 questions, right?

23 A. Yeah, yes.

24 Q. And if you were there when you said you were
25 there, we're going to see a green Nissan Ultima, right?

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1 A. Yes.

2 Q. Two-door or four-door?

3 A. Four.

4 Q. Dark or light green?

5 A. Somewhat light.

6 Q. So, it's not going to be a dark green?

7 A. No, it's not a dark green.

8 Q. And isn't it a little bit banged up?

9 A. Yes. I think that by that time they had
10 already hit it, and it had some damage to it.

11 Q. So, they're going to be looking for a damaged,
12 light green, four-door Nissan Ultima, right?

13 A. It had some damage on the driver's side. Both
14 doors were damaged.

15 Q. And that will tell us whether Mario was
16 actually there or not, right?

17 A. Okay.

18 MR. MADRID: Pass the witness.

19 MS. COLLINS: Nothing further, Your Honor.

20 THE COURT: You may step aside.

21 MS. HARTMAN: Call Dr. Hines.

22 (Witness sworn)

23

24

25

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1 **MERRILL HINES, III,**
2 having been first duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 BY MS. HARTMAN:

5 Q. Sir, can you please introduce yourself to the
6 jury?

7 A. My name is Merrill Odom Hines, III.

8 Q. How are you employed, Dr. Hines?

9 A. I'm an Assistant Medical Examiner at the Harris
10 County Institute of Forensic Sciences.

11 Q. Are you licensed to practice medicine in the
12 State of Texas?

13 A. Yes, I am.

14 Q. And is that license on file in Harris County,
15 Texas?

16 A. Yes.

17 Q. How long have you been with the Harris County
18 Institute of Forensic Sciences?

19 A. Nearly nine years.

20 Q. Can you tell the jury your educational
21 background and previous training that qualifies you to
22 do -- to be employed in the field of medical pathology,
23 please?

24 A. I hold a medical degree from Louisiana State
25 University in New Orleans, Louisiana. I am board

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1 certified in anatomic and clinical pathology following a
2 five-year residency at the University of California in
3 San Francisco. And I'm board certified in forensic
4 pathology following a one-year fellowship in forensic
5 pathology at the Office of the Medical Investigator in
6 Albuquerque, New Mexico.

7 Q. What is forensic pathology?

8 A. Forensic pathology is a subspecialty of
9 medicine that specifically deals with the determination
10 of cause and manner of death, usually through the
11 performance of autopsies.

12 Q. And do you perform the autopsies?

13 A. Yes.

14 Q. And can you tell the jury what an autopsy is?

15 A. An autopsy is a postmortem examination of an
16 individual that consists of an external examination and
17 an internal examination, generally performed for the
18 purposes of determining the cause and manner of death.

19 Q. And in your career, approximately how many
20 autopsies have you performed?

21 A. I've performed somewhere between 2,500
22 autopsies.

23 Q. And have you testified as an expert in Harris
24 County before?

25 A. Yes, I have.

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1 Q. On few or many occasions?

2 A. Many times.

3 Q. Are you familiar with an autopsy, a report
4 ML132860 on the body of Jhon Gilces-Gilces?

5 A. Yes.

6 Q. And did you perform that autopsy?

7 A. No.

8 Q. Who performed that autopsy?

9 A. The autopsy was performed by Dr. Morna
10 Gonsoulin.

11 Q. Is Dr. Gonsoulin still with the Harris County
12 Institute of Forensic Sciences?

13 A. Yes, she is.

14 Q. Is she available to testify here today?

15 A. No, she's not.

16 Q. Did you have a chance to review her autopsy
17 report?

18 A. Yes.

19 Q. Review any of the photographs or evidence that
20 she collected?

21 A. I reviewed photographs, yes.

22 Q. Going to show you what's been marked as State's
23 Exhibit No. 74. Is that Dr. Gonsoulin's report?

24 A. Yes. It's a copy of her autopsy report.

25 Q. Okay. And it's the same report that you had a

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1 chance to review prior to coming in to testify?

2 A. Yes.

3 Q. Okay. I'm going to show you State's Exhibits
4 75, 76, 77, 78, 79, 80, 81, 82, 83, 84. Can you take a
5 review of those?

6 A. Here you go.

7 Q. Thank you. State's Exhibits 101, 85 and 102,
8 State's Exhibits 86, 87 and 88, State's Exhibits 89 and
9 90, State's Exhibits Nos. 92 and 93, State's Exhibits
10 103, 91, and State's Exhibits 94, 95 and 96. Now, Dr.
11 Hines, is part of making the report also to document the
12 autopsy photographs taken?

13 A. Yes.

14 Q. And the exhibits that we've just discussed, are
15 those the photographs that Dr. Gonsoulin took in Autopsy
16 No. ML132860?

17 A. They are copies of photographs that were taken
18 at Dr. Gonsoulin's direction during the course of the
19 autopsy.

20 Q. And does this report -- does that include Dr.
21 Gonsoulin's findings and conclusions of the -- from the
22 autopsy?

23 A. Yes.

24 Q. Are these photographs part of the record,
25 including the report?

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1 A. Yes.

2 Q. And additionally, when you do the autopsy, you
3 said you do an internal investigation?

4 A. Yes.

5 Q. And if there is any foreign objects found
6 within the body, do y'all retrieve those foreign
7 objects?

8 A. In some cases, yes.

9 Q. Going to show you State's Exhibit No. 97. Do
10 you recognize that?

11 A. No.

12 Q. What about State's Exhibit 107?

13 A. No.

14 Q. Its contents that were -- and do you recognize
15 these --

16 A. I recognize the envelopes from the autopsy.

17 Q. -- that were contained in State's Exhibit
18 No. 107? Now, looking at State's Exhibit 108, do you
19 recognize that?

20 A. It --

21 Q. Or does it have any markings on it that are
22 consistent with Dr. Gonsoulin's -- when she performed an
23 autopsy, if she has found any objects inside of the body
24 of Jhon Gilce?

25 A. So, this is a bullet that is similar, if not

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1 identical, to a bullet pictured in one of the autopsy
2 photographs. And this packaging resembles packaging of
3 processed evidence that was originally submitted from
4 the Harris County Institute of Forensic Sciences.

5 Q. Does it have any particular markings or
6 identification numbers?

7 A. I do not see the medical legal identification
8 number on this particular package.

9 Q. And looking back at State's Exhibit 107 and its
10 contents, does that have the medical legal number and
11 Dr. Gonsoulin's initials and where the projectile came
12 from?

13 A. Yes.

14 Q. Now, when a body comes into the Harris County
15 Institute of Forensic Sciences, what's the first thing
16 that happens?

17 A. The body is photographed and placed in the
18 storage refrigerated room.

19 Q. And is it assigned a unique medical number?

20 A. Yes. Generally, the body is actually labeled
21 with that number before it actually gets to the office,
22 particularly if the body is retrieved from the scene of
23 death.

24 Q. And so, the unique medical number of Jhon
25 Gilces is 132860. Does that appear on all of the

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1 pictures that Dr. Gonsoulin would have taken?

2 A. Yes.

3 Q. And that is for any doctor who's doing an
4 autopsy, includes all of the identification to make sure
5 that unique number goes to the pictures that go with the
6 autopsy report?

7 A. Yes.

8 Q. And additionally, if any evidence is collected,
9 that unique medical number will be shown on any
10 envelopes or such that the objects are put into; is that
11 correct?

12 A. Yes.

13 Q. Looking at State's Exhibits Nos. 15, 16, 17 and
14 18, these are envelopes that come from the Harris County
15 Institute of Forensic Sciences?

16 A. Yes.

17 Q. And does it contain that unique medical legal
18 number for Doctor -- excuse me -- for Jhon Gilces?

19 A. Yes.

20 Q. And it has Dr. Gonsoulin's signature or
21 initials?

22 A. Yes.

23 Q. And the date the autopsy was performed?

24 A. Yes.

25 Q. And does it also give a brief description of

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1 what was contained in these envelopes?

2 A. Yes.

3 Q. In the envelopes -- what do y'all usually do
4 with the objects once y'all collect them and seal them
5 inside the envelopes and mark them?

6 A. Once the evidence is sealed, it is placed in a
7 secured evidence room and logged into that room with the
8 date, the time and the person who logged it in.

9 Q. Okay. And was all of the reports and the
10 photos and the evidence collected, was that all done at
11 the time of the autopsy when it was conducted?

12 A. The photos were taken at the time of autopsy.
13 The report was generated over a period of time following
14 the performance of the autopsy.

15 Q. Are you considered a custodian of records for
16 the Harris County Institute of Forensic Sciences?

17 A. Yes, I am.

18 Q. And so -- but the report was made near the time
19 that the autopsy was performed?

20 A. Yes.

21 MS. HARTMAN: Your Honor, at this time I'd
22 like to offer the autopsy report, 74, tender to counsel.

23 THE COURT: Stop right there. Any
24 objections?

25 MR. MADRID: No objection to 74, Your

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1 Honor.

2 THE COURT: Admitted.

3 MS. HARTMAN: Photos 75, 76, 77, 78, 79,
4 80, 81, 82, 83, 84.

5 MR. MADRID: No objection to those, Your
6 Honor.

7 THE COURT: They're admitted.

8 MS. HARTMAN: 101, 85 and 102.

9 MR. MADRID: Object to 101 and 85 as
10 cumulative, Your Honor.

11 THE COURT: Which ones?

12 MR. MADRID: 101 and 85.

13 THE COURT: Just those two?

14 MR. MADRID: Yes, sir.

15 THE COURT: As what?

16 MR. MADRID: Cumulative.

17 THE COURT: Are there some other ones that
18 are already in evidence?

19 MR. MADRID: This is 75. This is in
20 evidence. I'm sorry. I was objecting to 101 and 85 as
21 cumulative.

22 (Off-the-record discussion)

23 MR. MADRID: State's 101 and 85. And I
24 didn't object to 102, Your Honor.

25 THE COURT: It's admitted.

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1 MS. HARTMAN: State's Exhibits Nos. 86, 87
2 and 88.

3 MR. MADRID: I object to them as
4 cumulative. If the State wants to pick one -- would you
5 like us to approach?

6 THE COURT: Sure. Are you objecting to
7 all of these?

8 MR. MADRID: I don't have any issue with
9 one of them; but there is three of what I see as being
10 the same thing, just from a distance or closer.

11 MS. HARTMAN: It's closer, and one gives a
12 perspective.

13 THE COURT: I will -- take your pick of
14 those two. You get one, and it will be sustained as to
15 this. So, take your pick of those, and I'll give you
16 whatever one you want.

17 MS. HARTMAN: 87, Judge, is fine.

18 THE COURT: That will be admitted.

19 MS. HARTMAN: 90.

20 MR. MADRID: No objection, Your Honor.

21 THE COURT: Admitted.

22 MS. HARTMAN: 92 and 93.

23 MR. MADRID: No objection.

24 THE COURT: Admitted.

25 MS. HARTMAN: 91.

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1 MR. MADRID: No objection.

2 THE COURT: Admitted.

3 MS. HARTMAN: 94, 95 and 96.

4 MR. MADRID: No objection.

5 THE COURT: Admitted.

6 MS. HARTMAN: And just for the record,
7 that's 116, 117 and 118.

8 And I believe that 108, 109, 110, 111,
9 112, 113 are already in evidence; but we'll offer them
10 just in case.

11 MR. MADRID: No objection to any of them.

12 THE COURT: Admitted.

13 Q. (By Ms. Hartman) So, Dr. Hines, the first
14 thing you do is you said you do an external examination?

15 A. Yes.

16 Q. How do you do that?

17 A. The body is removed from the body bag and
18 viewed by the pathologist at that time. A series of
19 photographs are taken, standard series of photographs
20 referred to as first round photographs, basically
21 depicting the entirety of the body, both front and back,
22 as they are received in the office. So if they're
23 clothed, if they have any items with them, whatever is
24 on their person at that time is included in the
25 photographs.

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1 Following that first round of photographs
2 and observations, including any notes that may be taken
3 by the pathologist, the body is cleaned and disrobed;
4 and a second series of photographs and observations are
5 taken.

6 Q. And with any photograph that you take, will it
7 have that unique medical number that belongs to Jhon
8 Gilces within that photograph?

9 A. In almost all instances. In some cases, very
10 close-up photographs may not feature the number.

11 Q. I would like to show you State's Exhibit
12 No. 75. When -- can you tell us what type of injuries
13 are at the top of State's Exhibit No. 75, above --
14 inside the hair above the gunshot wound?

15 A. Yes. Those are two lacerations.

16 Q. Could they come from a fall?

17 A. The lacerations would possibly result from
18 multiple falls, but not a single fall.

19 Q. And could it come from somebody being hit or
20 kicked?

21 A. Yes.

22 Q. And would you describe these wounds as fresh
23 wounds that were recent or older, that are days old?

24 A. Recent.

25 Q. Could this be caused by some type of blunt

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1 force trauma, talking about these two wounds at the top
2 of State's Exhibit 75?

3 A. I believe, with all certainty, that they were
4 caused by blunt force trauma.

5 Q. And looking at State's Exhibit No. 76, the
6 same -- are these the same type of wounds that we saw in
7 State's 75, fresh wounds?

8 A. In that respect, yes, they are fresh; so,
9 similar to the other ones in terms of the bruise's age.

10 Q. And they don't look like they're days old?

11 A. No.

12 Q. Would you consider these deep abrasions?

13 A. Yes.

14 Q. That he is possibly struck with some type of
15 item?

16 A. They may have been caused by his head being
17 struck by an object, yes.

18 Q. Is there any way for you to look at this
19 picture and tell us what exactly happened in State's
20 Exhibits 75 or 76 to cause these type injuries?

21 A. No.

22 Q. Looking at State's Exhibit No. 75, is this the
23 left hand of Jhon Gilces?

24 A. Yes.

25 Q. Do you see -- what's the purpose of taking a

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1 picture of somebody's hand?

2 A. In the case of potential homicides, photographs
3 of the hands are routinely taken as a part of our
4 procedure. And the goal behind those photographs is to
5 identify and document any injuries of the hands,
6 particularly blunt or sharp force injuries.

7 Q. Does it look like he has any blunt or sharp
8 force injuries in State's Exhibit No. 77?

9 A. Yes. I see some discoloration. It's difficult
10 to say based on the photographs alone; but I do see some
11 discoloration, which may represent injury.

12 Q. And any way to tell what type of injury they
13 can be or if they are caused from an injury?

14 A. I would have to correlate it with the autopsy
15 report.

16 Q. Were you able to review Dr. Gonsoulin's autopsy
17 report regarding the hand, the left hand?

18 A. Yes.

19 Q. And what was Dr. Gonsoulin's --

20 A. I saw no mention, or see no mention of injuries
21 in her autopsy report relating to the hands.

22 Q. Looking at State's Exhibit No. 78, is that just
23 another view of his left hand?

24 A. Yes.

25 Q. And again, did Dr. Gonsoulin indicate that she

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1 found any type of injuries on his hands?

2 A. No, she did not find any injuries on his hands.

3 Q. And obviously, when you're there, a person
4 looking at the hand versus taking a picture, it's easier
5 to make a correct determination?

6 A. Yes.

7 Q. Looking at State's Exhibit 79, is that just the
8 palm of his hand?

9 A. Yes.

10 Q. Did she note any type of injury on the palm of
11 his left hand?

12 A. No.

13 Q. State's Exhibit No. 80, this is the right hand
14 of Jhon Gilces?

15 A. Yes.

16 Q. Looking at the picture and correlating it with
17 her autopsy report, did she note any type of injury on
18 his right hand?

19 A. No.

20 Q. And State's Exhibit 81, is that just a close-up
21 view of his -- the forefinger and fingernail?

22 A. It's a close-up of the right hand, yes.

23 Q. And did she notate any injuries on that part of
24 his hand?

25 A. No.

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1 Q. On State's Exhibit No. 82, which is just a
2 different angle of his hand, did she notice any injuries
3 on his thumb or of his forefinger on his right hand?

4 A. No.

5 Q. Or the palm, in State's Exhibit No. 83, of his
6 right hand?

7 A. No.

8 Q. Looking at State's Exhibit No. 84, that is the
9 face of Jhon Gilces. Did she notice any type of
10 abrasions that she might have seen on his face?

11 A. Yes.

12 Q. Can you tell us what she stated about them?

13 A. An abrasion is described on the left side of
14 the face, which is depicted in this photograph here.

15 Q. Any idea of -- did that abrasion occur close to
16 the death of Jhon Gilces?

17 A. The abrasion appears recent.

18 Q. Going back to State's Exhibit No. 75 -- and is
19 Dr. Gonsoulin going to look for any additional wounds
20 from the body as she's documenting any type of abrasion?
21 She's going to look for gunshot wounds all throughout
22 the body; is that correct?

23 A. Yes.

24 Q. And she will document those wounds in a diagram
25 within her report?

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1 A. Yes.

2 Q. Looking at -- did she discuss gunshot wound No.
3 1?

4 A. Yes.

5 Q. And can you tell us where this injury is on
6 Jhon Gilces?

7 A. Yes. It's on the back of the neck or base of
8 the skull in this region.

9 Q. And is that an entrance or an exit wound?

10 A. This is an entrance wound.

11 Q. And we see some -- a dark area around the
12 wound. Can you tell the jury what that is?

13 A. The dark area around the wound either
14 represents a dried area of abrasion or could possibly
15 represent an abrasion with soot deposition, based on the
16 photograph. When I refer to Dr. Gonsoulin's report, she
17 describes soot around the wound margin. And so, the
18 dark discoloration represents soot in this case.

19 Q. And soot would be gunpowder?

20 A. Soot would be burned and partially burned
21 material that's ejected from the end of the barrel.

22 Q. And looking at a larger circle around the
23 wound, does she make mention of that in her report?

24 A. Yes.

25 Q. And what does Dr. Gonsoulin state about that in

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1 her report?

2 A. She essentially describes a muzzle abrasion,
3 which is an abrasion that is caused by contact between
4 the skin and the end of the gun.

5 Q. Can you give any estimate of distance between
6 the end of the gun and the back of Jhon Gilces' neck,
7 where it was placed?

8 A. Yes.

9 Q. And what would that be?

10 A. I can infer from the description and the
11 photographs that the end of the gun or muzzle of the gun
12 was in contact with the skin on the back of the neck at
13 the time it was fired.

14 Q. Would that be considered a fatal wound?

15 A. Yes.

16 Q. If somebody is shot with this wound is it
17 instantaneously, or do they have a few seconds before
18 they expire?

19 A. The exact interval between the gunshot wound
20 and clinical death would be short but not necessarily
21 instantaneous, but they would certainly be immediately
22 incapacitated by this sort of injury.

23 Q. He wouldn't be up and walking after this wound?

24 A. No.

25 Q. Looking at State's Exhibit 102, does Dr.

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1 Gonsoulin make mention of any type of potential exit
2 wound associated with gunshot wound No. 1's entrance?

3 A. Yes. She described an exit wound on the
4 forehead.

5 Q. And is this a picture -- State's Exhibit
6 No. 102, is this a picture of Jhon Gilces' forehead and
7 the potential exit wound?

8 A. Yes.

9 Q. Looking at State's Exhibit No. 91, I believe
10 this is gunshot wound No. 2 in the diagram if you want
11 to refer to Dr. Gonsoulin's report.

12 A. Yes.

13 Q. And is this an entrance or an exit wound?

14 A. This is an entrance wound.

15 Q. And can you -- does her report and diagram
16 label exactly where on the body it occurred?

17 A. It indicates approximately where the injury is.

18 Q. And approximately where did it occur?

19 A. On the left shoulder.

20 Q. And in her report, did she say what type of
21 damage was done to Jhon Gilces' internal body regarding
22 this entrance wound?

23 A. Yes.

24 Q. And what was that?

25 A. The bullet injured large blood vessels in the

1 left arm, as well as the left lung and heart.

2 Q. Is that considered a fatal injury?

3 A. It's certainly potentially fatal.

4 Q. Would a person have the ability to walk around
5 and move with this type of injury for some period of
6 time before expiring?

7 A. Yes.

8 Q. Did she retrieve any type of foreign object
9 associated with this gunshot wound to his left shoulder?

10 A. Yes. She recovered a bullet and a bullet
11 jacket.

12 Q. Okay. Looking at State's Exhibit No. 94, did
13 she document it with that picture?

14 A. Yes.

15 Q. And State's Exhibits Nos. 108 and 118, 118
16 being the actual envelope?

17 A. Yes.

18 Q. She has documented it with the legal medical
19 number and where she retrieved it from?

20 A. Correct.

21 Q. And Dr. Gonsoulin's name and the day; is that
22 correct?

23 A. Yes.

24 Q. And State's Exhibit 108 is the actual
25 projectile that was recovered?

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1 A. Yes.

2 Q. State's Exhibit No. 95, is that one part of the
3 projectile that was recovered from the left side of the
4 chest?

5 A. Would you please decrease the magnification?

6 Q. I'm sorry.

7 A. Yes.

8 Q. And looking at State's Exhibit No. 111 -- let
9 me approach. Although it's not the same color, it looks
10 like it has turned over time. Looking at State's 95 and
11 111, does that look similar to what Dr. Gonsoulin --

12 A. Yes.

13 Q. -- to what she actually recovered from the left
14 side of his shoulder? And the same with State's Exhibit
15 No. 96. Does she make mention of recovering another
16 projectile?

17 A. Are you referring to the projectile fragment
18 you just showed me?

19 Q. No. This is a second projectile fragment that
20 she recovered.

21 A. Can you zoom out so I can see the writing?

22 Q. It's just a close-up. I'm sorry.

23 A. So, it is the same.

24 Q. It's the same one, yes.

25 A. Yes.

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1 Q. Okay. And she also discusses a third gunshot
2 wound?

3 A. Yes.

4 Q. And is this going to be gunshot wound No. 3 in
5 her diagram and No. 2 in her report?

6 A. Yes.

7 Q. And where was the entrance wound on gunshot
8 wound No. 2 in the diagram?

9 A. On the left flank.

10 Q. Is that what is depicted in State's Exhibit No.
11 87?

12 A. Yes, it is.

13 Q. And can you tell us, is there any soot or
14 burning or markings around that entrance wound?

15 A. No.

16 Q. Can you give us any estimation, if there is not
17 any soot, about how far off the gun would be fired from
18 the individual?

19 A. Only if the individual was not wearing clothing
20 or was behind some sort of intermediate target at the
21 time they were shot, because clothing may block the
22 deposition of soot.

23 Q. So you wouldn't expect to see soot on a gunshot
24 wound if there is shirts or jeans in the way?

25 A. You may or may not see soot if the individual

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1 is wearing clothing in the area where they were shot.

2 Q. Looking at State's 87, right above the gunshot
3 wound there is some red markings in a line. Did Dr.
4 Gonsoulin make any note of what that possibly could be?

5 A. Yes.

6 Q. And what did she say about that?

7 A. She describes that as abrasions caused by
8 insects, ants.

9 Q. And that would be, obviously, after he was
10 deceased and lying on the ground for several hours that
11 he could possibly have some damage from the insects?

12 A. Correct.

13 Q. Did she discuss any internal injuries that he
14 would have received from this gunshot wound?

15 A. Yes.

16 Q. And what was her conclusion on those injuries?

17 A. The bullet injured the colon or large
18 intestine.

19 Q. What kind of damage would that do to an
20 individual?

21 A. Well, it would cause some bleeding, as well as
22 leakage of the contents of the large intestine into the
23 abdominal cavity if left untreated, would certainly lead
24 to a very serious and possibly lethal infection.

25 Q. After sustaining that type of injury, would an

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1 individual be able to continue to walk and breathe?

2 A. Yes.

3 Q. And is that considered a fatal injury?

4 A. Again, if left untreated, it would be
5 potentially fatal.

6 Q. Did she discuss any exit wound associated with
7 gunshot -- with the gunshot wound in State's Exhibit 87?

8 A. Yes.

9 Q. Looking at State's Exhibit No. 90, can you tell
10 us what a picture of that is?

11 A. This is a picture of an atypical exit wound.

12 Q. And what makes it atypical?

13 A. The fact that the wound or hole is surrounded
14 by an abrasion. Most exit gunshot wounds are not -- are
15 without abrasion.

16 Q. And when you speak of an abrasion, if you could
17 point out to the jury what area around it you're talking
18 about. Is there -- could this be caused by him hitting
19 something within that area?

20 A. The -- an abraded exit wound, also referred to
21 as a shored exit wound, is caused by the skin in the
22 area where the bullet exited being supported by some
23 surface, including tight clothing. So if the area of
24 the body that the bullet exited was either against a
25 surface, such as a wall or the ground, or that area was

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1 covered by tight-fitting supportive clothing, the area
2 around where the bullet exits may scrape up against that
3 surface or clothing and become abraded, as we see in
4 this instance.

5 Q. So, maybe the waistband of his -- a pair of
6 jeans could cause that abrasion?

7 A. That would be a very reasonable explanation,
8 yes.

9 Q. And did she document any foreign projectiles
10 that she found being associated with this wound?

11 A. Yes.

12 Q. I'll bring them up closer to you. Showing you
13 State's Exhibits Nos. 92, 115 and 112. In State's
14 Exhibit 115, did Dr. Gonsoulin document where she found
15 the projectile from?

16 A. Yes.

17 Q. Did she also take a photograph of what it was
18 before she put it in the envelope?

19 A. Yes.

20 Q. Is that the actual projectile she recovered in
21 State's Exhibit No. 112?

22 A. Yes, sir.

23 Q. State's Exhibit No. 93 is -- and 117 -- is 117
24 the actual envelope she recovers an additional
25 projectile within the abdominal wall?

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1 A. Yes.

2 Q. That's associated with the wounds we were just
3 talking about?

4 A. Yes.

5 Q. And is State's Exhibit 93 just a picture of
6 what is going to be contained in State's Exhibit
7 No. 117?

8 A. Yes.

9 Q. And 110 and 109, is that going to be what is
10 actually contained in State's Exhibit No. 117?

11 A. Yes.

12 Q. And once projectiles are found, that is when
13 they would get tested from ballistics, obviously; is
14 that correct? After you recovered them and tagged them
15 and put them in the evidence box, they're going to go
16 away to some other department to be tested and compared?

17 A. That's right. Once we submit evidence,
18 including bullets and bullet fragments, they are
19 generally made -- whatever is done to them following
20 that is usually independent of the medical examiner or
21 forensic pathologist. So, we just collect and submit
22 the evidence, whether or not it's tested, as decided by
23 other parties.

24 Q. She will not do the ballistics testing?

25 A. She would not do it and, generally, wouldn't

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1 order it to be done.

2 Q. Correct. Looking at State's Exhibit No. 93, is
3 that the photograph that we were talking with State's
4 Exhibit No. 117 being the actual envelope?

5 A. Yes.

6 Q. And the 109 and 110 are the actual projectiles
7 that were recovered?

8 A. Yes.

9 Q. And the same thing with State's Exhibit No. 92.
10 Again, a picture of the envelope and its contents?

11 A. Yes.

12 Q. And State's Exhibits 115 and 112 is the actual
13 envelope and its contents?

14 A. Yes.

15 Q. And going back to State's Exhibit No. 75 -- and
16 that was the gunshot wound No. 1?

17 A. Yes.

18 Q. Did Dr. Gonsoulin describe any type of internal
19 injuries that occurred with gunshot wound No. 1?

20 A. Yes.

21 Q. And what was her description of the injuries
22 that occurred to Jhon Gilces with gunshot wound No. 1?

23 A. The bullet fractured the skull and severely
24 injured the brain.

25 MS. HARTMAN: Pass the witness, Your

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1 Honor. Oh, wait. One more question. I'm sorry.

2 Q. (By Ms. Hartman) Did she make any type of --
3 did she make any findings regarding the type of injuries
4 that Jhon Gilces had as to manner -- excuse me -- did
5 she -- the injuries that she found, was she able to form
6 an opinion on his cause of death?

7 A. Yes.

8 Q. And what was that?

9 A. Gunshot wounds of the head, left arm and
10 abdomen.

11 Q. And was she able to make a determination,
12 without those injuries, would -- did he have any type of
13 diseases or any abnormalities that would have prevented
14 him from living an active life?

15 A. No.

16 Q. Did she make a determination of the cause of
17 death?

18 A. Yes.

19 Q. And what was that?

20 A. Gunshot wounds of the head, left arm and
21 abdomen.

22 Q. And the manner of the death?

23 A. Homicide.

24 MS. HARTMAN: Pass the witness, Your
25 Honor.

1 MR. MADRID: Just a few questions, Your
2 Honor.

3 THE COURT: Sure.

4 **CROSS-EXAMINATION**

5 BY MR. MADRID:

6 Q. Good morning, Dr. Hines.

7 A. Good morning.

8 Q. Got a question about Dr. Gonsoulin. It's
9 Gonsoulin, right?

10 A. Yes.

11 Q. Was she just not able to make it today? Why
12 did you end up testifying for her?

13 A. I believe she is on vacation.

14 Q. And y'all do this -- I mean, it's common. You
15 work in your -- you're a medical examiner, and you can
16 review this, and it's in evidence; so, this is what
17 normally happens, right?

18 A. Yes.

19 Q. Did -- that's about all I have other than any
20 of these -- you testified you couldn't -- you're looking
21 at the autopsy report to report what's done by Dr.
22 Gonsoulin. She reviews the body and observes what
23 happened to it, right?

24 A. Yes.

25 Q. I mean, she or you couldn't -- anything in this

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1 autopsy report -- and it's not y'all's job to say who
2 shot this person?

3 A. That's correct.

4 Q. Or where those abrasions or any of those things
5 came from?

6 A. That's correct. We can't know with any
7 certainty what the circumstances surrounding those
8 particular injuries were other than the belief that they
9 were caused, particularly the gunshot wounds, by another
10 person. So, she didn't feel that this was a suicide.
11 But beyond that, we don't know the specifics.

12 Q. The wound to the left arm, it's kind of -- in
13 the pictures and the things that you've seen, it's kind
14 of to the back, correct? It's the left arm, but it's
15 the back of the arm?

16 A. One thing to keep in mind is when the wounds
17 are described on an individual, the individual is placed
18 in what's called the anatomic position, which is a
19 somewhat artificial position whereby --

20 THE WITNESS: May I, Your Honor,
21 demonstrate?

22 THE COURT: Beg your pardon?

23 THE WITNESS: May I demonstrate?

24 THE COURT: Sure.

25 A. This is the anatomic position. And nobody

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1 walks around like this, but this is how we describe
2 injuries. And so, in this position, this is the back of
3 the arm or shoulder so --

4 Q. (By Mr. Madrid) I'm sorry. Go ahead.

5 A. Based on what she's described, it's either on
6 the side or somewhat to the back of the shoulder or arm.

7 Q. And that's what the picture shows. If
8 somebody -- for instance, if I shot somebody and I said,
9 yeah, I shot them in the back, in the back of the arm,
10 that would be accurate if I'm the person that did the
11 shooting, right? Do you understand what I'm saying, or
12 was that confusing?

13 A. Would you rephrase the question?

14 Q. Let's just say, hypothetically, I shot this
15 complaining witness.

16 A. Okay.

17 Q. And I said, I shot him in the back, and it
18 actually says the arm, that would still be an accurate
19 statement, from what you're saying, if it's kind of to
20 the back, to the back of the arm, right?

21 A. Yes, depending on the configuration of the arm
22 and the position the complainant was in at the time they
23 were shot. Yes, that could be an accurate statement.

24 Q. Like, if I'm chasing someone around a yard, and
25 so I remember where I shot someone, I shot them in the

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1 back, I shot them in the stomach, shot them in the back
2 of the head, right, that would be accurate to this case?

3 A. That could be an accurate statement, yes.

4 Q. Thank you, Doctor.

5 MR. MADRID: Pass the witness.

6 MS. HARTMAN: Just real quick.

7 **REDIRECT EXAMINATION**

8 BY MS. HARTMAN:

9 Q. It's not -- Dr. Hines, it's not abnormal that
10 you would come in and testify for Dr. Gonsoulin or for
11 any other doctor that was off and unable to testify?

12 A. Correct.

13 Q. And you did have a chance before you testified
14 to review her reports and photographs and study her
15 conclusions?

16 A. Yes.

17 Q. Did you agree with her conclusions?

18 A. Yes.

19 MS. HARTMAN: Pass the witness.

20 MR. MADRID: No further questions, Your
21 Honor.

22 THE COURT: You may step aside.

23 MS. HARTMAN: The State of Texas rests,
24 Your Honor.

25 MR. MADRID: I have a motion.

1 THE COURT: Members of the jury, let me
2 ask you to retire for a few moments while we take up a
3 matter outside of your presence.

4 (Outside jury's hearing)

5 THE COURT: State your motion, please.

6 MR. MADRID: I have a motion for directed
7 verdict, Your Honor. Mario Paredes is charged with
8 capital murder by -- he's accused of unlawfully, while
9 in the course of committing a robbery, intentionally
10 causing the death of the complaining witness. And there
11 hasn't been any evidence that Mr. Paredes was involved
12 in a robbery, that there was any kind of conspiracy to
13 rob Jhon Gilces.

14 In fact, the testimony was that Flaco,
15 Osmin Hernandez, and the testimony of the State's
16 witness said that he wanted to do this, meaning Osmin.
17 And Osmin took a purple bag and said, you know what to
18 do. And that's what -- if there was any robbery in this
19 case, that's what it was. There was absolutely no
20 testimony that even Gerardo Arredondo or Mario Paredes
21 were involved in that, other than to get in the car and
22 do some drugs.

23 So, for that reason, the State didn't
24 prove the elements for capital murder; because they
25 didn't prove another felony that Mario Paredes was

1 involved in. And I ask for a directed verdict, Your
2 Honor.

3 *THE COURT:* It's overruled.

4 *(Brief recess)*

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Trial on the Merits
July 31, 2015

1 STATE OF TEXAS
2 COUNTY OF HARRIS

3

4 I, Pamela Kay Knobloch, Official Court Reporter in
5 and for the 339th District Court of Harris County, State
6 of Texas, do hereby certify that the above and foregoing
7 contains a true and correct transcription of all
8 portions of evidence and other proceedings requested in
9 writing by counsel for the parties to be included in
10 this volume of the Reporter's Record in the above-styled
11 and numbered cause, all of which occurred in open court
12 or in chambers and were reported by me.

13 I further certify that this Reporter's Record of the
14 proceedings truly and correctly reflects the exhibits,
15 if any, offered by the respective parties.

16 Signed this 10th day of November, 2015.

17

18 /s/Pamela Kay Knobloch

19

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