

Trial on the Merits
July 29, 2015

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REPORTER'S RECORD
 VOLUME 4 OF 7 VOLUMES
 TRIAL COURT CAUSE NO. 1401543 FILED IN
 1st COURT OF APPEALS
 HOUSTON, TEXAS
 IN THE DISTRICT COURT
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 THE STATE OF TEXAS)
)
 VS.) HARRIS COUNTY CHRISTOPHER S. PRINE
) Clerk
 MARIO PAREDES) 339TH JUDICIAL DISTRICT

TRIAL ON THE MERITS

On the 29th 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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Trial on the Merits
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1 *(Jury enters courtroom)*

2 *THE COURT:* Members of the jury, thank you
3 for being on time.

4 Call your next, please.

5 *MS. COLLINS:* State calls Marco Vega to
6 the stand.

7 *(Witness sworn)*

8 **MARCO VEGA,**
9 having been first duly sworn, testified as follows:

10 **DIRECT EXAMINATION**

11 *BY MS. COLLINS:*

12 Q. Could you state your name for the Court?

13 A. Marco Vega.

14 Q. Mr. Vega, what do you do for a living?

15 A. I'm actually a collector.

16 Q. Collector. Okay. And are you from here in
17 Houston?

18 A. Yes, I am.

19 Q. You live here with your family?

20 A. Correct.

21 Q. And are you married?

22 A. Yes.

23 Q. And do you have some kiddos?

24 A. I have two, a boy and a girl.

25 Q. I want to talk to you about back in August of

MARCO VEGA - July 29, 2015
Direct Examination by Ms. Collins

1 2013, specifically August 31st of 2013. Okay. Can you
2 tell me what you were doing that evening?

3 A. I was actually preparing my little son's
4 birthday party. It was actually his birthday that day.

5 Q. And at the time, where were you living?

6 A. I was living at 12414 Tambourine.

7 Q. I'm going to show you some photos, specifically
8 State's Exhibit No. 4. It should pop up there to your
9 right in just a moment. Do you see -- well, can you
10 tell us what we're looking at here?

11 A. A map of my neighborhood.

12 Q. Okay. And can you show us on the screen there
13 where you were living at the time? Okay. And when
14 you're living -- right about there; is that correct?

15 A. Correct.

16 Q. Now, that evening as you're getting ready for
17 your son's birthday party, do you hear some noises?

18 A. Yes, I do. I did. You know, you hear a lot of
19 kids outside playing around, running around.

20 Q. Okay. And about what time were you outside, in
21 your backyard did you say?

22 A. Correct.

23 Q. About what time were you in your backyard
24 setting up for your son's birthday party?

25 A. Well, we started setting up right around 6:00

MARCO VEGA - July 29, 2015
Direct Examination by Ms. Collins

1 o'clock. And then we were going in and out to make sure
2 everything was getting prepared.

3 Q. At some point, did you hear some noises that
4 were kind of unusual for your neighborhood?

5 A. Yes and no, at the same time.

6 Q. Can you tell us what you heard?

7 A. Well, we heard kind of like what seemed to
8 hear, like, firecrackers going off. We were setting up.
9 And then me and my wife heard it, and we were like -- we
10 thought maybe just kids were playing around. There is
11 always a lot of little kids running around, you know,
12 playing. So, that's what we thought. We didn't make
13 nothing of it. We just left it at that.

14 Q. About what time did you hear those
15 firecrackers?

16 A. It was between 7:00, 7:30.

17 Q. Now, when you heard what you thought were
18 firecrackers -- let me ask you this, Mr. Vega: Is this
19 the type of neighborhood where you would expect to hear
20 gunfire?

21 A. No.

22 Q. Okay. Had you heard gunfire before in other
23 neighborhoods you had lived in?

24 A. Yes, I have.

25 Q. Looking back on that day, do the sounds that

MARCO VEGA - July 29, 2015
Direct Examination by Ms. Collins

1 you heard, were they consistent with gunfire?

2 A. No.

3 Q. Okay. The firecrackers that -- you heard
4 firecrackers, right? Okay. Can you tell us, at any
5 point after 7:00 to 7:30, did you hear any further
6 noises like that in the neighborhood?

7 A. Well, we didn't any more. Because I guess the
8 people started arriving to my house for the party, so it
9 was kind of -- you know, we were in and out, constantly
10 moving, taking care of the people that came in.

11 Q. Okay. Now, the next morning, did you have a
12 neighbor come to your house?

13 A. Yes, we did. We had a neighbor that come to my
14 house and asked us if we can go to where he lived
15 because he needed to show us something.

16 Q. And did you go with your neighbor for what he
17 had to show you?

18 A. No.

19 Q. Okay. Who did go with your neighbor?

20 A. My little brother, at the time, was staying
21 with me.

22 Q. And what was his name?

23 A. Saul Vega.

24 Q. At some point after your brother goes with the
25 neighbor, does he come back?

MARCO VEGA - July 29, 2015
Direct Examination by Ms. Collins

1 A. Yes, he did.

2 Q. Okay. And at that point, does he -- does he
3 tell you what he's just seen?

4 A. Yes. He told me that they had -- the neighbor
5 had found a dead body.

6 Q. Okay. Now, did you eventually learn where that
7 body had been found?

8 A. Yes, I did.

9 Q. Okay. And was it in the same direction as
10 where you heard the firecrackers the night before?

11 A. Yes, ma'am.

12 Q. Now, let me ask you this: At that point, once
13 your brother comes back, do you call the police?

14 A. Well, my little brother and the neighbor had
15 already called them at the scene.

16 Q. And did, eventually, the police come?

17 A. Correct.

18 Q. And did you talk to the police that day?

19 A. Yes, we did.

20 Q. And did you tell them what you had heard?

21 A. Yes, ma'am.

22 Q. And just to clarify, was that 7:00 p.m.?

23 A. Yes, ma'am.

24 Q. Okay.

25 MS. COLLINS: Pass the witness, Your

MARCO VEGA - July 29, 2015
Direct Examination by Ms. Collins

1 Honor.

2 MR. MADRID: Cross, Your Honor?

3 CROSS-EXAMINATION

4 BY MR. MADRID:

5 Q. Good morning, Mr. Vega.

6 A. Good morning.

7 Q. So, unfortunately, you were, I guess, one of
8 the people that went out there and saw the body, right,
9 of a dead person?

10 A. No, I didn't go.

11 Q. Oh.

12 A. I never saw the person.

13 Q. Sorry. Your neighbor just came by and said,
14 hey, there is a body out here?

15 A. Right.

16 Q. Okay. But you didn't see anything?

17 A. No, sir.

18 Q. You said there is usually kids AND stuff
19 running around out there, right?

20 A. Right.

21 Q. As far as you know, did anybody see the
22 shooting?

23 A. No.

24 Q. Do you know -- since he lived in that
25 neighborhood, you probably talk to your neighbors,

MARCO VEGA - July 29, 2015
Cross-Examination by Mr. Madrid

1 right?

2 A. Correct.

3 Q. So, you didn't hear of anybody that saw what
4 happened to the person that was killed?

5 A. No.

6 Q. And you've never seen this man to my right,
7 have you?

8 A. No, I haven't.

9 Q. You don't know him?

10 A. Huh-uh.

11 Q. Thank you.

12 MR. MADRID: Pass the witness.

13 MS. COLLINS: Nothing further, Your Honor.

14 THE COURT: You can step aside. Thank
15 you.

16 Call your next, please.

17 MS. HARTMAN: Latasha Neal, Your Honor.

18 (Witness sworn)

19 **LATASHA NEAL,**

20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MS. HARTMAN:

23 Q. Miss Neal, can you please introduce yourself to
24 the jury?

25 A. I'm Latasha Neal. I'm the manager of the

LATASHA NEAL - July 29, 2015
Direct Examination by Ms. Hartman

1 Victorian Apartments.

2 Q. And where's the Victorian Apartments?

3 A. 9400 Covington Square Drive.

4 Q. Is that in Houston?

5 A. Yes.

6 Q. Harris County, Texas?

7 A. Yes.

8 Q. And how long have you been the manager of the
9 Victorian Apartments?

10 A. Six years.

11 Q. Is there anybody else who works there with you?

12 A. There is one more person. She's at work right
13 now.

14 Q. What are your duties as the manager?

15 A. It's just to take the pay in, as far as the
16 rent, make sure the bills are paid, check the property,
17 basically everything.

18 Q. Okay. I'm going to show you State's Exhibit
19 No. 54. Do you know what that is?

20 A. It's our floor -- well, the property plan, as
21 far as the units.

22 Q. Okay. Just a diagram of the apartment complex?

23 A. Yes.

24 Q. And at that apartment complex, do you have any
25 type of security videos?

LATASHA NEAL - July 29, 2015
Direct Examination by Ms. Hartman

1 A. Yes, we do.

2 Q. How many security videos do you have?

3 A. I believe it's sixteen -- it's fifteen or
4 sixteen.

5 Q. And before you came and testified, were you
6 able to look at some videos this morning?

7 A. Yes.

8 Q. Okay. And were these videos of the security
9 cameras?

10 A. Yes, it was.

11 Q. Were they videos of the security on cameras
12 that would be pertinent to this investigation?

13 A. Yes, ma'am.

14 Q. It's not all sixteen cameras, is it?

15 A. No.

16 Q. I believe it's Cameras No. --

17 A. I think it's Cameras 4 -- I don't remember.

18 Q. 7 and 16?

19 A. Uh-huh.

20 Q. Okay. And you had a chance to look at all of
21 these videos?

22 A. Yes, ma'am.

23 Q. Now, can you look at this map on State's
24 Exhibit No. 54; and can you mark and tell me where
25 Camera 4 is?

LATASHA NEAL - July 29, 2015
Direct Examination by Ms. Hartman

1 A. No. 4.

2 Q. Here's your laundry room.

3 A. Should be somewhere around here.

4 Q. What does Camera 4 show?

5 A. I'm not for sure. It should be showing the
6 entrance gate or the exit gate.

7 Q. And what about Camera 16 and 17?

8 A. Camera 16, we have one that's by the mailroom.

9 Q. Okay. And is that the mailroom right there?

10 A. Mailroom.

11 Q. And where do you think -- the other one's
12 either at the exit gate --

13 A. It's either exit gate.

14 Q. Okay. And where is the exit gate?

15 A. Exit gate would actually be around here.

16 Q. Okay. I'm looking at State's Exhibit 104, 99
17 and 55. You did have a chance to review those?

18 A. Yes.

19 Q. And do you believe that this diagram would be
20 helpful to the jury in explaining your testimony to
21 them?

22 A. Okay, yes.

23 MR. MADRID: No objection, Your Honor.

24 THE COURT: Admitted.

25 MS. HARTMAN: State's Exhibit 54, just for

LATASHA NEAL - July 29, 2015
Direct Examination by Ms. Hartman

1 the record, Your Honor.

2 Q. (By Ms. Hartman) Okay. Looking at State's
3 Exhibit No. 54, what road is this right here? Would
4 that be Coventry?

5 A. That's Coventry.

6 Q. Is that the way the apartment faces?

7 A. Yes, ma'am.

8 Q. And it looks like you put a dot right here?

9 A. That would actually be the entrance gate.

10 Q. And is that one of the security cameras?

11 A. That is.

12 Q. Okay. And looking at this to the right here,
13 that looks -- what does that say?

14 A. That's the mailbox. We also have a security
15 camera there, too. And that catches part of the 20
16 building.

17 Q. And going back up, looking at that, is that
18 another dot that you made on the --

19 A. No. That's -- the 21 is actually -- that's the
20 entrance.

21 Q. That's the entrance?

22 A. Uh-huh.

23 Q. And --

24 A. That one would be the exit gate.

25 Q. How many units are in this apartment complex?

LATASHA NEAL - July 29, 2015
Direct Examination by Ms. Hartman

1 A. It's 172 units.

2 Q. And do you know if an Osmin Hernandez is a
3 resident in that apartment complex?

4 A. Not that I know of.

5 Q. Okay. And the security cameras, how are those
6 activated?

7 A. It's actually through -- it's on a hard drive,
8 and it's recorded twenty-four hours a day. It actually
9 stopped recording on the 15th, but you can't delete
10 anything. I can't go and take anything off. The only
11 thing I can do is look at it and make a copy of it.

12 Q. So, it records onto like a hard drive?

13 A. Uh-huh.

14 Q. And it can't have any manipulation by anybody
15 else?

16 A. No, ma'am.

17 Q. So, are these true and correct copies of the
18 entire video sequence?

19 A. Yes, ma'am.

20 Q. Basically, all you could do is maybe
21 fastforward?

22 A. Fastforward, bring it back a little faster; but
23 that's it.

24 Q. And are the times on these videos, were they
25 accurate and true?

LATASHA NEAL - July 29, 2015
Direct Examination by Ms. Hartman

1 A. Yes.

2 Q. Is there any sound on these videos?

3 A. There is no sound.

4 Q. Okay. And do you do any -- are you able to
5 operate the system competently?

6 A. Yes.

7 Q. And did you turn these video footages over to
8 Sergeant Dillingham?

9 A. I did.

10 Q. Was that back in 2003?

11 A. Yes, ma'am.

12 Q. And these are the videos from August the 31st
13 of 2000 -- excuse me -- 13?

14 A. Okay.

15 MS. HARTMAN: Your Honor, at this time I'd
16 like to offer 99, 55 and 104.

17 MR. MADRID: No objection.

18 THE COURT: Admitted.

19 MS. HARTMAN: Nothing further, Your Honor.

20 MR. MADRID: Just briefly.

21 **CROSS-EXAMINATION**

22 BY MR. MADRID:

23 Q. Miss O'Neal?

24 A. Miss Neal.

25 Q. Miss Neal, good morning.

LATASHA NEAL - July 29, 2015
Cross-Examination by Mr. Madrid

1 A. Good morning.

2 Q. So, you don't know who Osmin Hernandez is, do
3 you?

4 A. No.

5 Q. You said -- did you say 120 units?

6 A. 172.

7 Q. Okay. Do you know this man --

8 A. No.

9 Q. -- Mario Paredes?

10 A. No.

11 Q. Do you know a Gerardo Arredondo?

12 A. I'm thinking yeah.

13 Q. How would you know him?

14 A. He stays there, 21 -- actually 2012, with his
15 wife.

16 Q. Then it might be a different one. Was he a
17 young guy or old guy?

18 A. Middle, maybe thirty, thirty-five.

19 Q. Not an eighteen-year-old?

20 A. No.

21 Q. Okay. So, we might be talking about two
22 different people. You'd probably have to have a
23 picture?

24 A. Correct.

25 Q. So, it's not a fair question. Sorry. Do you

LATASHA NEAL - July 29, 2015
Cross-Examination by Mr. Madrid

1 know why you're here today other than these videos?

2 A. Just the videos.

3 Q. So, you don't know anything about a murder case
4 or capital murder?

5 A. They told me it was about a murder case and if
6 I can pull a video. That's it.

7 Q. Do you know anything about any murder cases in
8 that area from two years ago?

9 A. No.

10 Q. You don't remember August 31st, 2013, about the
11 time when these videos were? You know, sometimes you
12 hear there was a murder in the neighborhood. Do you
13 remember that?

14 A. No.

15 Q. Or multiple murders in the neighborhood?

16 A. No.

17 Q. You didn't hear of a murder that happened on
18 the 29th and then on the 31st?

19 A. No.

20 Q. Okay. Thank you.

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

22 MS. HARTMAN: Just briefly.

23 **REDIRECT EXAMINATION**

24 BY MS. HARTMAN:

25 Q. Miss Neal, I am going to show you State's

LATASHA NEAL - July 29, 2015
Redirect Examination by Ms. Hartman

1 Exhibit No. 61. Can you tell me if he looks familiar?

2 A. Yes, ma'am.

3 Q. And do you know who he is?

4 A. He stayed in Unit 2012.

5 Q. Do you know his name?

6 A. I don't know his name.

7 MS. HARTMAN: Nothing further, Your Honor.

8 THE COURT: Anything else?

9 MR. MADRID: Just briefly. Can I see
10 that?

11 MS. HARTMAN: Oh, sure.

12 **RECROSS-EXAMINATION**

13 BY MR. MADRID:

14 Q. So, the picture that you were shown hasn't been
15 entered; but the picture you were shown, you recognize
16 that man as somebody that lived in 2012?

17 A. Yes.

18 Q. A couple of years ago?

19 A. Yes.

20 Q. And -- but you didn't recognize this man right
21 here?

22 A. No, no.

23 Q. Okay. Thank you.

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

25 MS. HARTMAN: Nothing further, Your Honor.

LATASHA NEAL - July 29, 2015
Recross-Examination by Mr. Madrid

1 THE COURT: You may step aside. Thank
2 you.

3 MS. COLLINS: State calls Mr. Ali to the
4 stand. May I proceed, Your Honor?

5 THE COURT: Yeah.

6 **NASRUDIN ALI,**
7 having been first duly sworn, testified as follows:

8 **DIRECT EXAMINATION**

9 BY MS. COLLINS:

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

11 A. Nasrudin Ali.

12 Q. And can you spell your first name for us?

13 A. N-A-S-R-U-D-I-N. Last name A-L-I.

14 Q. Okay. Mr. Ali, what do you do for a living?

15 A. I have a business, own a business.

16 Q. And do you own one business or more than --

17 A. I got --

18 Q. Okay. The lady right there is taking down
19 everything you say. So make sure I stop before you
20 start, and I'll do the same.

21 A. Sure.

22 Q. Otherwise, she's going to get very angry with
23 us.

24 A. No problem.

25 Q. You said you own multiple stores?

NASRUDIN ALI - July 29, 2015
Direct Examination by Ms. Collins

1 A. Yes, ma'am.

2 Q. One of the stores that you own, is it near the
3 Coventry Square Apartments?

4 A. Yes.

5 Q. Okay. And what's that store called?

6 A. Shop and Go.

7 Q. And what is the address for the shop?

8 A. It's 12222 Bissonnet Street, Suite Z, Houston,
9 Texas, 77099.

10 Q. Okay. And that store, how long have you been
11 the owner?

12 A. I have since January 15, 2012.

13 Q. And have you owned it consistently since then?

14 A. Yes.

15 Q. Now, during your ownership of the Shop and Go,
16 have you had video surveillance at that location?

17 A. Yes, ma'am.

18 Q. Okay. And do you have one camera or more than
19 one?

20 A. I have sixteen channels.

21 Q. Sixteen channels?

22 A. Yes.

23 Q. Does each channel mean separate --

24 A. Separate camera, yes.

25 Q. Make sure you wait till I stop, okay, before

NASRUDIN ALI - July 29, 2015
Direct Examination by Ms. Collins

1 you answer the question. Now, during your time owning
2 that business, have you had video surveillance the
3 entire time?

4 A. Yes.

5 Q. And the entire time that you had that video
6 surveillance, has it always run the way that it's
7 supposed to?

8 A. Yes.

9 Q. That video surveillance, do you have the
10 ability to watch it when things are happening?

11 A. Yes, ma'am.

12 Q. And do you have the ability to go back and
13 check different cameras at different times?

14 A. Yes, ma'am.

15 Q. And the surveillance equipment that you have,
16 does it burn onto a machine so that you can watch it?

17 A. Yes.

18 Q. And does it also burn onto a machine so that
19 you can copy it if someone needs it?

20 A. Yes, ma'am.

21 Q. And that video surveillance that you have, when
22 officers come to your store, do you allow them to watch
23 those cameras and actually get copies at times?

24 A. Yes.

25 Q. Okay. Now, I'm going to show you what's been

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1 marked as State's Exhibit No. 106. Is this a map that
2 includes the area where you have the Shop and Go?

3 A. Yeah, right here.

4 Q. Okay. And is that the same basic area as it
5 was in 2013?

6 A. Yes.

7 Q. Okay.

8 MS. COLLINS: State offers into evidence
9 State's Exhibit No. 106 and tenders to opposing counsel.

10 MR. MADRID: No objection, Your Honor.

11 THE COURT: Admitted.

12 Q. (By Ms. Collins) Okay. Showing you State's
13 Exhibit No. 106. And if you look over there to your
14 right, Mr. Ali, you should see it right next to you.
15 Make it a little easier. And can you point out for us
16 and put your finger there on the screen and press down
17 where your store is?

18 A. There.

19 Q. Okay. And you mentioned that it's near the
20 Coventry Square Apartments. Can you tell us the area
21 where the Coventry Square Apartments are?

22 A. It's kind of -- kind of -- it's a crime area.
23 Crime over there.

24 Q. A lot of crime over there?

25 A. Uh-huh.

NASRUDIN ALI - July 29, 2015
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1 Q. Is that why you have the video surveillance up
2 at your store?

3 A. No. Normally, I always keep just for the -- in
4 case anything happens to the store, my clerk or any
5 customer.

6 Q. Okay. And is your store open twenty-four hours
7 a day?

8 A. Yes.

9 Q. And are those cameras going twenty-four hours a
10 day?

11 A. Yes.

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

14 THE COURT: All right.

15 MR. MADRID: Briefly, Your Honor.

16 **CROSS-EXAMINATION**

17 BY MR. MADRID:

18 Q. So, Mr. Ali, there is a lot of crime in the
19 area there?

20 A. Yes, sir.

21 Q. And you said you have nine stores?

22 A. Yes.

23 Q. And this one was since January, 2012, right?

24 A. I got -- 13, not 12. 13, January 15.

25 Q. Okay. So, you had owned, I guess by

NASRUDIN ALI - July 29, 2015
Cross-Examination by Mr. Madrid

1 August 31st, almost nine months of 2013 --

2 A. Yes, sir.

3 Q. About nine months?

4 A. Yes.

5 Q. Do you work in the stores?

6 A. No.

7 Q. You manage these different stores?

8 A. Yes, sir.

9 Q. So, you have videos surveillance at all of your
10 stores?

11 A. Yes.

12 Q. Is there some other management, or do you
13 subscribe with some kind of security --

14 A. No.

15 Q. -- company?

16 A. No.

17 Q. So, if you don't go to your -- what was your
18 store called again, the Shop and Go?

19 A. Yeah. I go every other day.

20 Q. And what do you do when you go there?

21 A. Just manage the cash flow and paperwork and
22 something needed for maintenance.

23 Q. So, you're not working as a clerk in the store?

24 A. No, sir.

25 Q. Just, you own them and you manage them?

NASRUDIN ALI - July 29, 2015
Cross-Examination by Mr. Madrid

1 A. Yeah. Just own and manage, yes.

2 Q. So, the machines that you have there, I guess
3 you bought them. And then do they have like a hard
4 drive or something? How do they work?

5 A. Yeah, they have hard drive, thirty days
6 recordings.

7 Q. Does somebody maintain those?

8 A. We do check every other month to see how it's
9 working. And if it's working, then we don't do. But
10 suddenly we just changed the new system.

11 Q. Why did you do that?

12 A. Because security purposes increasing.
13 Sometimes we need more clarity. There was an old system
14 before I bought the store.

15 Q. So, the old system wasn't as good as the system
16 you have now?

17 A. Yes.

18 Q. Okay. And so, is it possible that -- I mean,
19 how were you checking them every other month, the
20 cameras? What do you mean by that?

21 A. Checking to see the recording was doing
22 recording camera or not. Sometimes I just go and look
23 on the camera.

24 Q. You just look at it and make sure --

25 A. Yes.

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Cross-Examination by Mr. Madrid

1 Q. -- you can still see the camera; it's not too
2 fuzzy?

3 A. Right.

4 Q. But you didn't have like an IT person come in
5 and say, okay, this is time-stamped properly or --

6 A. No sir.

7 Q. -- this is on the proper date? I mean, would
8 you be able to say, you know, my camera, in January when
9 I bought that store, 2013, if I looked at it on
10 January 15th at 7:00 o'clock, you know a hundred percent
11 it was 7:00 o'clock? You didn't have anybody that told
12 you that, that verified it?

13 A. No, sir.

14 Q. I mean, it could be possible that the times
15 could be off?

16 A. I change the time when the time zone change. I
17 normally change the time myself, manually.

18 Q. But you don't have any particular IT experience
19 or anything like that, do you?

20 A. No, sir.

21 Q. And that's what I'm asking. Did you have,
22 like, any outside IT company, or camera company, or
23 security company that verified that everything was
24 working?

25 A. No, sir.

NASRUDIN ALI - July 29, 2015
Cross-Examination by Mr. Madrid

1 Q. So, there could be -- your cameras, just like
2 you changed them because you wanted them to be better,
3 right?

4 A. Uh-huh.

5 Q. There could be mistakes, right?

6 A. Since I have business last four years, any
7 officer that walked into the store to ask for evidence,
8 I never have pulled up anything yet till today. Anytime
9 people come to ask me the thirty days back recording, we
10 always provide them. I never have an issue like that.

11 Q. Okay. But they never tell you, for instance --
12 or they wouldn't know; because you just give them the
13 camera, right, or the recording?

14 A. Yeah.

15 Q. There is nothing that's verifying like a time
16 stamp or certain time?

17 A. No, sir.

18 Q. Those things can be off sometimes, right?

19 A. Is it possible; but yeah, I never have anything
20 like this, but it's possible.

21 Q. Thank you, sir.

22 MR. MADRID: Pass the witness.

23 THE COURT: Anything else?

24 MS. COLLINS: Briefly.

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REDIRECT EXAMINATION

BY MS. COLLINS:

Q. Mr. Ali, every six months or so when you go to change the clock forward or to change it back at times, that Daylight Savings Time changing, have you ever had a problem with opening it up and seeing the time was incorrect?

A. No, ma'am.

Q. Okay. Every time, every six months when you go and check and make that change, has the time always been accurate when you saw the video surveillance?

A. Yes, ma'am.

MS. COLLINS: Pass the witness, Your Honor.

MR. MADRID: No further questions, Your Honor.

THE COURT: You may step aside. Thank you.

MS. COLLINS: State calls Myron Dillingham to the stand.

(Witness sworn)

MS. COLLINS: May I proceed?

MYRON DILLINGHAM - July 29, 2015
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MYRON DILLINGHAM,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. COLLINS:

Q. Could you please introduce yourself to the Court, sir?

A. My name is Myron Dillingham.

Q. And where do you work, Mr. Dillingham?

A. With the City of Houston Police Department.

Q. How long have you been with the Houston Police Department?

A. Almost twenty years.

Q. Where are you currently assigned in HPD?

A. With the Internal Affairs Division.

Q. How long have you been with Internal Affairs?

A. Approximately six months.

Q. And before that where were you assigned?

A. With the Homicide Division.

Q. And how long did you stay in the Homicide Division at HPD?

A. Approximately eight years.

Q. During that time, could you give us an estimate of how many homicides you were asked to investigate?

A. Approximately 200 maybe.

Q. Let me kind of back up. When you first began

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 working at the Houston Police Department, did you have
2 to go through the academy?

3 A. Yes, I did.

4 Q. What type of things do you learn at the academy
5 to prepare you to be a police officer?

6 A. You learn things like the law and how they
7 apply in the streets. Just learn how to be a police
8 officer, officer safety, things of that nature.

9 Q. As part of the academy, do you have to take a
10 series of tests to become certified as a peace officer?

11 A. That's correct.

12 Q. And did you do that?

13 A. Yes, I did.

14 Q. And have you maintained your certification in
15 the last twenty years?

16 A. Yes, I have.

17 Q. Do you do that by continuing education over the
18 years?

19 A. That's correct.

20 Q. When you first are assigned to the Homicide
21 Division, do you receive additional training specific to
22 homicide investigations?

23 A. That's correct.

24 Q. Can you tell us the types of things that you
25 were trained in when you began working in Homicide?

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 A. Things like scene development, how to preserve
2 evidence, how to interview witnesses, things of that
3 nature.

4 Q. Now, can you kind of briefly explain to us what
5 the Homicide Division is? What do you investigate
6 there?

7 A. In the Homicide Division we investigate the
8 deaths in the city caused by someone killing someone.

9 Q. Now, you said that you had possibly worked
10 approximately 200 homicide investigations during your
11 time. Can you tell us, how do you end up being assigned
12 an investigation?

13 A. Well, basically we work at the direction of our
14 lieutenant. And we normally have a rotation, and it
15 just depends on where your name falls within that
16 rotation on a given week.

17 Q. Back in August and September of 2013, were you
18 in the Homicide Division at that time?

19 A. That's correct.

20 Q. And how were things set up in Homicide at that
21 time, as far as when you would work or when you would be
22 on assignment?

23 A. Well, we would work with a partner. We would
24 call in that team. And in our particular team, we would
25 rotate weekend duty. Some people would be on call.

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 Some people would be on weeknight duty. Some people
2 would be on weekday duty. We divided the squad like
3 that, so --

4 Q. Now, during that time period, if someone
5 received a homicide investigation, say, while they were
6 on weekend duty, would they keep that homicide
7 investigation or would it go to somebody else
8 afterwards?

9 A. It depends on the workload at the time.
10 Sometimes it would be transferred to another team. It
11 just depends on how much one team had on their plate at
12 that time.

13 Q. Specifically, on September 1st of 2013, were
14 you assigned a case involving a John Bermudez-Gilces?

15 A. I was assigned the case on September the 3rd,
16 2013, yes, ma'am.

17 Q. Let me ask you this: Is that the day that
18 Mr. Bermudez-Gilces was discovered?

19 A. No, it was not.

20 Q. Why was there that delay between when he was
21 found and when you were assigned the investigation?

22 A. Well, there was another team at the time
23 working weekend duty. And at that time I was off on
24 weekends. So, the initial team received the call on the
25 weekend, which was the 1st. And when I came to work on

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 the 3rd, which was that Monday, I was assigned the case
2 at that time.

3 Q. Okay. Now, do you recall the original homicide
4 officers who made the scene on September 1st?

5 A. Yes, I do.

6 Q. And who was that?

7 A. Investigator Sosa and Avila.

8 Q. Now, when you're assigned an investigation, in
9 this case where you didn't make the scene originally,
10 what are the first steps you take to start your
11 investigation?

12 A. First of all, we would sit down with the
13 initial investigators; and we make sure we're briefed,
14 and they provide us with all of the information that
15 they received up to that point. They pretty much let us
16 know what they've done, what needs to be done, and the
17 direction that the investigation needs to go in.

18 Q. Now, on September 3rd, when you were assigned
19 this investigation, at that point did you have a lead?
20 Let me rephrase that. Did you have a suspect, a named
21 suspect at that time?

22 A. No, we didn't.

23 Q. Now, despite the fact that you didn't make the
24 scene originally, do you go out to the neighbors and try
25 to get a feel for what's out there and who's out there?

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 A. That's correct.

2 Q. In this case, after the initial scene
3 investigation was done, neighbors were talked to, doors
4 were knocked on, did you have a feel for when this crime
5 was committed?

6 A. That's correct.

7 Q. And what was the time frame you believed that
8 Mr. Bermudez-Gilces was murdered?

9 A. I believe it was between 7:00 o'clock p.m. and
10 7:30 p.m.

11 Q. Okay. Now, once all the initial evidence is
12 gathered at the scene and you come in, do you make sure
13 that that evidence is tested for things like
14 fingerprints or DNA?

15 A. That's correct.

16 Q. And was that done in this case?

17 A. You mean from the scene originally?

18 Q. Yes.

19 A. No, ma'am.

20 Q. Was, eventually, the evidence that was found at
21 the scene tested for DNA and fingerprints?

22 A. That's correct.

23 Q. Okay. And in this case, was there any DNA or
24 fingerprints that were found?

25 A. No fingerprints that I remember and no DNA.

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 Q. Okay. Was that surprising to you?

2 A. No, ma'am.

3 Q. Why not?

4 A. Well, pretty much all we had was a body. I
5 think we had a shell casing. We had a few articles of
6 clothing. But I did not believe we had any blood taint
7 on any of that evidence.

8 Q. Now, eventually did you learn that the victim,
9 Mr. Bermudez-Gilces', vehicle had also been found?

10 A. That's correct.

11 Q. And that vehicle, was it also looked at for any
12 possible fingerprints or DNA?

13 A. Yes. I believe the fire marshal of Fort Bend
14 County looked into that. He took care of that.

15 Q. And, unfortunately, were any fingerprints or
16 DNA found in the vehicle?

17 A. No, ma'am.

18 Q. Again, was that surprising to you?

19 A. No, ma'am.

20 Q. Why not?

21 A. The vehicle had sustained fire damage.

22 Q. And does that normally wipe away that type of
23 physical evidence that you normally look for?

24 A. Yes, it does.

25 Q. Now, at the time you get the investigation, you

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 say you don't have any suspects. Does that change at
2 some point?

3 A. Yes, it does.

4 Q. What causes that to change?

5 A. Well, through the course of our investigation,
6 we began to speak to people. And I called -- the first
7 thing I did when we got the case was call -- a missing
8 person's report was filed by the family of Mr. Gilces.
9 So, the first thing I did was take their phone number
10 and call that number, and I spoke to a woman who
11 identified herself as his sister. And her name was
12 Rosemary, and Rosemary started providing information
13 that was crucial to my investigation.

14 Q. Did you also -- were you able to speak to
15 someone named Daisy Alvarez?

16 A. That's correct.

17 Q. What was your understanding of how Jhon knew
18 Daisy?

19 A. Well, I was advised by Rosemary that Daisy was
20 an acquaintance of Jhon's.

21 Q. And did you speak to her?

22 A. Yes, I did.

23 Q. After that conversation, were you -- was Daisy
24 able to tell you the last time that she spoke to Jhon?

25 A. That's correct.

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 Q. And when was the last time she had spoken to
2 Jhon?

3 A. At approximately 7:10 p.m. on August 31st,
4 2013.

5 Q. Now, let me ask you this: As part of your
6 investigation, do you make sure to kind of fact check
7 what people tell you?

8 A. That's correct.

9 Q. Next, did you actually ask to search the phone
10 of Jhon?

11 A. Yes, I did.

12 Q. And those phone records, did they back up what
13 Daisy had said?

14 A. That's correct.

15 Q. At that point, did you believe that Jhon had
16 been alive at 7:10 p.m. on August 31st?

17 A. That's correct.

18 Q. Now, was Daisy able to provide you any possible
19 suspects in this case?

20 A. Yes, she was.

21 Q. And how many names was she able to give you?

22 A. Two.

23 Q. And what were the names that she gave you?

24 A. Pelos and Chacos.

25 Q. Now, were those nicknames?

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 A. Yes, they were. We later found out they were
2 nicknames.

3 Q. As a homicide investigator, when you have
4 nicknames like that, what do you do to figure out who
5 those people are?

6 A. Well, we have to look in databases. Sometimes
7 they help us. And we have to continue speaking to
8 people until we can figure out who belongs to the
9 nicknames.

10 Q. Was Daisy able to give you any type of an
11 address where these people might be found?

12 A. That's correct. She did.

13 Q. And what was the address that she gave you?

14 A. 9400 Coventry Square.

15 Q. And is that a home, a residence?

16 A. It's an apartment complex in Southwest Houston.

17 Q. Did you go to the apartment complex and talk to
18 people there?

19 A. Yes, I did.

20 Q. Were you able to locate someone at that
21 apartment complex who, in fact, went by the name of
22 Chacos?

23 A. Yes.

24 Q. And were you able to find out who that real
25 identity was?

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 A. Yes, we were.

2 Q. And who was that?

3 A. Chacos was later identified as Osmin Hernandez.

4 Q. Showing you State's Exhibit No. 61. Is this a
5 photograph of the person that you know to be Osmin
6 Hernandez?

7 A. Yes, it is.

8 Q. Is this about how he looked back in 2013?

9 A. That's correct.

10 MS. COLLINS: State offers into evidence
11 State's Exhibit No. 61, tendering to opposing counsel.

12 MR. MADRID: No objection, Your Honor.

13 THE COURT: Admitted.

14 Q. (By Ms. Collins) Showing you State's Exhibit
15 No. 61. Now, once you knew who this individual was --
16 and let me ask you this: Looking at State's Exhibit
17 No. 61, Osmin Hernandez, were you able to determine that
18 he did, in fact, live in the Coventry Square apartments?

19 A. That's correct.

20 Q. And do you recall what apartment that he lived
21 in?

22 A. We were advised that he lived in Apartment
23 2012.

24 Q. Do you know if he lived there by himself or
25 with other people?

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 A. He lived there with his wife and a couple of
2 children.

3 Q. Did you go to the apartment and attempt to talk
4 to him?

5 A. Yes, we did.

6 Q. Now, in the process of talking to the people at
7 the apartment complex, did you try to figure out who
8 this other person was, this person called Pelos?

9 A. Yes, we did.

10 Q. Were you able to locate and find out the real
11 name of Pelos?

12 A. Yes.

13 Q. And what did you learn his name to actually be?

14 A. Mario Paredes.

15 Q. And do you see the person you know to be Mario
16 Paredes here in the courtroom today?

17 A. Yes, I do.

18 Q. Can you identify him by an article of clothing
19 he's wearing?

20 A. The defendant. He has a plaid shirt on, a
21 plaid -- a plaid shirt on, and he has headphones on his
22 head.

23 MS. COLLINS: May the record reflect the
24 witness has identified the defendant?

25 THE COURT: It will.

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 Q. (By Ms. Collins) Now, would it be fair to say
2 there are a lot of individuals that ended up being
3 involved in this case, Officer?

4 A. That's correct.

5 Q. Okay. Showing you State's Exhibit No. 61. You
6 identified this person as Osmin Hernandez; is that
7 correct?

8 A. That's correct.

9 Q. Now, in the course of your investigation, did
10 you learn that Mr. Hernandez had quite a few different
11 nicknames?

12 A. That's correct.

13 Q. Now, you said that Daisy called him what?

14 A. Chacos.

15 Q. And were there any other nicknames that you
16 learned that he went by?

17 A. I believe Flaco. He was also -- he also went
18 by Flaco.

19 Q. Okay. Now, you also identified here in the
20 courtroom Mario Paredes. Showing you State's Exhibit
21 No. 62. Is this a photo of Mr. Paredes?

22 A. That's correct.

23 Q. Does this show how he was back in 2013?

24 A. Yes, ma'am.

25 MS. COLLINS: Tendering to opposing

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 counsel, asking to offer State's Exhibits No. 62.

2 MR. MADRID: No objection.

3 THE COURT: Admitted.

4 Q. (By Ms. Collins) Now, are there any other
5 names other than Pelos that you found Mario Paredes went
6 by?

7 A. Not that I'm aware of. Not that I can recall.

8 Q. Okay. Now, were you able -- you stated that
9 you learned that Mr. Hernandez lived in the Coventry
10 Square Apartments. Were you able to locate Pelos or
11 Mario Paredes as living at those apartments, as well?

12 A. I believe he was living with Flaco or Chaco.

13 Q. Would it be fair to say that during your
14 investigation you learned that Mario Paredes lived at
15 quite a few different places?

16 A. That's correct.

17 Q. Kind of stayed at friends' houses?

18 A. At different times.

19 Q. Okay. Now, once you have these two individuals
20 that you now knew who their identities were and that
21 they both hung out at the same apartment complex, did
22 you attempt to get video surveillance from that
23 apartment complex?

24 A. That's correct.

25 Q. Were you able to obtain video surveillance?

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Direct Examination by Ms. Collins

1 A. Yes, I did.

2 Q. Have you had a chance to review that video
3 surveillance before coming to court today?

4 A. Yes.

5 MS. COLLINS: For the record, publishing
6 State's Exhibit No. -- what's already been entered in as
7 State's Exhibit No. 53.

8 Q. (By Ms. Collins) Okay. There we have it.
9 Looking at the screen again, there is Camera 16 on
10 State's Exhibit No. 53. Is this one of the video
11 surveillance cameras that you were able to get from the
12 Coventry Square Apartments?

13 A. That's correct.

14 Q. And this particular video, is it from
15 August 31st of 2013?

16 A. That's correct.

17 Q. Now, it's military time down there at the
18 bottom. But can you tell us -- I'll call my time frame,
19 my people time -- as far as what time we have shown here
20 on the screen?

21 A. Approximately 7:12 p.m. and 15 seconds.

22 Q. Now, in watching this video -- let me ask you
23 this: Officer Dillingham, did you watch quite a bit of
24 video surveillance of this apartment complex?

25 A. Yes, I did.

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1 Q. What was the goal in watching the video
2 surveillance of this apartment?

3 A. My goal was to try to ascertain when our
4 complainant arrived on the property, who got into his
5 vehicle and who he left with.

6 Q. Now, in looking at this video surveillance --
7 and let me ask you this: You said complainant -- the
8 complainant in this case is it Mr. Bermudez-Gilces?

9 A. Mr. Gilces.

10 Q. Okay. Were you able to locate a time on
11 August 31st, 2013 when Jhon did come, in fact, to this
12 apartment complex?

13 A. Yes, I did.

14 Q. Were you aware at the time that you were
15 watching this video the type of car that Jhon was
16 driving that night?

17 A. That's correct.

18 Q. In fact, had you seen photos of it from the
19 fire marshal and their investigation?

20 A. That's correct -- well, let me take that back.
21 At this particular time, I hadn't saw the photographs
22 from the arson investigator; but I had been given a
23 description of the vehicle from family members, as well
24 as Daisy.

25 Q. So, you had an idea what you were looking for?

MYRON DILLINGHAM - July 29, 2015
Direct Examination by Ms. Collins

1 A. That's correct.

2 Q. I'm going to show you one more angle here.
3 Showing Camera No. 7. Is this the entryway into the
4 apartment complex that we were just looking at?

5 A. That's correct.

6 Q. Okay. Did you have an idea when you were
7 looking at this when you might expect to see Jhon enter
8 the complex?

9 A. I had a general idea, yes, I did.

10 Q. Okay. And why was that?

11 A. From witness statements, information we
12 received from Daisy. She gave us an approximate time.

13 Q. I'm going to fastforward this just a little
14 bit.

15 (Video playing)

16 Q. And, Officer, can you tell us in this camera
17 angle what we're looking for or looking to see here?

18 A. In this camera angle, at the particular time
19 we're looking for the exit of Mr. Bermudez-Gilces.

20 Q. And does he also enter the building before he
21 exits?

22 A. That's correct. 19:20 is about the approximate
23 time he gets here, so he should be rolling in.

24 Q. Is this the vehicle that was identified as
25 Jhon's vehicle?

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1 A. That's correct.

2 Q. Now, from this angle, were you able to
3 determine whether or not -- or how many people were in
4 the car at that time?

5 A. No, I was not.

6 Q. Fair to say you knew there was at least a
7 driver?

8 A. That's correct.

9 Q. Okay. Return to Camera No. 16, the exact same
10 time we were just looking at. Can you tell us, Officer,
11 seeing several individuals over here on the left side of
12 the camera, were you able to determine during your
13 investigation who those individuals were?

14 A. That's correct.

15 Q. And who were those individuals?

16 A. Well, the driver of the cream-colored car, we
17 were able to identify him as Nilson Alvarado. And then
18 there was Mario Paredes, and also Osmin Hernandez. They
19 were all standing here by the cream-colored light car.

20 Q. Did you eventually learn there was actually a
21 third individual there with that?

22 A. That's correct.

23 Q. And will we eventually see him here in this
24 video?

25 A. Yes, you will.

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1 Q. And what was his name?

2 A. Arredondo. He went by Grande -- Grandulon.

3 Q. Showing you State's Exhibit No. 60. Is this
4 the person you knew as Gerardo Arredondo or Grandulon?

5 A. That's correct.

6 Q. Is this how he looked back in 2013?

7 A. That's correct.

8 MS. COLLINS: State would offer into
9 evidence State's Exhibit No. 60.

10 MR. MADRID: No objection.

11 THE COURT: Admitted.

12 Q. (By Ms. Collins) Similar to these other two
13 individuals, Officer, does Gerardo Arredondo go by
14 several different nicknames?

15 A. That's correct.

16 Q. You mentioned he also went by Grandulon?

17 A. That's correct.

18 Q. Were there any other nicknames that you know
19 him to go by?

20 A. I want to say Grande, as well.

21 Q. And are these the folks we have over here,
22 Osmin Hernandez, Mario Paredes and Gerardo Arredondo,
23 the three individuals that were seen next to that truck
24 on the far left side of the video surveillance?

25 A. That's correct.

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1 Q. Now, at this point in the video surveillance,
2 can you tell what they're doing over there?

3 A. Other than just standing around and talking,
4 no, ma'am. They may be drinking some alcohol or
5 something, but that's pretty much it.

6 Q. Now I'm pausing here at 19:20:59. You
7 mentioned the driver of the cream-colored was named
8 Nilson. That's the car we're seeing pull out right
9 now?

10 A. That's correct.

11 Q. And the black vehicle behind it, were you able
12 to identify that as belonging to the victim in this
13 case, Jhon Bermudez-Gilces?

14 A. That's correct.

15 Q. Pausing it there. Officer Dillingham, when
16 you're watching this video surveillance, seeing the
17 interaction happening around Jhon's car, was there
18 anything that stood out to you seeming unusual?

19 A. No, ma'am.

20 Q. Okay. At any point do you see a driver get out
21 of Jhon's car?

22 A. No, I do not.

23 Q. Do you see another individual getting in the
24 driver's seat?

25 A. That's correct.

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1 Q. Did that seem odd to you?

2 A. Yes, it did.

3 Q. Why is that?

4 A. Because there was a driver already behind the
5 wheel. I'm thinking you don't need two people to drive,
6 but I just thought it was weird that somebody else got
7 in the driver's side when there was already somebody
8 sitting there.

9 Q. Again, switching to the front entryway camera,
10 are we going to be able to see what time Jhon leaves in
11 that vehicle from the complex?

12 A. Yes.

13 Q. Once we see Jhon leave the apartment complex
14 right there, were you able to find anybody after that
15 time who had seen or heard from Jhon alive?

16 A. No.

17 Q. Now, Officer, you mentioned that the last time
18 anyone had spoken -- or at least that Daisy had spoken
19 to Jhon was at approximately 7:10 p.m.; is that correct?

20 A. That's correct.

21 Q. Now, what time do we have up here seeing him
22 leave the apartment complex?

23 A. Probably 7:22 p.m.

24 Q. Now, what time are the gunshots heard in the
25 neighborhood where Jhon was found dead?

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1 A. The witnesses that were spoken to said at
2 approximately 7:30 p.m. they heard gunshots in the
3 neighborhood.

4 Q. Now, Officer Dillingham, that seems like a
5 pretty short period of time, between 7:22 and 7:30, when
6 gunshots are heard. Would that be fair?

7 A. Yes.

8 Q. I'm going to show you State's Exhibit No. 106.
9 Now, is this just essentially a layout or a roadmap of
10 the Coventry Square Apartments to the location where
11 Jhon was found deceased?

12 A. Yes.

13 Q. Okay. And looking over here at what's marked
14 as State's Exhibit No. -- State's Exhibit No. -- but
15 Exhibit No. C, or Marker No. C here on State's Exhibit
16 No. 106, is that where the car is eventually found
17 burnt?

18 A. That's correct.

19 Q. Was this all in a fairly small area of town?

20 A. Yes, it was.

21 Q. Would it have been easy for Jhon's vehicle to
22 make it at 7:22 p.m. all the way to where he was found
23 dead by 7:30?

24 A. Yes, that's correct.

25 Q. Would it also be fair to say -- let me ask you

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1 this: What time did the call go in that Jhon's car was
2 found burning?

3 A. It was approximately 8:00 o'clock p.m.

4 Q. Now, at this point, with such a short timeline,
5 were you interested to see who was going to come back to
6 the apartment complex?

7 A. That's correct.

8 Q. Did you, in fact, look to see if Osmin
9 Hernandez, Mario Paredes or Gerardo Arredondo made it
10 back to the complex that evening?

11 A. Yes.

12 Q. Now, at this point, what vehicle are you
13 expecting them to see come back in?

14 A. I was expecting them to come back in Jhon's
15 car, but -- I'm sorry. Let me take that back. I was
16 expecting to see them come back in Nilson's vehicle.

17 Q. And was that based on your investigation?

18 A. That's correct.

19 Q. Was Nilson's car the car that you were looking
20 to return here to the apartment complex?

21 A. That's correct.

22 Q. And did you, in fact, find that it did return
23 to the apartment complex?

24 A. Yes, it did.

25 Q. And when we're talking about Nilson's car

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1 returning, is that the same cream-colored vehicle we saw
2 exit right as Jhon got to the apartment complex?

3 A. That's correct.

4 Q. And what was your understanding of Nilson's
5 relationship to the three individuals we've been talking
6 about?

7 A. Well, Nilson was the nephew of Mr. Osmin
8 Hernandez, nephew, cousin.

9 Q. Family relationship?

10 A. Family, that's correct.

11 Q. And were you able to find -- is this the same
12 vehicle that was owned to Nilson reentering the
13 apartment complex at this time?

14 A. That's correct.

15 Q. It might help if I put that on the screen.
16 Okay. Showing you back again to State's Exhibit No. 53.
17 Is this the same vehicle we saw earlier belonging to
18 Nilson?

19 A. That's correct.

20 Q. Now, at this point can you see who all is in
21 this vehicle?

22 A. No, I cannot.

23 Q. We see that same cream-colored car belonging to
24 Nilson enter in just a moment. Is that the car that's
25 just parked down at the top of the screen?

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1 A. Yes, ma'am, closer to Apartment 2012 this time.

2 Q. And was there anything significant about it
3 parking closer to 2012 in the apartment complex?

4 A. I just believe that they were closer to home.
5 They pulled closer to home, so they didn't have to walk
6 as far from where they pulled out from.

7 Q. Fair to say they sit in that car for a bit?

8 A. Yes.

9 MS. COLLINS: For the record, switching to
10 State's Exhibit No. 99.

11 Q. (By Ms. Collins) And while that's pulling up,
12 Officer, you mentioned that Nilson was connected to
13 Osmin Hernandez as his nephew. Were you able to also
14 find a link between him and Gerardo Arredondo?

15 A. That's correct.

16 Q. And what was that link?

17 A. They went to high school together at some
18 point, and they were friends. They played soccer
19 together.

20 Q. And just to clarify, is this video starting off
21 right where we just ended? Okay. Trying that again.
22 Are we picking up right where the last video just ended?

23 A. Yes, ma'am.

24 Q. I'm putting the marker on the screen. Is this
25 the vehicle we're looking for right up here at the top?

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1 A. That's correct.

2 Q. Is that the same car we just saw move?

3 A. I believe so.

4 Q. Now when you're watching the video, now at
5 20:05:20, we see Nilson's car appearing to pull away.
6 How many people do we now see coming back into the
7 apartment complex?

8 A. Two people.

9 Q. Fair to say not the same number of people that
10 originally left?

11 A. That's correct.

12 Q. And you mentioned that this location down here
13 was what you called closer to home; is that correct?

14 A. Yes, ma'am.

15 Q. And when you say that, closer to which home?

16 A. The home of Osmin Hernandez, or Flaco or
17 Chacos.

18 Q. I may need to back it up for you, but can you
19 tell us what time we see Nilson pull back into the
20 apartment complex? I'll back it up if you need me to.

21 A. Back it up for me.

22 Q. That's fair.

23 A. About 8:01. I want to say it was 8:01-ish,
24 8:01, 8:02. It's approximately 8:01, if I'm not
25 mistaken.

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1 Q. Around 8:01; is that fair?

2 A. Yes.

3 Q. Now, once you have the names of the individuals
4 involved, you have the video surveillance, you have an
5 idea of the timeline, do you attempt to interview Osmin
6 Hernandez, Mario Paredes and Gerardo Arredondo?

7 A. Yes.

8 Q. These three individuals, do they speak English
9 or Spanish?

10 A. Spanish.

11 Q. Do you speak Spanish?

12 A. No, I do not.

13 Q. Okay. Because of that, did you have another
14 homicide investigator interview them?

15 A. That's correct.

16 Q. Now, were you present during those interviews?

17 A. I was present, but not -- I was present in the
18 building, yes, I was.

19 Q. Fair to say you would not have known what was
20 going on between the two individuals if you had been
21 there?

22 A. No, I would not.

23 Q. That having been said, after each of those
24 individuals are interviewed, do you speak with the
25 investigator who was able to interview them?

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1 A. That's correct.

2 Q. Specifically, do you recall who interviewed
3 Mario Paredes?

4 A. It was Jesse Sosa, Investigator Jesse Sosa.

5 Q. Are you sure it wasn't Heracio Chavez?

6 A. He may have been present. It was a group of
7 us. We was all in the same squad, so they were our
8 Spanish speakers in our squad.

9 Q. Do you talk to the interviewers after they've
10 interviewed Mario Paredes?

11 A. Yes, I do.

12 Q. Now, at that point do you have a possible alibi
13 for him?

14 A. Yes.

15 Q. Okay. Whenever someone presents you with an
16 alibi of where they've been when a crime is committed,
17 do you attempt to make sure that you can either dispute
18 that or back it up?

19 A. That's correct.

20 Q. Okay. In this case, where did you go to
21 attempt to validate that alibi?

22 A. I went to 12222 Bissonnet to Stop and Shop
23 store, which is walking distance from the apartment
24 complex. Basically, you walk through the gate and
25 you're right there at the store. So, I went there to

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1 try to obtain surveillance video to refute or confirm
2 his alibi.

3 Q. Okay. Now, once you got to the Shop and Go,
4 were you able to speak to someone named Mr. Ali?

5 A. That's correct.

6 Q. In speaking with Mr. Ali, were you able to
7 actually view the cameras that were up?

8 A. That's correct.

9 Q. Are we actually able to view the video while it
10 was still in the system?

11 A. That's correct.

12 Q. Did you do that?

13 A. I did.

14 Q. Specifically, what were you looking for?

15 A. I was looking for Mario Paredes to enter the
16 store like he said he did during the time that my
17 complainant, Mr. Gilces, was being murdered.

18 Q. Now, what was the exact time frame that you
19 were looking for on this video surveillance at the Shop
20 and Go?

21 A. I believe I requested from 5:00 o'clock p.m. to
22 8:00 o'clock p.m. to make sure I got it all in; but
23 specifically, I was looking at anywhere between 7:00
24 o'clock and 7:30-ish.

25 Q. Were you able to view that period of time on

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1 Mr. Ali's system?

2 A. I don't think I looked at the whole time
3 period. I requested that he make me a copy of the
4 surveillance so I could take it back to the office, but
5 I looked at enough of it to feel certain that I was
6 barking up the right tree at the time.

7 Q. Okay. To be fair, would it be fair to say that
8 you looked more specifically at the time frame you
9 thought was accurate while watching the surveillance at
10 Mr. Ali's establishment?

11 A. That's correct.

12 Q. And requested an even larger time frame?

13 A. That's correct.

14 Q. And did you receive that copy of that larger
15 time frame from Mr. Ali?

16 A. Yes, I did.

17 Q. And once -- were you able to view that once you
18 got it back to your office?

19 A. Yes, I did.

20 Q. In watching it, what you had seen on Mr. Ali's
21 system, was it consistent with the copy that you
22 received in hand?

23 A. Yes, it was.

24 Q. Other than that, there was a lot more there?

25 A. Yes, it was.

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1 Q. Okay. And in watching that, did there appear
2 to be any glitches, skips, malfunctions of any kind on
3 that video surveillance?

4 A. None whatsoever. No edits of any kind.

5 Q. Have you had a chance to watch that video
6 surveillance between then and trial today?

7 A. That's correct.

8 Q. Any inconsistencies in the video surveillance
9 from what you saw at Mr. Ali's establishment?

10 A. No, ma'am.

11 MS. COLLINS: Your Honor, at this time I'd
12 offer into evidence State's Exhibit No. 105.

13 MR. MADRID: Your Honor, can I take the
14 witness on voir dire to ask him a question?

15 THE COURT: No. You can do that on
16 cross-examination.

17 MR. MADRID: Well, she's offering it into
18 evidence. Well, my objection is -- I can ask him the
19 question. If you don't want me to, I'll just make the
20 objection.

21 THE COURT: Say it again.

22 MR. MADRID: I'll just -- what I was going
23 to ask him -- and I'll proffer it -- whether he made the
24 copy or Mr. Ali made the copy.

25 THE COURT: I'll let you ask him that.

1 VOIR DIRE EXAMINATION

2 BY MR. MADRID:

3 Q. Did you say you made the copy?

4 A. No, sir. Mr. Ali made the copy. I requested
5 the copy.

6 Q. Thank you?

7 MR. MADRID: So, my objection is that he's
8 not the operator of that system. Mr. Ali testified that
9 he's not the operator. He said he simply manages these
10 stores. He sees them once in a while. It hasn't been
11 authenticated, and I object to its admission for that
12 reason.

13 THE COURT: The only substance to your
14 objection is he hasn't been shown that as being the one
15 that was give to him by Mr. Ali.

16 MR. MADRID: It's that --

17 THE COURT: That to that extent, it will
18 be sustained, to that extent. You may do that.

19 DIRECT EXAMINATION (CONTINUED)

20 BY MS. COLLINS:

21 Q. Showing you State's Exhibit No. 105. Officer,
22 is this a copy of the video surveillance you obtained
23 from Mr. Ali?

24 A. That's correct.

25 Q. And do you know that from the fact -- well, how

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1 do you know this is the same copy you gave to us of that
2 video surveillance?

3 A. Because it has our label on it. We
4 specifically make a label with a stamp of Houston Police
5 Department on it.

6 Q. And to be specific, does this have the case
7 number attached to this case?

8 A. That's correct.

9 Q. As well as the address of where Mr. Jhon
10 Bermudez-Gilces was found?

11 A. That's correct.

12 Q. And in making this copy, have you viewed this
13 copy and is it same as the copy given to you by Mr. Ali?

14 A. That's correct.

15 MS. COLLINS: Your Honor, at this time I
16 offer into evidence State's Exhibit No. 105.

17 MR. MADRID: Judge, I just renew my
18 objection.

19 THE COURT: State it please.

20 MR. MADRID: That -- that Officer
21 Dillingham isn't the operator of that -- the system that
22 recorded this. And Mr. Ali isn't, either, who it was
23 proven up through. He testified he has nine stores. He
24 sees these things every other month. He doesn't work as
25 a clerk in the store, so he wasn't an operator of that

1 video system. And for that reason, I object.

2 THE COURT: It's overruled. It will be
3 admitted.

4 Q. (By Ms. Collins) Now, Officer Dillingham, much
5 like the hours of video surveillance you went through at
6 the apartment, did you also watch hours of video
7 surveillance for the Shop and Go?

8 A. That's correct.

9 Q. In all of the video that you watched at that
10 Shop and Go, did you ever see Mario Paredes going to
11 that Shop and Go on August 31st, 2013?

12 A. No, I did not.

13 Q. Now, to be clear, Officer Dillingham, was what
14 you saw at the Shop and Go video surveillance consistent
15 with Mr. Paredes' statement?

16 A. No, it was not.

17 MS. COLLINS: Pass the witness, Your
18 Honor.

19 MR. MADRID: Cross, Your Honor?

20 THE COURT: Sure.

21 CROSS-EXAMINATION

22 BY MR. MADRID:

23 Q. Good morning. Is it Investigator Dillingham?

24 A. It's Sergeant Dillingham.

25 Q. Sergeant?

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1 A. Yes.

2 Q. So, you were assigned to this case
3 September 3rd, 2013, right?

4 A. That's correct.

5 Q. And the complaining witness was killed the
6 prior Saturday, right, the 31st?

7 A. That's correct.

8 Q. So, you had a part of this investigation; but
9 you weren't the only investigator?

10 A. That's correct, sir.

11 Q. You said Avila and Sosa did a lot of the work
12 because they're Spanish-speakers?

13 A. That's correct, sir.

14 Q. And Chavez and Cisneros had to come in and
15 help, also?

16 A. At one point the whole squad helped.

17 Q. So, you were kind of limited; because when
18 you're going out there to that complex, there is a lot
19 of Spanish-speakers, right?

20 A. That's correct.

21 Q. And then there is a lot of -- all the, you
22 know, the people that were charged were
23 Spanish-speakers; so, you're a bit limited, right?

24 A. That's correct.

25 Q. In fact, you didn't talk to Mr. Paredes, did

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1 you?

2 A. No, sir.

3 Q. The -- but -- so I'm kind of -- I want to ask
4 you some questions about that, because I'm not sure how
5 much into it you got. I have -- there is a pretty
6 lengthy offense report, probably over 150 pages, right?

7 A. Yes, sir.

8 Q. But you didn't write the whole thing; you had
9 like twenty or thirty pages of that?

10 A. Yes, sir.

11 Q. And so, you know some of the players. I mean,
12 obviously, you know them all or know who everybody is
13 because you worked it, right?

14 A. Yes, sir.

15 Q. Then -- some of the things you were talking
16 about, your -- you now work with Internal Affairs,
17 right?

18 A. Yes, sir.

19 Q. And you weren't -- you know, you worked in
20 Homicide; so, you worked a lot of these cases, right?

21 A. Yes, sir.

22 Q. But you don't work -- earlier when you were
23 talking about DNA and fingerprints and those things, you
24 don't work -- you're not a CSU; you're not out there
25 picking up evidence and looking for fingerprints and

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1 DNA, are you?

2 A. No, sir.

3 Q. So when you said, oh, well, the evidence is
4 destroyed in the car, or it could be, I mean, that's not
5 your expertise, is it?

6 A. No, sir.

7 Q. In fact, that car, the black car that we saw in
8 the State's exhibit with the video, it wasn't completely
9 burned?

10 A. No, sir, it was not.

11 Q. And so, it's possible there could have been
12 evidence. I'm not saying there is or isn't; but it's
13 possible, right?

14 A. It could be possible.

15 Q. That would be up to CSU and sending it to the
16 lab. And if there is, there is; and if there isn't,
17 there isn't, right?

18 A. That's correct.

19 Q. In fact, you said there was no DNA. But if CSU
20 Taravella said he had swabbed for some things and sent
21 them to the lab, that's probably true, right?

22 A. That's correct.

23 Q. And there were fingerprints -- I mean, in this
24 case Jhon Gilces, they identified him through his
25 fingerprints from -- he had a prior possession with

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1 intent to deliver case, if you know, the complaining
2 witness?

3 A. Yes, sir.

4 Q. That's how they I.D.'d him?

5 A. Yes, by his fingerprints.

6 Q. He went to the M.E. They printed him and said
7 that's who this is?

8 A. Correct.

9 Q. Because you were out trying to find out who he
10 was. And I think you had originally talked to Rosemary,
11 the family member. She was kind of not helping you out
12 too much, or you had written in your report that she
13 wasn't?

14 A. That's correct.

15 Q. She had been evasive?

16 A. Yes, sir.

17 Q. So, you didn't make the scene. You couldn't
18 have made the scene because you weren't working that
19 weekend, right?

20 A. That's correct.

21 Q. So, you didn't see that Jhon Gilces just had --
22 he had a lot of money left on him?

23 A. Yes, sir, 1500.

24 Q. Do you know if he did?

25 A. Well, reading the report, I was able to see

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1 that he had \$1,597 and some change in his pocket.

2 Q. So, he had almost \$1,600, right?

3 A. Yes, sir.

4 Q. And Mr. Paredes, just to be clear, you said he
5 had lived at different places. In fact, when y'all went
6 to look for him, he was living in another apartment,
7 right?

8 A. Yes.

9 Q. I mean, he wasn't living at Coventry Square?

10 A. From the report and some of the work that the
11 other investigators did, it was apparent that he
12 possibly had ties to two or three different apartments,
13 at least two.

14 Q. And he was, if you know, a laborer, wasn't he,
15 like a worker that works constructions?

16 A. That's correct.

17 Q. When y'all went to arrest him, he had been
18 picked up in a work van and was on his way to work?

19 A. That's correct.

20 Q. The -- I got a question about Nilson and
21 Gerardo. They were friends, right? You said they
22 played soccer together?

23 A. Yes, sir.

24 Q. And so, when we're looking at this -- I don't
25 think we have a picture. Do we have a picture of

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1 Gerardo?

2 A. There is one up there for him.

3 Q. There we go. When we're looking at this
4 picture, I guess we're missing Nilson. But who we call
5 Gerardo Grandulon is who you called him, right?

6 A. Yes, sir.

7 Q. He was not related to this man on here, Mario
8 Paredes?

9 A. Not that I'm aware of.

10 Q. If we had Nilson, Nilson and Grande were
11 friends, right?

12 A. That's correct.

13 Q. Played soccer, went to high school together?

14 A. Yes, sir.

15 Q. And Nilson was the nephew or step-nephew -- it
16 was his stepfather was brothers with this man, Osmin,
17 Flaco, right?

18 A. Yes, they were related.

19 Q. So, these two guys, Nilson, who wasn't
20 arrested -- but Nilson and these guys were related, and
21 Grande and Nilson was -- were friends?

22 A. That's correct.

23 Q. This man, Mario Paredes, was not related to
24 Nilson, right?

25 A. Not that I'm aware of.

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1 Q. And Nilson's, like, eighteen; and so was
2 Grande, right?

3 A. They're much the same age, yes, sir.

4 Q. So Mario Paredes, he wasn't friends with him,
5 either? I mean, they --

6 A. They were acquaintances. That's all I knew.

7 Q. And it was all through the relationship of
8 Osmin and Nilson, right?

9 A. Probably so.

10 Q. Okay. And these two men, especially speaking
11 of my client, he's about thirty-four years old, right?

12 A. Yes.

13 Q. And these other guys, they're younger guys,
14 right?

15 A. Yes, they are.

16 Q. But that's the relationship, right?

17 A. To the best of my knowledge, yes, sir.

18 Q. Did you know, in your investigation of this,
19 anything about -- because I'm kind of limited -- I mean,
20 I'm looking at what you've put in your investigation.
21 Because other people were working it, there is different
22 angles, right?

23 A. Yes, sir.

24 Q. And different people gave statements, right?

25 A. Yes.

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1 Q. But Nilson wasn't charged, was he?

2 A. No, sir.

3 Q. But as far as you know, those -- that's his car
4 in the video, right?

5 A. Yes.

6 Q. The white car, the Mitsubishi?

7 A. Yes, sir.

8 Q. It comes in and it leaves, and it comes back
9 after you think -- what you -- your theory of when the
10 murder happened, in that 7:00 to 10:00 -- 7:00 to 8:00
11 time period, right?

12 A. Yes.

13 Q. And soon -- but it's his car that comes back,
14 right?

15 A. Yes, sir.

16 Q. And it's your understanding that he actually
17 followed the car or met up with the car and gave these
18 guys a ride back, right?

19 A. It's my understanding that they called him. He
20 went back and picked them up.

21 Q. Do you know if -- you were giving your opinion
22 earlier. Do you think he was involved in it?

23 A. He may have -- he may have more -- he may have
24 more than what he's told us.

25 Q. I mean, it's --

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1 A. As to his involvement.

2 Q. It's pretty obvious that Jhon Gilces showed up,
3 was taken, killed; and Nilson was there before, and
4 Nilson was there after?

5 A. Yes.

6 Q. And there is -- there is even maybe evidence
7 that he was there at the time of the shooting, just
8 parked down the street, if you know?

9 A. Yes.

10 Q. Okay. So Nilson, he likely aided in this or
11 assisted or something, right?

12 A. It's possible.

13 Q. But he wasn't charged with anything, was he?

14 A. That's correct.

15 Q. Did -- in your investigation and knowing -- and
16 I assume you reviewed, even though you only -- I know
17 you wrote a portion. You've kind of reviewed the whole
18 case, right?

19 A. Yes.

20 Q. So, I'm not trying to ask you something that
21 you don't know. If you don't know, you can tell me.
22 And I understand there's four other investigators
23 involved, so I'm not trying to trip you up. That's why
24 I'm asking you like this, okay?

25 A. Okay.

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1 Q. If you know that Gerardo came in, right, and he
2 talked?

3 A. That's correct.

4 Q. And if you know, there was a relation to this
5 case and a murder that happened two days before?

6 A. Yes, sir, I'm aware of it.

7 Q. And that's in the same area, right?

8 A. That's correct.

9 Q. Do you know anything about that other case?

10 MS. COLLINS: Objection to relevance.

11 THE COURT: Beg your pardon?

12 MS. COLLINS: Objection to relevance.

13 THE COURT: Sustained.

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

15 THE COURT: No.

16 MR. MADRID: May I make my objection then?

17 THE COURT: No. No.

18 MR. MADRID: May I --

19 THE COURT: She objected, and I sustained
20 the objection. I don't want an argument.

21 MR. MADRID: May I approach?

22 THE COURT: Okay.

23 (At the bench)

24 MR. MADRID: Your Honor, if I can, I'm
25 asking these questions because I anticipate the State's

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1 going to put on Gerardo Arredondo.

2 THE COURT: Can you speak a little bit
3 louder?

4 MR. MADRID: I anticipate the State's
5 going to put on Gerardo Arredondo. He's involved in
6 this murder. Second murder that I'm asking about,
7 that's in the area. That has the same weapon that's
8 used in both murders. It's extremely relevant. The
9 ballistics are going to show the same gun that was used
10 in two murders.

11 THE COURT: Is anybody going to put your
12 client as the person involved in the other murder?

13 MR. MADRID: No, but it's -- no, not mine
14 at all.

15 THE COURT: There is nothing --

16 MR. MADRID: It's extremely relevant, Your
17 Honor.

18 THE COURT: Why?

19 MR. MADRID: Because Gerardo Arredondo is
20 going to testify that this gun was my client's gun, but
21 he's also the person that led the police to the gun; and
22 the gun was used in a murder two days before. If I'm
23 not able to get -- I mean, that completely guts my
24 entire defense. I don't know how it's not relevant.

25 THE COURT: It's not relevant at this

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1 time. It may become relevant later.

2 MR. MADRID: I'll stop asking questions.
3 I'll recall him later if I can't ask these questions.
4 I'm just trying to be efficient for y'all.

5 THE COURT: I suspect that once you get
6 Arredondo on there, he'll clear all of this up.

7 MR. MADRID: I agree.

8 THE COURT: Take your client out of the
9 picture. I mean, do you want to put him in the picture?

10 MR. MADRID: It doesn't put my client in
11 the picture.

12 THE COURT: I said, do you want to?

13 MR. MADRID: No.

14 THE COURT: I didn't think so.

15 MR. MADRID: It has to do --

16 THE COURT: There you go. It has nothing
17 to do with your client.

18 MR. MADRID: But as a defense it does,
19 Judge.

20 THE COURT: What evidence -- I'm
21 sustaining the objection at this time.

22 MR. MADRID: It's in the offense report
23 that they're a part of --

24 THE COURT: That they're what?

25 MR. MADRID: This offense report mentions

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1 the murder. How can it not be relevant?

2 THE COURT: He didn't recover the pistol.
3 He has nothing to do with the pistol.

4 MR. MADRID: I'm asking --

5 THE COURT: What he knows, he heard from
6 somebody else.

7 MR. MADRID: I won't ask any further
8 questions. I'll proffer later and call him back. And
9 if we have to do that for every witness, I will. I
10 don't really know what to say, but I'll --

11 THE COURT: All right.

12 (Continuing in jury's presence)

13 MR. MADRID: Judge, I pass the witness,
14 and I have no further questions.

15 THE COURT: He's going to be available if
16 you need him.

17 MR. MADRID: Well, Judge, before -- I'm
18 going to ask him a couple of questions before I do that,
19 but I want him available if I can later.

20 THE COURT: I understand.

21 MR. MADRID: Let me just finish up a
22 couple of things.

23 BY MR. MADRID:

24 Q. Sergeant Dillingham, a few more questions.
25 When you went out to look to talk to Nilson, that's

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1 Nilson Alvarado, the fourth person in this, right?

2 A. Yes, sir.

3 Q. You went out to talk to him. If you recall,
4 it's in your supplement there on Page 72. But you
5 tracked him down to his girlfriend, right --

6 A. Yes.

7 Q. -- if you recall? And she actually didn't
8 answer the door, did she?

9 A. She did not.

10 Q. And she made calls to other people, right?

11 A. Correct.

12 Q. So, Nilson was aware of this before he talked
13 to the police, right?

14 A. Possibly.

15 Q. And if you know, he lied to the police, right?

16 A. I'm not sure if he did or not.

17 Q. I'm sorry. Because you didn't do the
18 interview. I think Cisneros or Chavez did, right?

19 A. That's correct.

20 Q. But he was tipped off, at least, I guess you
21 could say?

22 A. That's possible.

23 Q. Did -- on this video -- and we may go through
24 it in a minute here. I don't want to waste anybody's
25 time here. So I'm going to ask you, from seeing the

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1 video, depending on your answer, we may look at it
2 again. When the white Mitsubishi enters about, I don't
3 know, 7:19, 7:20, you see that, right, the white
4 Mitsubishi?

5 A. At 7:20 the complainant, Jhon Bermudez-Gilces',
6 vehicle enters the complex.

7 Q. I'm sorry. A few minutes before, about 7:18,
8 7:19?

9 A. Okay.

10 Q. That would be the white Mitsubishi, right, or
11 the cream-colored Mitsubishi?

12 A. Yes, sir.

13 Q. And it's your belief that's Nilson Alvarado's,
14 right?

15 A. Yes.

16 Q. Did you see anybody get out of the car?

17 A. I do not believe so.

18 Q. Do you know?

19 A. I'm not sure. I'm not totally sure if he gets
20 out or not.

21 Q. Based on your investigation, do you know if
22 anybody got out of the car?

23 A. I'm not sure.

24 Q. Okay. Did -- then that car leaves, right?

25 A. That's correct.

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1 Q. Do you know how Gerardo Arredondo got there?

2 A. No, I do not.

3 Q. Do you -- looking at that video, can you tell
4 this jury that you can identify those people? Because I
5 was confused if that's what you said.

6 A. No, sir. He was identified through Nilson.
7 Everybody that was out there was identified through
8 Nilson, and that's depicted in my police report.

9 Q. Okay. So, then, let's just be clear. And the
10 jury can look at the video later, so they don't have to
11 play through this video. You cannot identify one person
12 in that video, right?

13 A. That's correct.

14 Q. And the one person that identifies everybody is
15 the one person not charged in this crime, right?

16 A. That's correct.

17 Q. When the video returns, or the car returns,
18 it's -- again, it's Nilson's car that returns, right?

19 A. That's correct.

20 Q. Later that -- you know, a little bit later,
21 it's a little darker now. And you said that car is now
22 down by closer to Osmin Hernandez, who's up there on the
23 left, Flaco, it's closer to his apartment, right?

24 A. That's correct.

25 Q. And that video, you can't see anybody in the

MYRON DILLINGHAM - July 29, 2015
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1 apartment, can you?

2 A. No, sir.

3 Q. I mean, because it's at an angle; but you
4 can't. Do you see -- can you see anything?

5 A. I can see two Hispanic males, two what appears
6 to be Hispanic males exit from the vehicle and walk
7 towards Apartment 2012.

8 Q. You really can't identify them, can you?

9 A. No, sir.

10 Q. I mean, everybody in this apartment complex
11 just about is Hispanic to begin with, so that wouldn't
12 be unusual?

13 A. That's correct.

14 Q. You see a car in a distance and maybe some
15 figures coming out of the car, right?

16 A. That's correct.

17 Q. You don't see who they are, do you?

18 A. I'm just making, you know, a calculated guess
19 based on watching the vehicle come in, watching the
20 vehicle sit there and then watching those two get out of
21 the vehicle.

22 Q. And you're making that guess based on what
23 Nilson, who wasn't charged, told you, right?

24 A. Well, that particular analysis is my own.

25 Q. Okay. Your analysis, your guess, is based on

MYRON DILLINGHAM - July 29, 2015
Cross-Examination by Mr. Madrid

1 who you think came back to the apartment?

2 A. That's correct.

3 Q. Okay. And you already said at that time, as
4 far as you know, that's where Osmin lived, not Mario
5 Paredes, right?

6 A. That's correct.

7 Q. And did you see Gerardo Arredondo -- you
8 couldn't see -- I mean, I guess you only saw two people.
9 You didn't see four people, right?

10 A. I only saw two people.

11 Q. And somebody was driving that, so they drove
12 away?

13 A. That's correct.

14 Q. And it was -- as far as you know, it was
15 Nilson's car, right?

16 A. As far as I know, yes, sir.

17 Q. Did you recover any evidence at -- at some
18 point you went into that apartment where Osmin lives.
19 Did you recover any evidence?

20 A. I think I recovered some marijuana, some brass
21 knuckles.

22 Q. And that was at Osmin's apartment, right?

23 A. That's correct.

24 Q. There was talk, if you know, in the report
25 about some purple bag, like a Crown Royal bag. Do you

MYRON DILLINGHAM - July 29, 2015
Cross-Examination by Mr. Madrid

1 recall, or do you not?

2 A. I don't recall.

3 Q. You didn't find anything -- I guess what I'm
4 asking, did you find any stolen items that belonged to
5 Jhon Gilces or Bermudez-Gilces?

6 A. No, I did not.

7 Q. Okay. Thank you, Officer.

8 MR. MADRID: Pass the witness.

9 THE COURT: Anything else?

10 MS. COLLINS: Briefly, Your Honor.

11 **REDIRECT EXAMINATION**

12 BY MS. COLLINS:

13 Q. Defense counsel made mention of the
14 complainant's having a lot of money on him; is that
15 right?

16 A. That's correct.

17 Q. Okay. To be fair, was there a reason to
18 believe that Jhon was dealing drugs?

19 A. That's correct.

20 Q. In your experience in twenty years at HPD, is
21 it common that people in criminal behavior, drug
22 dealers, prostitutes, people of that nature, are very
23 often the victims of these types of crimes?

24 A. That's correct.

25 Q. And why is that?

MYRON DILLINGHAM - July 29, 2015
Redirect Examination by Ms. Collins

1 A. Because they always carry large sums of money
2 on them, and drugs in some cases.

3 Q. Is it very often, in your experience at the
4 Houston Police Department, that the cash isn't what
5 people are after when they rob a drug dealer?

6 A. That's correct.

7 Q. What were they mostly after?

8 A. The drugs themselves.

9 Q. Now, I'm showing you State's Exhibit No. 63.
10 Is this a photo of the person we've been talking about
11 named Nilson?

12 A. That's correct.

13 Q. Okay. Is this how he looked back in 2013?

14 A. That's correct.

15 MS. COLLINS: State offers into evidence,
16 tenders to opposing counsel.

17 MR. MADRID: No objection.

18 THE COURT: It's admitted.

19 Q. *(By Ms. Collins)* Now, there is a lot of talk
20 about Nilson. Is it fair to say Nilson's possible
21 involvement in this is suspicious at best?

22 A. That's correct.

23 Q. You're certainly not going to sit here and say
24 Nilson is some kind of angel who had no involvement in
25 this?

MYRON DILLINGHAM - July 29, 2015
Redirect Examination by Ms. Collins

1 A. That's correct.

2 Q. Now, nevertheless, at the time that Jhon pulls
3 out at 7:22 on August 31st, 2013, where is Nilson?

4 A. Nilson is gone. He's already departed the
5 apartment complex.

6 Q. In fact, at the time Jhon pulls into the
7 apartment complex that day, is Nilson even there still?

8 A. No.

9 Q. Because of that, were you able to find anything
10 in this case to allow you to arrest Nilson?

11 A. No.

12 Q. Now, there has been a lot of talk about the
13 relationships between these four men. Would it be fair
14 to say that all of these three men come back to Osmin
15 Hernandez?

16 A. That's correct.

17 Q. Now, Nilson and Gerardo Arredondo, you
18 mentioned, went to school together; is that right?

19 A. That's correct.

20 Q. That having been said -- well, they're a lot
21 younger than these two men right here. Would that be
22 fair?

23 A. Yes.

24 Q. In fact, Osmin Hernandez and Mario Paredes were
25 about the same age. Would that be fair?

MYRON DILLINGHAM - July 29, 2015
Redirect Examination by Ms. Collins

1 A. Yes.

2 Q. Much older than these two men right here,
3 correct?

4 A. That's correct.

5 Q. Now, Officer Dillingham, Nilson's possible
6 involvement, does that in any way, shape or form lessen
7 these three men's involvement and what happened to Jhon
8 Bermudez-Gilces?

9 A. No, it does not.

10 Q. At the end of your investigation, who did you
11 arrest for the murder of Jhon Bermudez-Gilces?

12 A. I arrested Hernandez, Paredes and Arredondo.

13 MS. COLLINS: Pass the witness, Your
14 Honor.

15 MR. MADRID: Recross, Your Honor?

16 **RECROSS-EXAMINATION**

17 BY MR. MADRID:

18 Q. You said, you know, working twenty years in HPD
19 and working with a number of years in Homicide, people
20 get robbed for drugs, right?

21 A. That's correct.

22 Q. And you probably -- and if you have, you can
23 tell me or not -- worked with maybe kick-in robberies,
24 where people break into a house and steal drugs, or have
25 you not?

MYRON DILLINGHAM - July 29, 2015
Recross-Examination by Mr. Madrid

1 A. Yes.

2 Q. Okay. And when -- it's -- oftentimes what
3 happens when people are stealing drugs, they're stealing
4 large quantities of drugs, right?

5 A. It happens, yes, sir.

6 Q. Did you, in your investigation, find that the
7 complaining witness had a large amount of drugs on him?

8 A. Yes, he had -- when you say large --

9 Q. Well, I guess that's what -- what do you think
10 he had on him?

11 A. I can't remember, but it was a large amount to
12 have on his person. I mean, it wasn't like a kilo or
13 anything like that. He had a bunch of small packs, I
14 believe, of cocaine.

15 Q. Just like a drug dealer, small packs of what
16 they call, like, twenties, right?

17 A. That's correct, something like that, small
18 quantities.

19 Q. A small quantity, twenty-dollar rock or
20 twenty-dollar powder, right?

21 A. Yes.

22 Q. And he had multiple?

23 A. He had multiple --

24 Q. Maybe --

25 A. -- packets.

MYRON DILLINGHAM - July 29, 2015
Recross-Examination by Mr. Madrid

1 Q. We don't know how many he had because he didn't
2 have any on him, right?

3 A. He didn't have any on him when we recovered his
4 body, no, sir.

5 Q. He just had packets on him, right?

6 A. That's what we learned from some of the
7 statements that were obtained.

8 Q. You said that Nilson -- let me just -- like you
9 said, he didn't have any kilos or anything like that on
10 him?

11 A. Not that we know of.

12 Q. But he was left with almost \$1,600?

13 A. That's correct.

14 Q. So if there was any intent to rob him, you're
15 saying it could have been of drugs. It wasn't of money.
16 The car was destroyed. It didn't seem like they were
17 trying to steal his car, right?

18 A. I believe they got what they were after. They
19 were seeking the drugs, and that's what they took.

20 Q. And the people that told you are some of the
21 people that are going to be pointing fingers at each
22 other on this case, right?

23 A. That's correct.

24 Q. And one of them, obviously, is Nilson; but he
25 wasn't charged, like you said. But you had just said

MYRON DILLINGHAM - July 29, 2015
Recross-Examination by Mr. Madrid

1 something in redirect that you didn't have any
2 additional evidence on him; is that right?

3 A. If we would, we would have charged him, as
4 well, sir.

5 Q. And the -- really, the only additional evidence
6 you have on my client is these other people that are
7 going to -- possibly Gerardo Arredondo, and we'll wait
8 to see what they say -- but basically, people pointing
9 fingers, right?

10 A. Yes, sir.

11 Q. And, for instance, Nilson Alvarado was
12 obviously there close to the time this happens, right?

13 A. He was at the apartment complex --

14 Q. Yes.

15 A. -- before Mr. Gilces arrived; and he was there
16 after the incident occurred, that's correct, sir.

17 Q. So, based on the hard evidence -- we can see
18 that video -- Nilson was there before and after, right?

19 A. Yes, sir.

20 Q. And other than other people's statements, there
21 isn't any proof that Mr. Paredes was there before or
22 after on that video?

23 A. No, sir.

24 Q. And so, that's clear-cut evidence, right? You
25 would agree with me?

1 A. Yes, sir.

2 Q. And so, the only thing that is separating
3 Mr. Paredes, who is not charged with capital murder --
4 I'm sorry -- Mr. Alvarado, who is not charged with
5 capital murder and Mr. Paredes is going to be other
6 people's statements, right?

7 A. Yes, sir.

8 Q. Okay. Thank you?

9 MR. MADRID: Pass the witness.

10 THE COURT: Anything else?

11 MS. COLLINS: Yes, Your Honor.

12 **FURTHER REDIRECT EXAMINATION**

13 BY MS. COLLINS:

14 Q. Officer Dillingham, Mario Paredes gave a
15 statement in this case, correct?

16 A. Yes, he did.

17 Q. In fact, he admitted to being in that car on
18 August 31st, 2013, in Jhon Bermudez's car; is that
19 correct?

20 A. That's correct.

21 Q. And he admitted to being in that vehicle on
22 August 31st, 2013, at 17:22 hours, as we saw on that
23 video, right?

24 A. That's correct, and that's --

25 Q. So --

MYRON DILLINGHAM - July 29, 2015
Further Redirect Examination by Ms. Collins

1 A. I'm sorry. Go ahead.

2 Q. So, he places himself at the scene, right?

3 A. That's correct.

4 Q. And that's only around seven or eight minutes
5 before gunshots are heard exactly where Jhon Bermudez is
6 found?

7 A. That's correct.

8 MS. COLLINS: Pass the witness.

9 MR. MADRID: I'm sorry. Just one redirect
10 (sic).

11 **FURTHER RECROSS-EXAMINATION**

12 BY MR. MADRID:

13 Q. There is no evidence other than other people's
14 testimony that Mr. Paredes was on Tambourine where the
15 complaining witness was found, is there?

16 A. Say that one more time. I'm sorry.

17 Q. There isn't any evidence other than other
18 people's statements that Mario Paredes was at the 12400
19 block of Tambourine where the complaining witness was
20 found?

21 A. I believe the statement that Mr. Paredes
22 provided put him there on the scene in the vehicle, and
23 that's through the Spanish side of it. And so, I wasn't
24 privy to that. I don't know what he said in the
25 interview room. I was able to look at the offense

MYRON DILLINGHAM - July 29, 2015
Further Recross-Examination by Mr. Madrid

1 report after it was written, but his own statement has
2 put him there.

3 Q. And I'm talking about at the Coventry
4 Apartments. I mean, I think you're talking about
5 Coventry Apartments. I'm talking about Tambourine
6 street where the body was found.

7 A. I believe his statement put him there.

8 Q. We can hear his statement. We'll find out if
9 you -- I understand you didn't -- you didn't interview
10 him, so you -- you're making a guess at that, right?

11 A. Yes, sir. You're asking me, and I was just
12 trying to give you the best answer that I could.
13 Because again, he was a Spanish-speaker. And I wasn't
14 sitting in the room. I was outside the room, and I had
15 no idea what he said. I know he put himself on
16 locations. He involved himself through his own
17 admission in the commission of this crime.

18 Q. Just as Nilson did; but Nilson wasn't charged,
19 right?

20 A. Well, Nilson did not put himself at the scene
21 of the crime. If Nilson would have provided evidence to
22 say he was at the crime when it occurred, he would have
23 been charged with murder, sir.

24 Q. If somebody else said he was there, would he
25 have been charged with murder?

MYRON DILLINGHAM - July 29, 2015
Further Recross-Examination by Mr. Madrid

1 MS. COLLINS: Objection to speculation,
2 Your Honor.

3 THE COURT: Sustained.

4 MR. MADRID: That's fine, Your Honor.
5 Pass the witness.

6 MS. COLLINS: Nothing further, Your Honor.

7 THE COURT: You may step aside.

8 Is Mr. Arredondo your next witness?

9 MS. COLLINS: No, sir.

10 MS. HARTMAN: No. We were going to call
11 Chavez, another officer, Your Honor.

12 THE COURT: Members of the jury, I usually
13 like to take a break about an hour and-a-half. It's
14 been a little bit longer than that. Why don't we just
15 take a short break before we call the next witnesses.

16 (Brief recess)

17 (Jury enters courtroom)

18 THE COURT: Who is your next witness?

19 MS. HARTMAN: It's Sergeant Chavez.

20 THE COURT: Okay.

21 (Witness sworn)

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H.A. CHAVEZ - July 29, 2015
Direct Examination by Ms. Hartman

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H.A. CHAVEZ,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. HARTMAN:

Q. Can you please introduce yourself to the jury, sir?

A. Yes, ma'am. I'm Sergeant H.A. Chavez with the Houston Police Department.

Q. And how long have you been with the Houston Police Department?

A. In October it will be thirty years.

Q. And what are your current duties with HPD?

A. Currently I'm assigned to the Internal Affairs Division.

Q. And how long have you been with Internal Affairs?

A. February the 15th of this year is when I transferred over.

Q. Are you a certified peace officer?

A. Yes, I am.

Q. How do you become a certified peace officer?

A. We have to go through a police academy. The Houston Police Academy's time is six months.

Q. Do you take any type of test and continuing education to maintain that certification?

H.A. CHAVEZ - July 29, 2015
Direct Examination by Ms. Hartman

1 A. Yes. Every year we have to go to forty hours
2 of basic in-service training.

3 Q. And are you current on your certification?

4 A. Yes, I am.

5 Q. And what were your duties back in 2013?

6 A. I was assigned to the Homicide Division of HPD.

7 Q. And how long had you been with Homicide at that
8 time?

9 A. Well, I did eighteen years as an officer in the
10 Homicide Division before I got promoted. And then I
11 went out for a three-month period and came back, so I
12 was in Homicide for a total of nineteen years.

13 Q. Any specific training that you had to have to
14 be in the Homicide Division?

15 A. It's a lot of on-the-job training. We do have
16 classes, like, related to homicide, kidnapping and stuff
17 like that that they have training for. And we do go to
18 that to get better familiar with the cases assigned to
19 Homicide.

20 Q. And did you work with anyone in particular when
21 you were in Homicide back in 2013?

22 A. Yes. My partner at that time was Investigator
23 Jesse Sosa.

24 Q. And how do they partner y'all up? Is there any
25 rhyme or reason to that?

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1 A. Well, there is, I think, five squads on the day
2 shift squad, the murder squads. And there is
3 approximately ten investigators per squad, mixed
4 officers and sergeants. And basically, it's the
5 lieutenant assigned to the squad who partners people up.

6 Q. And what squad were you in in 2013?

7 A. In Squad 1.

8 Q. Okay. And who all did that consist of? Did
9 that consist of Sergeant Dillingham?

10 A. Yes, it did.

11 Q. And did you actually end up helping him on a
12 murder case in 2013?

13 A. Yes, I did.

14 Q. How did you come about helping Sergeant
15 Dillingham on the murder case?

16 A. Well, this particular case involved
17 Spanish-speaking witnesses, so I'm bilingual. I speak
18 Spanish, and that was the reason that I was pulled into
19 the investigation.

20 Q. And how long have you been speaking Spanish?

21 A. All my life.

22 Q. Can you read Spanish also?

23 A. Yes.

24 THE COURT: Excuse me one minute.

25 Miss Collins, if you go outside, there is

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1 somebody looking for you. You better go before they
2 leave.

3 Q. (By Ms. Hartman) And obviously, extra benefit
4 to have your expertise in Spanish on this investigation?

5 A. That's correct.

6 Q. How did you get brought into the investigation?

7 A. Well, initially, Investigator Sosa and another
8 investigator, Xavier Avila, were assigned the scene.
9 They were on call, I believe. And once they made the
10 scene, it was passed over to the next group, or the next
11 pair that was up for the next murder. And that happened
12 to be Sergeant Dillingham and Sergeant Jewel. And I
13 need to make a correction about my partner at the time.
14 My partner at that time was Sergeant Cisneros; but I've
15 worked with Investigator Sosa as a partner, as well.

16 Q. So, y'all -- each group of partners does a
17 weekend call-out?

18 A. That is correct.

19 Q. And Sosa just happened to be on the weekend
20 call-out on August the 31st of 2013?

21 A. Yes, ma'am, that's correct.

22 Q. And so, any murders that would happen on that
23 date, they would get called out to?

24 A. That's correct.

25 Q. And then once, you know, Monday hits, it's

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1 going to get assigned to the -- basically, the next man
2 up?

3 A. Correct, unless that team that's on weekends is
4 up for the next case, or unless they feel they wanted to
5 keep it. They can keep it, as well, and work it.

6 Q. And so, how did you begin your portion of the
7 investigation?

8 A. Well, I think it was on September -- I'm
9 sorry -- I've got to get my readers out.

10 Q. First of all, let me back up. Were you briefed
11 on the investigation?

12 A. Yes. That was on September the 8th.

13 Q. And what was your understanding of what had
14 transpired so far?

15 A. Well, there was a victim who had been found on
16 the street called Tambourine, who had been shot. And
17 during the investigation, Sergeant Dillingham and his
18 partner learned that there was going to be some
19 Spanish-speaking witnesses on the case. So, basically,
20 what they did was they called a squad meeting. They
21 briefed everybody on the squad on the case, what they
22 had done thus far and kind of divvied up assignments.

23 Q. What was your assignment going to be?

24 A. Well, of course, my assignment was going to be
25 to interview any Spanish-speaking witness on the case.

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1 Q. And so, you get involved on September the 8th
2 of 2013?

3 A. Correct. That was the day of the briefing,
4 yes.

5 Q. Okay. And what did you do on September the 8th
6 of 2013?

7 A. I believe that was all we did for my part on
8 that day, just get briefed.

9 Q. At any time, do y'all go out and canvass any
10 areas looking for witnesses or possible suspects?

11 A. Yes, we did.

12 Q. And when was that?

13 A. I believe that was on the -- September the
14 9th -- no, I'm sorry, September the 8th. September the
15 6th was the briefing. I'm sorry. September the 8th was
16 the day we actually went out looking for witnesses.

17 Q. And where did you go to look for witnesses?

18 A. To the apartment complex off of Bissonnet
19 and -- by Bissonnet and Cook.

20 Q. Is that the Victorian Apartments?

21 A. Yes, ma'am.

22 Q. Is that in Harris County, Texas?

23 A. Yes, it is.

24 Q. Now, what time did y'all get started?

25 A. That particular day we wanted to get there

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1 early to kind of get people before they go off to work,
2 and I believe it was about 5:00 or 5:30 that we met at a
3 gas station near the area and kind of divided up teams
4 as to who's going to be where and who's going to do
5 what.

6 Q. And when you divided up, who were you going to
7 be looking for?

8 A. We were going to be looking for a male that was
9 known as Chacos.

10 Q. Chacos?

11 A. Yes.

12 Q. Okay. And kind of looking to your left right
13 there, do you see an individual who is Chacos, that you
14 know as Chacos?

15 A. Yes.

16 Q. Would that be Osmin Hernandez?

17 A. Yes, it is.

18 Q. At some point in time, are you going to make
19 contact with Chacos?

20 A. Yes.

21 Q. And where are you going to make contact with
22 him at?

23 A. At his apartment and Apartment No. 2012.

24 Q. I'm showing you State's Exhibit No. 54. And do
25 you see this right here? Is this the mailbox shelter?

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1 A. Yes.

2 Q. Were you able to look at any video footage on
3 this before you got started?

4 A. We did see the video footage from the apartment
5 complex.

6 Q. And knowing that the mailbox is there, do you
7 know that -- on the video, does it show the mailbox?

8 A. I don't recall it showed the mailbox, but it
9 points toward the parking lot.

10 Q. This parking lot right here?

11 A. That's correct.

12 Q. That's on the far right-hand side of State's
13 Exhibit 54?

14 A. Yes.

15 Q. Now zooming in, what apartment did you say you
16 were looking for again?

17 A. I think it was -- let's see what apartment he
18 lives at. 2012.

19 Q. Okay. And you knew that 2012 to be Osmin
20 Hernandez's apartment?

21 A. Yes.

22 Q. And that's Chacos, right?

23 A. That's correct.

24 Q. And 2012 is this apartment right here?

25 A. Yes.

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1 Q. Is it close to the end of that parking lot? Is
2 that correct?

3 A. That is correct.

4 Q. So, when you knock on the door around 5:30,
5 does anybody answer the door?

6 A. Yes, a female who identified herself as Cecelia
7 Martinez Dechuro (phonetic).

8 Q. Did you find out if she was any relation to
9 Chacos or Osmin Hernandez?

10 A. Yes.

11 Q. And what relation was she?

12 A. She is his wife.

13 Q. Was she a little bit slightly older than him?

14 A. I believe so.

15 Q. Do you recall about how old Osmin Hernandez
16 was?

17 A. I believe he was in his early thirties, I
18 believe.

19 Q. Was he there at the time y'all spoke to Miss
20 Martinez, his wife?

21 A. Yes.

22 Q. Where did he come out of?

23 A. He came out of the bedroom in the apartment.

24 Q. And how were you able to identify him?

25 A. Well, we had information that he had, I think,

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1 a glass eye and a scar on his face. And we asked for
2 him. We asked the wife for him, and she summoned him
3 from the bedroom. And it was noticeable he had a scar
4 and appeared to have a glass eye.

5 Q. And did you speak to him there at the
6 apartment?

7 A. Just briefly.

8 Q. And what did you tell him?

9 A. Basically told him that we were investigating a
10 murder and that we wanted to talk to him about the case
11 and asked if he would accompany us to the Homicide
12 Division.

13 Q. And at some point, is he going to accompany
14 you?

15 A. Yes. Investigator Robert Luhan (phonetic), I
16 believe, transported him to the Homicide Division.

17 Q. And did you talk to Miss Martinez, his wife?

18 A. Yes, I did.

19 Q. What did you talk to her about?

20 A. Basically the same thing, just briefing her on
21 the investigation that we're conducting and the reason
22 why we wanted to speak to her husband.

23 Q. Did she provide you any useful information?

24 A. Yes.

25 Q. After speaking with her, were you able to

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1 identify the defendant, Mario Paredes?

2 A. Yes.

3 Q. And did he go by a nickname?

4 A. Yes, he did.

5 Q. And what was that?

6 A. It's Pelos.

7 Q. And at some point in time, are you going to be
8 able to locate him?

9 A. Yes.

10 Q. Is this one of the first times you were able to
11 put a name with Mr.-- with Osmin Hernandez?

12 A. Yes.

13 Q. And now are you able to put a name with another
14 suspect of Mario Paredes?

15 A. Yes.

16 Q. Were you taken to a location in that complex
17 where Mario Paredes stays?

18 A. Okay. When we split up the teams, I was
19 assigned to go to 2012, which was Osmin's apartment.
20 The other team -- once we found out where Pelos lived or
21 stayed, that other team was going to go there. So,
22 there was another team that went over there.

23 Q. Do you know if that team went over to try to
24 locate Pelos?

25 A. Yes, they did.

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1 Q. Do you know if they were successful or not?

2 A. He was not located.

3 Q. Did Miss Martinez, Osmin Hernandez's wife, did
4 she allow y'all to search the apartment after you told
5 her why you were here?

6 A. Yes, she did. Filled out a consent to search
7 form; and she signed it, allowing us to search.

8 Q. And did you find anything pertinent to this
9 investigation?

10 A. no. Of course, I didn't participate in the
11 search. I was doing the interviews while the other guys
12 that were there with us did the search.

13 Q. And does Miss Martinez speak Spanish?

14 A. Yes, she does.

15 Q. Does she speak any English?

16 A. I don't believe she does. If she does, it may
17 be very little.

18 Q. But again, the apartment is searched over eight
19 days after Jhon Gilces' murder?

20 A. That's correct.

21 Q. And is that plenty of time to get rid of any
22 type of evidence?

23 A. Yes, it is.

24 Q. Was there anybody else in that apartment that
25 you were going to interview?

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1 A. Yes. She shared the apartment, of course, with
2 her husband and her son, her daughter. And I believe
3 her nephew was also staying with them at the time.

4 Q. And what was her nephew's name?

5 A. Daniel Soto.

6 Q. And was he there at the apartment when you
7 spoke to Miss Martinez and defendant, Osmin Hernandez?

8 A. Yes.

9 Q. And did he give you any additional information?

10 A. Not at that time.

11 Q. Did you ask him about where his whereabouts
12 were on the date of the murder? Did you think he was a
13 suspect?

14 A. Well, when we talk to people, we're trying to
15 find out what they know; but he didn't seem to know
16 anything about it at that time.

17 Q. Did you view him as a suspect at all?

18 A. No.

19 Q. Who else did you interview at the apartment at
20 that time?

21 A. Like I said, Carmen, the wife.

22 Q. Cecelia?

23 A. I'm sorry, Cecelia, Daniel, and I may have
24 briefly just spoken to the son and daughter.

25 Q. And are the son and daughter fairly young?

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1 A. Yes. I believe the son was in high school, and
2 the daughter was fifteen or sixteen years old.

3 Q. And those weren't Osmin Hernandez's kids, were
4 they?

5 A. No.

6 Q. He's like their stepfather?

7 A. That's correct.

8 Q. And did -- is that all the business that you
9 had at the apartment?

10 A. Yes.

11 Q. And do you go down to Homicide to interview
12 Osmin Hernandez?

13 A. That's correct.

14 Q. And is his interview in Spanish?

15 A. Yes, it is.

16 Q. Were you the only one who was in the interview
17 room with him?

18 A. Yes, I was.

19 Q. And at that time when you brought him down, was
20 he under arrest?

21 A. No, he was not.

22 Q. During his statement, how would you
23 characterize his statement?

24 A. Well, he was answering my questions; but he
25 wasn't being completely truthful.

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1 Q. Now, you said you had been in Homicide for
2 eighteen years?

3 A. That's correct.

4 Q. And how many statements from defendants have
5 you taken?

6 A. In eighteen years, we get anywhere from eight
7 to ten cases a year. Could be anywhere from five to
8 ten -- well, witnesses, defendants, two to three maybe.
9 So, a lot. I can't give a specific number.

10 Q. Numerous experience on dealing with people when
11 you're taking their statements?

12 A. Yes. I've had -- yes.

13 Q. And would you -- when you take a defendant's
14 statement, it can be a broad range of how much
15 information they're going to give you?

16 A. That's correct.

17 Q. And it can go from somebody just basically
18 spilling their guts?

19 A. That is correct. Very rare, but yes.

20 Q. To a complete denial?

21 A. Yes.

22 Q. Would you also say that statements are usually
23 labeled with half truths?

24 A. Yes.

25 Q. That means they give information that's there

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1 but won't actually accept culpability?

2 A. That is correct.

3 Q. How would you characterize Osmin Hernandez's
4 statement on his first statement on that day?

5 A. There were a bunch of half truths in there.

6 Q. Did that surprise you any?

7 A. No, not at all.

8 Q. And as an investigator, when you get pieces of
9 information like half truths from a potential suspect or
10 witness, what do you do with those?

11 A. Well, in this particular case we wanted to find
12 out what he knew. And then after we get his statement,
13 we want to try to find evidence, or witnesses, or other
14 things that can kind of either prove or disprove what
15 he's saying.

16 Q. And so, you might take part of a statement and
17 compare them to, say, a scene potential video?

18 A. That's correct.

19 Q. And once you took his statement from Osmin
20 Hernandez, was he under arrest at that point in time?

21 A. No, he was not.

22 Q. And what did you do?

23 A. He was released, and he was transported back
24 home.

25 Q. And just because you don't arrest somebody at

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1 that point in time, does that not mean they're not
2 guilty?

3 A. No.

4 Q. What is the purpose of releasing somebody and
5 maybe interviewing them later or continuing to gather
6 evidence?

7 A. Well, like I said, we want to try to confirm or
8 disprove some of the information that he's given. It
9 allows us to search for other evidence.

10 Q. Was that what was done in this instance?

11 A. Yes, it was.

12 Q. And that is the individual, Osmin Hernandez,
13 that's pictured on State's Exhibit No. 61? That's the
14 individual who you took that statement from?

15 A. That is correct.

16 Q. Okay. Is there anything else you did on
17 September the 8th?

18 A. I don't recall if there was anything else.

19 Q. Did you continue to help Sergeant Dillingham
20 and Jewel in their investigation as a Spanish-speaker/

21 A. Yes, I did.

22 Q. What was the next thing that you did?

23 A. Well, after talking to him, we wanted to try to
24 still locate Pelos, Mario Paredes. So, that was one
25 thing that we still tried to do, and we also were trying

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1 to locate any other witnesses that may know anything
2 about the case.

3 Q. And did you have a reason to look for a Jesus
4 Chulo?

5 A. Yes. That is Cecilia's older son.

6 Q. And so, that would make him Osmin Hernandez's
7 stepson?

8 A. Yes.

9 Q. And why were you looking for Jesus Chulo?

10 A. Well, someone in a vehicle dropped them off at
11 the complex; and we wanted to see if he was that person.

12 Q. And were you ever able to locate Jesus Chulo?

13 A. Yes.

14 Q. And when did you locate him?

15 A. I believe his was on September the 9th.

16 Q. And where did you go look for Jesus Chulo?

17 A. Well, we initially found a report with an
18 address for him; and we didn't actually find him at that
19 location. We ended up speaking to his wife, who made
20 contact with him by phone; and he agreed to meet us at
21 his mother's apartment complex.

22 Q. Okay. And so, when you talked to his wife, do
23 you recall what her name was?

24 A. Ismara (phonetic) Hinojosa.

25 Q. Does she speak fluent Spanish?

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1 A. She speaks English, as well.

2 Q. Okay. And when you talked to Miss Hinojosa,
3 was she able to provide you with any useful information?

4 A. Yes.

5 Q. What did you do when you talked to her?

6 A. Well, we wanted to -- of course, with the
7 information we had on Pelos and Chacos, we wanted to
8 show pictures to see if we can confirm Pelos' identity.
9 So, we showed her pictures.

10 Q. And were you able to confirm Pelos' identity?

11 A. Yes.

12 Q. And when you confirmed it, what was his given
13 name?

14 A. Mario Paredes.

15 Q. And did you know -- were you able to find out
16 what the relationship between Osmin Hernandez and Mario
17 Paredes was?

18 A. I believe they were just friends.

19 Q. Okay. And additionally, does it look like
20 Osmin Hernandez's family knows Pelos, Mario Paredes?

21 A. Yes.

22 Q. So, after you interview Jesus Chulo, were you
23 able to talk to Jesus Chulo?

24 A. Yes.

25 Q. Do you interview any other family members of

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1 Osmin Hernandez's at that time?

2 A. I believe that was all the family members.

3 Q. Do you recall talking to a stepson who was in
4 high school?

5 A. Yes.

6 Q. And do you recall his name?

7 A. I think his name was Edras (phonetic).

8 Q. Edras Chulo?

9 A. Yes.

10 Q. And again, that's the stepson, not biological
11 son, of Osmin Hernandez?

12 A. Correct.

13 Q. Again, was he able to help you in identifying
14 who Pelos was?

15 A. Like we did with Ismara Hinojosa, also showed
16 him the picture of Mario Paredes, aka Pelos; and he
17 confirmed that that's Pelos.

18 Q. Okay. And looking at State's Exhibit No. 62,
19 is that the individual who he's confirmed as Pelos?

20 A. The middle picture?

21 Q. Yes.

22 A. Yes.

23 Q. And at any time, was he a suspect?

24 A. No.

25 Q. Edras is who I'm talking about, the --

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1 A. Right. No, he was not.

2 Q. -- the stepson. Did you at any time interview
3 Osmin Hernandez again?

4 A. Yes.

5 Q. And how did you come in contact to interview
6 him again? And we're talking about September the 9th?

7 A. Right. When we went looking for Jesus Chulo,
8 we actually went back by the apartment where he lived.
9 He was not there. And so -- I'm sorry. What was your
10 question again?

11 Q. Did you interview Osmin Hernandez again?

12 A. Yes.

13 Q. How did you come -- how did you come in contact
14 with him again?

15 A. We were there at the complex on September the
16 9th, and I believe when he came home from work is when
17 we encountered him again.

18 Q. Did you take a statement from him?

19 A. Yes. It was an oral statement.

20 Q. And this was at his complex?

21 A. Around there, yes. Basically, what we wanted
22 to do was to have him show us, you know, the path that
23 they took from out of the complex.

24 Q. And so -- and he do that?

25 A. Yes, he did.

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1 Q. And where did he show you out of the complex?
2 Let me -- does that help you, looking at State's Exhibit
3 54?

4 A. Not really. If you can push the paper down a
5 little bit, I can see what the street is on top.

6 Q. If this is --

7 A. There you go.

8 Q. -- Coventry right here --

9 A. Coventry Square, yes. The complex has an
10 entrance here and an exit over here on this side.

11 Q. I think you might can touch the screen and draw
12 a line.

13 A. Oh, okay. This is the entrance right here, and
14 the exit is over here. The place where the decedent had
15 parked his vehicle was in this area here. When he
16 exited the complex with the defendants, he went out the
17 entrance and he turned right on the Coventry Square
18 going towards Bissonnet.

19 Q. Were you provided any information of a possible
20 store that they went to?

21 A. Yes.

22 Q. And do you know if any video was going to be
23 retrieved from that store?

24 A. Yes, we did retrieve a video.

25 Q. Is his statement going to be consistent or

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1 inconsistent with what's on that video?

2 A. It's going to be inconsistent.

3 Q. Did you show him any pictures? We're talking
4 about Osmin Hernandez.

5 A. I believe I showed him the same picture of
6 Pelos.

7 Q. And were you able to confirm his -- Pelos'
8 identity?

9 A. Yes.

10 Q. Is that Mario Paredes?

11 A. That is correct.

12 Q. At that time, did you arrest Osmin Hernandez?

13 A. No.

14 Q. Did you leave him at his apartment complex?

15 A. Yes.

16 Q. So, are you still looking for Jesus Chulo on
17 September the 9th?

18 A. Yes. He was supposed to meet us at 4:30 at his
19 mom's complex. Never showed. Investigator Sosa was
20 with me that particular day. He called him. Said he
21 was still at work. So, that's where we went to look for
22 him.

23 Q. Were you able to make contact with him?

24 A. Yes.

25 Q. Was he able to provide you any useful

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1 information?

2 A. Well, we -- we transported him from his place
3 of employment to the Homicide Division, and that's where
4 we did the interview.

5 Q. Was he under arrest or anything at that time?

6 A. No.

7 Q. Was he even a suspect?

8 A. No.

9 Q. What are you looking to get from Jesus Chulo?

10 A. As I said, we wanted to, first of all, see if
11 he was the person who had picked up Paredes and Osmin
12 and dropped them off at the complex after the homicide.

13 Q. Were you able to make that determination?

14 A. Yes. He was not the one.

15 Q. So, he was ruled out as being the driver of
16 that white car?

17 A. That is correct.

18 Q. And are you going to find out who that driver
19 was?

20 A. Yes.

21 Q. Is that all you did on September the 9th?

22 A. I believe he was the last person we
23 interviewed, yes.

24 Q. What additional -- what, additionally, did you
25 do on this investigation later? Did you pick it up, or

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1 was that it?

2 A. Well, I still continued to help. The case
3 still hadn't been filed. We were still in the process
4 of finding witnesses and evidence and things like that,
5 so I stayed to help as long as they needed me.

6 Q. At any time, were you able to locate and
7 interview a Nilson Alvarado?

8 A. Yes.

9 Q. And who is Nilson Alvarado?

10 A. Nilson Alvarado, I believe, is the nephew of
11 Osmin.

12 Q. And that's not on Cecelia Martinez's, his
13 wife's side, is it?

14 A. No. I believe Osmin is Nilson's stepfather's
15 brother, I believe.

16 Q. Kind of like a step-nephew?

17 A. Yes.

18 Q. Okay. Looking at State's Exhibit No. 63, here
19 at the bottom right here, is this a picture of Nilson
20 Alvarado?

21 A. Yes.

22 Q. How old would you say Nilson is?

23 A. I don't remember off the top of my head. I'll
24 see if he's in the report. I don't think he's a
25 teenager. I don't see his name in here.

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1 Q. Well, looking at the pictures up on the board,
2 he definitely looks significantly younger than Osmin
3 Hernandez or Mario Paredes?

4 A. Yes, he does.

5 Q. And where -- do you recall where you found
6 Nilson?

7 A. I didn't actually find him. I believe Sergeant
8 Dillingham, I think, was able to track him down; and he
9 brought him to the office.

10 Q. And does Nilson speak Spanish and English?

11 A. I believe he does, yes.

12 Q. A little more comfortable in Spanish?

13 A. Yes.

14 Q. And was anybody else in the interview room with
15 you when you interviewed Nilson?

16 A. No.

17 Q. How would you describe his statement to you,
18 the first statement that he gives?

19 A. Half truths in there, as well.

20 Q. Did that surprise you in any way?

21 A. Not at all.

22 Q. And how, if a defendant -- if an individual is
23 giving half truths or if a defendant is giving half
24 truths, how is that beneficial and useful for when
25 you're investigating a homicide?

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1 A. Well, I mean, it -- we can see inconsistencies
2 in their stories from what one person may have said to
3 another. So, I didn't feel he was being completely
4 truthful.

5 Q. Is it kind of like, basically, taking a piece
6 of one individual's statement and another one and to
7 make the big picture?

8 A. Yes. We usually get the big picture after
9 talking to multiple witnesses and suspects.

10 Q. So, at some point, do you talk to Nilson and
11 tell him that you're not believing what he's telling
12 you?

13 A. Yes.

14 Q. And at that point in time, does the interview
15 stop?

16 A. It does for that particular time; but that's
17 just so I can confirm some of what he said, make phone
18 call to either confirm or refute what he's saying.

19 Q. And did you do that in this instance?

20 A. I'm sorry?

21 Q. Did you do that in this instance?

22 A. Yes.

23 Q. What did you do after you had the information
24 from his statement?

25 A. Well, he was still in the Homicide Division.

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1 And before letting him go home, he said that he wanted
2 to give some additional information; and he basically
3 cleaned up his statement.

4 Q. And when he gives you that second statement,
5 how would you characterize that?

6 A. It was more believable.

7 Q. And did you show him or discuss any particular
8 pieces of evidence, like the scene video?

9 A. I don't recall.

10 Q. Did you arrest him at any point in time?

11 A. No. When you say the scene video, are you
12 talking about not the crime scene video?

13 Q. Not the crime scene video. The apartment scene
14 video. Excuse me.

15 A. Yes, I believe he was shown that.

16 Q. And was he able to provide information on who
17 the parties were in that video?

18 A. Yes.

19 Q. Did he ever put himself at the scene at
20 Tambourine or involved in the murder at Tambourine?

21 A. Not on Tambourine; but he did put himself at a
22 different location picking up Pelos, Chacos. I think
23 those were the two that he said.

24 Q. And he picked them up from Tambourine?

25 A. No. He picked them up from, I believe he said,

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1 Belfort and Synnot.

2 Q. And did he provide you any other information
3 that was helpful to you?

4 A. Just that he dropped them off at Chacos'
5 apartment complex.

6 Q. And when you say -- who did he drop off?

7 A. Pelos and Chacos.

8 Q. And do you recall about what time that was?

9 A. I believe it was sometime after 8:00 o'clock.

10 Q. And were you able to look at the apartment
11 complex videos?

12 A. Yes.

13 Q. And was that consistent with those videos?

14 A. Yes, it was.

15 Q. And although you couldn't see exact faces on
16 it, you could get an idea of whose car that was coming
17 and going?

18 A. Yes.

19 Q. And that statement that he gave you was
20 consistent with what we see in the time frames?

21 A. That is correct.

22 Q. Do you take Nilson home after he gives you his
23 statement?

24 A. As I said, Sergeant Dillingham brought him in;
25 so, he made arrangements to transport him back. So, I

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1 don't know who transported him.

2 Q. And at any -- do you do anything additionally
3 back on September the 12th to help out Sergeant
4 Dillingham on this investigation? Do you actually go to
5 Tambourine?

6 A. Yes.

7 Q. And why do you go to Tambourine?

8 A. We had received a phone call that there was a
9 shell casing in the backyard, I believe, where the
10 decedent was found.

11 Q. And do you go to -- and pick up that shell
12 casing?

13 A. Yes. My partner, Sergeant Cisneros, and I did.

14 Q. I'm going to show you what's been marked
15 State's Exhibits 56 and 57. Can you take a look at
16 these photos real quick? Do they show where you found
17 the shell casing off of Tambourine?

18 A. Yes, it does.

19 Q. Okay. And do you recall who you talked to?

20 A. It was one of the neighbors. I don't recall
21 the name off the top of my head.

22 Q. And when you see the shell casings, do you ask
23 that neighbor any questions such as, has it been moved
24 or tampered with in any way?

25 A. Right. Well, they told us when they found

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1 it -- I believe it was the male neighbor. And we
2 actually talked to the wife when we got there, because
3 he wasn't there when we went to recover it. And I
4 believe he showed up afterwards, but they said they had
5 not moved it.

6 Q. Okay. I'm going to show you what's been marked
7 as State's Exhibits Nos. 58 and 58A. Can you look at
8 those, and can you recognize them?

9 A. Yes.

10 Q. Okay. And how do you recognize them?

11 A. It's the shell casing recovered off Tambourine.

12 Q. How do you know that shell casing is the one
13 that's recovered off of Tambourine?

14 A. Because I tagged it.

15 Q. And how do you know you tagged it?

16 A. My name is on the envelope, on the evidence
17 envelope.

18 Q. Okay. I'm showing you what's been previously
19 admitted as State's Exhibit No. 8. Is that just a
20 bigger picture of giving a view of the patio where the
21 shell casing was found?

22 A. Yes, it is.

23 Q. Okay.

24 MS. HARTMAN: At this time, Your Honor,
25 I'd like to tender State's Exhibits 56 and 57 and show

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1 those to defense counsel, and 58, the envelope, 58A, its
2 contents, the shell casing, tender to defense counsel
3 and offer them into evidence.

4 MR. MADRID: No objection.

5 THE COURT: Admitted.

6 Q. (By Ms. Hartman) Sergeant Chavez, looking at
7 Defense Exhibit No. 8 that's already into evidence, is
8 that the area that you're going to find the shell
9 casing?

10 A. Yes, it is. Right there is the shell casing.

11 Q. And that State's Exhibit 56, is that the shell
12 casing you're talking about?

13 A. Yes, it is.

14 Q. And is this the same shell casing that you're
15 talking about there?

16 A. Yes, it is.

17 Q. And once you retrieve the shell casing, what do
18 you do with it?

19 A. Tag it in the property room.

20 Q. And you're not responsible for any ballistic
21 testing, are you?

22 A. No.

23 Q. And that's where it should go next, correct?

24 A. That's correct.

25 Q. And did you continue helping out Sergeant

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1 Dillingham and Jewel with this investigation, with the
2 Spanish-speakers?

3 A. That is correct.

4 Q. And what was the next course that y'all were
5 taking to try to locate Pelos?

6 A. Well, I believe it was on September the 11th.
7 I get a phone call, a message at my office phone from
8 Cecelia Chulo requesting me to call her back. I called
9 her back the very next day, and she had additional
10 information for me.

11 Q. And was that information useful?

12 A. Yes, it was.

13 Q. And did you use that information to try to
14 locate Pelos?

15 A. Yes, we did.

16 Q. Did you set up surveillance at any point in
17 time to try to find him?

18 A. Yes.

19 Q. Where did you set up surveillance at?

20 A. Right there at Osmin's apartment complex. The
21 nephew gets picked up for work, and Pelos is working
22 with the same crew as Daniel Soka (phonetic).

23 Q. At that point in time, are you able to locate
24 Mario Paredes?

25 A. Yes.

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1 Q. And do you recall what day that was?

2 A. I believe that was September the 13th.

3 Q. And do you stop the van and detain Mario
4 Paredes?

5 A. Yes. The van was stopped in the area of
6 Westpark and Renwick.

7 Q. And how close is that to the apartment complex?

8 A. From Osmin's apartment complex, it's a pretty
9 good little ways. Renwick and Westpark is closer to the
10 Southwest Freeway in between, I think, Hillcroft and
11 Chimney Rock, somewhere in that area.

12 Q. When you locate him, what do you do with him?

13 A. We take him into custody -- we had a warrant
14 for him -- and transport him to the Homicide Division
15 for an interview.

16 Q. So, at that point in time when you locate him
17 and transport him, is he in custody?

18 A. Yes, he is.

19 Q. So, are you going to take a custodial statement
20 from him?

21 A. Yes.

22 Q. Are you going to record your interview with
23 him?

24 A. Yes.

25 Q. And on the interview, is that an audio

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1 interview?

2 A. Yes, it is.

3 Q. Is it going to be in Spanish or English?

4 A. It's going to be in Spanish.

5 Q. Do you see the individual in the courtroom who
6 you were going to take the statement from?

7 A. Yes, I do.

8 Q. Is it the same individual that's up there on
9 the board under Mario Paredes, also Pelos?

10 A. Yes.

11 Q. Can you identify him in the courtroom by
12 article of clothing he's wearing?

13 A. Yes. He's wearing a button-down
14 checkered-pattern shirt with headphones on.

15 MS. HARTMAN: Your Honor, if the record
16 would reflect he's identified the defendant, Mario
17 Paredes?

18 THE COURT: It will.

19 Q. (By Ms. Hartman) How was his demeanor when you
20 bring him into the Homicide Office to talk with him?

21 A. It's nonchalant. Didn't appear to have a care
22 in the world.

23 Q. Did he seem scared?

24 A. Nope, didn't detect that.

25 Q. Upset, anything wrong with any of his

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1 mannerisms?

2 A. No, not at all.

3 Q. Did he understand to be able to mentally
4 understand the questions that you're asking him?

5 A. Yes.

6 Q. Was he responding properly to those questions?

7 A. Yes, he was responding.

8 Q. And is the whole interview done in Spanish?

9 A. Yes, it is.

10 Q. And that is the language he feels most
11 comfortable with?

12 A. Yes, ma'am.

13 Q. In any way did you threaten him?

14 A. No.

15 Q. Did you coerce him in any way?

16 A. No.

17 Q. Make any promises to him?

18 A. No.

19 Q. Have you previously got a chance to review
20 State's Exhibit No. 59?

21 A. Yes, I did.

22 Q. Have you been able to review State's Exhibit
23 No. 59A?

24 A. Yes.

25 Q. Is State's Exhibit No. 59 the statement that

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1 you took from the defendant, Mario Paredes?

2 A. Yes, ma'am, it is.

3 Q. And can you identify all the voices on the
4 statement?

5 A. Just his and mine.

6 Q. Are those the only two people in the room?

7 A. Yes.

8 Q. Were you able to look at the translations on
9 State's Exhibit No. 59A?

10 A. Yes, ma'am.

11 Q. Was that a translation made by a State-licensed
12 court interpreter?

13 A. Yes.

14 MS. HARTMAN: Your Honor, I'd like to
15 tender State's Exhibit No. 59 and 59A as a translation
16 to defense counsel. They've been on file with the Court
17 over forty-five days prior to trial. And we offer them
18 into evidence.

19 MR. MADRID: No objections, Your Honor.

20 THE COURT: Admitted.

21 Q. (By Ms. Hartman) On his statement, did you
22 give him any warnings?

23 A. Yes, I read him his statutory warnings.

24 Q. Does it look like he understands all of those
25 warnings?

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1 A. Yes.

2 Q. Does he answer in the affirmative?

3 A. Yes.

4 MS. HARTMAN: Your Honor, at this time I'd
5 like -- I've got copies for the jury.

6 THE COURT: I'm sorry?

7 MS. HARTMAN: I've got copies of the
8 translation for the jurors of the transcript. I'd like
9 just to be able to publish it all to the jury and have
10 Officer Chavez read his part and co-counsel --

11 THE COURT: Y'all come up for just a
12 minute.

13 (At the bench)

14 THE COURT: How long is all this going to
15 take? You're not going to read the whole thing.

16 MS. HARTMAN: We have to.

17 THE COURT: Is it an hour-and-a-half.

18 MS. HARTMAN: No, no. I think it will go
19 much faster reading versus a conversation that was on
20 the video in Spanish.

21 Q. (By Ms. Hartman) Well, how long is it going to
22 take, you think? They're supposed to serve lunch
23 somewhere around 12:15, is the reason I'm asking.

24 MS. COLLINS: I think it will take longer
25 than fifteen minutes.

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1 THE COURT: Well, how long?

2 MS. HARTMAN: I don't know. We didn't
3 time it out, Judge. Maybe twenty to twenty-five
4 minutes.

5 THE COURT: Who is going to read it, and
6 who's going to do all that?

7 MS. HARTMAN: Chavez is going to read his
8 questions to the defendant, and Lisa is going to read
9 the defendant's portion.

10 THE COURT: Where from?

11 MS. COLLINS: I'm sorry?

12 THE COURT: Where from?

13 MS. HARTMAN: The very beginning, just
14 from starting in Spanish, through his rights, through
15 his statement to the end.

16 THE COURT: When you look down, I can't
17 hear a thing you say. Speak up.

18 MS. HARTMAN: Okay. Basically, from the
19 very beginning.

20 THE COURT: Where is she going to be
21 sitting to do this?

22 MS. COLLINS: From the seated position.

23 THE COURT: Okay. All right. Well, go
24 ahead and start it, and we'll see where we go.

25 MR. MADRID: Question, Your Honor. The

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1 State wants to give each of them a copy to follow along.
2 Just for the record, I'm objecting. I know one's going
3 to be into custody (sic). And if they want to look at
4 it later, they can. But I don't really want each of
5 them to have a copy.

6 THE COURT: Well --

7 MR. MADRID: But it's up to you.

8 THE COURT: You know, if it just makes it
9 easier for -- I have no idea what's in there. But if it
10 just makes it easier for everybody, I'll overrule the
11 objection. But we'll pick them up after it's done.
12 We'll pick them all up after it's done.

13 MR. MADRID: Okay. Thank you.

14 (Continuing in jury's hearing)

15 THE COURT: Members of the jury, I think
16 what they're going to do is pass to each one of you a
17 copy of this interview so you can follow along. They're
18 going to read it, and you can read along with them. And
19 once we've concluded, then we'll have to pick them all
20 up.

21 Do I get one? Guess not. If you don't
22 have an extra one, don't worry about it. Thank you.

23 Q. (By Ms. Hartman) Okay. All right. Detective,
24 looking at Page 1 of the transcript -- this is State's
25 Exhibit No. 59A -- can you go ahead and start with your

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1 part of the statement, and Miss Collins will read Mario
2 Paredes' part of the statement.

3 THE WITNESS: Okay. Your name is Mario,
4 right?

5 MS. COLLINS: Yes.

6 THE WITNESS: Okay. Mario, I'm Detective
7 Chavez with the Houston Police Department Homicide
8 Division. Do you understand?

9 MS. COLLINS: Yes.

10 THE WITNESS: Okay. I'm recording the
11 interview, okay?

12 MS. COLLINS: Yes.

13 THE WITNESS: I'm going to ask you about a
14 case that we're investigating. And before I ask you
15 about the case, I'm going to read you your rights.

16 MS. COLLINS: Yes.

17 THE WITNESS: Do you understand?

18 MS. COLLINS: Yes.

19 THE WITNESS: Okay. These are your
20 rights. You have the right to remain silent and say
21 absolutely nothing. Any statement you make may be used
22 against you in your trial. Understand?

23 MS. COLLINS: Yes.

24 THE WITNESS: No. 2, any statement you
25 make may be used as evidence against you during your

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1 trial. Do you understand?

2 MS. COLLINS: Yes, yes.

3 THE WITNESS: No. 3, you have a right to
4 have an attorney present to advise you before you're
5 questioned and during the time that you're being
6 questioned. Do you understand that?

7 MS. COLLINS: Yes.

8 THE WITNESS: No. 4, if you cannot afford
9 an attorney, you have the right to have an attorney
10 appointed to advise you before and during the time that
11 you're being questioned.

12 MS. COLLINS: Yes.

13 THE WITNESS: Understand?

14 MS. COLLINS: Yes.

15 THE WITNESS: No. 5, you have the right to
16 end this interview at any time you wish. Do you
17 understand that?

18 MS. COLLINS: Yes.

19 THE WITNESS: Okay. Those are the rights
20 that by law I have to read to you, because you're named
21 as a suspect in this case. Okay?

22 MS. COLLINS: Yes.

23 THE WITNESS: And now that I have
24 explained to you your rights, do you wish to waive your
25 rights to explain to me what you know about this case?

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1 MS. COLLINS: No.

2 THE WITNESS: You don't want to waive your
3 rights?

4 MS. COLLINS: No.

5 THE WITNESS: You don't want to tell me
6 what happened?

7 MS. COLLINS: Yes, yes.

8 THE WITNESS: Do you want to tell me?
9 Okay. You want to tell me, okay. What I'm asking you
10 is if -- knowing your rights, if you want to set your
11 rights aside to tell me what you know about this. Yes
12 or no?

13 MS. COLLINS: Yes.

14 THE WITNESS: Okay. So, then, the answer
15 is yes. The recorder is not going to pick up your head.
16 You have to answer.

17 MS. COLLINS: Yes.

18 THE WITNESS: Then you want to tell me
19 what you know about this case. What do you know?

20 MS. COLLINS: Yes.

21 THE WITNESS: Okay. Okay. Then what I'm
22 going to do is I'm going to ask you what you know about
23 this case.

24 MS. COLLINS: Yes.

25 THE WITNESS: Okay. And you do want to

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1 tell me that -- you do want to tell me what you know?

2 MS. COLLINS: Yes.

3 THE WITNESS: Okay. Okay. Look, what
4 we're investigating is a murder.

5 MS. COLLINS: Yes.

6 THE WITNESS: Okay. And there was a man
7 whose name was Jhon Carlos Bermudez-Gilces, whom we
8 found dead. And I want to know first is if you know
9 this person by name.

10 MS. COLLINS: No.

11 THE WITNESS: No, you don't know this
12 person by name?

13 MS. COLLINS: No.

14 THE WITNESS: Okay. I'm going to show you
15 a picture.

16 MS. COLLINS: That's fine.

17 THE WITNESS: Do you know the person here?

18 MS. COLLINS: Yes.

19 THE WITNESS: Okay. This is a person
20 whose name is Jhon Carlos Bermudez-Gilces.

21 MS. COLLINS: Yes.

22 THE WITNESS: You do know him. Why do you
23 know him? By what name?

24 MS. COLLINS: No, no. I would just call
25 him Bicho.

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1 THE WITNESS: You didn't know him -- you
2 know him by Bicho?

3 MS. COLLINS: Yes.

4 THE WITNESS: And what does Bicho mean?

5 MS. COLLINS: I don't know, like, Cipote
6 Morro.

7 THE WITNESS: Okay. So the name you know
8 him by, a nickname?

9 MS. COLLINS: Yes.

10 THE WITNESS: Bicho?

11 MS. COLLINS: I called him Bicho. I
12 really don't know what they call him.

13 THE WITNESS: Okay. How long did you know
14 this guy here?

15 MS. COLLINS: Ever since he sold drugs.

16 THE WITNESS: He sold drugs?

17 MS. COLLINS: Yes.

18 THE WITNESS: Okay. But we're talking
19 about time. How long have you known him? One month,
20 two months, a year, two years, what?

21 MS. COLLINS: It's been -- I knew him
22 since before I was deported as Profe.

23 THE WITNESS: About how long?

24 MS. COLLINS: I was deported about a year
25 ago. It's already been a year.

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1 THE WITNESS: You know him for about a
2 year?

3 MS. COLLINS: Yes.

4 THE WITNESS: And do you know what this
5 guy drives?

6 MS. COLLINS: Well, only that he sold
7 drugs.

8 THE WITNESS: No, no. I know. But do you
9 know what type of car he has?

10 MS. COLLINS: No.

11 THE WITNESS: No?

12 MS. COLLINS: No.

13 THE WITNESS: But he sells drugs?

14 MS. COLLINS: Yes.

15 THE WITNESS: And you buy drugs?

16 MS. COLLINS: Yes, I bought some that day.

17 THE WITNESS: Okay, but -- only that day,
18 or have you also bought --

19 MS. COLLINS: No. I bought some before.

20 THE WITNESS: Before?

21 MS. COLLINS: Only that --

22 THE WITNESS: Okay.

23 MS. COLLINS: Yes.

24 THE WITNESS: I would buy drugs from this
25 person.

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1 MS. COLLINS: Yes.

2 THE WITNESS: Okay. How would you contact
3 this man right here to buy drugs?

4 MS. COLLINS: I would call his uncle. I
5 don't know what his relationship to him was. El Profe,
6 the one I know as Profe, I would call him.

7 THE WITNESS: You would call his uncle?

8 MS. COLLINS: Yes, El Profe. I know him
9 by Profe.

10 THE WITNESS: You know him by Profe. Do
11 you know this person here?

12 MS. COLLINS: Yes, that's him.

13 THE WITNESS: That is a person whom you
14 know as El Profe?

15 MS. COLLINS: Yes.

16 THE WITNESS: Okay. This is the
17 identification of a person named Jorge Carranza Gilces.
18 So, you would call this man right here --

19 MS. COLLINS: Yes.

20 THE WITNESS: -- El Profe --

21 MS. COLLINS: Yes, El Profe.

22 THE WITNESS: -- when you wanted to buy
23 drugs?

24 MS. COLLINS: Yeah. Sometimes he came.
25 Sometimes he would send that guy.

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1 THE WITNESS: Okay. Sometimes he would
2 come, and sometimes the guy would come?

3 MS. COLLINS: Yes.

4 THE WITNESS: Okay. And when was the last
5 time that you bought drugs from this man, or this guy
6 here?

7 MS. COLLINS: We just bought some from
8 this guy on Saturday, fifteen days ago.

9 THE WITNESS: Fifteen days ago on
10 Saturday --

11 MS. COLLINS: Yes.

12 THE WITNESS: -- you bought drugs from --

13 MS. COLLINS: From him.

14 THE WITNESS: -- from him?

15 MS. COLLINS: Yes.

16 THE WITNESS: And where did you go --
17 where did he go and sell drugs to you?

18 MS. COLLINS: He came to our apartment. I
19 don't know what they're called, to tell you the truth.
20 La Victoria, I think.

21 THE WITNESS: What?

22 MS. COLLINS: I think they're called
23 Victoria.

24 THE WITNESS: Victoria?

25 MS. COLLINS: Yes. I think that's what

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1 they are called.

2 THE WITNESS: You live there in that
3 apartment, in that -- at that time?

4 MS. COLLINS: No.

5 THE WITNESS: No?

6 MS. COLLINS: I went there to -- I lived
7 here at -- where I live.

8 THE WITNESS: Okay. But who lived there
9 at the Victoria?

10 MS. COLLINS: El Flaco lives there.

11 THE WITNESS: Flaco?

12 MS. COLLINS: Yes.

13 THE WITNESS: So you were at Flaco's that
14 day?

15 MS. COLLINS: Yes.

16 THE WITNESS: When this guy --

17 MS. COLLINS: Yes.

18 THE WITNESS: -- arrived there to sell you
19 drugs?

20 MS. COLLINS: Yes.

21 THE WITNESS: And it was the apartments
22 where El Flaco lived?

23 MS. COLLINS: Yes.

24 THE WITNESS: But you didn't live in
25 those --

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1 MS. COLLINS: No.

2 THE WITNESS: -- apartments --

3 MS. COLLINS: No.

4 THE WITNESS: -- at that particular time?

5 MS. COLLINS: No.

6 THE WITNESS: Okay. Who called him or

7 Profe to --

8 MS. COLLINS: El Flaco.

9 THE WITNESS: El Flaco?

10 MS. COLLINS: Yes.

11 THE WITNESS: What time did El Flaco call

12 him?

13 MS. COLLINS: Around seven, six or seven,
14 sometime around there. I don't know exactly. I think
15 it was seven.

16 THE WITNESS: Who did he call, the Profe?

17 MS. COLLINS: I think that El Profe
18 answered him. He's the only one who answers, or I think
19 that he wasn't there. But I would only call him, El
20 Profe.

21 THE WITNESS: Okay. And do you have a
22 cell phone?

23 MS. COLLINS: No.

24 THE WITNESS: No. Okay. Look, in the
25 beginning I said your name is Mario Ernesto Paredes

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1 Vanegas --

2 MS. COLLINS: Yes.

3 THE WITNESS: -- right? What is your date
4 of birth?

5 MS. COLLINS: 7th of May of 1982.

6 THE WITNESS: The 7th of May?

7 MS. COLLINS: Yes.

8 THE WITNESS: Of '82?

9 MS. COLLINS: Yes.

10 THE WITNESS: Okay. And we'll go to this
11 right now.

12 MS. COLLINS: Yes.

13 THE WITNESS: But I forgot to get your
14 information.

15 MS. COLLINS: Okay.

16 THE WITNESS: Where do you live now?

17 MS. COLLINS: Here. It's just that I
18 don't know the apartments, like I said.

19 THE WITNESS: Okay. But close to --

20 MS. COLLINS: Yes, there where Famsa is
21 at, Bellaire, all of Bellaire.

22 THE WITNESS: Bellaire and what?

23 MS. COLLINS: Bellaire and Hillcroft. I
24 think it's there where Fiesta is. There is a Fiesta.

25 THE WITNESS: You live in the apartments

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1 close to Bellaire and Hillcroft?

2 MS. COLLINS: Yes, behind Famsa. It's
3 where --

4 THE WITNESS: The Famsa?

5 MS. COLLINS: Yes. There are apartments
6 in the back, like this.

7 THE WITNESS: Okay.

8 MS. COLLINS: I really don't know the
9 name. I don't know what they are called.

10 THE WITNESS: Okay. Who do you live there
11 with?

12 MS. COLLINS: Her name is -- with friends.
13 Her name is Maria, just Maria. I don't know her last
14 name, to tell you the truth. And her husband's name is
15 Felix.

16 THE WITNESS: Felix?

17 MS. COLLINS: Yes.

18 THE WITNESS: Do you know what apartment
19 number?

20 MS. COLLINS: Yes. It's 204.

21 THE WITNESS: 204?

22 MS. COLLINS: Yes.

23 THE WITNESS: So you lived with Maria and
24 with Felix?

25 MS. COLLINS: Yes.

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1 THE WITNESS: In Apartment 204?

2 MS. COLLINS: Yes.

3 THE WITNESS: In the apartment behind --

4 MS. COLLINS: Famsa.

5 THE WITNESS: -- Famsa?

6 MS. COLLINS: Yes.

7 THE WITNESS: But you don't know the name
8 of the complex?

9 MS. COLLINS: No, I really don't.

10 THE WITNESS: Okay. And do you have a
11 cellular?

12 MS. COLLINS: No, I don't have one. I'm
13 going to buy one.

14 THE WITNESS: Okay. Now we'll come back
15 to the story again.

16 MS. COLLINS: Yes.

17 THE WITNESS: But you said that you bought
18 drugs on Saturday, fifteen days ago, from him?

19 MS. COLLINS: Yes.

20 THE WITNESS: Because Flaco called him?

21 MS. COLLINS: Yes, he called him.

22 THE WITNESS: To buy drugs?

23 MS. COLLINS: Yes.

24 THE WITNESS: And what is the name -- real
25 name of Flaco?

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1 MS. COLLINS: Osmin something. Osmin.
2 It's something like that. I know his name is Osmin. I
3 don't know what his last name is.

4 THE WITNESS: How long have you known
5 Flaco?

6 MS. COLLINS: It's already been around two
7 years, but --

8 THE WITNESS: Two years?

9 MS. COLLINS: Yes, only that I know him by
10 Flaco.

11 THE WITNESS: Okay. Do you know the
12 person here?

13 MS. COLLINS: Yes.

14 THE WITNESS: Who is he?

15 MS. COLLINS: It's Osmin, Flaco.

16 THE WITNESS: It's Flaco?

17 MS. COLLINS: Yes.

18 THE WITNESS: Is this the person who
19 called or spoke to El Profe --

20 MS. COLLINS: Yes.

21 THE WITNESS: -- to obtain the drugs that
22 day --

23 MS. COLLINS: Yes.

24 THE WITNESS: -- day? But El Profe didn't
25 get there, right?

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1 MS. COLLINS: No.

2 THE WITNESS: The person who arrived was
3 this guy?

4 MS. COLLINS: The one right here, yes.

5 THE WITNESS: Okay. He's identified gang
6 sequence No. 44961. That's going to be Osmin Enriquez
7 Hernandez Argueta. That's a person he knows as Flaco.
8 Okay. So Flaco called El Profe?

9 MS. COLLINS: Yes.

10 THE WITNESS: This Saturday.

11 MS. COLLINS: Yes.

12 THE WITNESS: Around what time did he call
13 him?

14 MS. COLLINS: Around 7:00, 7:00-something.
15 I really don't know exactly. I think it was at 7:00.

16 THE WITNESS: Okay. In the --

17 MS. COLLINS: Yes.

18 THE WITNESS: -- afternoon?

19 MS. COLLINS: In the --

20 THE WITNESS: In the evening? Okay. And
21 when he called, Flaco was going to buy drugs and you
22 were going to buy drugs?

23 MS. COLLINS: Yes.

24 THE WITNESS: What was the --

25 MS. COLLINS: To buy drugs.

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1 THE WITNESS: Both of you?

2 MS. COLLINS: Yes.

3 THE WITNESS: Okay. And what time did
4 this guy get there with the drugs?

5 MS. COLLINS: Around 7:00, 7:00.

6 THE WITNESS: What?

7 MS. COLLINS: I said around 7:00.

8 THE WITNESS: But if you're saying he
9 called him around 7:00, why did he get there and call?

10 MS. COLLINS: Because he was distributing,
11 supposedly. I really don't know.

12 THE WITNESS: Okay. But --

13 MS. COLLINS: I just know that he would
14 call him and he came, too.

15 THE WITNESS: I know, but how much time
16 did it take this guy to get there when Flaco called him?

17 MS. COLLINS: About ten -- what, less than
18 ten minutes.

19 THE WITNESS: Around ten minutes?

20 MS. COLLINS: Yes.

21 THE WITNESS: Okay. And what did this guy
22 arrive in? On foot?

23 MS. COLLINS: No. In a car.

24 THE WITNESS: What type of car?

25 MS. COLLINS: I don't know what car it

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1 was, but the guy was in a car.

2 THE WITNESS: What color was it?

3 MS. COLLINS: I'm not sure if it was kind
4 of gray, but --

5 THE WITNESS: What?

6 MS. COLLINS: I think it was a green one.

7 THE WITNESS: Was it light? Was it dark?
8 What was --

9 MS. COLLINS: It was a light dark.

10 THE WITNESS: Dark?

11 MS. COLLINS: Yes.

12 THE WITNESS: And you said it was green?

13 MS. COLLINS: Yes, I think it was green,
14 something like that.

15 THE WITNESS: Okay. And where were y'all
16 when those guys -- where were you at the apartments?

17 MS. COLLINS: We were right there in the
18 parking lot.

19 THE WITNESS: Where in the apartments?

20 MS. COLLINS: There where you enter at the
21 entrance to the parking lot.

22 THE WITNESS: Okay. And who lives close
23 to where you were sitting?

24 MS. COLLINS: Just El Flaco's neighbor.

25 THE WITNESS: Who?

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1 MS. COLLINS: El Flaco's neighbor.

2 THE WITNESS: El Flaco's neighbor --

3 MS. COLLINS: Yes.

4 THE WITNESS: -- lives there?

5 MS. COLLINS: Yes, like this, next to the
6 neighbor.

7 THE WITNESS: Then El Flaco's apartment is
8 close by there, too?

9 MS. COLLINS: Yes.

10 THE WITNESS: Okay. So then y'all were
11 there close to El Flaco's apartment --

12 MS. COLLINS: Yes.

13 THE WITNESS: -- in the parking lot?

14 MS. COLLINS: Yes.

15 THE WITNESS: Who was there that day?

16 MS. COLLINS: I was -- there.

17 THE WITNESS: Uh-huh.

18 MS. COLLINS: -- El Flaco and the one that
19 I told you that I called Kacharpa.

20 THE WITNESS: Kacharpa?

21 MS. COLLINS: Yes. That's what I call
22 him, but he's -- that guy works there.

23 THE WITNESS: Where is Kacharpa from?

24 MS. COLLINS: Also from El Salvador.

25 THE WITNESS: Who else was there?

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1 MS. COLLINS: Only us three.

2 THE WITNESS: You three?

3 MS. COLLINS: Yes.

4 THE WITNESS: You, El Profe -- I'm
5 sorry -- El Flaco and Kacharpa?

6 MS. COLLINS: Yes.

7 THE WITNESS: Do you know Kacharpa's real
8 name?

9 MS. COLLINS: I don't know. I think it's
10 Roberto or Berto. I really don't know.

11 THE WITNESS: Roberto, you think.

12 MS. COLLINS: I don't know. I don't know.
13 Why lie?

14 THE WITNESS: So, then, why did you say
15 Roberto?

16 MS. COLLINS: It's Berto, Roberto. It's
17 just that he said the name, but I didn't really pay
18 attention.

19 THE WITNESS: Alberto or Roberto?

20 MS. COLLINS: It sounded something like
21 Roberto, I think.

22 THE WITNESS: Okay. And when you were
23 there, it wasn't dark yet, right?

24 MS. COLLINS: No, no.

25 THE WITNESS: Okay. And ten minutes after

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1 Flaco called El Profe, this guy arrives --

2 MS. COLLINS: Yes.

3 THE WITNESS: -- in his dark car. And
4 y'all were there in the parking lot?

5 MS. COLLINS: Yes.

6 THE WITNESS: Okay. And when the guy
7 arrives, what did he do?

8 MS. COLLINS: Well, we were going to go to
9 the store. And he told us to get on, and I got on in
10 the back and El Flaco next to me.

11 THE WITNESS: Okay.

12 MS. COLLINS: And he --

13 THE WITNESS: He told you to get in the
14 car?

15 MS. COLLINS: Yes. And he asked us where
16 we were going, and I told him to the store with El
17 Flaco.

18 THE WITNESS: But why did you get in his
19 car if you were only going to buy drugs from him?

20 MS. COLLINS: Because he said, where are
21 you going? And we told him. He said, get in. I'll
22 give you a ride. First time he asked us to get on.

23 THE WITNESS: You told him you were going
24 to the store?

25 MS. COLLINS: Yes.

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1 THE WITNESS: Okay. And where did you
2 sit?

3 MS. COLLINS: In the back.

4 THE WITNESS: Behind who?

5 MS. COLLINS: Him, right there in the back
6 seat?

7 THE WITNESS: And Flaco, where did he sit?

8 MS. COLLINS: On the side.

9 THE WITNESS: Huh?

10 MS. COLLINS: Beside him.

11 THE WITNESS: In the --

12 MS. COLLINS: Next to the passenger.

13 THE WITNESS: Okay. Who else was in the
14 car with this guy when he got -- when you got on?

15 MS. COLLINS: Just him.

16 THE WITNESS: Just him?

17 MS. COLLINS: Yes.

18 THE WITNESS: So the only ones in the car
19 were you --

20 MS. COLLINS: Me and El Flaco?

21 THE WITNESS: Flaco.

22 MS. COLLINS: And --

23 THE WITNESS: And him?

24 MS. COLLINS: Yes.

25 THE WITNESS: And you sat in the back of

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1 the driver?

2 MS. COLLINS: Yes.

3 THE WITNESS: Okay. And he was going to
4 take you to the store?

5 MS. COLLINS: No. He gave us a ride.

6 THE WITNESS: In his truck?

7 MS. COLLINS: At that time when he was
8 coming, someone called him on the phone.

9 THE WITNESS: Okay. And --

10 MS. COLLINS: And he told I don't know
11 who, but that he would get there in ten minutes. He
12 told them.

13 THE WITNESS: Okay. He -- well, we'll get
14 to that point.

15 MS. COLLINS: Okay.

16 THE WITNESS: But when you get in the
17 car --

18 MS. COLLINS: Uh-huh.

19 THE WITNESS: -- you reverse and exit the
20 parking lot, right?

21 MS. COLLINS: Yes.

22 THE WITNESS: Through the same entrance he
23 came through or through another --

24 MS. COLLINS: No, through --

25 THE WITNESS: -- exit?

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1 MS. COLLINS: The same entrance.

2 THE WITNESS: Through the same entrance?

3 MS. COLLINS: Yes.

4 THE WITNESS: Okay. So then he reversed
5 and goes to the --

6 MS. COLLINS: Yes.

7 THE WITNESS: -- exit? And did you give
8 him the money for the drugs and he gave you the drugs,
9 or no?

10 MS. COLLINS: No. When we went through
11 the gate, he gave us what we purchased from him and we
12 gave him the money.

13 THE WITNESS: Okay. When you were almost
14 to --

15 MS. COLLINS: Yes.

16 THE WITNESS: -- the street, when you left
17 the --

18 MS. COLLINS: Yes, yes.

19 THE WITNESS: -- apartments, that's when
20 you gave him the money?

21 MS. COLLINS: Yes.

22 THE WITNESS: And he you gave you the
23 drugs?

24 MS. COLLINS: Yes.

25 THE WITNESS: Okay. And when you came out

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1 to the street -- the name of the street is Coventry
2 Square, if you didn't know.

3 MS. COLLINS: Uh-huh.

4 THE WITNESS: But that's the street.

5 MS. COLLINS: Yes, yes, yes.

6 THE WITNESS: Okay. When you get out to
7 the street, where do you turn?

8 MS. COLLINS: Over here, looking for
9 Bissonnet.

10 THE WITNESS: The right?

11 MS. COLLINS: Uh-huh.

12 THE WITNESS: Towards Bissonnet?

13 MS. COLLINS: Uh-huh.

14 THE WITNESS: Because Bissonnet --

15 MS. COLLINS: Yes, yes.

16 THE WITNESS: -- is the next street.

17 MS. COLLINS: Yes, yes.

18 THE WITNESS: Okay. So when you turn on
19 Bissonnet, what happened?

20 MS. COLLINS: Here, before you get to
21 Bissonnet, there is a small entrance like this to the
22 store. That's where we got down.

23 THE WITNESS: Okay. Before you get to
24 Bissonnet?

25 MS. COLLINS: Yes. There is a small

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1 entrance that goes into the store.

2 THE WITNESS: Okay. There's the
3 entrance --

4 MS. COLLINS: There in the --

5 THE WITNESS: -- to the store?

6 MS. COLLINS: Yes.

7 THE WITNESS: But on Coventry Square
8 Street?

9 MS. COLLINS: Yes, yes.

10 THE WITNESS: Before you get to --

11 MS. COLLINS: Yes, yes.

12 THE WITNESS: -- Bissonnet, you got off
13 there at the entrance?

14 MS. COLLINS: Yes.

15 THE WITNESS: Okay. But I thought you
16 were going -- I thought he was going to give you a ride
17 to the store.

18 MS. COLLINS: No. That's when they called
19 him.

20 THE WITNESS: Okay.

21 MS. COLLINS: Uh-huh. And he told them --

22 THE WITNESS: Okay.

23 MS. COLLINS: I don't know who called him,
24 to tell you the truth. That's when someone called him,
25 and he told them he would be there in ten or fifteen

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1 guy supposedly calling him, asking him form the same
2 thing we bought.

3 THE WITNESS: Okay.

4 MS. COLLINS: And he told them, I'll be
5 there in ten, fifteen minutes, he said.

6 THE WITNESS: Okay.

7 MS. COLLINS: Uh-huh.

8 THE WITNESS: I'll be there between ten
9 and fifteen minutes?

10 MS. COLLINS: Yes. That's how it
11 happened.

12 THE WITNESS: And that's when he left you?

13 MS. COLLINS: Uh-huh.

14 THE WITNESS: Right here at the
15 entrance --

16 MS. COLLINS: Yes.

17 THE WITNESS: -- of the parking lot?

18 MS. COLLINS: Uh-huh.

19 THE WITNESS: -- of the.

20 MS. COLLINS: Uh-huh, yeah.

21 THE WITNESS: -- of the store.

22 MS. COLLINS: Where is it? Where?

23 THE WITNESS: No, but he didn't -- didn't
24 go all the way to Bissonnet, okay?

25 MS. COLLINS: No. We got off before, yes.

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1 THE WITNESS: Okay. And when you got
2 there and you got off the car, what did you do?

3 MS. COLLINS: No. Well, we went to the
4 store, and I bought --

5 THE WITNESS: Okay. And you went to what
6 store?

7 MS. COLLINS: The one that is there right
8 in front.

9 THE WITNESS: The --

10 MS. COLLINS: I don't know --

11 THE WITNESS: The one that is --

12 MS. COLLINS: -- what it's called, but
13 that store is right there in front of the --

14 THE WITNESS: Okay.

15 MS. COLLINS: Uh-huh.

16 THE WITNESS: Okay. You got off the car?

17 MS. COLLINS: Yes.

18 THE WITNESS: And walked to the store --

19 MS. COLLINS: Yes.

20 THE WITNESS: -- that's right there in
21 front?

22 MS. COLLINS: Yes.

23 THE WITNESS: And what if -- and what were
24 you going to do at the store?

25 MS. COLLINS: I went to buy can a Caguama.

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1 We were -- a beer. I call it Caguama.

2 THE WITNESS: What do you call it?

3 MS. COLLINS: I call it Caguama.

4 THE WITNESS: Caguama?

5 MS. COLLINS: Yes, beer.

6 THE WITNESS: Caguama.

7 MS. COLLINS: Yes, beer.

8 THE WITNESS: That is --

9 MS. COLLINS: It's beer, one --

10 THE WITNESS: It's --

11 MS. COLLINS: -- one that they sell there.

12 THE WITNESS: Is that the name of the
13 beer? The name of it is Caguama?

14 MS. COLLINS: It is called -- it's Modelo.

15 THE WITNESS: Caguama?

16 MS. COLLINS: But I call that a Caguama
17 because it's --

18 THE WITNESS: But -- you call it Caguama,
19 but you were going to buy a beer, Modelo?

20 MS. COLLINS: Yes, yes, a beer, Modelo.

21 THE WITNESS: Why do you call the beer
22 Caguama?

23 MS. COLLINS: That's how I call it. We
24 call it Caguama.

25 THE WITNESS: Okay.

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1 MS. COLLINS: Yes.

2 THE WITNESS: But it is a beer?

3 MS. COLLINS: Yes, beer, yes.

4 THE WITNESS: The one you were going to
5 buy?

6 MS. COLLINS: Yes.

7 THE WITNESS: Okay. You and Flaco --

8 MS. COLLINS: Uh-huh.

9 THE WITNESS: -- walk to the store?

10 MS. COLLINS: Yes.

11 THE WITNESS: Okay. Tell me what happened
12 when you arrived to the store.

13 MS. COLLINS: We got there. Then El Flaco
14 was outside, and I went in to buy it.

15 THE WITNESS: Okay. El Flaco stayed
16 outside?

17 MS. COLLINS: Yes.

18 THE WITNESS: You went in to buy it?

19 MS. COLLINS: Yes.

20 THE WITNESS: Why did he stay outside if
21 you went to buy beer?

22 MS. COLLINS: Because he was smoking, but
23 he put it out and he stayed outside.

24 THE WITNESS: Okay. And where did he stay
25 outside?

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1 MS. COLLINS: Outside the door.

2 THE WITNESS: Look, what I want to do --

3 MS. COLLINS: Uh-huh?

4 THE WITNESS: -- draw this for you. This
5 is Bissonnet.

6 MS. COLLINS: Uh-huh.

7 THE WITNESS: This is Coventry Square.
8 These are the apartments.

9 MS. COLLINS: Yes, that's how --

10 THE WITNESS: The entrance is here.

11 MS. COLLINS: Uh-huh.

12 THE WITNESS: To get there -- Flaco's
13 apartment is over here, right?

14 MS. COLLINS: Yes.

15 THE WITNESS: Through there?

16 MS. COLLINS: Uh-huh.

17 THE WITNESS: Okay. And you -- where were
18 you? Where exactly were you when you went -- that guy
19 arrived?

20 MS. COLLINS: In the parking lot. This is
21 Flaco's apartment. We were in Fiesta --

22 THE WITNESS: Uh-huh.

23 MS. COLLINS: -- in front of the parking
24 lot, in the front.

25 THE WITNESS: Here?

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1 MS. COLLINS: Let's say here is the
2 parking lot --

3 THE WITNESS: Uh-huh.

4 MS. COLLINS: -- in front.

5 THE WITNESS: Through here?

6 MS. COLLINS: Yes.

7 THE WITNESS: Through here?

8 MS. COLLINS: Let's pretend the parking
9 lot is there, okay?

10 THE WITNESS: Uh-huh.

11 MS. COLLINS: In front of there.

12 THE WITNESS: Why here? Why here?

13 MS. COLLINS: Yes.

14 THE WITNESS: Because here --

15 MS. COLLINS: Uh-huh.

16 THE WITNESS: -- it's three. Okay. And
17 where did he park when he arrived?

18 MS. COLLINS: He parked by the first
19 mound. There is a mound right there.

20 THE WITNESS: To the side of where you
21 were standing?

22 MS. COLLINS: Yes.

23 THE WITNESS: Here or over here?

24 MS. COLLINS: Yes. They're on the side.

25 THE WITNESS: Is this here?

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1 MS. COLLINS: Yes.

2 THE WITNESS: Okay. He parked here when
3 he first got here.

4 MS. COLLINS: Yes.

5 THE WITNESS: Facing the front?

6 MS. COLLINS: Yes, facing the front.

7 THE WITNESS: Okay.

8 MS. COLLINS: Yes, facing the front.

9 THE WITNESS: Okay. When he goes in
10 reverse, he comes over here --

11 MS. COLLINS: Yes.

12 THE WITNESS: And then over there, right?

13 MS. COLLINS: Yes, yes, on the main one
14 always.

15 THE WITNESS: Okay. And when he exits
16 from the entrance, this is when --

17 MS. COLLINS: He gave us the --

18 THE WITNESS: -- he gave you the drugs?

19 MS. COLLINS: Yes.

20 THE WITNESS: And you gave him the money?

21 MS. COLLINS: Yes.

22 THE WITNESS: And he received a call?

23 MS. COLLINS: Yes.

24 THE WITNESS: Right here from the street
25 is where you came out?

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1 MS. COLLINS: Uh-huh.

2 THE WITNESS: And here's the entrance to
3 the --

4 MS. COLLINS: To the store.

5 THE WITNESS: -- to the store. The store
6 is --

7 MS. COLLINS: Yes.

8 THE WITNESS: -- over here?

9 MS. COLLINS: Uh-huh, yes.

10 THE WITNESS: Okay. And here there is
11 pumps for --

12 MS. COLLINS: The gas station.

13 THE WITNESS: -- gasoline?

14 MS. COLLINS: Yes.

15 THE WITNESS: Right there. So then you
16 get off over here?

17 MS. COLLINS: Yes.

18 THE WITNESS: And then walk -- show me --
19 no --

20 MS. COLLINS: We got off --

21 THE WITNESS: Where did you walk?

22 MS. COLLINS: We walked over there, like
23 this.

24 THE WITNESS: Uh-huh.

25 MS. COLLINS: So Flaco stayed here by the

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1 door to the store. I went in and came out.

2 THE WITNESS: Through here?

3 MS. COLLINS: Yes.

4 THE WITNESS: Why here and not over here?

5 MS. COLLINS: No. By where the door
6 opens, okay?

7 THE WITNESS: Uh-huh.

8 MS. COLLINS: Between --

9 THE WITNESS: Yes, there, Flaco. Write
10 Flaco right here, right there.

11 MS. COLLINS: Yes. He stayed there on one
12 side.

13 THE WITNESS: Write Flaco there so that we
14 know that you're talking about Flaco here. Right there,
15 you said, right?

16 MS. COLLINS: Yes.

17 THE WITNESS: All right.

18 MS. COLLINS: Flaco --

19 THE WITNESS: That's Flaco.

20 MS. COLLINS: It's just that I can't write
21 Flaco.

22 THE WITNESS: Uh-huh. And you went in the
23 store?

24 MS. COLLINS: Uh-huh.

25 THE WITNESS: And when you came out of the

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1 store, how many beers did you buy?

2 MS. COLLINS: Only two.

3 THE WITNESS: Two?

4 MS. COLLINS: Two. Two beers.

5 THE WITNESS: Two Modelos?

6 MS. COLLINS: Yes.

7 THE WITNESS: Caguama, like you call it?

8 MS. COLLINS: Caguama, yes.

9 THE WITNESS: And when you came out, where
10 did you go?

11 MS. COLLINS: We went over here through
12 the back.

13 THE WITNESS: Okay. So from here, you
14 turned over here?

15 MS. COLLINS: Yes.

16 THE WITNESS: Like this?

17 MS. COLLINS: There are condominiums right
18 here.

19 THE WITNESS: Okay.

20 MS. COLLINS: We came over here.

21 THE WITNESS: Okay. Like this?

22 MS. COLLINS: Yes.

23 THE WITNESS: Then you came out of the
24 store, and you and Flaco walk over here?

25 MS. COLLINS: Yes.

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1 THE WITNESS: Why did you walk this way
2 and not through there?

3 MS. COLLINS: Because it was getting dark,
4 and we went over here like this. We jumped the fence so
5 we didn't have to go all the way around.

6 THE WITNESS: Why?

7 MS. COLLINS: It was closer.

8 THE WITNESS: It's the same -- you're
9 going over here, right?

10 MS. COLLINS: Yes, but we jumped there to
11 be closer because it's a longer route.

12 THE WITNESS: Okay. So then you jumped
13 the fence somewhere over here where the --

14 MS. COLLINS: Yes, the same condominiums.

15 THE WITNESS: Okay. On the street is --
16 what street is over here?

17 MS. COLLINS: It's Cook.

18 THE WITNESS: Cook?

19 MS. COLLINS: Yes, it's Cook.

20 THE WITNESS: And you jumped the fence?

21 MS. COLLINS: Yes, we jumped right there.

22 THE WITNESS: When you jumped the fence,
23 what did you do?

24 MS. COLLINS: Well, since he gave us the
25 drugs, we went to the apartment, to Flaco's. We went to

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1 the porch, made a cigar and smoked it. And I came over
2 here to Kacharpa's.

3 THE WITNESS: Where does Kacharpa live?

4 MS. COLLINS: He lives there in the same
5 place.

6 THE WITNESS: Okay. And then you smoked
7 the cigarette --

8 MS. COLLINS: Yes.

9 THE WITNESS: -- with the drug?

10 MS. COLLINS: Yes.

11 THE WITNESS: But you did not have -- you
12 had powder --

13 MS. COLLINS: Yes.

14 THE WITNESS: -- right?

15 MS. COLLINS: But since we smoke together,
16 we smoked --

17 THE WITNESS: You smoked the stone there?

18 MS. COLLINS: Yes, with him.

19 THE WITNESS: But the powder -- what did
20 you do with the powder?

21 MS. COLLINS: They took in twenty of what
22 the guy purchased.

23 THE WITNESS: Okay. And then how long
24 were you and Flaco smoking?

25 MS. COLLINS: No. I just smoked it, and

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1 he stayed in his house and I left.

2 THE WITNESS: Okay. And where exactly
3 were you smoking the cigarette?

4 MS. COLLINS: Right there on the porch in
5 the back.

6 THE WITNESS: In the --

7 MS. COLLINS: Yes, in the back?

8 THE WITNESS: In the back?

9 MS. COLLINS: In the back with the doors
10 closed.

11 THE WITNESS: Okay. No -- okay. Not in
12 the front of --

13 MS. COLLINS: No.

14 THE WITNESS: The door from the front
15 but --

16 MS. COLLINS: In back of his porch.

17 THE WITNESS: -- in the --

18 MS. COLLINS: Yes.

19 THE WITNESS: -- back porch?

20 MS. COLLINS: Yes.

21 THE WITNESS: Okay.

22 MS. COLLINS: Yes.

23 THE WITNESS: And you were there
24 smoking --

25 MS. COLLINS: Yes, we were there.

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1 THE WITNESS: -- cigarettes?

2 MS. COLLINS: We were sitting there
3 smoking.

4 THE WITNESS: Okay. And only that time,
5 you were smoking, you finished the cigarette and you
6 went --

7 MS. COLLINS: Yes, I left.

8 THE WITNESS: -- to Kacharpa's?

9 MS. COLLINS: Yes, right there.

10 THE WITNESS: And what did you do after
11 that?

12 MS. COLLINS: Nothing. I stayed there
13 with Kacharpa.

14 THE WITNESS: Until when?

15 MS. COLLINS: Until the next day.

16 THE WITNESS: You stayed there --

17 MS. COLLINS: I slept there.

18 THE WITNESS: -- at Kacharpa's?

19 MS. COLLINS: Yes, I slept there.

20 THE WITNESS: So after you left from
21 Flaco's apartment, you went to the -- to Kacharpa's
22 apartment?

23 MS. COLLINS: Yes.

24 THE WITNESS: What is Kacharpa's apartment
25 number?

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1 MS. COLLINS: I don't know, because I have
2 only gone -- since I don't have a car to move and I just
3 stayed there, but I never looked at the apartment
4 number?

5 THE WITNESS: Okay. But it's close to
6 Flaco's apartment?

7 MS. COLLINS: Yes, right there in the same
8 place, at the condominiums.

9 THE WITNESS: Who lives there with
10 Kacharpa?

11 MS. COLLINS: His wife. She baby-sits
12 little kids.

13 THE WITNESS: And Kacharpa smokes drugs?

14 MS. COLLINS: No.

15 THE WITNESS: No?

16 MS. COLLINS: Not that I know of. I've
17 never seen him.

18 THE WITNESS: Where is Kacharpa's wife's
19 name?

20 MS. COLLINS: I only know her by Rosa.

21 THE WITNESS: And you stayed at Kacharpa's
22 house until the next day?

23 MS. COLLINS: Yes, yes. I came here from
24 there.

25 THE WITNESS: Why did they allow you to

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1 stay there if --

2 MS. COLLINS: Because I was already drunk,
3 and I stay there when I'm drunk. I don't go out
4 anymore.

5 THE WITNESS: So, you go to Kacharpa's
6 apartment after you leave Flaco right here?

7 MS. COLLINS: Yes.

8 THE WITNESS: After you stopped smoking
9 the rock?

10 MS. COLLINS: Yes.

11 THE WITNESS: And you stay in the -- you
12 don't go out anymore or --

13 MS. COLLINS: No, because he always has
14 beer there, too.

15 THE WITNESS: Uh-huh.

16 MS. COLLINS: Uh-huh.

17 THE WITNESS: And you didn't leave the
18 apartment again?

19 MS. COLLINS: No, until the next day that
20 I came over here.

21 THE WITNESS: And when you went to
22 Kacharpa's apartment, was it already dark outside or no?

23 MS. COLLINS: Yes, it was dark already.

24 THE WITNESS: It was already dark?

25 MS. COLLINS: Yes.

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1 THE WITNESS: And you didn't go to your
2 apartment until the next day?

3 MS. COLLINS: Yes, until the next day.

4 THE WITNESS: Who saw you?

5 MS. COLLINS: What's his name, the guy
6 that brought me? Jesus.

7 THE WITNESS: Who is Jesus?

8 MS. COLLINS: Ceci's son.

9 THE WITNESS: What time did he take you?

10 MS. COLLINS: In the morning, around 8:00,
11 I think.

12 THE WITNESS: Around 8:00 in the morning?

13 MS. COLLINS: Yes.

14 THE WITNESS: So, then, that was what, the
15 day, on Sunday?

16 MS. COLLINS: Yes, on Sunday.

17 THE WITNESS: On Sunday Jesus took you to
18 your apartment?

19 MS. COLLINS: Yes.

20 THE WITNESS: Jesus is whose son?

21 MS. COLLINS: Ceci.

22 THE WITNESS: Who?

23 MS. COLLINS: Ceci.

24 THE WITNESS: Oh, Ceci?

25 MS. COLLINS: Yes.

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1 THE WITNESS: Ceci. She's --

2 MS. COLLINS: Yes.

3 THE WITNESS: -- the one who is Flaco's
4 wife?

5 MS. COLLINS: Yes, yes, Flaco's, yes.

6 THE WITNESS: And what did Jesus take you
7 in?

8 MS. COLLINS: In his car?

9 THE WITNESS: What color car?

10 MS. COLLINS: I think it's gray. He has
11 it all banged up.

12 THE WITNESS: It's gray?

13 MS. COLLINS: Gray, I think. I don't
14 remember what color it is, but he does have a car.

15 THE WITNESS: Okay. And then what?

16 MS. COLLINS: I stayed at the house -- in
17 the apartment, and on Monday I went to work.

18 THE WITNESS: And when did you find out we
19 wanted to speak with you about this case?

20 MS. COLLINS: They told me -- I think it
21 was on Monday, Kacharpa told me something like that.

22 THE WITNESS: And why did Kacharpa tell
23 you?

24 MS. COLLINS: Because he has my boss's
25 number.

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1 THE WITNESS: Huh?

2 MS. COLLINS: He has my boss's phone

3 number, too.

4 THE WITNESS: Uh-huh.

5 MS. COLLINS: And I called him because he

6 has his number, too.

7 THE WITNESS: Kacharpa's?

8 MS. COLLINS: I called --

9 THE WITNESS: Let's see. What is the

10 number?

11 MS. COLLINS: I think I have it here. No,

12 that's not it, though. One is for Mexico.

13 THE WITNESS: That's not Kacharpa's?

14 MS. COLLINS: No. It's from Mexico.

15 THE WITNESS: And then the next day Jesus

16 went to drop you off --

17 MS. COLLINS: Yes.

18 THE WITNESS: -- at your apartment?

19 MS. COLLINS: Yes, right there where I

20 live.

21 THE WITNESS: Where you live with Maria --

22 MS. COLLINS: Yes, with Maria --

23 THE WITNESS: -- and Felix?

24 MS. COLLINS: -- and Felix.

25 THE WITNESS: Okay.

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1 MS. COLLINS: Uh-huh.

2 THE WITNESS: This picture, who is it?

3 MS. COLLINS: Of me.

4 THE WITNESS: It's --

5 MS. COLLINS: It's me.

6 THE WITNESS: This is you?

7 MS. COLLINS: Yes.

8 THE WITNESS: He's identified his own
9 picture in gang sequence No. 32732. What gang do you
10 belong to?

11 MS. COLLINS: M-S.

12 THE WITNESS: M-S? MS-13?

13 MS. COLLINS: Yes.

14 THE WITNESS: Okay. And when did Kacharpa
15 tell you that we wanted to speak to you?

16 MS. COLLINS: Monday, I think.

17 THE WITNESS: On Monday?

18 MS. COLLINS: Flaco said that he had a
19 card.

20 THE WITNESS: And why didn't you call me?

21 MS. COLLINS: Because Kacharpa didn't give
22 it to me. He never gave me the number. And because I
23 was scared you were going to deport me. I just got
24 here. I just arrived three months ago.

25 THE WITNESS: And did they tell you why we

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1 wanted to speak with you?

2 MS. COLLINS: No, because Flaco told
3 Kacharpa about this, about this guy. And I said damn.
4 I said, they are going to to deport me. I'm really
5 afraid I'll be deported.

6 THE WITNESS: Who -- what?

7 MS. COLLINS: I'm scared they are going to
8 deport me.

9 THE WITNESS: No, I know. But Kacharpa
10 told you?

11 MS. COLLINS: Yes. Flaco told him you
12 wanted to speak to me.

13 THE WITNESS: Okay.

14 MS. COLLINS: That you left a card with
15 him. I don't know if you or who, but they did not give
16 me your number.

17 THE WITNESS: When was the last time you
18 saw Flaco?

19 MS. COLLINS: That day.

20 THE WITNESS: That day, on Saturday?

21 MS. COLLINS: On Saturday. I haven't been
22 over there.

23 THE WITNESS: Excuse me. When was the
24 last time you talked to Flaco?

25 MS. COLLINS: Just on Saturday, that --

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1 THE WITNESS: That day?

2 MS. COLLINS: I don't have a phone. I
3 don't have a phone.

4 THE WITNESS: Uh-huh. Then since that day
5 when you smoked the rock with him, when you bought the
6 drugs from the guy here --

7 MS. COLLINS: Yes.

8 THE WITNESS: -- when you went to
9 Kacharpa's apartment, since that day you haven't had any
10 communication with --

11 MS. COLLINS: No.

12 THE WITNESS: -- with this one? But
13 Kacharpa told you that -- okay, yes, on Monday.

14 MS. COLLINS: Yes.

15 THE WITNESS: -- that we wanted to speak
16 with you, but you did not call because you were scared?

17 MS. COLLINS: Yes.

18 THE WITNESS: And you said you got off
19 this guy's car to go to the store --

20 MS. COLLINS: Yes.

21 THE WITNESS: -- after he sold you the
22 drug? And you said that you went in there to buy two
23 beers?

24 MS. COLLINS: Yes.

25 THE WITNESS: Around what time did this

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1 guy get there?

2 MS. COLLINS: Around seven,
3 seven-something. I'm not sure.

4 THE WITNESS: Seven and something? Okay.

5 MS. COLLINS: Yes.

6 THE WITNESS: So if he arrives -- let's
7 say that this guy arrives at 7:20.

8 MS. COLLINS: Yes.

9 THE WITNESS: You get in the car.

10 MS. COLLINS: Yes.

11 THE WITNESS: You come out of the parking
12 lot. He sells you the drugs. You give him your money,
13 and he goes out. He receives a call, and he leaves you
14 here?

15 MS. COLLINS: Yes.

16 THE WITNESS: How much time goes by from
17 when you get in the car until he goes out and leaves you
18 here? How much time?

19 MS. COLLINS: Of what?

20 THE WITNESS: When you got on until you
21 got here, how much time goes by?

22 MS. COLLINS: Not long. We just went to
23 the store, and we went to the --

24 THE WITNESS: No. The question is, when
25 you got in the car and he went and came out and left you

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1 here?

2 MS. COLLINS: Oh, no, that was fast. We
3 left and --

4 THE WITNESS: Fast?

5 MS. COLLINS: Yes.

6 THE WITNESS: One minute or less?

7 MS. COLLINS: I think it was just one
8 minute.

9 THE WITNESS: Okay. So from here --

10 MS. COLLINS: Yes.

11 THE WITNESS: -- to here?

12 MS. COLLINS: Uh-huh.

13 THE WITNESS: It's 7:20 here. You get on,
14 and here it's 7:21.

15 MS. COLLINS: Yes.

16 THE WITNESS: And if you get over here,
17 you walk from here to over here, how many minutes did
18 you take?

19 MS. COLLINS: Four or five minutes. It's
20 close by.

21 THE WITNESS: Four minutes?

22 MS. COLLINS: Yes. It's close by.

23 THE WITNESS: Okay. Four or five minutes
24 is a long time.

25 MS. COLLINS: Yes, going to the store on

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1 foot.

2 THE WITNESS: You only walked?

3 MS. COLLINS: Yes.

4 THE WITNESS: Okay, okay. Let's put down
5 that it's five minutes.

6 MS. COLLINS: Uh-huh.

7 THE WITNESS: At 7:26, you were going in
8 the store here?

9 MS. COLLINS: Yes, I was, yes.

10 THE WITNESS: Okay. And let me tell you
11 this.

12 MS. COLLINS: Uh-huh.

13 THE WITNESS: The video from this store --
14 the video this store has, has cameras that point over
15 here --

16 MS. COLLINS: Yes.

17 THE WITNESS: -- to the street, Coventry
18 Square.

19 MS. COLLINS: Yes.

20 THE WITNESS: And the cameras show the
21 cameras of the deceased not stopping here but going up
22 to Bissonnet. You did not stop here. You did not walk
23 from here to here, because the cameras did not record
24 that. What the camera recorded is this deceased guy's
25 car --

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1 MS. COLLINS: Yes.

2 THE WITNESS: -- go up here, and here he
3 went over here. You did not arrive here at the store.
4 You did not go into the store, because the cameras -- we
5 have video from the store, and you are not in the video
6 of the store. You did not go in here. That's a lie,
7 okay. That is a lie. In fact, the next time we see you
8 and Flaco in the video is arriving at the apartments
9 after 8:00. You arrived in Nilson's white car, Flaco's
10 nephew. Another thing, let me scare myself a little
11 bit.

12 MS. COLLINS: Yes, yes.

13 THE WITNESS: The apartments have video,
14 you know?

15 MS. COLLINS: Yes.

16 THE WITNESS: Okay. We have video; and we
17 saw the video that you got in the car, like you said.

18 MS. COLLINS: Yes.

19 THE WITNESS: You got in the car.

20 MS. COLLINS: Yes.

21 THE WITNESS: You in back and he in front.

22 MS. COLLINS: Yes.

23 THE WITNESS: The video shows that -- the
24 video shows that you're leaving. Now the next video is
25 from the store, because the video from the apartments

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1 point over here. When you come out here, the next time
2 we see the deceased's car is when you're passing by
3 through here, because the cameras from the store record
4 that. The cameras inside the store where you or both of
5 you went into the store don't show that you were
6 walking. That's a lie. The next time that you're in
7 the apartments video is when you were coming in through
8 here. It's after 8:00. Forty minutes after you and
9 Flaco get in the car, you arrived over here in Nilson's
10 car. He parks all the way in the back of the
11 apartments, and there you and Flaco get off the car and
12 start to walk towards Flaco's apartments and Nilson
13 leaves. He goes out the other exit.

14 Now the other camera that records you and
15 Nilson is the one that -- at the other exit of the
16 apartments that shows you inside Nilson's car in the
17 passenger side, because the cameras from over there
18 record you when you're leaving. A couple of minutes
19 after you start walking, you don't go to the store and
20 jump the fence. That did not happen, sir. That did not
21 happen. What happened is that you were here. You were
22 with him. And you called Nilson to pick you up, because
23 you got in Nilson's car and arrived at Flaco's apartment
24 forty minutes after you got in the car, ten minutes
25 after you got in the deceased's car when you were

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1 leaving, ten minutes after, more or less, when we found
2 the body of the deceased, ten minutes, they hear
3 gunshots, ten minutes. You did not get off here. The
4 car goes up to Bissonnet from here, and you went where
5 the murder occurred. Because ten minutes -- you
6 understand, ten minutes after you and Flaco get in the
7 deceased's car, the gunshots happened.

8 How is it possible that you go into the
9 store? You said one minute after he dropped you off,
10 you went to the store and the cameras didn't record you?
11 What are you, ghosts? How is it that both of you or
12 that you went in and the camera did not record you?

13 MS. COLLINS: But I did go in.

14 THE WITNESS: Explain that to me. No, no,
15 no, that's not it. That's not it. That's not true.
16 The camera did not record you. The camera from this
17 store records everything there. We have the video, the
18 video where we found you at 8:00; and that's when you're
19 getting in Nilson's car. But ten minutes after you get
20 in, the neighbors hear gunshots where we found this guy.
21 And from there you took this guy's car, and that's where
22 you left him. You burned him, and you called Nilson;
23 and he went and picked you up. That's what happened
24 there. And he picked you to Flaco's apartment and you
25 get off. Okay. I heard your explanation, what you were

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1 saying. Do you understand?

2 MS. COLLINS: Yes.

3 THE WITNESS: I listened to you.

4 MS. COLLINS: Yes.

5 THE WITNESS: But it's a lie. That is a
6 lie. I say that because we have the video from the
7 apartments, video from the store, and again, video from
8 the apartment where it shows you arriving. That's the
9 truth. What I want you to know is what happened
10 there -- I'm sorry -- what I want to know is what
11 happened there, where this guy was shot. I want to know
12 why that happened.

13 MS. COLLINS: Well, I don't know.

14 THE WITNESS: You don't know?

15 MS. COLLINS: No.

16 THE WITNESS: How can you explain that if
17 you and Flaco are the last ones who got in his car?

18 MS. COLLINS: I don't know. He did
19 receive a call, maybe because we got down and we got in
20 the car. That's the only mistake that --

21 THE WITNESS: And what a coincidence that
22 the statement that you just gave me right now is exactly
23 the same as the one Flaco told me, that you got off
24 here, you went to the store, that you went inside and
25 that you jumped the fence over here, exactly the same to

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1 what he told me.

2 MS. COLLINS: That's what happened.

3 THE WITNESS: No, that did not happen.

4 That did not happen, because the camera did not record
5 you going in there. We have the video from that day.
6 The video recorded the deceased guy's car passing by
7 after you got on over here. The apartment's video and
8 the store's video, you did not get down there. You did
9 not walk from there to here. You did not go in the
10 store. You did not jump the fence over here, because
11 that did not happen. We have you on video three times;
12 here, when you got on, okay, two times -- I mean, three.
13 And then you get off here. When you arrive at 8:00 and
14 the video from here, from the other exit, is where we
15 have you three times on the video. It's not how you
16 said. The only way the camera is not going to record
17 you is if you are a ghost.

18 MS. COLLINS: No.

19 THE WITNESS: Huh?

20 MS. COLLINS: No.

21 THE WITNESS: Well, how did it not record
22 you but it's recorded all the other people who -- that
23 went in there? How is that possible?

24 MS. COLLINS: I don't know.

25 THE WITNESS: Explain it to me. I want to

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1 understand you. Explain it to me. I want --

2 MS. COLLINS: But I don't know.

3 THE WITNESS: I want to know.

4 MS. COLLINS: I did go in the store.

5 THE WITNESS: You did not go in the store.

6 You did not go in the store. I already told you the
7 video -- I seen the video. I see you coming back with
8 Nilson and with Flaco. The camera from the apartments
9 recorded you there. The camera from the apartments
10 recorded you three times getting in and coming back with
11 Nilson and leaving with Nilson after 8:00, arriving at
12 8:00, and a little bit after that leaving; and he took
13 you to your apartments. You did not stay there at
14 Kacharpa's? How did you say it?

15 MS. COLLINS: Kacharpa's.

16 THE WITNESS: Kacharpa's?

17 MS. COLLINS: Yes.

18 THE WITNESS: You did not stay at

19 Kacharpa's.

20 MS. COLLINS: I stayed there?

21 THE WITNESS: You didn't stay there, no.

22 You are not going to convince me of that. No one is
23 going to believe that. No, that's not how it happened.
24 What I want is that you tell me what happened right
25 there where this happened.

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1 MS. COLLINS: I don't know. How am I
2 supposed to tell you if I don't know?

3 THE WITNESS: I interviewed this guy,
4 Flaco, and also Nilson. And you're telling me that
5 Nilson, when he told me that when he went to pick you up
6 and him up over there by Belfort and -- that's not true.

7 MS. COLLINS: No, not me. I haven't gone
8 out. How I'm supposed to tell you if I don't know who
9 killed that poor guy?

10 THE WITNESS: What if they shoot him?

11 MS. COLLINS: How would I know?

12 THE WITNESS: Do you have a weapon?

13 MS. COLLINS: No.

14 THE WITNESS: No, right. There where you
15 live and Maria with Felix, where do you sleep?

16 MS. COLLINS: There in the living room.

17 THE WITNESS: Okay. In the living room?

18 MS. COLLINS: Yes.

19 THE WITNESS: The apartment -- it's an
20 apartment, right? It's one bedroom or two?

21 MS. COLLINS: It's a one-bedroom.

22 THE WITNESS: Okay. And do they give you
23 the sofa to sleep on or --

24 MS. COLLINS: No, on the floor.

25 THE WITNESS: On the floor?

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1 MS. COLLINS: Yes.

2 THE WITNESS: Okay and where do you leave
3 your things? Where do you put your things?

4 MS. COLLINS: There in the -- how do you
5 say -- right where you put your clothes, wardrobe.

6 THE WITNESS: Okay.

7 MS. COLLINS: Yes.

8 THE WITNESS: And you have all your things
9 there?

10 MS. COLLINS: Yes, they're there.

11 THE WITNESS: And they have their things
12 there, too?

13 MS. COLLINS: No. They have a separate
14 wardrobe.

15 THE WITNESS: Okay. And --

16 MS. COLLINS: Yes.

17 THE WITNESS: -- you have a wardrobe, and
18 they have another one?

19 MS. COLLINS: Yes.

20 THE WITNESS: And what -- what do you have
21 in that wardrobe?

22 MS. COLLINS: My clothes, shoes.

23 THE WITNESS: Okay.

24 MS. COLLINS: That's what I have there,
25 socks.

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1 THE WITNESS: When we first arrived here,
2 I filled out this form right here; and I explained that
3 we wanted to search the --

4 MS. COLLINS: Yes.

5 THE WITNESS: -- the place where you live,
6 right?

7 MS. COLLINS: Yes.

8 THE WITNESS: I explained that to you, and
9 you wanted to go to your apartment. And I asked if you
10 gave me permission to go and search, to sign here.

11 MS. COLLINS: Yes.

12 THE WITNESS: You sign it voluntarily?

13 MS. COLLINS: Yes.

14 THE WITNESS: So they have -- you're
15 giving us permission to go and search your thing over
16 there?

17 MS. COLLINS: Yes.

18 THE WITNESS: In Apartment two --

19 MS. COLLINS: Two, zero, four.

20 THE WITNESS: -- two, zero, four?

21 MS. COLLINS: Yes.

22 THE WITNESS: Okay.

23 MS. COLLINS: I just don't know the name
24 of the apartments.

25 THE WITNESS: Okay. But they are

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1 behind --

2 MS. COLLINS: Yes, right there by Famsa.

3 THE WITNESS: Okay.

4 MS. COLLINS: Yes, and Bellaire and
5 Hillcroft.

6 THE WITNESS: Uh-huh. You do understand
7 I'm giving you the opportunity to tell me what happened,
8 right?

9 MS. COLLINS: Yes.

10 THE WITNESS: Have I mistreated you?

11 MS. COLLINS: No.

12 THE WITNESS: Okay. I'm only asking you
13 to tell me the truth. In fact, what did I give you
14 awhile ago?

15 MS. COLLINS: To eat?

16 THE WITNESS: Yes.

17 MS. COLLINS: It's a Subway -- Subway. I
18 think it's Subway.

19 THE WITNESS: It's a sandwich --

20 MS. COLLINS: Yes.

21 THE WITNESS: -- from Subway?

22 MS. COLLINS: Yes.

23 THE WITNESS: Okay. And this water, I
24 gave it to you right now because you asked me for it?

25 MS. COLLINS: Yes.

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1 THE WITNESS: But before that you asked
2 for another one, right?

3 MS. COLLINS: Yes.

4 THE WITNESS: We gave you water --

5 MS. COLLINS: You gave me water --

6 THE WITNESS: -- two times?

7 MS. COLLINS: -- yes, twice.

8 THE WITNESS: I gave you something to eat?

9 MS. COLLINS: Yes.

10 THE WITNESS: You asked to use the
11 restroom, and you used the bathroom?

12 MS. COLLINS: Yes.

13 THE WITNESS: Right?

14 MS. COLLINS: Yes.

15 THE WITNESS: No one has mistreated you?

16 MS. COLLINS: No.

17 THE WITNESS: I read you your rights, and
18 you gave up your rights to explain to me what you know.
19 Is that true?

20 MS. COLLINS: Yes.

21 THE WITNESS: And what you're saying to me
22 right now is voluntary?

23 MS. COLLINS: Yes.

24 THE WITNESS: Okay. Your statement is
25 voluntary. But let me tell you, young man, I don't

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1 believe you. The only thing that's right about your
2 statement is that when this guy arrived there at the
3 apartments, you climbed in the back of there -- back of
4 the chauffeur and that Flaco climb in the front seat and
5 you left. That's the only thing right in your
6 statement, because the rest is a lie. You did not get
7 off here, you did not go in, you did not jump over here;
8 because the car of the deceased kept going until
9 Bissonnet, and from there he went to where the gunshot
10 occurred. You did not get off there. You did not get
11 off there, okay. This is your chance to tell me,
12 because I don't believe you. No one else is going to
13 believe you. That's a lie, okay. But I'm not going to
14 spend two, three days talking with you about this. I'm
15 giving you the opportunity now. We're talking. I gave
16 you food --

17 MS. COLLINS: Yes.

18 THE WITNESS: -- I treated you good, and
19 the way you repay me is by lying to me. That's not how
20 it happened, young man. Explain what happened.

21 MS. COLLINS: No. Well, just how I
22 explain it to you.

23 THE WITNESS: Just how you explained it?
24 Well, what I don't understand is how the camera from the
25 store does not record you.

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1 MS. COLLINS: I don't know.

2 THE WITNESS: You don't know?

3 MS. COLLINS: But we did go to the store.

4 THE WITNESS: At the time that you and
5 Flaco arrived to the store, the camera stopped working.
6 That is --

7 MS. COLLINS: No, no, no.

8 THE WITNESS: -- what you're telling me?

9 MS. COLLINS: They don't always --

10 THE WITNESS: Huh.

11 MS. COLLINS: -- work.

12 THE WITNESS: No, they don't always work,
13 but why don't they have you, you're the person entering
14 the store, if you say you went in, went inside.

15 MS. COLLINS: I did go in.

16 THE WITNESS: You did not go in. It did
17 not happen that way, okay. I'm going to end this
18 interview right now.

19 MS. COLLINS: That's fine.

20 THE WITNESS: If before I end this
21 interview you want to tell me the truth, I'm here to
22 listen.

23 MS. COLLINS: No. That's the truth. I
24 told you already.

25 THE WITNESS: It's the truth?

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1 MS. COLLINS: Yes.

2 THE WITNESS: Okay. With that, with your
3 lie, I'm going to end this interview. Do you have any
4 questions for me?

5 MS. COLLINS: No.

6 THE WITNESS: No? Okay. I'm going to end
7 the interview with that.

8 I'm going to go ahead and end the
9 interview at this time. It is 1:22 p.m.

10 Do you need to go to the bathroom right
11 now?

12 MS. COLLINS: No.

13 THE WITNESS: No?

14 MS. COLLINS: No.

15 THE WITNESS: Here's your identification.
16 Put it away.

17 THE COURT: Members of the jury, I've been
18 told that the food has arrived. So, if you will, just
19 leave them in the chairs as you leave and you may now go
20 back and have something to eat.

21 (Lunch recess at 12:50 p.m.)

22 (Jury enters courtroom)

23 THE COURT: Y'all be seated, please.

24 Q. (By Ms. Hartman) Officer Chavez, during the
25 statement you took from Mario Paredes, it looks like

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1 y'all referenced with him drawing a map, or were you
2 drawing a map?

3 A. Correct.

4 Q. What was the purpose of that?

5 A. The purpose was to try to get an understanding
6 of what he's saying. For example, I draw the street,
7 Coventry Square, where it intersects with Bissonnet and
8 the parking lot where the store that he claims he went
9 into with reference to the apartments where the
10 complainant picked them up.

11 Q. Okay. And you were able to look at this map
12 and then compare it to the store's video to see if what
13 he said, his alibi, was accurate or not --

14 A. That's correct.

15 Q. -- if it panned out?

16 A. Correct.

17 Q. I'm showing you what's been marked as State's
18 Exhibit No. 10 (sic). Is this the map that you and
19 Mario Paredes drew and discussed in his statement?

20 A. Yes, it is.

21 MS. HARTMAN: Your Honor, I'd like to
22 tender State's Exhibit 100 to defense counsel and offer
23 it into evidence.

24 MR. MADRID: No objection, Your Honor.

25 THE COURT: Admitted.

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1 Q. (By Ms. Hartman) I'm going to try to talk
2 about the map and look at the video that's already been
3 admitted into evidence?

4 A. Okay.

5 Q. Okay. Sergeant Chavez, looking at State's
6 Exhibit No. 10 --

7 COURT REPORTER: You keep saying 10.

8 Q. (By Ms. Hartman) I'm sorry, 100. Looking at
9 State's Exhibit No. 100, is this the map that was drawn?

10 A. Yes, it is.

11 Q. And do I actually have it right, going north
12 and south, Bissonnet here and Coventry here?

13 A. Yes. If you see right here, that's the north
14 indicator. And I'm sorry. I blocked it off. But north
15 is actually pointing down on the -- so, north is this
16 way.

17 Q. Okay.

18 A. So, Coventry Square goes north/south. So from
19 the apartments, going this way towards Bissonnet, that
20 would be going south.

21 Q. Can you circle the Victorian Apartments for us,
22 please?

23 A. Yes. This is the apartment buildings right in
24 here where Chaco lives.

25 Q. And how did -- can you draw a line on how Mario

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1 Paredes' statement states that they left the apartment
2 complex and entered onto Coventry?

3 A. Sure. Right here is where the victim pulled
4 his car in. And he parked his vehicle facing frontward
5 or inward facing southbound. And he claims that he
6 backed up, and then he went out this entrance gate,
7 which is he's going eastbound here. He claims that
8 right here is where they exit the complex and get onto
9 Coventry Square and turn southbound on Coventry Square.

10 Q. Let me stop you right there. Now, you had a
11 chance to look at the apartment video, correct?

12 A. That's correct.

13 Q. And at that point in time, his statement is
14 consistent with what we see on the video with Jhon's car
15 going in, parking and then leaving, correct?

16 A. That's correct.

17 Q. And on that video there is three guys who get
18 in, correct?

19 A. That is correct.

20 Q. And how many guys did the defendant say that
21 get in?

22 A. Two.

23 Q. Okay. And that's inconsistent with what we
24 see?

25 A. That's correct.

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1 Q. And on that video, do you recall where the
2 defendant gets in at?

3 A. He gets in on the driver's side. Initially, we
4 thought that he got into the backseat. But once we had
5 the video enhanced a little bit where we could see two
6 people actually get in on the driver's side, so I think
7 he got into the driver's seat.

8 Q. And that video is just a piece of the puzzle
9 you're using during this whole investigation to
10 determine what happened to Jhon Gilces?

11 A. That's correct.

12 Q. Okay. So, we're on Coventry. And in the
13 defendant's statement, what does he say he did?

14 A. So when they're coming out of the complex,
15 that's when he's claiming that the decedent received a
16 phone call and he's having a quick conversation. I'll
17 be there in ten or fifteen minutes. So, he's pulled
18 onto Coventry. And right around here where the green
19 and the yellow is right there, that's where he claims
20 the decedent stopped his vehicle after they made their
21 transaction.

22 Q. Okay. And, obviously, we know that's for
23 drugs, correct?

24 A. Correct.

25 Q. And is that the distance that you can estimate

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1 that?

2 A. That was the -- I think when I asked him in the
3 interview -- it's a little easier to follow if you
4 understand the language. But when I asked him, from
5 here when he got onto here, how much time are we talking
6 about, that's when he's claiming it was just about a
7 minute.

8 Q. Okay.

9 A. From this point where they get in the car to
10 here, that was just about a minute, is what he's
11 claiming.

12 Q. And so, looking back at the timeline here, we
13 know that it would be somewhere between 7:23 and,
14 obviously, no later than 7:30, correct?

15 A. That's correct.

16 Q. So, after they exchange money for drugs, then
17 in his statement, what does he say he does?

18 A. Right in here is where he claim the decedent
19 stopped the vehicle. They got out. And he claims that
20 they walked this way where the little tic marks are
21 towards the store, which is right here. I'm sorry.
22 Right here. That's the gas pumps. And that's -- that's
23 the point where he's claiming that it took about five
24 minutes to walk from here to here. It's a short
25 distance.

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1 Q. And is this area right here that I'm circling
2 that's between Coventry and before I get to the two
3 circles and a larger circle, is that like a parking
4 area?

5 A. Yeah, that's a parking area. And right along
6 in here are, I think, other businesses.

7 Q. And you had a chance to look at the store video
8 on that, correct, to verify his story?

9 A. That's correct.

10 Q. Is it important that you try to verify
11 everything that he says?

12 A. Absolutely.

13 Q. And why is that?

14 A. Well, he's telling me that one thing happened.
15 And I want to either prove that he's telling the truth
16 or confront him with, that didn't happen. It's a lie.

17 Q. You don't want to arrest the wrong guy, do you?

18 A. Correct.

19 Q. All right. So, I'm showing you what's already
20 been admitted as State's Exhibit 105, which is the video
21 from Mr. Ali's store. Have you seen this before?

22 A. Yes.

23 Q. Now, looking at this video, is this the parking
24 lot that that defendant stated he traveled through?

25 A. Yes, it is.

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1 Q. Okay. So looking back over here, is that going
2 to be Coventry way up there?

3 A. Yes. That's Coventry Square going from left to
4 right.

5 Q. And this is the way he would be walking down
6 through this area?

7 A. That's what he claimed.

8 Q. Or even maybe right over here in this parking
9 lot area?

10 A. Yes.

11 Q. Now, it's obvious you could see somebody if
12 they're walking there, right?

13 A. Yes.

14 Q. Did you get to look at the whole video?

15 A. I looked at the time frame that he's talking
16 about, yes.

17 Q. And along with Sergeant Dillingham and Jewel
18 and the other investigators --

19 A. Yes.

20 Q. -- was anybody ever able to see that defendant
21 on that video?

22 A. No.

23 Q. And did you go through just even a broader
24 spectrum of time than that little spectrum that he gave
25 you?

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1 A. Yes.

2 Q. Why would you do something like that to give a
3 bigger, broader view?

4 A. Sometimes people's perspective of time may be a
5 little off, so we just wanted to kind of expand it a
6 little bit.

7 Q. Trying to give him the benefit of the doubt?

8 A. Yes.

9 Q. Trying to verify his story?

10 A. Correct.

11 Q. At that point in time, were you able to verify
12 his story as true and correct, as him walking down like
13 he said he did when he got out of Bicho's car?

14 A. We were able to verify that it was not correct
15 what he said.

16 Q. It was a lie?

17 A. Right.

18 Q. Were you able to look, also just
19 double-checking yourself, to see inside the store?

20 A. Yeah. I believe we got video from the side of
21 the store, as well.

22 Q. And is that the outside, the Stop and Shop --
23 or Shop and Go? Excuse me.

24 A. Right. Now back down, that's where Coventry
25 Square is; so, he would say be traveling up. So that

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1 would be west. And this is the store where he indicated
2 that he went in, right in here. And I believe there
3 is -- I think there is a camera inside, as well.

4 Q. Oh, right. And this is the camera inside?

5 A. Right. That's facing out to the door where he
6 claims he came in.

7 Q. And again, as you see this individual walking
8 in, if somebody walks into that store, you're going to
9 see them?

10 A. Absolutely.

11 Q. Did you look through this video to see if at
12 any time that defendant, Mario Paredes, walked into that
13 store?

14 A. He did not walk into the store.

15 Q. And did you view a broader spectrum of time,
16 again, to make sure that he did not walk into that
17 store?

18 A. Yes.

19 Q. Was the defendant's statement consistent with
20 what Nilson said or inconsistent?

21 A. It was consistent with Osmin's statement, where
22 I think they had talked about it.

23 MR. MADRID: Objection to hearsay, Your
24 Honor.

25 THE COURT: Sustained.

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1 Q. (By Ms. Hartman) How would you characterize
2 the defendant's statement, Mario Paredes'?

3 A. Mostly untruthful.

4 Q. But giving you specks of things that actually
5 happened?

6 A. Very few truths in there.

7 Q. And when you searched the apartment, Maria's
8 apartment where he stayed in No. 204, did y'all find
9 anything?

10 A. As I said, I didn't participate in the actual
11 search. I just got the consent from her. Because it
12 was a Spanish consent form that I had her sign, and we
13 had other investigators go through it. I don't believe
14 they found anything.

15 Q. Plenty of time to get rid of anything if there
16 was?

17 A. Yes.

18 Q. In his statement, though, he does put that he
19 did buy drugs from Bicho after 7:00 p.m.?

20 A. Yes, ma'am.

21 Q. And he does put himself getting in that car
22 around -- and getting out around 7:20?

23 A. I believe about 7:20 getting in, somewhere in
24 there, and about 7:26, pretty much, walking to the
25 store.

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1 Q. And did you also take a statement from Gerardo
2 Arredondo?

3 A. I believe I spoke to him briefly, and I think
4 Investigator Sosa also spoke to him.

5 Q. And he was not quite as forthcoming with you as
6 he was with Investigator Sosa, was he?

7 A. That's correct.

8 MS. COLLINS: Pass the witness, Your
9 Honor.

10 MR. MADRID: Cross-examination, Your
11 Honor?

12 **CROSS-EXAMINATION**

13 BY MR. MADRID:

14 Q. Good afternoon, Sergeant Chavez.

15 A. Good afternoon.

16 Q. So, my understanding is when you began this
17 case, you weren't the, I guess, lead investigator?

18 A. That's correct.

19 Q. Because this happened August 31st, 2013, right?

20 A. Yes, sir, that's correct.

21 Q. And it wasn't until September 6th, 2013, I
22 think you said, that you were briefed on it, or there
23 was a briefing; and then you got involved because you're
24 a Spanish-speaker?

25 A. Yes, sir, that's correct.

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1 Q. And before that, we have Dillingham and Jewel
2 worked together, right?

3 A. Yes, sir. They were the lead agents on the
4 case.

5 Q. And Avila and Sosa assisted, or they did part
6 of the investigation?

7 A. Right. They made the original scene. And
8 then, of course, Sosa also participated in some of the
9 follow-up.

10 Q. And then you and Cisneros, you were -- I guess,
11 went to the apartment, talked to different people,
12 brought people in and talked to them, right?

13 A. Yeah. I actually talked to Osmin's wife and
14 her nephew there, and also her son and daughter. But
15 Osmin I talked to at the Homicide Office.

16 Q. And when you went -- when Mario Paredes, my
17 client, was detained, he was headed to work, right?

18 A. Yes.

19 Q. He was in a work van or something?

20 A. That's correct.

21 Q. He worked some kind of construction job or
22 something?

23 A. I'm not sure what kind of work, but he was in a
24 van.

25 Q. And because -- was one of Osmin's children, one

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1 of his sons, worked with him or something?

2 A. No. It was --

3 Q. Nilson's?

4 A. It was the -- it was Osmin's wife's nephew.

5 Q. Okay. And he tipped you off and said, yeah,
6 they picked him up from work; and there was a text
7 message sent or something?

8 A. Yes, that's correct.

9 Q. That's when he came in and he interviewed,
10 right?

11 A. Yes.

12 Q. But you had mentioned you interviewed Nilson
13 before, right?

14 A. Nilson?

15 Q. Nilson Alvarado.

16 A. Yes, sir.

17 Q. And when you interviewed him, you said
18 something to the effect that he wasn't forthcoming; and
19 then he cleaned up his statement?

20 A. Right. He started telling me what he wanted me
21 to hear. And then, of course, when I was going to
22 confirm or try to confirm some of what he said by
23 calling his girlfriend, who he claimed was with him,
24 then he came out later on and said, you know what, let
25 me tell you the truth. Because when I go to talk to the

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1 girlfriend, she's not going to be able to verify his
2 story.

3 Q. And you said you showed him the video? Is that
4 what I heard you say? I thought I heard you say you did
5 show him the video. That's what I wrote down.

6 A. Showed --

7 Q. Nilson the video?

8 A. Nilson the video?

9 Q. In the car.

10 A. He was shown the video, I think, yes, to
11 identify the participants, yeah, getting into the
12 victim's vehicle and, I think, getting out of -- or
13 getting out of his vehicle.

14 Q. I'm showing you State's Exhibit with the
15 camera. You can see that there, right, Camera 16?

16 A. Yes, sir.

17 Q. And in the corner there -- and you can see in
18 the very up-hand left corner, that's where you testified
19 that the participants in this were, right?

20 A. Yes, sir, that's correct.

21 Q. But you're not telling this jury that you can
22 identify anybody in that?

23 A. Not me.

24 Q. It's not possible to look at like -- for
25 anybody, any of these jurors, or yourself or myself, to

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1 look and say, I can positively identify this person or
2 that person?

3 A. No, not me.

4 Q. Because you had testified that -- well, I'm not
5 sure that you testified. But in your statement you said
6 something to the effect that, I saw you on the video.
7 And then when you come back later with Nilson, I see you
8 get out of the car. And that's just an interrogation
9 technique. But you didn't actually see Mario Paredes
10 anywhere in any of these videos, did you?

11 A. I saw the individual who I believed was him.

12 Q. Okay. But you didn't -- you can't see him; and
13 you can't tell this jury he's this one or that one on
14 these videos, can you?

15 A. Not me.

16 Q. You would have to have somebody else that was
17 in charge. Nilson Alvarado can pick those people out,
18 right?

19 A. Yes, sir, that's correct.

20 Q. And just to be clear, this is August 31st,
21 2013, right?

22 A. Yes, sir, that's correct.

23 Q. And it's important, and that time is important
24 if that time is correct; because it gives us a time,
25 right --

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1 A. Yes, sir.

2 Q. -- of when this happened? And it tells us --
3 like you have a timeline written up there.

4 A. Right.

5 Q. Car picks up complaining witness there.
6 Complaining witness is killed at a certain time. Car
7 returned at a certain time, right?

8 A. Yes, sir, that's correct.

9 Q. And when we talk about an alibi, if you said,
10 where were you at 7:20 on 8/31, you say, well, I don't
11 remember, or let me think about it, or I was here,
12 right?

13 A. Yes, sir.

14 Q. And we told the jury, where were you, I don't
15 know, at 1:50 on July the 29th, 2015? I was in court,
16 if I remember that.

17 A. Sure.

18 Q. And if not, we have a court reporter, and the
19 Court reporter has an official record; and that's an
20 alibi, right?

21 A. Yes, sir.

22 Q. But in your statement, you never mentioned
23 August the 31st, 2000 -- I mean, in Mario Paredes'
24 statement, that day was never even mentioned, was it?

25 A. I believe he mentioned it as on a Saturday,

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1 fifteen days prior. That's how he described it.

2 Q. Okay. So, just to be clear what we're talking
3 about, he doesn't have an alibi. He doesn't have a
4 date, does he, to have an alibi on? You never told
5 him -- and you can look through the statement if you
6 need some time, or we can listen to it in Spanish -- you
7 never ever told him, where were you, or asked him, on
8 August the 31st, did you?

9 A. I believe what I asked him or referenced was
10 the last time that he saw the victim, which was just
11 prior to him being killed.

12 Q. So, but what you actually did is you showed him
13 a photo, didn't you?

14 A. Of the victim?

15 Q. Yes. You first asked him, do you know who Jhon
16 Gilces is, Bermudez-Gilces?

17 A. Yes, sir, that's correct.

18 Q. And he said, I don't know that name, right?

19 A. Right.

20 Q. And then you showed him a photo. And he says,
21 yes, I know him; that's Bicho?

22 A. Correct.

23 Q. And I buy drugs from El Profe; and sometimes he
24 sends Bicho over, right?

25 A. That's correct.

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1 Q. And he says at some point -- and you can look
2 on your statement. It's Page 8 -- when is the last time
3 you bought drugs from this man or this guy? You just
4 bought some from this guy on Saturday, fifteen days ago,
5 right?

6 A. That's correct.

7 Q. And you did this statement on September the
8 13th?

9 A. Uh-huh.

10 Q. And you can look in your report if you want.

11 A. Yes.

12 Q. That takes us, actually, to a Thursday, August
13 the 29th --

14 A. Okay.

15 Q. -- right? I can show you on my phone.

16 A. Right. But the key word was, about that many
17 days. He's not saying exactly on this day.

18 Q. Exactly. So, he could have been -- if it was
19 the prior Saturday, it would have been twenty days from,
20 you know -- or if it was that Saturday, it would have
21 been the 31st, right?

22 A. Right. You and I say two weeks, you know.
23 Hispanic people typically say fifteen days, you know,
24 so --

25 Q. Or sometimes they say two or three weeks?

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1 A. Right.

2 Q. I mean, you know, when did this happen? I
3 don't know. It happened about two or three weeks ago.
4 That's common, a common thing for people to say that?

5 A. Sure.

6 Q. I don't know what happened last Tuesday. I
7 don't know. It's hard to remember these things. But my
8 point is, if we have an actual time -- and you had a
9 time here because you had a video, right?

10 A. Correct.

11 Q. And did you show him the video?

12 A. No. I don't believe he was shown the video.

13 Q. And when we're looking at the video now, that's
14 Nilson's car, right?

15 A. The one right here on the left?

16 Q. The white car.

17 A. I believe so, yes.

18 Q. Okay.

19 A. It's a Mitsubishi.

20 Q. Nilson would have seen this. And now he knows
21 he has no way out. He's, okay, that's my car.

22 A. Right.

23 Q. Now he starts naming people, right?

24 A. Sure.

25 Q. But Mario Paredes never had that opportunity,

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1 did he?

2 A. To look at the video?

3 Q. Yeah. He never looked at the video, did he?

4 A. I don't believe we showed him the video.

5 Q. So, we don't know and this jury doesn't know if
6 when you had this conversation -- and you can read
7 through these pages or listen to the video -- nowhere on
8 the video are you and Mario Paredes on the same page,
9 are you? You're not talking about August 31st ever, are
10 you?

11 A. I'm talking about the day the complainant was
12 killed, so I think we're on the same page in that
13 regard.

14 Q. No. I think your question was, when was the
15 last time you bought drugs from him?

16 A. Right. And that is actually the last day that
17 he was alive.

18 Q. Well, you're making that assumption.

19 A. Well, I know it's the day.

20 Q. Mario Paredes said this happened about fifteen
21 days ago, right?

22 A. Right.

23 Q. And you didn't show him -- for instance, say,
24 hold on a second, Mario. I'm going to show you this
25 video; you were there, right? He didn't have a chance

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1 to say yes or no, and he didn't have to. But he never
2 knew, anywhere in this statement, August the 31st at
3 7:00 o'clock?

4 A. Okay. Once again, we've gone over this. No, I
5 never mentioned that date. He referenced it to fifteen
6 days prior, and that was around the time when the
7 complainant was last alive and he was killed.

8 Q. But it's important, because an alibi is
9 important. You said that -- and the State asked you
10 this -- you want to give him a chance to check out his
11 story to see if this is true or not true, right?

12 A. Sure.

13 Q. And when you said you looked at that store
14 video and that store video -- when you said you gave him
15 some time before or after, are we talking about days, or
16 are we talking about hours or minutes on the store
17 video? How much time before or after August the 31st at
18 7:30 on that video was that?

19 A. We went to the day that the complainant was
20 killed.

21 Q. So that video, the video that's been submitted
22 as evidence, is on August the 31st, right?

23 A. That's correct.

24 Q. And there was never a verified date with the
25 date Mario Paredes is talking about, so we don't know if

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1 when you're talking about an alibi -- and one, you're
2 saying just if this is true, he's lying. And no, he
3 didn't have an alibi. That's what you said, right?

4 A. Yes.

5 Q. And you base that on the fact that you had a
6 video on August the 31st, right?

7 A. That's correct.

8 Q. But you never asked Mario Paredes where he was
9 on August the 31st, just to be clear on --

10 A. Yes.

11 Q. -- on -- when you see that video up here in the
12 corner -- well, hold on just one second. And look at
13 the video there. You see the white car. That would be
14 Nilson's car, right?

15 A. Correct.

16 Q. You see where it's laid out in relation to
17 the -- to those apartment complexes, don't you?

18 A. Yes.

19 Q. And you had Mario Paredes make a diagram,
20 right?

21 A. Right. I made the diagram, and he just points
22 out reference points.

23 Q. Another quick question. If you know, the car
24 to the complaining witness, it was taken somewhere and
25 set on fire, right?

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1 A. That's correct.

2 Q. And that was a black Nissan, right?

3 A. I believe it's -- it was a black Nissan.

4 Q. And that was something else that you could have
5 verified with Mario Paredes; because he told you, I
6 think he got in a gray car, or a green car, a light,
7 kind of dark light car?

8 A. Right, yeah. He was going back and forth on
9 that.

10 Q. So, we don't even know if we're talking about
11 the same car?

12 A. In his mind -- I mean, he described two
13 different colored cars, a gray car and a green car. And
14 he says light. Then he says dark, so --

15 Q. And the car of the complaining witness was a
16 black Nissan, right?

17 A. That's correct, but he says he got into the --
18 into his car.

19 Q. Yes, on -- we don't know which day.

20 A. Okay.

21 Q. And as far as the other -- and you've
22 investigated this and talked to other people; and you
23 were part of this investigation, right?

24 A. That's correct.

25 Q. So, we had Gerardo Arredondo, right? He was

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1 involved?

2 A. Yes.

3 Q. Nilson was in charge; but he's talked to you,
4 right?

5 A. Nilson was also --

6 Q. Involved. And Osmin Hernandez, right?

7 A. Yes.

8 Q. And the pictures that we were looking at
9 earlier when they're hanging out there by the car, those
10 are the people that were there, right, your
11 understanding?

12 A. Right.

13 Q. Including my client?

14 A. Yes.

15 Q. But nowhere in his statement does he talk about
16 an incident where he was hanging out with Nilson or
17 Gerardo, does he? And --

18 A. Right, no, he doesn't. But I'm sure that's one
19 of the things he excluded.

20 Q. Or he's telling the truth?

21 A. He also -- no.

22 Q. Because we're talking about different days
23 maybe. He talks about another man that he was drinking
24 with, a Kacharpa or something like that, right?

25 A. Right.

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1 Q. So, the point is, your belief and the
2 prosecution's belief or your investigation you've done,
3 you believe Arredondo is there, Alvarado is there, and
4 Hernandez, along with Mario Paredes?

5 A. I don't believe Nilson Alvarado -- did you say
6 Alvarado?

7 Q. In the car --

8 A. I'm talking about at the time when he got in
9 the vehicle with the complainant, no.

10 Q. In the general time -- within these five
11 minutes?

12 A. Well, yeah, I think -- I believe that's
13 Nilson's car right there.

14 Q. Because Nilson is about to leave --

15 A. Yes, sir.

16 Q. -- in the next minute or so. But those were
17 the people in play. Nowhere in the statement does Mario
18 Paredes talk about Nilson or Gerardo, does he?

19 A. I think he only talked about Nilson -- I don't
20 remember if he talked about Nilson later. Of course, he
21 never mentions the other one.

22 Q. And I'll leave that up to the jury, because I'm
23 not going to read through 67 pages again. But you're
24 not sure if he talks about Nilson, and he doesn't talk
25 about Arredondo. My understanding is he doesn't bring

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1 up Nilson at all?

2 A. Right.

3 Q. He's sitting there drinking with -- if it's
4 true or not, tell me -- with Flaco, Osmin and this --
5 who's also known as Osmin, and this other man named
6 Kacharpa, or something like that?

7 A. Right. Because if he brings them up, then I'd
8 have to either confirm or disprove him.

9 Q. Well, depending on what they were talking
10 about, correct?

11 A. Sure.

12 Q. Now, where you see that -- give me just one
13 second. This is the State's 100, all right?

14 A. Yes.

15 Q. And this is the diagram, through Mario Paredes'
16 interview, that y'all put together, right?

17 A. Correct.

18 Q. And I'm just trying to get it in order here.
19 This is -- do I have this turned the right way, to begin
20 with?

21 A. Well, yeah, that's the way we looked at it
22 before, yes.

23 Q. So, this is where he said the car was, right?

24 A. Correct.

25 Q. And this is the exit, right?

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1 A. Correct.

2 Q. And so, that's a little -- I'm trying to
3 compare this to State's 54. I'm trying to get this
4 right without -- so if this is Coventry, right?

5 A. Right.

6 Q. And I'm sorry. I'm just trying to get my
7 bearings on this map versus the map that was made.

8 A. That it the building we're talking about right
9 there.

10 Q. So, this area here where you see -- did you
11 make that mark?

12 A. Yes, I put that on there.

13 Q. Okay, thanks. There on State's 54 where you
14 made the mark, what does that indicate?

15 A. This is the parking lot. This right here is
16 Osmin's building. And over on this side, that's where
17 the vehicle pulls in.

18 Q. And is there -- there is a building here and a
19 building here, correct?

20 A. This one here?

21 Q. Okay. I'm going to move on, because I don't
22 want to confuse that question.

23 A. Don't go too much on my drawing. I was just
24 rough sketching this.

25 Q. And I was about to ask you a question on that;

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1 but I don't think that's a fair question, because I
2 think that's what y'all were doing?

3 A. Right.

4 Q. So, I'm not going to hold you to that. You can
5 clear those marks if you like. You said you went -- or
6 you didn't, but your understanding of the investigation
7 is somebody went by Mario Paredes' apartment. He
8 voluntarily signed a search warrant, right?

9 A. Got consent to search, yes.

10 Q. Consent to search. I'm sorry. And -- but that
11 location was somewhere else. You said it was on the
12 other side of 59 or closer to 59?

13 A. Right there in the apartment complex close to
14 Bellaire and Hillcroft.

15 Q. And so, he wasn't at that time, as far as you
16 know from that, living there at the Coventry -- off of
17 Coventry and the Victoria Apartments, was he?

18 A. Yes, according to him.

19 Q. And somebody was at that apartment, right?

20 A. Somebody was at which apartment?

21 Q. The one that he gave the consent to search at.

22 A. Yes, it was -- yeah, a couple.

23 Q. This statement was given on September the 13th,
24 correct?

25 A. Yes, sir, that's correct.

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1 Q. And before that, you had already talked to
2 Nilson and Osmin, right?

3 A. Yes, that's correct.

4 Q. And your understanding is, if you understand or
5 if you know, that Nilson and Osmin are related?

6 A. Yes, somewhat.

7 Q. You might call it a step-uncle or related
8 through marriage?

9 A. Right.

10 Q. And Arredondo is Nilson's friend?

11 A. Yes.

12 Q. And Paredes is not related to any of those
13 people?

14 A. No.

15 Q. And the -- Nilson and Arredondo, they're
16 younger guys; they're like eighteen, right?

17 A. Yes.

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

19 **REDIRECT EXAMINATION**

20 BY MS. HARTMAN:

21 Q. Osmin Hernandez and Mario Paredes are buddies,
22 aren't they?

23 A. That's correct.

24 Q. They hang out with each other; and they're
25 drinking and buying drugs together, right?

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1 A. That's correct.

2 Q. All right. Now, you interview Nilson first,
3 right?

4 A. Before who?

5 Q. Before Mario Paredes, correct?

6 A. That's correct.

7 Q. All right. So, you have the information that
8 you're -- that you can confront him on; is that correct?

9 A. Correct.

10 Q. And in his statement -- when did you interview
11 Mario Paredes?

12 A. Mario Paredes was interviewed on
13 September 13th.

14 Q. Okay. And I'm just going to kind of show you a
15 calendar. And you asked him on Page 8 of your
16 statement -- it looks like your question was, When was
17 the last time you bought drugs from this man or this guy
18 here? And who are you talking about?

19 A. About the decedent.

20 Q. And he knows you're talking about Jhon Gilces,
21 or as he knows him, Bicho?

22 A. Correct.

23 Q. And his response was what?

24 A. We just bought some from this guy on Saturday,
25 fifteen days ago.

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1 Q. You're not feeding him what day of the week,
2 are you?

3 A. Right.

4 Q. Now looking back on this calendar, even though
5 it's not a 2013, it's still going to be the same,
6 correct?

7 A. Right.

8 Q. So, looking back, and if you talked to him on
9 the 9th -- or excuse me, it was the 12th?

10 A. 13th.

11 Q. 13th. Okay. So, if you'll just count back
12 from the 13th and give me an exact number of how many
13 days it was from when you talked to him.

14 A. Okay. From the -- what did we say, the 13th?

15 Q. Yes.

16 A. Yeah, the 29th.

17 Q. Okay. Well, how many days -- how many days
18 between the day Bicho was murdered and you talked to the
19 defendant, Mario Paredes?

20 A. That would be fourteen.

21 Q. Fourteen days. So, is it your understanding
22 that that defendant over there knew exactly what you
23 were talking about in his statement?

24 A. Yes.

25 Q. And what day was August 31st?

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1 A. August 31st was --

2 Q. That Jhon Gilces Bicho was murdered?

3 A. I believe it was a Saturday. Didn't say the
4 day of the week here. I believe it was on a Saturday.
5 I'd have to look at the calendar, because it doesn't say
6 on the -- on the report.

7 Q. And, also, you talked to him about what color
8 of a car that Bicho was driving, correct?

9 A. That's correct.

10 Q. And he couldn't give you if it was light or
11 dark?

12 A. Right.

13 Q. But he did admit to getting into the car?

14 A. That's correct.

15 Q. And what does that tell you, that he can't even
16 admit to you about what color the car is?

17 A. I know that he got into the car, because he
18 admitted it. As far as color goes, I don't know.

19 Q. Is it just part of those half truths that you
20 get in some statements?

21 A. I guess trying to cloud up, you know, some of
22 the statements.

23 Q. And did you give him plenty of opportunities to
24 tell you the truth?

25 A. To tell me the truth?

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1 Q. Correct.

2 A. Yes, of course. At the end of the statement,
3 I'm telling him that. I'm giving him an opportunity.

4 MS. HARTMAN: Pass the witness, Your
5 Honor.

6 THE COURT: Anything else?

7 MR. MADRID: Just very brief, Your Honor.

8 **RECROSS-EXAMINATION**

9 BY MR. MADRID:

10 Q. You testified that Mr. Paredes knew exactly
11 what you were talking about. But the truth is, y'all
12 never verified or looked at a calendar, like you just
13 did, and got on the same page as August 31st, did you?

14 A. Right. And as I've said before, we're talking
15 about words, fifteen days, two weeks. The last day that
16 the victim was seen alive is when he got into the
17 vehicle with him.

18 Q. According to you. But there is no -- y'all
19 weren't talking about that. He said the last time that
20 he bought drugs from him, correct?

21 A. Right, according to me and according to the
22 video.

23 Q. Okay. Well, we can look at the video again.
24 But on the video, you don't see him, do you?

25 A. Right. I'm saying not me, but other people

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1 have identified him as one of the participants.

2 Q. And people that are willing to cut deals and
3 people that don't get charged are the people that are
4 identifying him, right?

5 A. Nilson wasn't charged. He wasn't even a
6 suspect.

7 Q. Exactly. Nilson wasn't charged, was he?

8 A. Right, he wasn't charged. But he's the one who
9 is saying, this is this person and this is this person.

10 Q. And so, he eventually named everybody and
11 didn't get charged, right?

12 MS. HARTMAN: Objection on speculation.

13 THE COURT: Sustained.

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

15 MS. HARTMAN: Nothing further.

16 THE COURT: You may step aside.

17 MS. HARTMAN: Call Gerardo Arredondo, Your
18 Honor.

19 MR. MADRID: Your Honor, may we approach
20 briefly?

21 THE COURT: Sure.

22 (At the bench)

23 MR. MADRID: Judge, just, I guess, a
24 question. We're about to bring out Arredondo, and I was
25 asking the bailiff is he going to come by -- walk by my

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1 guy. I have no problem with it. If she can bring him
2 around this way, I think it makes my guy look bad,
3 around this area here where the coordinator usually is.

4 MS. HARTMAN: Just for safety reasons,
5 Judge.

6 THE COURT: I don't even see what you
7 want.

8 MR. MADRID: I want him either coming by
9 my guy --

10 THE COURT: He's not going to do anything.

11 MR. MADRID: I don't think he will,
12 either; but I don't want -- I want him walking by my
13 guy. It makes him look as if my guy's scary or
14 threatening.

15 THE COURT: If either one of them does
16 something, it's bad for both of them.

17 MR. MADRID: I don't think so, either,
18 so --

19 THE COURT: We'll just go and see what
20 happens.

21 *(Continuing in jury's hearing)*

22 THE COURT: This way.

23 *(Witness sworn)*

24 MS. HARTMAN: He's a Spanish-speaker. We
25 need a translator.

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1 THE COURT: Get as close to that
2 microphone as you can, and speak up.

3 *(This witness has an interpreter, but also*
4 *answers in English himself at times)*

5 THE COURT: He speaks English. I've
6 talked to him already, so it's possible this can be done
7 in English. I'd prefer it be done that way.

8 **GERARDO ARREDONDO,**
9 having been first duly sworn, testified as follows:

10 **DIRECT EXAMINATION**

11 BY MS. HARTMAN:

12 Q. Can you please introduce yourself for the jury?

13 A. Gerardo Arredondo.

14 Q. Do you feel better or more comfortable in
15 English or Spanish?

16 A. If I can explain myself, I would like to speak
17 Spanish.

18 Q. Okay. So, you want to proceed in English for
19 right now. And if you have a hard time, there is an
20 interpreter. Just turn to her, and she'll help you out.
21 Is that fair?

22 A. Yes.

23 Q. How old are you?

24 A. Twenty.

25 Q. When is your birthday?

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1 A. October 22, 1994.

2 Q. So, how old were you in 2013?

3 A. In 2013, I was going to be eighteen.

4 Q. And you're wearing an orange jumpsuit, aren't
5 you?

6 A. Yes.

7 Q. And why is that?

8 A. Because I'm in jail.

9 Q. And what are you in jail for?

10 A. For capital murder.

11 Q. For the capital murder of Jhon Gilces?

12 A. Yes.

13 Q. Bicho?

14 A. Right.

15 Q. And that was back on August 31st, 2013?

16 A. Yes.

17 Q. All right. And you're in jail also on another
18 murder charge, aren't you?

19 A. Yes.

20 Q. And you actually pled to that case a couple of
21 days ago. I think it was Monday, wasn't it?

22 A. Uh-huh, yes.

23 Q. All right. And you pled to life with parole;
24 is that correct?

25 A. Yes.

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1 Q. And you're sitting up there today testifying as
2 a witness for the State of Texas?

3 A. Yes.

4 Q. And if you testify truthfully, we've agreed to
5 reduce your capital murder to a murder charge, haven't
6 we?

7 A. Okay.

8 Q. No, no, no, not okay. It's a yes or no.
9 Correct?

10 A. Yes, yes.

11 Q. And you've got your attorney right out here?

12 A. Okay.

13 Q. Yes or no?

14 A. Yes.

15 Q. Okay. And he's talked to us and worked out a
16 plea deal --

17 A. Yes.

18 Q. -- for your testimony; is that correct?

19 A. Yes.

20 Q. And what happens if you testify truthfully in
21 the trials of Mario Paredes and Osmin Hernandez?

22 A. Y'all going to drop my case to a murder case,
23 regular murder.

24 Q. Okay. And then what does that mean? Are you
25 going to get out and walk free after that?

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1 A. No. I'm going to have to go TDC and serve my
2 sentence, and then I'm going to have a chance to make
3 parole one day.

4 Q. You're going to serve a life sentence, though,
5 aren't you?

6 A. Well, yes, but with parole. We changed to make
7 parole.

8 Q. That's right. And that's going to be dependent
9 on how you act in TDC, isn't it?

10 A. Yes.

11 Q. If you act up and cause fights, no telling how
12 long you'll stay in; is that correct?

13 A. Yes.

14 Q. Could be for the rest of your life?

15 A. Yes.

16 Q. And you're eighteen years old?

17 A. Right now, no. I'm twenty years old right now.

18 Q. Okay. Eighteen at the time. How do you know
19 Mario Paredes?

20 A. Because Nilson, one time he went to my house
21 to -- told me that his uncle and his partner --

22 MR. MADRID: Objection.

23 Q. *(By Ms. Hartman)* No, no, not -- okay. Do you
24 know Nilson?

25 A. Yes, I know Nilson.

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1 Q. Okay. And looking to your left right here, do
2 you know the guys up here?

3 A. Yes.

4 Q. Okay. Looking at State's Exhibit No. 63, who
5 is this?

6 A. Nilson.

7 Q. Okay. Do you know Nilson's last name?

8 THE COURT: Speak up and speak loud,
9 please.

10 Q. (By Ms. Hartman) Do you know Nilson's last
11 name?

12 A. Alvarez.

13 Q. And how old is Nilson?

14 A. Like twenty, twenty-one.

15 Q. So, was he about your age, seventeen, eighteen,
16 when Bicho was murdered?

17 A. No. I can't remember.

18 Q. Okay. And how long had you known Nilson from
19 back then?

20 A. For like three years. Because I was in high
21 school with him. And after that, I stopped going to
22 high school. And then when I come back from Mexico -- I
23 went to Mexico and came back. And then I met him again,
24 and that's how.

25 Q. Okay. Well, let me stop you right there.

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1 Where were you born?

2 A. In El Paso, Texas.

3 Q. You grew up mostly in Mexico?

4 A. I spent a lot of time in Mexico.

5 Q. Where did you go to high school?

6 A. I was in high school in El Paso, Texas, and in
7 Houston, Texas.

8 Q. Okay. And Houston, Texas, you were in high
9 school with Nilson?

10 A. Yes.

11 Q. Okay. Now, let's look at State's Exhibit
12 No. 61. Who is this?

13 A. Flaco.

14 Q. Okay. And do you know Flaco's real name?

15 A. Osmin.

16 Q. Okay. Do you know the relationship between
17 Nilson and Osmin?

18 A. It's his uncle.

19 Q. And do you know who this is in State's Exhibit
20 No. 62?

21 A. That's his uncle, Nilson uncle's partner.

22 Q. What do you mean by uncle's partner?

23 A. They're friends.

24 Q. What's his name?

25 A. I don't know his name.

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1 Q. Do you know what his nickname is, what he goes
2 by?

3 A. Pelos.

4 Q. Do you see Pelos in the courtroom today?

5 A. Yes.

6 Q. What was Pelos wearing when you saw him? What
7 was he wearing? What is he wearing?

8 A. Red shirt.

9 MS. HARTMAN: Your Honor, let the record
10 reflect he's identified Mario Paredes?

11 THE COURT: It will.

12 Q. (By Ms. Hartman) And looking at State's
13 Exhibit No. 60, who's that?

14 A. Me.

15 Q. Okay. So, going back to August the 31st of
16 2013, what were you doing that day?

17 A. What day?

18 Q. On August the 31st, 2013.

19 A. I was at my house, and then Nilson went pick me
20 up.

21 Q. Okay. Who picked you up?

22 A. Nilson.

23 Q. All right. What did he pick you up in?

24 A. Who?

25 Q. What kind of -- what did he pick you up in?

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1 A. Why?

2 Q. What?

3 A. Oh, in his car.

4 Q. Do you know what kind of car he had?

5 A. White.

6 Q. Where did y'all go once he picked you up?

7 A. We're supposed to go to with the movies, watch
8 movies with our girlfriends. But on the road, his uncle
9 call him. And then we went to his uncle's apartment.

10 Q. Okay. About what time did his uncle call?

11 A. About like -- I'm going to say like about,
12 like, 3:00 o'clock.

13 Q. And what apartments did you go to?

14 A. I don't know the name.

15 Q. Do you know what part of town?

16 A. Southwest.

17 Q. Do you know any of the major streets that the
18 apartment complex was near?

19 A. Bissonnet and Cook.

20 Q. Do you remember if it was the Victorian
21 Apartments?

22 A. Okay.

23 Q. So, did you go over there to meet his uncle?

24 A. Yes.

25 Q. About what time did you get there?

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1 A. I can't remember.

2 Q. Was it thirty minutes or five hours?

3 A. No. It was like, I'm going to say, fifteen
4 minutes.

5 Q. So, what did you do when you got there?

6 A. We stopped in the parking lot, because they
7 were drinking at the parking lot.

8 Q. Who was drinking in the parking lot?

9 A. Pelos, Flaco and some other friends, them
10 friends.

11 Q. So, when you get there and they're drinking,
12 what do y'all do?

13 A. We stop, and we start drinking with them.

14 Q. You and Nilson?

15 A. Yes.

16 Q. Are y'all talking with them?

17 A. Yes.

18 Q. What are you talking about?

19 A. About just what they were doing, and then we
20 was really just drinking. I wasn't talking about
21 nothing.

22 Q. Was the defendant talking about anything,
23 Pelos?

24 A. No.

25 Q. So, did y'all just stay there and end up

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1 drinking all night?

2 A. Not all night.

3 Q. Okay. So, what happened after y'all stopped
4 drinking?

5 A. We went to, I guess it's Flaco apartment.

6 Q. Where does Flaco live?

7 A. On the apartment that we was at.

8 Q. He lived in that apartment complex?

9 A. Yes.

10 Q. Is it on the first floor or second floor?

11 A. Second floor.

12 Q. Do you recall the number?

13 A. No, I don't know the number.

14 Q. Are y'all smoking anything?

15 A. Nope.

16 Q. Did y'all smoke anything in the parking lot?

17 A. Well, not me.

18 Q. Okay. Who was smoking?

19 A. It was Flaco and their friends and Pelos.

20 Q. What were they smoking?

21 A. Crack.

22 Q. So, what happens when y'all go to Flaco's
23 apartment?

24 A. We start just drinking in the apartment. And
25 then after that, we were just talking about what we

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1 going to do next, if we was going to keep drinking or --
2 that's it.

3 Q. Who all is in the apartment when you're
4 talking?

5 A. It's Flaco, Nilson, Pelos, me and two more --
6 two more people.

7 Q. Do y'all decide to stay in the apartment, or do
8 you decide to leave?

9 A. I decide to leave, because I was -- I wasn't
10 feeling comfortable. But Nilson told me that I have to
11 stay for a little while, for a couple more minutes. And
12 I was just keep asking him that I wanted to leave.

13 Q. Why are you wanting to leave?

14 A. Because I wasn't feeling comfortable. They
15 were drinking. They were smoking crack. I don't smoke
16 crack. It was too much going on around, and I don't
17 like to be places like that.

18 Q. Okay. So, did Nilson take you home?

19 A. Nope.

20 Q. What did Nilson do?

21 A. He told me that he was going to pick up
22 something at his house and he was going to take, like,
23 fifteen minutes. And then I told him take me with him.
24 He say no. He told me to stay at the apartment, that
25 they not going to do nothing to me. So, that was going

1 to be safe.

2 MS. HARTMAN: May we approach for one
3 second?

4 (At the bench)

5 MS. HARTMAN: Defendant's not being
6 translated to.

7 THE COURT: Oh, that's right. Okay.

8 (Off-the-record discussion)

9 (Continuing in jury's hearing)

10 THE COURT: Go ahead.

11 Q. (By Ms. Hartman) So, you were in the apartment
12 with Pelos, Flaco, and Nilson and two other guys?

13 A. Yes.

14 Q. Okay. You said Nilson left?

15 A. Yes.

16 Q. Do you know about what time this is?

17 A. No.

18 Q. Is it after 6:00 o'clock?

19 A. I can't remember.

20 Q. Do you know if it's dark outside?

21 A. No, it's not.

22 Q. How long is Nilson going to be gone for?

23 A. For fifteen minutes.

24 Q. What happens when he leaves?

25 A. When he left, then we went onto the balcony.

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1 Q. Who is "we?" Who went to the balcony?

2 A. Me and Flaco.

3 Q. Anybody else?

4 A. Yeah. But after me and Flaco was on the
5 balcony, like after a couple more minutes, Pelos went
6 with us on the balcony.

7 Q. What are y'all talking about when you and Pelos
8 and Flaco are on the balcony?

9 A. Flaco was telling me about that he was trying
10 to do some business, that he was trying to hit a lick,
11 but that he want me to do something for him. But I told
12 him no.

13 Q. What's "hit a lick?"

14 A. He was trying to rob somebody.

15 Q. All right. And so, what happens when you tell
16 him no, you don't want to rob anybody?

17 A. Pelos start telling him that I was too young,
18 to leave me alone and don't put me in that type of
19 situation. And then if Flaco -- he was like, now I need
20 some more crack, and we need some more money. And then
21 I don't got enough for the whole week -- for the whole
22 month.

23 Q. So what happens after y'all had that
24 conversation out on the balcony?

25 A. They started, like, playing. They started

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1 getting to -- like, start talking about that they was
2 telling me that they don't like Mexicans. I remember.
3 And then after that, they started, like, getting
4 aggressive.

5 Q. Did they know you were Mexican?

6 A. Who?

7 Q. Did they know you were Mexican?

8 A. Yes.

9 Q. Well, how did that make you feel?

10 A. I wasn't feeling comfortable.

11 Q. So, how long were y'all out on the balcony
12 talking?

13 A. About, like, ten minutes.

14 Q. Does Nilson come back while y'all are out on
15 the balcony?

16 A. No.

17 Q. Do y'all talk anymore about hitting a lick
18 while you're on the balcony?

19 A. Flaco did.

20 Q. Did he discuss who you're going to rob?

21 A. Yeah. He started telling me about that he had
22 someone, a Blood, that his name was Profe. So, he just
23 told me that he was going to call him; and whenever he
24 came to the apartments, he was going to rob him.

25 Q. Do you know who El Profe is?

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1 A. No.

2 Q. Have you ever bought drugs from El Profe?

3 A. Huh-uh, no.

4 Q. Did you get the idea when you were talking to
5 him that El Profe sold drugs?

6 A. Yeah, because he told me.

7 Q. Who told you?

8 A. Flaco, that he was a drug dealer.

9 Q. So, at any point in time, then, do y'all call
10 El Profe?

11 A. Who?

12 Q. Do y'all call him El Profe? Do y'all call him?

13 A. Flaco did.

14 Q. When did he call him?

15 A. When?

16 Q. When?

17 A. After like -- after we went to the parking lot.
18 We went to the parking lot; because something happened
19 with all the friends, that they was on the side of the
20 apartments like they was, like, let's go to the parking
21 lot, like, they wasn't feeling good inside the
22 apartment. So, we went to the parking lot. And then I
23 was waiting on Nilson, but Flaco make a phone call. And
24 then after he hung up, he told me that the son of the --
25 Profe's son, he's the one that answered the phone.

1 Q. So, you have your conversation out on the
2 balcony. It's you, Pelos and Flaco?

3 A. Yes.

4 Q. And when Flaco makes the phone call, it's you,
5 Pelos and Flaco?

6 A. Right, but it's another guy with us.

7 Q. Okay.

8 A. And one guy left, because we went to the
9 parking lot. Remember, it was two guys inside of the
10 apartment.

11 Q. Okay.

12 A. And me, Flaco, Pelos and -- all of them.

13 Q. I'm sorry. I didn't mean to talk over you. Go
14 ahead and finish.

15 A. We went to the parking lot altogether, and one
16 left. And then after that, it was four guys; me, Flaco,
17 Pelos and some other dude. I don't know him.

18 Q. Okay. Nilson still hasn't returned yet, has
19 he?

20 A. No.

21 Q. Okay. Is this the parking lot you're talking
22 about? Look over to your left.

23 THE COURT: Look to your right. It's
24 easier.

25 A. Yes.

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1 Q. (By Ms. Hartman) Okay. Is that the parking
2 lot at Flaco's apartment?

3 A. Yes.

4 Q. Well, where are y'all in this parking lot? Do
5 you know?

6 A. Yeah. On the other side, on the front side.

7 Q. All right. All right. You can see a group of
8 guys over here to the far right, right there; is that
9 correct?

10 A. Right.

11 Q. Is that where y'all are?

12 A. Yes.

13 Q. And, so, tell us who's over there.

14 A. Me, Flaco, Pelos and another dude.

15 Q. Okay. And do you know the other guy?

16 A. No.

17 Q. Had you ever seen him before?

18 A. Huh-uh, no.

19 Q. And what were y'all doing over here?

20 A. We was waiting -- I was waiting on Nilson. But
21 Flaco was the one, he never told me and told Pelos when
22 we was on the balcony -- he never said he was going to
23 do it. He was just talking about doing it; but he
24 never, like, telling we were going to do it for sure.
25 So, we went to the parking lot; and I was waiting on

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1 Nilson. And after that, Flaco, he's the one that make a
2 phone call.

3 Q. At any point in time, had you seen a gun with
4 either Flaco or Pelos?

5 A. Yeah. Pelos had it.

6 Q. When did you see the gun?

7 A. Excuse me?

8 Q. When did you see the gun?

9 A. What you mean?

10 Q. When did you see Pelos with the gun?

11 A. In the parking lot.

12 Q. Okay. In this parking lot?

13 A. Yes.

14 Q. During this time when y'all are hanging out
15 there?

16 A. Yes.

17 Q. What did the gun look like?

18 A. It's a nine.

19 Q. A nine what, a 9-millimeter?

20 A. Yeah.

21 Q. Is it an automatic?

22 A. I don't know.

23 Q. Did it -- did it have a cylinder, or did it
24 eject casings?

25 A. I don't know.

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1 Q. What's Pelos doing when -- when you see him
2 with a gun?

3 A. Nothing.

4 Q. Where does he have it?

5 A. I guess in his packet.

6 Q. His what?

7 A. In his packet.

8 Q. What's a packet?

9 A. Well, right here by his belt.

10 Q. Okay. So, what are y'all doing out here when
11 you're just hanging out?

12 A. I'm just drinking.

13 Q. What are you drinking?

14 A. Beer.

15 Q. What's everybody else doing?

16 A. Same thing.

17 Q. About how long were y'all out there?

18 A. I can't remember.

19 Q. Obviously, it's still daylight, right? It's
20 still daylight?

21 A. Yeah.

22 Q. What are y'all talking about?

23 A. I ain't talking about nothing. They're talking
24 to the dude. I can't remember. It's been a long time.

25 Q. Okay. And whose car is this that just pulled

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1 up on the video?

2 A. Nilson.

3 Q. Okay. Is that the white Mitsubishi you were
4 talking about?

5 A. Yes.

6 Q. What are y'all talking with Nilson? Do you
7 recall?

8 A. I told him to stop, and I told him I wanted to
9 leave; but Flaco went and talked to him.

10 Q. So, Flaco walked up to the car?

11 A. Yeah, to the window.

12 Q. Okay. Do you know? Can you hear what they're
13 saying?

14 A. Huh-uh.

15 Q. Where are you?

16 A. On the truck.

17 Q. You're sitting on the truck?

18 A. Yes.

19 Q. Are you talking to anybody while you're sitting
20 on the truck?

21 A. Nope.

22 Q. What's Pelos doing while you're sitting on the
23 truck?

24 A. I can't remember.

25 Q. All right. We're going to fastforward it just

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1 a little bit. All right. After Nilson backs in, do you
2 go over and talk to him at all?

3 A. Who? Excuse me?

4 Q. After Nilson -- after Nilson backs his car in,
5 do you go over and talk to him at all?

6 A. No.

7 Q. Do you know who this guy is walking across the
8 parking lot at all?

9 A. Huh-uh, no.

10 Q. Now, once he's backed in, who's still over
11 there with y'all?

12 A. Excuse me?

13 Q. How many guys are still over there on the back
14 of that truck now talking?

15 A. I guess three.

16 Q. Who would be the three?

17 A. Me, Flaco, Pelos on the car.

18 Q. And Nilson in the car?

19 A. On his car.

20 Q. What are y'all talking about when Nilson is
21 there?

22 A. I can't remember.

23 Q. How long ago did Flaco call Bicho?

24 A. Well, after -- it was before Nilson came.

25 Q. Okay. While Nilson is there, are y'all talking

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1 about what y'all are going to do once Bicho arrives?

2 A. Excuse me?

3 Q. While Nilson is there, do y'all talk about
4 what's going to happen to Bicho when he gets to the
5 apartment complex?

6 A. Yeah. Flaco, he let us know that, like I said,
7 the son of the drug dealer, Profe, he was the one going
8 to come and drop the dope, the crack.

9 Q. Did you ever see him before?

10 A. No.

11 Q. I'm going to let this play like -- let me stop
12 it right there. Okay. Look at the video. Does that
13 look like -- is that the car that pulls up --

14 A. I can't tell.

15 Q. -- as Nilson pulls out and that car pulls in?

16 A. Yes.

17 Q. Is that what happened?

18 A. Yes.

19 Q. Now, what happens as soon as that car pulls in?

20 A. Flaco went inside the car.

21 Q. Okay. Where does he go inside the car?

22 A. To buy them drugs.

23 Q. What part of the car does he get into?

24 A. In the passenger seat.

25 Q. Okay. The front passenger seat?

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1 A. Yes.

2 Q. Okay. Looking at some more, does anybody else
3 go up to that car?

4 A. Excuse me?

5 Q. Does anybody else go up to the car?

6 A. Me and Pelos.

7 Q. Okay. Where do you go?

8 A. In the backseat.

9 Q. Okay. Which backseat, driver's side or
10 passenger's side?

11 A. Driver's side.

12 Q. Okay. And where does Pelos go?

13 A. On the driver's seat.

14 Q. Well, what happens to Bicho since he was
15 driving?

16 A. He was in the back.

17 Q. How does he get into the back?

18 A. Because they ordered him to get in the
19 backseat.

20 Q. Okay. Why does he comply with their orders?

21 A. Because he's scared.

22 Q. He's what?

23 A. He's scared. He was scared.

24 Q. He was scared. Why was he scared?

25 A. Because he knew that something was wrong.

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1 Q. Well, are they -- you said Flaco -- excuse
2 me -- Pelos had a gun. At any point in time, is a gun
3 shown?

4 A. Yeah. I had it with me when I went to the
5 backseat. They gave it to me.

6 Q. Okay. Let me stop you there. Now, how do you
7 get the gun if Pelos had the gun?

8 A. Because before we went to inside the car, he
9 told me to grab the gun. And whenever the dude, the
10 drug dealer, be in the backseat, I'm going to have to
11 point at him and tell him to stop and stay still.

12 Q. And does he ever have the gun when he
13 approaches the car, or is it always you who has the gun?

14 A. No. It was not always me.

15 Q. I'm sorry, what?

16 A. He had the gun.

17 Q. Okay. And so, when do you get it?

18 A. Before I went inside the car.

19 Q. And then how does Bicho get from the driver's
20 seat into the backseat?

21 A. When?

22 Q. How?

23 A. Because they ordered him to go in the back
24 seat.

25 Q. Okay. How does he get into the backseat?

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1 A. From inside the car.

2 Q. Okay. Does he climb over?

3 A. Yeah. He just jumped.

4 Q. He doesn't get out and walk around, is what I'm
5 asking?

6 A. No.

7 Q. So, what happens once he gets in the backseat?
8 What are you doing?

9 A. I just told him, just stay still. And I never
10 touch him. I never had contact with him. I just told
11 him to stay still.

12 Q. At gunpoint?

13 A. Yes.

14 Q. And then what happens? Does he say anything?

15 A. Yeah. He's telling them -- he's talking to
16 Flaco about let him go. Why he doing it? Why he doing
17 him like that? And he never keep a gun with him,
18 because he got confidence and trust in Flaco. And they
19 be selling drugs to Flaco and Pelos for a long time, and
20 he never thought about that.

21 Q. Does Pelos say anything?

22 A. No.

23 Q. Does Flaco say anything?

24 A. Flaco is the one.

25 Q. What's he saying?

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1 A. He's talking to the drug dealer.

2 Q. And what is he saying?

3 A. That, shut up, just stay quiet, that nothing
4 bad is going to happen. But at the same time, he's
5 telling him he's going to get killed.

6 Q. Then where do y'all drive off to?

7 A. Huh?

8 Q. Where do y'all drive off to?

9 A. We just driving. They just driving. He
10 just -- we never say we was going to be at someplace and
11 met Nilson. He's just driving.

12 Q. So, you have no idea where they're going?

13 A. No.

14 Q. Y'all didn't discuss that when you're making up
15 this plan?

16 A. No.

17 Q. At anytime, do you know if Bicho brought any
18 drugs with him?

19 A. Yeah. Before we went to -- me and Pelos went
20 inside the car, Flaco and him, they were wrestling for a
21 purple bag.

22 Q. Flaco and who was wrestling?

23 A. Bicho, the drug dealer.

24 Q. What was in the purple bag?

25 A. Crack and dope. I can tell because it's a lot

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1 of white things, a lot of small bags.

2 Q. How much drugs were in that bag, you think?

3 A. I don't know.

4 Q. Are we talking about like a one twenty rock, or
5 are we talking about several rocks, or are we talking
6 about --

7 A. I don't know. I can't tell.

8 Q. Did you get a chance to look and see how much
9 was in it?

10 A. No.

11 Q. Did they ever discuss that with you?

12 A. No.

13 Q. What did Flaco do once he took the purple bag
14 from Bicho?

15 A. He had it with him all the time.

16 Q. Do you ever see that bag again besides with
17 Flaco?

18 A. No.

19 Q. How far did they drive with Bicho in the car
20 and you holding him at gunpoint?

21 A. Excuse me?

22 Q. How far did they go with you holding Bicho at
23 gunpoint in the car?

24 A. Right there on the corner I stopped pointing at
25 him. I laid the gun on the seat. And really, he can

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1 take the gun and shoot us; but I'm not even thinking
2 about it, because I never experienced things like that.
3 So, I just put the gun on the seat, and I stopped
4 pointing at him as soon as we get out the apartment.

5 Q. And about how long did y'all ride in the car?

6 A. About like five, ten minutes.

7 Q. And at any point in time, did Pelos stop the
8 car?

9 A. Yep, after ten minutes, five minutes.

10 Q. And where did he stop the car at?

11 A. On the driveway of some house.

12 Q. Did y'all go into a residential neighborhood?

13 A. Yeah, it was a neighborhood; but it was, like I
14 say five, ten minutes away from the apartment.

15 Q. And were they just kind of small -- anything
16 particular about this neighborhood? Did y'all know
17 anybody who lived there?

18 A. No.

19 Q. What happened once Pelos stopped the car?

20 A. When we stopped, Flaco tell Pelos about the
21 drug dealer, what to do about Bicho. He told him that
22 he know what to do, and then he take all them drugs with
23 him in a backpack.

24 Q. Showing you State's Exhibit No. 9. Does that
25 look like the neighborhood?

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1 A. Nope.

2 Q. Have you ever been there before?

3 A. Nope.

4 Q. Have you ever been there since then?

5 A. Huh-uh, no.

6 Q. Now, when Pelos stops and Flaco gets out and
7 takes the drugs, what does Flaco do?

8 A. He went to -- he went to Nilson's car.

9 Q. And what are you doing?

10 A. I'm in the backseat.

11 Q. What's Bicho doing?

12 A. In the backseat, too, by my side.

13 Q. Does he stay in that backseat?

14 A. Yes.

15 Q. Showing you State's Exhibit No. 1. Is that
16 Bicho?

17 A. Yes.

18 Q. At any time, does he get out of that car?

19 A. Yes.

20 Q. What's he do when he gets out of the car?

21 A. When I tell him, get on the front seat, in the
22 passenger's seat, he opened the door. And then he
23 looked to my face. And then he was like kind of
24 surprised, because he knew that that was his chance to
25 escape.

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1 Q. So, what's he start to do?

2 A. Running.

3 Q. And where does he run?

4 A. He just started running all the way to -- as
5 far as he can.

6 Q. Is he running in the front yards or backyards,
7 or where is he running?

8 A. He's just running in the middle of the street.

9 Q. Does he stay in the middle of the street?

10 A. No.

11 Q. What's he do? How does he get out of the
12 middle of the street?

13 A. Because he was feeling a car behind him, I
14 guess. And he knew that we was close to him, and he
15 just went to some house right there by his left hand.

16 Q. Okay. So, who's chasing him in the street?

17 A. Me and Pelos, and behind us Nilson and Flaco.

18 Q. Is Pelos still driving the car, or are y'all on
19 foot?

20 A. No. He's driving.

21 Q. At any time, do y'all get out of the car?

22 A. Yes.

23 Q. When do y'all get out of the car?

24 A. We stopped when the drug dealer went and trying
25 to get on the backyard. We stopped. And Flaco, he come

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1 back to Nilson's car; and then we just went to the
2 backyard.

3 Q. When you say we, who is we?

4 A. Me and Pelos.

5 Q. And what's Flaco doing?

6 A. On Nilson's car.

7 Q. What does he take with him?

8 A. Flaco?

9 Q. Yes.

10 A. Well, he got the bag. And it's a backpack, but
11 it's a lot of things inside.

12 Q. What bag is he taking with him?

13 A. Well, he had the purple bag and a backpack.

14 Q. So, the purple bag is Bicho's with the drugs?

15 A. Right.

16 Q. And what's in the backpack, and who does it
17 belong to?

18 A. Cell phones. And I can't tell because before
19 he got out the car, he was picking all his stuff.

20 Q. Where was the backpack originally?

21 A. A backpack, normal backpack, school backpack.

22 Q. No. Where was it, in the car?

23 A. Yeah.

24 Q. Whose backpack was it?

25 A. I guess him, the drug dealer backpack. It was

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1 on his car.

2 Q. Do you know if there was any drugs in the
3 car -- excuse me -- do you know if there was any drugs
4 in the backpack?

5 A. No.

6 Q. Did you ever see what was in the backpack?

7 A. No.

8 Q. You just know there were cell phones in there?

9 A. I can tell he just putting things and picking
10 up the stuff and putting it in the backpack.

11 Q. And he gets out with the backpack and the
12 purple bag?

13 A. Yes.

14 Q. And he goes to Nilson's car?

15 A. Yes.

16 Q. Who's got the gun once you and Pelos get out of
17 the car?

18 A. Pelos.

19 Q. And does he get the gun?

20 A. He take it from me.

21 Q. Does he say anything when he takes it from you?

22 A. Yeah. Just follow him.

23 Q. Do you say anything to him?

24 A. No.

25 Q. Do you know what's fixing to happen right now?

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1 A. Excuse me?

2 Q. At that point in time, back on August 31st,
3 2013, do you know what's fixing to happen to Bicho when
4 you go with Pelos?

5 A. Yes.

6 Q. What's fixing to happen to Bicho?

7 A. Well, I can tell they're going to get killed.

8 Q. And do you go with Pelos?

9 A. Yes.

10 Q. And how far do y'all run?

11 A. In the backyard.

12 Q. Do y'all have to climb any fences?

13 A. Yeah, but on the door was open already, because
14 Bicho opened it.

15 Q. How many backyards did he run through?

16 A. One.

17 Q. At any time, does Bicho stop in that backyard?

18 THE INTERPRETER: Your Honor, the
19 witness --

20 (Off-the-record discussion)

21 THE COURT: Members of the jury, let me
22 please ask you to retire for just a few moments. We'll
23 take up a matter out of your presence.

24 (Brief recess)

25 (Jury enters courtroom)

GERARDO ARREDONDO - July 29, 2015
Direct Examination by Ms. Hartman

1 THE COURT: Y'all be seated, please.

2 Q. (By Ms. Hartman) Gerardo, I believe we were
3 talking about Bicho running into some backyards; is that
4 right, when we left off?

5 A. Yes.

6 Q. Do you remember him running into some backyards
7 on August 31st, 2013?

8 A. Yeah, on one backyard. He went to the other
9 side, like -- it was like a small hallway, and then it's
10 two air conditions or something. It was like two big
11 machines, whatever it's called. He was back there.

12 Q. Air compressors, right?

13 A. Right.

14 Q. For the AC units. And did he go into the
15 backyard?

16 A. Yes.

17 Q. And when he got into the backyard, what are you
18 doing?

19 A. I'm behind Pelos.

20 Q. Defendant near Pelos?

21 A. Yes.

22 Q. Where is -- where is Flaco? Is he gone?

23 A. Yeah. He's in Nilson's car.

24 Q. He took the drugs and the purple bag and
25 backpack and took off?

GERARDO ARREDONDO - July 29, 2015
Direct Examination by Ms. Hartman

1 A. Yes.

2 Q. Was that the plan so far that y'all had
3 discussed?

4 A. Yep. The last time we thought, it was when we
5 was in the car on the driveway. That was the last time
6 I seen Flaco and Nilson, and they went on the -- when
7 Flaco went in Nilson's car, I guess he stopped where the
8 other car was, the car that it was me and Pelos.

9 Q. Okay. What was the last -- what is the last
10 thing y'all said to each other when y'all were in the
11 car?

12 A. Well, Flaco told Pelos that he know what to do
13 with him.

14 Q. And what did you understand that to mean?

15 A. To do whatever he want to do with us.

16 Q. And when y'all get into the backyard -- I show
17 you State's Exhibit No. 30. Does that look somewhat
18 familiar? I know it's been over a couple of years.

19 A. I don't know about that table right there. I
20 don't remember that.

21 Q. Okay. Did Bicho do anything when he was in
22 that backyard?

23 A. Yeah. He went on the backyard; and then he
24 went to the two compressors, behind the two compressors.
25 He was right there.

GERARDO ARREDONDO - July 29, 2015
Direct Examination by Ms. Hartman

1 Q. That's where he's going to end up, right?

2 A. Right.

3 Q. Does he take anything off when he's in that
4 backyard?

5 A. Yeah. He had his pants, like, on his knees.

6 Q. Does he take anything -- does he take his belt
7 off?

8 A. Yeah, yes.

9 Q. Looking at State's Exhibit No. 30, does that
10 look like the belt?

11 A. Yes.

12 Q. What's he do with the belt once he takes it
13 off?

14 A. Well, he just take them off. I don't know
15 really why he did that, because he run through the
16 backyard. He just went on the back -- in back of the
17 compressor, and he started taking his pants off. I
18 guess he had something with him, and I can't really -- I
19 can't tell, because I'm behind Pelos. So, he just take
20 his belt off.

21 Q. And who has the gun?

22 A. Pelos.

23 Q. And what happens when Bicho is in the backyard?

24 A. He shot him one time in the stomach.

25 Q. Who shot him?

GERARDO ARREDONDO - July 29, 2015
Direct Examination by Ms. Hartman

1 A. Pelos.

2 Q. Shot him right here in the stomach?

3 A. Yes.

4 Q. Was that the first shot?

5 A. Yes.

6 Q. Where was the second shot?

7 A. On the back, on the shoulder.

8 Q. Like right here?

9 A. Yes, on the back.

10 Q. Okay. And does Bicho keep running?

11 A. Yes.

12 Q. And how far does he go?

13 A. By the door, by the backyard with the gate.

14 Q. I'm showing you State's Exhibit No. 19. Does
15 that look like the gate?

16 A. Yes.

17 Q. Okay. What happens once he gets to that gate?

18 A. He -- after the second shot on the back
19 shoulder, he -- it's like he fell out; and he got on his
20 knees, and he put his face down on the ground.

21 Q. Okay.

22 A. When he fell out, he just fell out. You know,
23 he put -- he crashed with the ground.

24 Q. Okay. And what happens when he falls down on
25 the ground?

GERARDO ARREDONDO - July 29, 2015
Direct Examination by Ms. Hartman

1 A. Pelos shot him in the back of the head.

2 Q. I'm showing you State's Exhibit No. 12. Is
3 that how he was when he fell out? Is he laying down
4 flat like that when he shot the third time?

5 A. Excuse me?

6 Q. Is he laying down like that when he shot the
7 third time, or is he on his knees?

8 A. Well, on the same shot, he was on his knees.
9 But, you know, like I say, when he totally -- he's on
10 the ground after he shot him. Pelos shot him in the
11 back of the head.

12 Q. Okay. So, looking at State's Exhibit No. 12,
13 he would be kneeling before he falls down for that
14 second shot?

15 A. Excuse me?

16 THE INTERPRETER: Would you repeat that
17 question, please?

18 Q. (By Ms. Hartman) Looking at State's Exhibit
19 No. 12, he would be kneeling down when he gets that
20 second shot right there?

21 A. On his knees about the same time. Not like on
22 his knees, you know, just with his hands on the ground
23 and --

24 MS. HARTMAN: Your Honor, I'm sorry to
25 interrupt. May he step down and show us, Your Honor?

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Direct Examination by Ms. Hartman

1 THE COURT: Yes.

2 Q. (By Ms. Hartman) Can you please step down,
3 Gerardo? Okay. Is he shot a second time before he
4 comes through the gate?

5 A. Excuse me?

6 Q. Is he shot a second time before he comes
7 through the gate?

8 COURT REPORTER: I can't hear.

9 Q. (By Ms. Hartman) Let me get you to turn around
10 if you don't mind so you can talk to the jury so they
11 can hear you, okay? So, what position is he in when
12 he's shot the second time, if you could show the jury?

13 A. The second -- well, he just -- when he got shot
14 on his stomach, he just walking, like running but
15 walking. When he got the second shot, he went like this
16 and went like this, and then he went like that.

17 Q. I tell you what. Can you scoot back, or let
18 the jurors -- can you show them now, how did he go when
19 he's shot the second time?

20 A. Like that. He went like this and like that.

21 Q. Where are you?

22 A. Behind Pelos.

23 Q. And if I'm Pelos, where is Pelos? Tell me
24 where to stand.

25 A. He's -- well, I'm behind, like there.

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Direct Examination by Ms. Hartman

1 Q. You're over --

2 A. He's right here.

3 Q. And how is Bicho?

4 A. Like this.

5 Q. And what does Pelos do with the gun?

6 A. Shot him in the back.

7 Q. So he puts it -- how does he -- does he touch
8 him?

9 A. Yes.

10 Q. And he shoots the third shot. Thank you
11 Gerardo. Does he say anything when he shoots that third
12 shot?

13 A. Yes.

14 Q. What does he say?

15 A. He said, that's how we do it in El Salvador,
16 MS-13s.

17 Q. What does he mean? How he lays that last shot
18 right there on State's Exhibit No. 13?

19 A. Yes.

20 Q. What did you do when -- after that?

21 A. We running, running to the car.

22 Q. Does he say anything else to you?

23 A. Yeah. He told me to drive.

24 Q. And what did you drive?

25 A. Bicho's car.

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Direct Examination by Ms. Hartman

1 Q. And where did y'all drive to?

2 A. When I told him that I don't want to drive, he
3 told me to get in the car and drive. So, he had the gun
4 with him. He went in the backseat. And then, finally,
5 I went in the driver's seat. I was shaking. I was
6 scared. And then I started driving crazy, like I don't
7 have no control. So, he just told me that his hand was
8 shaking. If he would have had more bullets, he would
9 have shot me because he don't like to leave some
10 witnesses.

11 Q. And so, what do y'all do with the car, with
12 Bicho's car?

13 A. We just drive. Nilson is behind us all the
14 time, so we're driving like there is no point. We're
15 just driving. So, after -- like after, I'm going to
16 say, eight minutes, ten minutes, we stopped on some --
17 around some neighborhood. I never been there before.
18 He just -- like I say, we ain't got no point. We just
19 driving. And then we stop, and Nilson was like two
20 minutes away from us because he was driving slowly. We
21 stop in the car.

22 Q. When you stop the car in a neighborhood, was it
23 a neighborhood similar to like the one y'all stopped
24 where Bicho was murdered?

25 A. It's like a -- like a ditch right there. It's

1 like -- I can't remember. It's like we stopped like the
2 houses on this side, and it was like a small yard.

3 Q. What do y'all do once you stop?

4 A. Then we stop. And then he told me to turn on
5 some fire on the car, but I told him no. So he told me,
6 call Nilson. And he went on the front, on the passenger
7 seat. And in the front seat it was a bunch of papers
8 all over the car, and he just turned some fire on the
9 car.

10 Q. Looking at State's Exhibit No. 38, is that kind
11 of -- does that look like the car that y'all lit on
12 fire?

13 A. Yes.

14 Q. And you're talking about this area here? Is
15 that where the ditch was if you look further back?

16 A. Yeah. I really can't remember, but it was like
17 a ditch. It was like a small yard. There is nothing
18 there.

19 Q. Did y'all stay around to see if it burned
20 really well?

21 A. No. Nilson was -- at that time he closed the
22 door, and then the fire was on already in the car.
23 Nilson came through; and he stopped in the front, about
24 this car in the front. He parked and went in the car.

25 Q. And did Nilson take y'all away from the scene

1 of the fire?

2 A. Excuse me? Yes.

3 Q. And where did you get into Nilson's car?

4 A. On the backseat where Flaco at, is in the
5 passenger. And Pelos is on the other side where Nilson
6 at, in the driver's seat, behind the driver's seat. I'm
7 behind the passenger seat.

8 Q. And do y'all still have the gun?

9 A. I don't know. He had it with him. Pelos had
10 it with him.

11 Q. He hasn't -- didn't get rid of the gun yet, did
12 he?

13 A. Huh-uh.

14 Q. And where do y'all go after y'all leave the
15 scene from the fire?

16 A. We start driving back to Flaco apartment.

17 Q. And who gets out at Flaco's apartment?

18 A. Excuse me?

19 Q. Does anybody get out at Flaco's apartment?

20 A. Well, when we went to the -- came through to
21 the parking lot, we stopped. And then when we was on
22 the parking lot, and they had a little conversation.
23 And then --

24 Q. Let me stop you? Who had a conversation.

25 A. Excuse me?

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1 Q. Who had a conversation?

2 A. Pelos and Flaco.

3 Q. And what are they saying?

4 A. About them drugs and they got dope for a couple
5 of months celebrating.

6 Q. Is that what they got from Bicho?

7 A. Yes.

8 Q. Was that the plan?

9 A. Flaco's plan.

10 Q. And you went along with it, though, didn't you?

11 A. No.

12 Q. You were there, right?

13 A. I was there, but I never say that I was -- that
14 I knew the plans, they was going to kill him. Flaco
15 told me that he was going to rob him. He never told
16 me -- I never thought about they was going to kill him.

17 Q. Well, when somebody takes a gun, something bad
18 can happen, right?

19 A. Yep.

20 Q. Now, so what happens between Flaco and Pelos in
21 the parking lot?

22 A. First -- the first thing is I was on the -- in
23 the backseat. I'm still in the backseat. Flaco got out
24 the car, and then he's counting money. He had the money
25 in his hands already.

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1 Q. Whose money did he have?

2 A. Bicho.

3 Q. Money that was in the backpack?

4 A. No. Before, when we was in the car, they throw
5 it to me. And it was like \$150. So he asked me for the
6 money, and he start counting money.

7 Q. Where did he get the money from?

8 A. Bicho's car.

9 Q. It was inside the car?

10 A. Yeah. It was like some thing that -- it's like
11 on the -- on the roof.

12 Q. Sun visor?

13 A. Yeah. It's like -- it was like a -- by the
14 mirror. You know, it was like a small -- it's like a
15 small door that opens.

16 Q. A hidden compartment?

17 A. Yeah, like compartment.

18 Q. Do you know how much money was taken?

19 A. Yeah. Well, like I say, it's like \$150.

20 Q. Okay. And so once they're counting out the
21 money, they gave you 100 or 150?

22 A. No. First of all, he -- Flaco got out the car.
23 And then Pelos, he told me about the gun. He told me
24 that that gun -- they don't want the gun no more.

25 Q. And Pelos is telling you he doesn't want the

GERARDO ARREDONDO - July 29, 2015
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1 gun anymore?

2 A. Yeah, but Flaco is the one -- that's his gun.
3 That's Flaco's gun. Pelos, like, he's in the backseat.
4 He's telling me. He's letting me know, I don't want the
5 gun any more because it's dirty already.

6 Q. What do you mean, dirty?

7 A. Well, they already used -- they already killed
8 somebody, and I don't know if they killed somebody else
9 with it.

10 Q. Well, that's the same gun that was in your
11 murder, though, wasn't it, that you pled guilty on,
12 right?

13 A. Yeah, on this case.

14 Q. And on the other one.

15 A. I don't know.

16 Q. Now, where did the gun end up?

17 A. On the backseat.

18 Q. Of Nilson's car?

19 A. Yes.

20 Q. Okay. Do you stay there and talk with Flaco
21 and Pelos anymore?

22 A. Before they -- before Pelos got out the car,
23 Flaco was with the backpack already. And Flaco told me
24 and Pelos, too -- they throw me \$100, and they told me
25 they want my to throw the gun somewhere. And I say no.

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1 But, like, Nilson one time, when they came from El
2 Salvador -- they just came from El Salvador before all
3 that happened. They went to my house. I don't know
4 why. But Nilson, he not even let me know. He not even
5 call me before, because I don't bring nobody to my
6 house.

7 MR. MADRID: Objection to narrative, Your
8 Honor.

9 THE COURT: Huh?

10 MR. MADRID: Objection, narrative.

11 THE COURT: It's a little late now.

12 MR. MADRID: That's my objection.

13 THE COURT: Try to make it a little more Q
14 and A, please.

15 MS. HARTMAN: Yes, Your Honor.

16 Q. (By Ms. Hartman) So, at any time, do Pelos and
17 Flaco get out and leave the car?

18 A. Yep.

19 Q. Do you know where they go?

20 A. To Flaco's apartment.

21 Q. And what is Flaco carrying?

22 A. He got the dope, the backpack.

23 Q. And that was from Bicho. And where is the gun
24 left?

25 A. On the car.

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1 Q. And what do you do with the gun?

2 A. Well, like I say, they ordered me. They want
3 me to throw the gun somewhere. So I tell Nilson, I
4 don't want to do it. So, Nilson told me that why I was
5 being like that. It's not really a big deal. I'm like,
6 because I don't want nothing to do with that. I don't
7 even want to touch the gun. So he told me that the --
8 he started laughing. And then Flaco and Pelos, like,
9 they already know where I live. And then I can't -- I
10 had like -- can't imagine they come to my house and --

11 Q. What are you going to do with the gun?

12 A. Like I say, they ordered me to throw the gun
13 somewhere.

14 Q. Where did you throw it?

15 A. In the ditch.

16 Q. Did it have water in it?

17 A. Yes.

18 Q. And what did you and Nilson do after y'all got
19 rid of the gun?

20 A. Nothing. I just told Nilson I was mad at him,
21 and he told me that -- like I say, he was, like, playing
22 around; and he was just like laughing and then laughing
23 about it. Not about the murder, just how I was acting.
24 So --

25 Q. And when did you throw the gun away, that

GERARDO ARREDONDO - July 29, 2015
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1 night?

2 A. Not till the next day.

3 Q. What did you and Nilson do that night? Did
4 y'all go out or do anything?

5 A. No.

6 Q. Did you see Pelos or Flaco anymore after that?

7 A. No.

8 Q. Did you see Nilson anymore after that?

9 A. Huh-uh.

10 Q. At any time, did you talk to the police about
11 this?

12 A. Nope, because I was scared about the -- this.
13 They came to my house, like I said. And there is my mom
14 and my dad, and there is my three brothers and my
15 grandmother. So, I'm not going to be in some type of
16 situation like that, so --

17 Q. Well, did the police come to you? And they
18 found you, right?

19 A. Yeah.

20 Q. And did you give a statement to them?

21 A. Yes.

22 Q. In the first one, did you admit exactly
23 everything that had happened on your first statement?

24 A. No, because I was scared about being locked up.
25 And now my people -- because the police never told me

1 about they was going to protect my family if I was going
2 to be in jail some, so I was scared. I was nervous. I
3 didn't know what to do. And the detective was talking
4 to me crazy. He was too aggressive, so I was nervous.

5 Q. And they took a second statement from you later
6 on, didn't they?

7 A. Yes.

8 Q. Do you have any idea when that second statement
9 was taken?

10 A. What -- what do you mean, like --

11 Q. What day, how long after the murder it was
12 taken?

13 A. It's about like two, three weeks.

14 Q. And on that second statement, were you more
15 forthcoming with what you said?

16 A. Right. Because some other detectives, they
17 come and talk to me better than the other one.

18 Q. And did you take them to the gun?

19 A. Right.

20 Q. And did you take them to -- and tell them
21 exactly how you disposed of the gun?

22 A. Yes.

23 Q. And were they able to locate the gun?

24 A. Yeah.

25 Q. And were you there when they found it?

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1 A. Excuse me?

2 Q. Were you there when they found the gun?

3 A. Yes. They take me up there, and I was right
4 there all the time. So after I showed him where the gun
5 was, they take me -- they told me they was going to let
6 me go; but they put me in the car, and they put me in
7 jail.

8 MS. HARTMAN: Pass the witness, Your
9 Honor.

10 MR. MADRID: Cross-examination, Your
11 Honor?

12 **CROSS-EXAMINATION**

13 BY MR. MADRID:

14 Q. Good afternoon, Mr. Arredondo.

15 A. Okay. Good afternoon.

16 Q. You said you were scared because someone was
17 going to hurt your family; is that right?

18 A. Right.

19 Q. But isn't it true that you told the officer
20 during your statement that your father's a hitman for
21 the Gulf Cartel?

22 A. Excuse me? No.

23 Q. And he will tell us if that's true or not,
24 right?

25 A. He was trying to tell me something about that,

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Cross-Examination by Mr. Madrid

1 but that's not really -- like, that got nothing to do
2 with this, so he start like trying to get me with this?
3 I'm like, why you asking me about my dad? I didn't
4 really have a relationship with my dad for a long time.
5 He leave me when I was three years old, so I was like --
6 I was surprised he start telling me, your dad is this,
7 this and that. I was like, what do you mean?

8 Q. Tell me this, because I just want to be clear.
9 You're saying you did not do this or that you did do
10 this capital murder that we're talking about here?

11 A. No, I didn't kill nobody on this case. I
12 didn't kill nobody.

13 Q. Are you guilty of it?

14 A. I plead guilty, because I want to help this
15 police case.

16 Q. Because you want -- so you pled guilty because
17 you're afraid that you will never get out of prison,
18 right?

19 A. Right. Because like I say, I make a deal with
20 the D.A. about this; because they was saying that it was
21 too many things that these guys can say about me, that
22 it's nothing but lies. But I ain't going to put myself
23 in some situation like that.

24 Q. So, you're saying you're really not guilty?
25 You're scared, so you pled guilty?

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Cross-Examination by Mr. Madrid

1 A. Yeah, I'm -- I mean, I already did. But like I
2 say, I'm not guilty about this case.

3 Q. So, you're not guilty. How about the one on
4 August the 29th, the other case? Are you guilty of
5 that? You pled guilty to that, also.

6 A. No. In the other case? No.

7 Q. You're not guilty of that, either? And isn't
8 it true that you told the same kind of story, that there
9 was a shooting and you were in the backseat?

10 A. Yeah, but it was like I explained it, like how
11 everything happened.

12 Q. And I'm going to get into that. I don't want
13 to put words in your mouth. But it was the same story,
14 right? Somebody gets called up for drugs, right?

15 A. What?

16 Q. Yes or no? Tell me.

17 A. No. I mean, like I say --

18 Q. Okay. Let me stop you for a second. I want to
19 go one-by-one, because I don't want to confuse you.

20 A. Okay.

21 MR. MADRID: Defense offers Defense No. 1
22 and 2, certified copy of a complainant and indictment,
23 and present it to -- sorry. If I said State, I meant
24 defense, Defense 1 and 2.

25 MS. HARTMAN: No objection.

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1 THE COURT: What did you say?

2 MS. HARTMAN: No objection.

3 THE COURT: Admitted.

4 MR. MADRID: Your Honor, just to be clear,
5 so we're on the same page.

6 Q. (By Mr. Madrid) I'll try to go slow so you can
7 understand me, okay?

8 A. Okay.

9 Q. This is Defendant's No. 1. Can you see it?

10 A. Right.

11 Q. Let me go bit-by-bit here, okay?

12 A. Okay.

13 Q. Says this happened -- this is the complaint.
14 I'm sorry. I'm going to show you -- I got it backwards.
15 No. 1. Okay. I'm going to go back to 1. I'm sorry.
16 See Defense No. 1, Cause No. 1403780, and it says
17 capital murder?

18 A. Right.

19 Q. All right. And it alleges that you, Gerardo
20 Arredondo, the defendant, on August the 29th, did then
21 and there unlawfully, while in the course of committing
22 and attempting to commit the robbery of Ricardo
23 Rodriguez, intentionally cause the death of Ricardo
24 Rodriguez by shooting Ricardo Rodriguez with a deadly
25 weapon, namely, a firearm. You pled guilty to that.

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1 Hold on. You didn't plead guilty to that. You pled
2 guilty to that cause number. It was later indicted.
3 State presented it to the Grand Jury, and it came back
4 with the murder. So, this original one here, which you
5 were originally accused, was robbing somebody and then
6 killing them, right?

7 A. Yeah. But like I say, I didn't know about
8 that. I didn't know what they were going to do. I
9 didn't know they was going to kill the dude.

10 Q. We're going to get into that; but that charge
11 is not the charge that Mario Paredes is charged with,
12 right?

13 A. Ricardo Rodriguez?

14 Q. I don't want to confuse you.

15 A. That's Bicho.

16 Q. No. Bicho is Jonathan -- I'm sorry -- Jhon
17 Bermudez.

18 A. Okay.

19 Q. This is a different person, on a different day.

20 A. Okay.

21 Q. You know you were charged with two cases,
22 right?

23 A. Yep.

24 Q. And this is a capital murder case?

25 A. Yes.

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1 Q. The one I'm talking about right here. I'm not
2 talking about Bicho.

3 A. Okay.

4 Q. You understand that?

5 A. I understand that.

6 Q. So this guy, Ricardo, was not Bicho.

7 A. Okay.

8 Q. You understand you were accused of being a part
9 of that, robbing him and killing him, right?

10 A. Nope, I'm not part of it. I ain't got nothing
11 to do with that.

12 Q. I just want to be clear here. You pled guilty
13 to two cases; but you're telling the jury you had
14 nothing to do with either one of them, right?

15 A. I never plead guilty to this case.

16 Q. Two days -- on Monday you didn't plead guilty
17 to this case?

18 A. No, I didn't, not in this case.

19 Q. We can get court records to see if you did or
20 didn't, right?

21 MS. HARTMAN: I'm going to have to object.
22 Because he's saying he's pleading guilty to the capital
23 murder, and that's not even what he was indicted for.
24 So, I think we need to ask him the proper charge that he
25 was charged with, that a Grand Jury indicted him with

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1 and that he actually pled to and had a deal with.

2 MR. MADRID: Your Honor, I'll clear it up
3 through cross-examination.

4 Q. (By Mr. Madrid) This charge, August the 29th,
5 you can see you were originally charged with capital
6 murder. The Grand Jury indicted you with murder.

7 A. Okay.

8 Q. You agree with that?

9 A. No. I'm not okay with it.

10 Q. I'm just asking if you agree that you knew you
11 were charged with that?

12 A. Yeah, I knew about it.

13 Q. And you'll see both of these papers that I'm
14 showing you, they're the same. The original charge was
15 with robbing and killing someone, right?

16 A. Well, I never say nothing that it was me the
17 one that did that.

18 Q. Listen Gerardo, I'm not trying to confuse you.
19 And so, just real clear, I'm not asking you -- right
20 now, at least, I'm not asking you whether you did or
21 didn't do it. I'm just asking you if you know you were
22 charged with that.

23 A. Yeah, I know about it. I mean, I know I had
24 the charge.

25 Q. And I'm going to ask you about that. I'm not

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1 asking you whether you did or didn't do that. You --
2 first of all, you did plead guilty to that, right?

3 A. No.

4 Q. You're telling me and you're telling this jury
5 that you did not plead guilty to two cases on Monday?

6 A. They told me about one case, or I'm confused
7 or --

8 Q. You pled to one case; and you got life with the
9 possibility of parole, right?

10 A. Right.

11 Q. And you pled to another case, but you haven't
12 been sentenced to it yet?

13 A. Right.

14 Q. Okay. So it's two cases.

15 A. Okay.

16 Q. This August 29th, with Ricardo Rodriguez, and
17 Bicho, that's two cases, right?

18 A. Yes.

19 Q. Okay. Because I don't want to confuse you,
20 because you might be confused. I'm not trying to. I
21 just want to make sure you agree. Two cases, Ricardo
22 Rodriguez, Bicho, right? And I'm going to ask you about
23 Ricardo Rodriguez, okay?

24 A. Uh-huh.

25 Q. In that case -- I'm not saying whether you did

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1 or didn't do it -- but in that case, if you know,
2 Ricardo Rodriguez was shot for drugs, right?

3 A. Yes.

4 Q. Yes. And his car was taken; and it was burned,
5 right?

6 A. Yes.

7 Q. Okay. And in Bicho's case, he was robbed for
8 drugs, right?

9 A. Yes.

10 Q. And his car was taken, and it was burned?

11 A. Yes.

12 Q. And you were involved in both cases?

13 A. No.

14 Q. You pled guilty to both cases?

15 A. Well, yeah, like you say, on Monday.

16 MS. HARTMAN: Your Honor, may we approach
17 for a second?

18 (At the bench)

19 (Off-the-record discussion)

20 MR. MADRID: May I proceed, Your Honor?

21 Q. (By Mr. Madrid) So, let me be clear; because
22 I'm not trying to, at all -- I'm just going with the
23 information that we have. And this happened this week,
24 right, you pled guilty to one case?

25 A. Yes.

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1 Q. You haven't pled guilty -- because I don't have
2 the paperwork in front of me -- but you did not plead
3 guilty to the second case; because that one is open
4 until you testify, right?

5 A. Right.

6 Q. But your understanding is that you will get the
7 same deal if you testify?

8 A. Yes.

9 Q. Okay. So, your intention is to plead guilty to
10 two cases?

11 A. No. I mean, on one of them, the one I did.
12 But another one, I'm going to try to see -- I'm trying
13 to fight the other case, because I didn't do it. And
14 the first one I didn't do, either. But, you know, like
15 I say, I already pled guilty.

16 Q. So, you're not guilty of anything?

17 A. No.

18 Q. But you happened to be in the back of the two
19 cars where somebody got shot for drugs and their car was
20 burned?

21 A. Like I say, I knew about it because everything
22 is happening at the same time and I'm there. And I can
23 do nothing about what's happening, because I don't got
24 the control of the situation.

25 Q. So in two days, two days in August of 2013, you

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1 happened to be involved in two capital murders just by a
2 big coincidence, right? That's what you're telling the
3 jury?

4 A. That's how it happened.

5 Q. And you happen to have the gun; and the gun was
6 used in both murders, right?

7 A. I don't know from the other murder, but like I
8 say --

9 Q. Do you remember telling Officer Sosa that the
10 gun was used in both murders, that Nilson had given the
11 gun from Flaco to your friend, Jose?

12 A. Say it again.

13 Q. That I'm sorry. That was a long question.
14 Okay. In the first murder you told Officer Sosa that a
15 guy named Jose, or Valero, was involved, right?

16 A. Yes.

17 Q. And you told Officer Sosa that he got the gun
18 from Nilson?

19 A. From -- yeah, from -- the gun is Flaco's gun,
20 but I think Nilson had it.

21 Q. And it was the same gun that you threw in the
22 ditch?

23 A. Yes.

24 Q. So, it was the same gun that was used for
25 Ricardo and for Bicho?

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1 A. I don't know. He used the gun from, like, the
2 one Flaco had. But like I say, they -- in the second
3 case, they ordered me to throw the gun, but I never -- I
4 was -- I never -- I never understood what was -- what had
5 happened with the other guy.

6 Q. Okay. But you're telling this jury that this
7 might have been two guns now from Flaco that went from
8 Flaco to Nilson to two shooters?

9 A. I don't know.

10 Q. The first murder that I'm talking to you about
11 with Ricardo, that happened in the same general area
12 that this murder happened, didn't it?

13 A. On the southwest?

14 Q. Yeah. It happened kind of in the same area,
15 within a couple of miles, right?

16 A. Yes.

17 Q. And the car was burned kind of the same general
18 area as this murder?

19 A. Yes.

20 Q. And you're telling the jury those are just
21 coincidences, right?

22 A. Yes.

23 Q. And so, when you were telling the jury, one,
24 you're not like around crack or cocaine and that you've
25 never been around anything like that, that's not true,

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1 is it?

2 A. I mean, on that time, when I met Nilson again
3 when I come back from Mexico, I seen Nilson again. And
4 then he told me that his uncle and his partner come back
5 from El Salvador. But I don't mess with guys that smoke
6 crack, do cocaine and nothing like that.

7 Q. Okay. Two days before this happened to the
8 person you know as Bicho, you had been around cocaine
9 and you had been around a murder, hadn't you?

10 A. Like I say, when I met Nilson and he called me
11 to go to -- go out, but we went to his uncle apartment,
12 that's when I see crack around me and cocaine. And I
13 told him, I don't want to be in here, because I don't
14 like this type of --

15 Q. Tell me this: You give a statement -- you gave
16 two statements, right?

17 A. Yes.

18 Q. To Sergeant Chavez?

19 A. Yes.

20 Q. And the first one, you weren't really
21 completely truthful, right?

22 A. Oh, no, because --

23 Q. Well, just yes or no?

24 A. No.

25 Q. And -- but when you talked to him -- I'm

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1 talking about Sergeant Chavez -- in order for you to
2 know what he was asking you or when this happened, he
3 told you what date that it happened that Bicho was
4 killed, right? Or, actually, I can withdraw that; and
5 I'm going to ask another question.

6 Would it help you to see a part of your
7 statement so that you can remember what I'm asking you?

8 A. No. I just I can't understand real good
9 English, you know.

10 Q. It's not English. It's just, you may not
11 remember from two years ago.

12 A. No. I remember.

13 Q. Okay. I'll ask, do you remember Sergeant
14 Chavez telling you, when he asked you when Bicho was
15 killed, he showed you Bicho's picture, right?

16 A. Yes.

17 Q. And he told you this happened August 31st, and
18 it was on a Saturday?

19 A. Yes.

20 Q. Do you remember that?

21 A. I remember Chavez was telling me that.

22 Q. Okay. I mean, he didn't tell you, like, hey,
23 the last time you saw Bicho, or the time you were at the
24 apartment -- he didn't tell you that, did he?

25 A. Excuse me? I don't understand the question.

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1 Q. What I'm asking you is, was he specific -- I'm
2 talking about Sergeant Chavez -- with you on when this
3 date was?

4 A. Yes.

5 Q. Because when -- you know, when somebody asks
6 you a question you may not remember, hey, when is the
7 last time you saw that guy, for instance. Do you
8 understand that?

9 A. Yeah, I understand that.

10 Q. So, if he's able to tell you, well, did you see
11 him on this particular date, then you are able to
12 remember, right?

13 A. Right.

14 Q. And that's what he did, right?

15 A. Because he was two weeks before -- three weeks
16 when they went over there and picked me up, the
17 detectives. It was like three weeks, two weeks. So, I
18 still remember kind of around what day it was when that
19 happened.

20 Q. Well, your second statement was on September
21 the 25th, okay?

22 A. Okay.

23 Q. So, it was -- it had, by that time, been almost
24 four weeks.

25 A. Right. I say, it's like -- like I say, I

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1 remember it was like three weeks, two weeks.

2 Q. But he helped you by telling you the date,
3 right?

4 A. Excuse me? Oh, yeah, well he was telling me
5 about the case.

6 Q. Okay. So, I want to ask you about some
7 similarities in both these cases, okay. In the Ricardo
8 Rodriguez case --

9 A. Uh-huh.

10 Q. -- you told the investigator that you sat in
11 the backseat, right?

12 MS. HARTMAN: Your Honor, I'm going to to
13 object to asked and answered.

14 THE COURT: Overruled. I mean, it's been
15 asked, I agree; but I'm going to let him answer it.

16 A. On the -- with this -- I don't know them guys,
17 you know, like, if this is on the first case, the second
18 case.

19 Q. (By Mr. Madrid) Not Bicho. I'm on Ricardo,
20 the first case.

21 A. Oh, yeah, yeah.

22 Q. You sat in the back seat?

23 A. Right.

24 Q. And on the Bicho case, you sat in the backseat?

25 A. Right.

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1 Q. And you're telling this jury that you were
2 scared of these people; yet they gave you a gun, right?

3 A. On the second case.

4 Q. Yeah. And you also said when you demonstrated
5 right here, when you laid down -- you remember that?

6 A. Right.

7 Q. And the prosecutor, she stood here. And you
8 said, well, that's where Mario Paredes was, right?

9 A. Right.

10 Q. So you said, well, you know what, I could see
11 because I was behind him, right? So, you were behind
12 him?

13 A. Right, I was behind him.

14 Q. And then she asked you, well, did the gun touch
15 his neck, how did you know the gun touched his neck when
16 before you said you couldn't see because you were --

17 A. I can tell. It's like not even -- it's like
18 five feet away from me.

19 Q. So, you were -- how close were you?

20 A. Before he shot him he told me, that's how we do
21 it on the MS-13s. He wait. He wait like a couple of
22 seconds to let me know how they do it. He just don't
23 went and shot him like that. He went and told me first,
24 that's how we do it. So, that's how I see.

25 Q. But what you saw, you were able to describe --

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1 where was the first shot that hit him?

2 A. In the stomach.

3 Q. And that's where he got shot. But you were
4 behind, but you saw that?

5 A. Right. Because he went like this, so I can
6 tell in the stomach. And he put his hand like that; and
7 he started running to, like, against us.

8 Q. And the second one, you saw him hitting his
9 shoulder, like, go through his shoulder?

10 A. Right. Like, he went like that. So I can tell
11 he just, you know, on the back. He shot him on the
12 back. And I can tell he went like that; because the gun
13 push him, like, on this side, you know.

14 Q. So, either -- you know, we know this. We know
15 either that you're confused or you're lying. Because
16 you're saying - you're pleading guilty, but you didn't
17 do any of this, right?

18 A. I'm not confused. I'm just telling you --

19 MS. HARTMAN: Your Honor, I'm going to
20 object to argumentative.

21 THE COURT: Sustained.

22 Q. (By Mr. Madrid) And you're telling -- you're
23 telling me here either -- either you know because you
24 saw it, or you know because you did it, right? You
25 would agree with me?

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1 A. Excuse me?

2 Q. Either you know those three spots that he got
3 hit -- you know that either because you did it, or you
4 saw it, right?

5 A. Because I saw it.

6 Q. I want to be clear about something, because I
7 don't know if you understand or not --

8 A. I understand.

9 Q. -- about whether -- what your agreement here is
10 with the State. Your agreement is you're giving this
11 testimony because your hope is that --

12 MS. HARTMAN: Your Honor, I'm going to
13 object to asked and answered.

14 THE COURT: I'm going to let him do it one
15 more time, but this will be it.

16 Q. (By Mr. Madrid) I just want to be clear;
17 because either the agreement you made was that you're
18 going to plead guilty and you have no capital murders,
19 you have life in prison with the possibility of parole;
20 but you're saying that you're going to fight the second
21 case?

22 A. I mean, I didn't do it. How I'm going to say
23 I'm guilty to some murder that I didn't do it?

24 Q. So, now, that's not --

25 A. It's different. If I know, if I was there,

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1 then that's way, way different than if I did it. If I
2 shot somebody and I killed somebody, then it's different
3 than I was there. And like I said, I didn't have no
4 control of the situation. They got the control, so what
5 you want me to do about it? They know where I live.
6 They know where my people live. What you want me to do?

7 Q. So, either I'm confused or you're confused.
8 Either you made a deal on two cases, but you think you
9 made a deal on one case?

10 A. Right.

11 Q. Okay.

12 MR. MADRID: Pass the witness.

13 THE COURT: Anything else?

14 MS. HARTMAN: Nothing further, Your Honor.

15 THE COURT: All right. Step aside. You
16 can go back.

17 MR. MADRID: May we approach quickly, Your
18 Honor? I wanted to ask a question.

19 (At the bench)

20 MR. MADRID: I don't know any way to get
21 in an agreement in front of the jury without putting on
22 his counsel. I don't know how to do it.

23 THE COURT: It's already in evidence. She
24 got up and testified, or had him testify as to what the
25 agreement was. It's in evidence already.

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1 MS. COLLINS: Whether or not he decides he
2 understands it at this point or not is sort of a moot
3 point.

4 MR. MADRID: I just --

5 THE COURT: I think he has a hard time
6 understanding a lot of what's going on, but the
7 agreement was already recited into the record when she
8 asked questions of Gerardo. She said, this is what the
9 agreement is, and this is the what the deal is. And
10 that's already in evidence.

11 MR. MADRID: My issue is that -- is that's
12 not what he testified to. And this is the only thing
13 I'm asking, is if I could -- when the State's done, if I
14 could put his attorney on and ask if that's what the
15 agreement is.

16 THE COURT: For what?

17 MR. MADRID: Because I don't know how --

18 THE COURT: It's already been done. It's
19 in evidence already.

20 MS. COLLINS: It's not impeachment
21 evidence.

22 THE COURT: All you need to do is give the
23 court reporter some time. You got all day tomorrow.
24 Because I'm not going to be here and ask -- look at
25 exactly what the questions and answers were, and that

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1 tells you the whole story. It's in evidence. It's
2 already in evidence. They can't withdraw it. What are
3 you doing now?

4 MS. COLLINS: Judge, we need to get
5 Gilbert back over here. I think he went next door. I
6 have his number.

7 THE COURT: Where?

8 MS. COLLINS: I think he went next door.

9 THE COURT: Well, find out.

10 MS. COLLINS: He left his number. I'll
11 text him right now to come to the court.

12 THE COURT: Hurry up.

13 MS. COLLINS: Your Honor, then we would
14 call Officer Therkildsen to the stand.

15 THE COURT: Who?

16 MS. COLLINS: Therkildsen.

17 (Witness sworn)

18 **ERIC THERKILDSEN,**

19 having been first duly sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 BY MS. HARTMAN:

22 Q. Officer, could you please introduce yourself to
23 the jury?

24 A. Sure. I'm Officer Eric Ryan Therkildsen.

25 Q. And, Officer Therkildsen, how are you employed?

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Direct Examination by Ms. Hartman

1 A. Police officer with the City of Houston Police
2 Department.

3 Q. And have you had any specialized training or
4 education to become a police officer with HPD?

5 A. Yes, I have.

6 Q. And what is that?

7 A. I went through the academy.

8 Q. And do you have any type of certifications for
9 being a peace officer?

10 A. Yes. I hold an advanced peace officer's
11 license with the State of Texas.

12 Q. And what's an advanced peace officer's
13 certification?

14 A. It's a third level rating with the State of
15 Texas that says I've had so many hours of training and
16 I've been employed for so long.

17 Q. So, how long have you been employed?

18 A. Just over eight years now.

19 Q. What are your current duties with HPD?

20 A. Currently I work for the Major Offenders Unit
21 and part-time on the Dive Team.

22 Q. And what do you do for the Dive Team?

23 A. I am a master under water criminal investigator
24 for the Dive Team, and I'm also the instructor and
25 trainer for the Dive Team.

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Direct Examination by Ms. Hartman

1 Q. And how long have you been with the Dive Team?

2 A. About five years.

3 Q. Do you have any specialized training to be a
4 member of the Dive Team?

5 A. Yes.

6 Q. And what is that?

7 A. I've attended several courses. I'm a PADI open
8 water instructor trainer. I'm a master underwater
9 criminal investigator, a PADI public safety diver and a
10 PADI commercial diver.

11 Q. And how long have you been doing that for HPD?

12 A. For the last five years.

13 Q. Were you on duty on August the 31st of 2013?

14 A. Yes, I was.

15 Q. What were those duties?

16 A. Currently -- that day I was working with
17 Southwest Burglary and Apprehension Team until I
18 received a call out to attend the Dive Team about 12:00
19 o'clock in the afternoon.

20 Q. Is Dive Team almost like a second job within
21 HPD that you do?

22 A. Yes, it is.

23 Q. It's in addition to your duties as when you
24 were working burglary; is that correct?

25 A. Yes.

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Direct Examination by Ms. Hartman

1 Q. And who did you speak with when you got called
2 out?

3 A. I first spoke with my supervisor, Sergeant
4 Melford. After that I spoke with the defendant.

5 Q. And is it just you who goes out when y'all are
6 searching for something, or how does -- how do y'all go
7 out and search for an item?

8 A. Every situation dictates. Usually, the
9 supervisor will make the scene; and he'll call one other
10 person who's on call, either myself or one of the other
11 full-time guys. We typically go out and assess the
12 scene, figure out what we're there for, what we're going
13 to be looking for and how many people we're going to
14 need.

15 Q. When you went out on -- when you went out back
16 in 2013, how many people went out with you?

17 A. At first it was me and my supervisor. We met
18 with several homicide detectives and the defendant. We
19 were looking for a pistol. And we called out several
20 other Dive Team members, I believe a total of seven or
21 eight.

22 Q. And what is the purpose for you talking with
23 the defendant?

24 A. First we asked the defendant, you know, why are
25 we here? Try to get them to tell us. On this

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Direct Examination by Ms. Hartman

1 particular date, the defendant stated that he had a
2 pistol that he had brought down there that he had
3 wrapped up in a trash -- or wrapped in a newspaper in a
4 plastic sack and then tossed it in the bayou. We then
5 asked him to kind of walk through his steps and show us
6 exactly what he had done that day so we could figure out
7 where we needed to look and exactly what we were looking
8 for.

9 Q. And was he forthcoming with the information?

10 A. Yes.

11 Q. Okay. I'm going to show you over here what's
12 been marked as State's Exhibit No. 60.

13 A. Okay.

14 Q. Is that the defendant you talked with? Do you
15 recall?

16 A. Yes.

17 Q. And that was Gerardo Arredondo?

18 A. Yes.

19 Q. And how would you characterize his statements
20 to you? Did he give you all the information that you
21 needed to try to locate the weapon?

22 A. Absolutely. He's actually probably one of the
23 best people I've ever talked to on a scene about trying
24 to locate a weapon. He was very open with his comments,
25 very forthcoming with information. We actually had him

ERIC THERKILDSEN - July 29, 2015
Direct Examination by Ms. Hartman

1 throw a rock in as a test object to see exactly where he
2 threw the pistol, and the rock was found just several
3 inches away from where the actual pistol was found.

4 Q. Going to show you State's 67, 68, 69 and 70.
5 Can you please take a look at those real quick?

6 A. Okay.

7 Q. Do these pictures show the bayou that you went
8 and searched?

9 A. Yes.

10 Q. Does this show it how it looked back in 2013?

11 A. Yes.

12 MS. HARTMAN: Your Honor, at this time I'd
13 like to tender 67, 68, 69 and 70 to defense counsel and
14 offer them into evidence.

15 MR. MADRID: No objection, Your Honor.

16 THE COURT: Admitted.

17 Q. (By Ms. Hartman) Officer Therkildsen, can you
18 please tell us what State's 67 is?

19 A. Sure. That's going to be the bridge running
20 directly over the bayou where we were searching for the
21 pistol.

22 Q. And where is this at?

23 A. It's close to Dairy Ashford and the Westpark
24 Toll Road.

25 Q. What part of town is this?

ERIC THERKILDSEN - July 29, 2015
Direct Examination by Ms. Hartman

1 A. West side Houston.

2 Q. Is that close to the Fort Bend County line?

3 A. Yes.

4 Q. Showing you State's Exhibit 68. What is this?

5 A. That's going to be the bayou underneath the
6 bridge where we actually searched for the pistol.

7 Q. All right. And is that just a different
8 view --

9 A. Yes.

10 Q. -- of State's Exhibit 69?

11 A. Yes.

12 Q. What about State's 70?

13 A. Yes.

14 Q. And where did you have Gerardo walk when he
15 threw the rock?

16 A. I actually had him retrace his steps, the same
17 thing that he told me he had done when he originally
18 threw the pistol in. Actually, it was on the opposite
19 side from the view we're looking at right now.

20 Q. Over that side?

21 A. Yes, ma'am. We walked --

22 Q. Right here?

23 A. Yes. We walked over the bridge and came down
24 the opposite side, walked underneath the bridge about to
25 the second pillar.

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Direct Examination by Ms. Hartman

1 Q. Okay. So, he walks over here? If this is --

2 A. It's hard to see from that view where the drain
3 is. Wherever -- it's the opposite side where the
4 culvert is.

5 Q. If this is the culvert, he walks on this side?

6 A. Yes, ma'am.

7 Q. And where does he stop at? I think you can
8 possibly mark it on the screen.

9 A. He comes underneath the bridge in between these
10 two pillars rights here.

11 Q. Okay. And what's he do there?

12 A. He said he stood about right here, and then he
13 just underhand lobbed the pistol into the water.

14 Q. Okay. And about where did he say he threw the
15 pistol? I mean -- yes.

16 A. He claimed that he threw it not quite halfway,
17 about right here. We actually found it pretty close to
18 that.

19 Q. And once you receive that information, how do
20 you begin your search for it?

21 A. On this particular day we had two teams, so we
22 had one team start down below and one team start above.
23 And we just worked towards each other.

24 Q. And how many people or divers make up a team?

25 A. We have sixteen total on the team. On this day

ERIC THERKILDSEN - July 29, 2015
Direct Examination by Ms. Hartman

1 we had eight -- or excuse me -- five in the water.

2 Q. So, it's three and two on each side?

3 A. Yes, ma'am.

4 Q. And how do you begin to search for an object in
5 the bayou?

6 A. For this particular one, we did what we call a
7 running jack. It's basically a piece of rope that we
8 stretch from one end of the bayou straight across to the
9 other. We'll have one diver coming swimming down one
10 side, another diver swimming down the other side, coming
11 in opposite directions. You put your hand on the line.
12 And then you're basically swooping from the line over
13 and end up crawling around in the mud over the water,
14 digging in the mud trying to find a object.

15 Q. Can you see anything in front of your face?

16 A. No.

17 Q. It's all by feel?

18 A. Everything is by feel.

19 Q. And at any time, were you able to find a
20 weapon?

21 A. Yes.

22 MS. HARTMAN: Your Honor, the weapon has
23 already been checked by Deputy Keys.

24 Q. (By Ms. Hartman) I'm going to show you State's
25 Exhibit No. 72. Can you take a look at State's Exhibit

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1 No. 72?

2 A. Yes, ma'am.

3 Q. Does it look like the weapon that you found?

4 A. Yes, it looks like the weapon that was found.

5 Q. And how did you find -- what did you find the
6 weapon in?

7 A. It was wrapped in a plastic trash bag like you
8 get at a convenience store. Inside the plastic bag was
9 several newspapers that were wrapped around the gun.

10 Q. And did it have any water leakage in the bag or
11 anything?

12 A. Yes. The bag was full of water. The newspaper
13 was soaked through.

14 Q. And do you remember if the weapon had a clip in
15 it?

16 A. No, I do not recall. We did not physically
17 take the weapon out of the bag until CSU got there; and
18 we let them handle it. And I don't remember --

19 Q. Okay.

20 A. -- if there was a clip in it or not.

21 Q. And what do you do with the weapon in the
22 plastic bag?

23 A. As soon as we find an object under water, we
24 try to keep it in the water that it was in to prevent
25 any oxidation or anything happening to the gun. So, we

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1 take a Tupperware container, a piece of evidence -- an
2 evidence container underneath the water to try to scoop
3 up the mud and everything that it was sitting in in case
4 anything fell off the gun.

5 Q. Okay. I'm going to show you State's Exhibit
6 71.

7 A. Yes.

8 Q. Do you recognize that?

9 A. Yes. That's the container we used.

10 Q. Is that the container you used for the weapon
11 that was found?

12 A. Yes, ma'am.

13 MR. MADRID: No objection.

14 THE COURT: Admitted.

15 Q. State's Exhibit 71, is that what you were
16 telling the jury about?

17 A. Yes, ma'am.

18 Q. And you don't look at the weapon or open it up
19 at all?

20 A. No.

21 Q. And what's -- why don't you check it out?

22 A. To preserve any evidence that is there, try to
23 keep it exactly the way that it was found.

24 Q. So, you're not going to manipulate the trigger,
25 the chamber or the clip?

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1 A. No, ma'am.

2 Q. And was it found in Harris County?

3 A. Yes, it was.

4 Q. And do you recall who the CSU was that you gave
5 the weapon to?

6 A. It's in the report. I'd have to go back and
7 look at it.

8 Q. Was it Officer Wieners?

9 A. Yes.

10 Q. And have you -- and did you give it to him
11 immediately once it was found?

12 A. After it was found, we left it in the
13 Tupperware container and set it in the front seat of the
14 truck. Officer Thorson and I waited until CSU could
15 arrive to pick it up.

16 Q. And then you released it to him?

17 A. Yes, ma'am.

18 MS. HARTMAN: Pass the witness, Your
19 Honor.

20 MR. MADRID: Just briefly.

21 **CROSS-EXAMINATION**

22 BY MR. MADRID:

23 Q. Officer Therkildsen?

24 A. Therkildsen.

25 Q. Therkildsen. I'm sorry. So, you recovered the

1 gun, right? And then CSU took it, and they sent it off
2 to get tested at the lab?

3 A. They -- either that, or sometimes they tag it
4 in the property room first. Then it goes and gets sent
5 off and tested at the lab.

6 Q. And that's -- that's not anything that you do,
7 right?

8 A. No.

9 Q. But that's for ballistics to see in if matched
10 a murder or anything else?

11 A. Correct.

12 MR. MADRID: Thank you. Pass the witness.

13 THE COURT: You may step aside. Thank
14 you.

15 MS. COLLINS: State would call Robert
16 Wieners to the stand.

17 May I proceed, Your Honor?

18 ROBERT WIENERS,
19 having been first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. COLLINS:

22 Q. Can you please introduce yourself to the Court?

23 A. My name is Robert Wieners.

24 Q. And how are you employed?

25 A. At the present time I work for Aramco Services

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1 Company here in Houston. It's on subsidiary oil
2 company.

3 Q. Now, prior to that, did you work with the
4 Houston Police Department?

5 A. Yes, I did.

6 Q. How long were you with the Houston Police
7 Department?

8 A. I worked for the Houston Police Department for
9 eight years. The time span was from 2006 to 2014.

10 Q. During your time there, did you spend a portion
11 of your time at HPD in the CSU Unit?

12 A. Yes. Approximately the last year-and-a-half to
13 two years was in the Crime Scene Unit.

14 Q. Now, backing up, when you first came to the
15 Houston Police Department, was that your first job?

16 A. Was it my first --

17 Q. First job?

18 A. Job, as a professional?

19 Q. Yes.

20 A. Yes, it was. I had graduated from college in
21 2005.

22 Q. And when you came to the Houston Police
23 Department, did you go through the academy?

24 A. Yes. I went to the six-month basic academy
25 that the Houston Police Department hires people into.

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1 Q. Did you pass all the required testing for
2 certification as a peace officer?

3 A. Yes, I did. I graduated from the police
4 academy, and I was certified as a TCLEOSE police
5 officer.

6 Q. And have you maintained your certification as a
7 peace officer?

8 A. At the present time, I'm certified as a peace
9 officer. That will expire if I don't continue to work
10 as a peace officer, though.

11 Q. Fair enough. Now, I want to turn your
12 attention back to September and October of 2013. Were
13 you working with the Houston Police Department at that
14 time?

15 A. Yes, I was.

16 Q. And at that time, were you in the Crime Scene
17 Unit?

18 A. Yes, ma'am. In that time frame I was assigned
19 to the Crime Scene Unit.

20 Q. How long had you been at the Crime Scene Unit
21 at that point?

22 A. At that point, I want to say approximately one
23 year.

24 Q. Now, do you recall being called out to a
25 recovery of a weapon in a bayou?

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1 A. Yes, I do.

2 Q. Okay. And on what day were you called out?

3 A. I'll refer to my report for specific dates; but
4 I have here for Friday, October 4th, 2013.

5 Q. And why are you the person being called out for
6 the recovery of a weapon?

7 A. It was my understanding that Homicide and the
8 Dive Team were actively searching for some sort of
9 evidence in Braes Bayou. It was related to another
10 scene, a homicide scene. And they were actively trying
11 to recover evidence from the bottom of the bayou, and
12 they indicated that they had found something.

13 Q. And what are your responsibilities as a CSU in
14 that recovery process?

15 A. In evidence recovery my job is to go out and
16 document the -- basically, the state of the evidence and
17 then to ensure that it's properly collected and tagged
18 as evidence.

19 Q. So when you got out to the scene. And if you
20 can tell us, what is the address of the scene you were
21 called out to?

22 A. I wrote down here it was the eleven eight
23 hundred block of Alief-Clodine. Since it was a bayou,
24 we just used the nearest public roadway as a reference.

25 Q. And do you recall speaking to the officers that

ROBERT WIENERS - July 29, 2015
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1 was there at the scene?

2 A. I recall, based on what my report says, meeting
3 with an Officer Thorson, who was a member of the Dive
4 Team.

5 Q. And did they already have a weapon recovered
6 and ready for processing?

7 A. Yes. Officer Thorson had transferred custody
8 to me a plastic container, and he indicated that there
9 was a firearm inside of it.

10 Q. Turning your attention to the screen there in
11 State's Exhibit No. 71, is this the packaging that
12 you're talking about?

13 A. Yes, it is.

14 Q. Okay. Now, once you have a weapon that's been
15 recovered, what do you do with it?

16 A. Well, upon my arrival, like, typically my
17 scene, I guess, procedure would be to immediately
18 document the area and then document whatever evidence is
19 present when it's simply an evidence recovery-type call.
20 And in this case, once Officer Thorson turned custody of
21 the weapon to me, I photographed just what you see here,
22 since I wasn't going to open it, since it was already
23 contained. And I marked it with evidence tape and
24 ensured that it was properly transported where it needed
25 to go to be tagged as evidence.

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1 Q. Where does it go to be tagged as evidence?

2 A. In this case it was brought to the Houston
3 Police Firearms Locker, which is at 1200 Travis. And we
4 bring it there for firearms evidence that -- that can't
5 be unloaded and safely brought to the property room. We
6 put it in a locker there, and the only people with
7 access to that are the firearms lab.

8 Q. Is that considered a closed and secure area?

9 A. Yes, it is.

10 Q. Not somewhere that we can just walk into?

11 A. No. The general public would not have access
12 to that area.

13 Q. And when you tag an item of evidence, what do
14 you do to make sure that you know which case it belongs
15 to?

16 A. There is a series of paperwork that's filled
17 out. You have a submission form. And then you also
18 mark the evidence itself to ensure that the case number,
19 the date that it was recovered and, you know, who it was
20 recovered by, just general things that are on there to
21 help jog your memory in the future.

22 Q. Is that what you did in this case?

23 A. Yes.

24 Q. Showing you what's been marked as State's
25 Exhibits Nos. 73 and 72. Can you tell me if you

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1 recognize these items?

2 A. I recognize this as the pistol that was
3 recovered, and also the magazine.

4 Q. And how do you know recognize these items?

5 A. Because I took custody of them.

6 Q. Okay. And are they documented in the way you
7 just talked about, with case numbers and specific
8 sealing?

9 A. Yes. I mean, I see the evidence tape on the
10 bag. I also see what appears to be my handwriting on
11 the outside of it with the case number and the date.

12 Q. And other than possible testing that's been
13 done on them, do they appear to have been altered in any
14 way since you saw them in 2013?

15 A. No.

16 MS. COLLINS: Your Honor, at this time I'd
17 offer into evidence State's Exhibits Nos. 72 and 73,
18 tendering to opposing counsel.

19 MR. MADRID: No objection, Your Honor.

20 THE COURT: Admitted.

21 Q. (By Ms. Collins) This may seem like a silly
22 question. But the weapon that we just saw there, is
23 that considered a deadly weapon?

24 A. I believe it is, yes.

25 MS. COLLINS: Pass the witness, Your

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1 Honor?

2 THE COURT: All right.

3 MR. MADRID: I don't have any questions,
4 Your Honor.

5 THE COURT: Okay. You may step aside.
6 Members of the jury, I think the next
7 witness is going to be a little bit longer.

8 MS. COLLINS: Judge, we have one more
9 fairly short witness we can put on at this time.

10 THE COURT: You mean short this way, or
11 short that way?

12 MS. COLLINS: It won't take too much time,
13 we don't believe.

14 THE COURT: Okay. We'll let you do that
15 one first.

16 MS. COLLINS: State would call Kim Zeller
17 to the stand, Judge.

18 (Witness sworn)

19 **KIMBERLY ZELLER,**
20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MS. HARTMAN:

23 Q. Ma'am, can you please introduce yourself TO the
24 jury?

25 A. My name is Kimberly Zeller.

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Direct Examination by Ms. Collins*

1 Q. Miss Zeller, how are you employed?

2 A. I'm employed with the City of Houston at the
3 Houston Forensic Science Center as a firearms examiner.

4 Q. And do you have any specialized training or
5 education to become a firearms examiner?

6 A. Yes, I do.

7 Q. And what is that?

8 A. I have a bachelor's degree in biological
9 sciences from Southern Illinois University. I've also
10 completed a two-year in-house training program under the
11 direct supervision of experienced firearms examiners.
12 I've concluded armors courses from Sig-Sauer, Glock,
13 High Point Firearms and Smith & Wesson.

14 Q. How long have you been employed as a firearms
15 examiner?

16 A. Six-and-a-half years.

17 Q. What is a firearms examination?

18 A. It's the examination of firearms for
19 functionality, as well as examining fired evidence, such
20 as bullets and cartridge cases, to try to determine if
21 they were fired in a particular firearm or the same
22 firearm.

23 Q. Have you ever taught any classes or written any
24 papers in your -- as a firearms examiner?

25 A. Not related to firearms examination, no.

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1 Q. Do you belong to any professional
2 organizations?

3 A. Yes, I do.

4 Q. And have you received any continuing training
5 and education to maintain your status as a firearms
6 examiner?

7 A. I became certified. Is that what you're
8 asking?

9 Q. Yes.

10 A. Yes.

11 Q. And how long does that take?

12 A. Certification?

13 Q. Yes.

14 A. It's taking a test. It doesn't take a specific
15 amount of time. You do need two years of experience, at
16 least, to take a test.

17 Q. And have you ever testified before?

18 A. Yes, I have.

19 Q. In Harris County?

20 A. Yes, I have.

21 Q. On many or few occasions?

22 A. Approximately fifteen to twenty.

23 Q. And you testified as an expert?

24 A. Yes, I did.

25 Q. And what procedure do you do in making a

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1 determination when you're trying to compare and contrast
2 a firearm with a projectile? I'm sorry. That's a
3 horrible, horrible question. What is the purpose of a
4 firearms examination?

5 A. It's to determine if a firearm is functional,
6 as well as if the fired evidence that was received
7 matches back to a particular firearm, or if the evidence
8 itself matches to each other.

9 Q. And how do you determine if a firearm is
10 functional?

11 A. We do what's called a function test on it.

12 Q. And what is a function test?

13 A. It's testing the firearm to make sure it's safe
14 to fire first. We test the safeties to make sure
15 they're functioning properly. We check the overall
16 condition of the firearm, and we also produce a set of
17 test-fires. We shoot the firearm.

18 Q. I'm going to show you what's been previously
19 admitted as State's Exhibit No. 72. And it also has
20 been checked and cleared. Can you please take a look at
21 State's Exhibit No. 72 and 73, please?

22 A. Uh-huh. Okay.

23 Q. And do you recognize State's Exhibits 72 and
24 73?

25 A. Yes, I do.

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Direct Examination by Ms. Collins*

1 Q. Okay. And first of all, can you tell us what
2 State's Exhibits 72 is?

3 A. It's a semiautomatic pistol.

4 Q. Okay. And what's a semiautomatic pistol?

5 A. It's a pistol -- a pistol designed to fire with
6 each pull of the trigger. A cartridge, a round of
7 ammunition, is automatically loaded into the chamber
8 after the cartridge is discharged.

9 Q. How do you recognize State's Exhibit No. 72?

10 A. Through the item identifier number, as well as
11 the HPD incident number on the back.

12 Q. Okay. And does that correlate to any tests
13 that you have done on this weapon?

14 A. Yes.

15 Q. And when you received this weapon, it has got a
16 yellow band wrapped, it looks like, through the chamber
17 and all through where you load the magazine. Was that
18 in that position when you received it?

19 A. I don't know. I did not, personally, receive
20 it into the laboratory myself.

21 Q. What's the purpose for having this orange band
22 around it?

23 A. Safety. It ensures the firearm will not fire.

24 Q. Okay. And looking at State's Exhibit No. 73,
25 do you recognize that?

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1 A. Yes, I do.

2 Q. And how do you recognize State's Exhibits 72
3 and 73?

4 A. Both are marked with the HPD incident number,
5 as well as their unique item identifiers.

6 Q. Did you do any kind of functionality test on
7 State's Exhibit 72 with 73?

8 A. Yes, I did.

9 Q. And what tests did you do, and how did you
10 perform it?

11 A. I first check the safeties to see what was
12 present and functioning. I check to make sure the
13 firearm was clear of any fired or unfired ammunition. I
14 check the condition of the barrel of the firearm. I
15 test-fired the firearm. And I also check the
16 trigger-pull weight of this firearm.

17 Q. Okay. Was it -- what was the condition of the
18 weapon?

19 A. The overall finish condition was fair. There
20 were scratches and wear on the surface.

21 Q. Anything particular when you test-fired it?
22 Did it fire properly?

23 A. It did function. The mechanical condition of
24 this firearm, the slide, which is the top force of the
25 firearm, did not lock with a slide catch.

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1 Q. Would that inhibit it from firing at all?

2 A. No.

3 Q. And you said something about a trigger pull.

4 Can you tell the jury what a trigger pull is?

5 A. Trigger pull is the amount of force required on
6 the trigger rearwards to get the firearm to discharge.

7 Q. Did you do any additional testing on that
8 weapon?

9 A. No, I don't believe so.

10 Q. At any point in time, were you able to make any
11 comparisons with any projectiles or casings that were
12 received in this case?

13 A. Yes, I did.

14 Q. Now, are you able to make any type of
15 comparison between a projectile or casing to determine
16 what firearm it has been fired out of?

17 A. Yes, I can.

18 Q. And how do you do that?

19 A. We use what's called a comparison microscope.

20 Q. And what is a comparison microscope?

21 A. It's two compound microscopes linked together
22 that allow me to look at two pieces of evidence at the
23 same time under the same oculars.

24 Q. What are you looking for when you look at it
25 under the microscope?

1 A. Initially, I compare two items of evidence. I
2 check to make sure they are consistent in class
3 characteristics.

4 Q. What's class characteristics?

5 A. Those are characteristics that are produced
6 from the design of the firearm. They include caliber,
7 caliber family, number of lands and grooves on a
8 particular bullet, the type of firing pin impression on
9 the cartridge case, the relative positions of what's
10 called the extractor and ejector of a semiautomatic
11 pistol. If all of those agree in class, I can move on
12 to what's called individual characteristics.

13 Q. Will the individual -- what makes you be able
14 to determine that a specific bullet is fired from a
15 specific gun?

16 A. It's the individual characteristics.

17 Q. And is that -- how do you -- what do you look
18 at on these individual characteristics?

19 A. The individual characteristics are unique to a
20 particular firearm. They are produced during the
21 manufacturing process of that firearm. And when that
22 firearm is fired, those individual imperfections from
23 the barrel or the breech face or the firing pin are then
24 left on the fired evidence as it's fired.

25 Q. So, is that like every individual barrel is

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1 like a person's fingerprint, that it's unique to that
2 firearm?

3 A. I don't like the comparison to fingerprints
4 because I'm not a fingerprint examiner, but they are
5 unique and distinguishable -- excuse me --
6 distinguishable to a particular firearm.

7 Q. So, you wouldn't expect two different guns to
8 have the exact same characteristics when they fire a
9 bullet?

10 A. That's correct.

11 Q. Okay. Is that a better way to say it?

12 A. Yes. Thank you.

13 Q. Okay. Showing you what's been marked as
14 State's Exhibit No. 97. Where do you usually get
15 something -- the projectiles or casings that you test
16 weapons with?

17 A. They generally come from the property room.
18 All of our evidence typically comes from the property
19 room.

20 Q. And if you know, is that usually coming from
21 the CSU with HPD?

22 A. I don't really know.

23 Q. Do you ever get any casings or projectiles from
24 the Medical Examiner's Office?

25 A. We get things that are consistent with having

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1 come from the Medical Examiner's Office.

2 Q. And that could potentially be like No. 97,
3 where it has a sticker on it? Can you tell where this
4 has come from?

5 A. It says on the sticker that it comes from the
6 morgue.

7 Q. That would be the Harris County Medical
8 Examiner's Office, or now Institute of Forensic
9 Sciences?

10 A. I would assume so, yes.

11 Q. And State's Exhibit No. 107, that was contained
12 in Exhibit -- State's Exhibit 97, do you recognize that
13 at all?

14 A. Yes, I do.

15 Q. Can you tell us what State's Exhibit No. 107
16 is?

17 A. These are projectiles.

18 Q. And is there anything inside State's
19 Exhibit 107?

20 A. I'm sorry. Is there anything inside it?

21 Q. Right. What's -- when you say projectile, what
22 is a projectile?

23 A. The projectile -- may I use my model?

24 Q. Sure, I'm sorry. Go ahead.

25 A. This is a model of a cartridge. Some people

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1 call it a round. Some people have called it a bullet.
2 Bullet is an incorrect term. It's a cartridge. It's
3 got four components. Priors (phonetic) on the bottom,
4 cartridge case. Here is the small part. Your gunpowder
5 is the middle. And your bullet -- or your projectile is
6 here on the end. When I say projectile, this is the
7 portion I'm talking about.

8 Q. So, inevitably, what gets fired out from the
9 weapon?

10 A. The bullet travels down the bore. And in the
11 semiautomatic pistol the cartridge case is ejected,
12 typically, out of the top or the side.

13 Q. Now, looking from the contents of State's
14 Exhibit No. 107, I'm going to to show you its contents,
15 which is State's Exhibit No. 108, 109, 110, 111 and 112
16 and 113. Can you take a look at those, please? Do you
17 recognize these?

18 A. Yes, I do.

19 Q. How do you recognize these?

20 A. They have the unique item identifier, as well
21 as the HPD incident number.

22 Q. What is a unique item identifier?

23 A. As evidence is received in a case, it gets a
24 unique item number that they start with 1 and they get
25 bigger as more evidence is collected. Then when we get

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1 it into the laboratory, sometimes more than one item of
2 evidence is listed under a particular item number. We
3 sub item that out and break it down into individual
4 numbers so we can distinguish between pieces of
5 evidence.

6 Q. And how does that tie into State's Exhibit
7 No. 72? How -- do you keep these -- how do you know --
8 let me rephrase that. When you're testing a weapon or a
9 firearm, are you able to make the determination that it
10 comes from a specific firearm?

11 A. Yes, I can.

12 Q. And judging from State's Exhibit No. 108
13 through 113, were you able to make any kind of analysis
14 to see if it came from a particular firearm?

15 A. Some of the items, yes, I could.

16 Q. Okay. And how were you able to make that
17 determination that it came from a particular weapon?

18 A. By the agreement of the individual
19 characteristics left on the fired evidence as compared
20 to the test-fires that I shot in the laboratory.

21 MS. HARTMAN: Your Honor, at this time I
22 offer State's Exhibits 107 through 113.

23 MR. MADRID: No objection, Your Honor.

24 THE COURT: Admitted.

25 Q. (By Ms. Hartman) Looking at State's Exhibit

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1 No. 108, can you see that okay?

2 A. Yes. It would be helpful to see our item
3 identifying towards the top of the bag so I can make
4 sure I'm looking at the right --

5 Q. Is that it?

6 A. Yeah.

7 Q. Okay. Okay. So, can you tell the jury what
8 State's Exhibit No. 108 is?

9 A. It's called a bullet core.

10 Q. And looking at your model, where would that
11 come from?

12 A. It's part of the bullet portion. We think of a
13 jacketed bullet as kind of like an M & M. The inside,
14 the chocolate, is the core. And the outside, the
15 jacket, is the candy shell.

16 Q. And what kind of test did you do on State's
17 Exhibit 108?

18 A. I looked at it under the microscope to see if
19 there were any individual characteristics left from
20 firing.

21 Q. Did you find any individual characteristics on
22 it?

23 A. No, I did not.

24 Q. Were you able to make any determination on what
25 firearm it was fired from?

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1 A. No. It's considered unsuitable for
2 examination.

3 Q. And why would something be considered
4 unsuitable?

5 A. If it doesn't have those individual
6 characteristics, there is nothing to really compare it
7 to.

8 Q. Are you surprised that you've got a projectile
9 and you find it unsuitable for examination or
10 comparison?

11 A. No, I'm not surprised.

12 Q. Is that normal or abnormal?

13 A. It occurs frequently.

14 Q. I'm going to show you State's Exhibit No. 109.
15 Is that -- I'm sorry. If you flip it over I can read
16 the number so it's not backwards. Okay. Thank you.
17 Look at State's Exhibit No. 109. Can you tell the jury
18 what that is?

19 A. It's one fired bullet jacket fragment.

20 Q. And were you able to make any comparison to
21 determine a firearm that it came from?

22 A. That one was inconclusive. It could not be
23 determined if it was fired out of State's Exhibit 72.

24 Q. And does that surprise you in any way?

25 A. No, it does not.

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1 Q. Sometimes are things too small to -- fragments
2 too small to make a determination?

3 A. Too small, too damaged, yes.

4 Q. State's Exhibit 110. Again, were you able to
5 make any determination on State's Exhibit 110?

6 A. No. It was also inconclusive.

7 Q. Looking at 11.

8 A. Okay yes.

9 Q. Were you able to make any determination on
10 that?

11 A. Yes, I was.

12 Q. And what kind of -- how did you go about your
13 examination on State's 111?

14 A. I used the comparison microscope, and I
15 compared it back to the test-fires produced from State's
16 Exhibit 72. And in my opinion, I came to the conclusion
17 that State's Exhibit 111 was fired in State's Exhibit
18 72.

19 Q. Okay. Looking at State's Exhibit No. 112, were
20 you able to make any determination on State's Exhibit
21 No. 112?

22 A. Yes, I was.

23 Q. And what determination were you able to make?

24 A. In my opinion, State's Exhibit 112 was also
25 fired in State's Exhibit 72.

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1 Q. And looking at State's Exhibit 113, were you
2 able to make any determination from State's Exhibit
3 No. 113?

4 A. In my opinion, it was also unsuitable for
5 examining.

6 Q. Now, can you tell the jury what type of weapon
7 State's Exhibit No. 72 is?

8 A. It's a 9-millimeter Luger Star Model BM pistol,
9 Serial Number SBM2391.

10 Q. And what is a semiautomatic pistol?

11 A. It's a pistol designed to be held with one hand
12 or two, and it automatically loads cartridges from a
13 magazine into the chamber through the cycle of fire
14 process.

15 Q. And you could expect to have a casing ejected
16 from a semiautomatic pistol?

17 A. In a properly working pistol, yes.

18 Q. And, also, that if one was fired at a crime
19 scene, there could potentially be a casing that was
20 found?

21 A. It's possible, yes.

22 Q. I'm going to show you State's Exhibit No. 28A.
23 Can you take a look at that, please? And 58A, were you
24 able to do any type of analysis on State's 58A and to
25 make a determination of a weapon that it was fired from?

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1 A. Yes, I could.

2 Q. And how would you go about making a
3 determination on State's 589A?

4 A. I would again compare it to the test-fires I
5 produced from the firearm.

6 Q. Did you compare it to the test-fires of the
7 firearm?

8 A. Yes.

9 Q. What was your conclusion once you compared it?

10 A. In my opinion, State's Exhibit 58A was also
11 fired from State's Exhibit 72.

12 Q. And this would be considered a complete casing?

13 A. One fired cartridge case, yeah.

14 Q. And that would be the bottom part there of your
15 display?

16 A. It would be this portion right here, yes.

17 Q. And looking at State's Exhibit No. 28A, did you
18 do the same type of analysis on State's 28A?

19 A. Yes, I did.

20 Q. And were you able to make any type of
21 comparison?

22 A. Yes, I was.

23 Q. And what was your conclusion on that
24 comparison?

25 A. In my opinion, State's Exhibit 28A was also

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1 fired in State's Exhibit 72.

2 Q. And do you know if State's Exhibits 111 and
3 112 -- these wouldn't be part of a casing, would they?

4 A. I'm sorry. You have to refresh my memory what
5 State's Exhibit Nos. were. I'm sorry.

6 Q. I apologize.

7 A. You asked if they were part a casing?

8 Q. Correct.

9 A. Meaning this portion?

10 Q. Yes.

11 A. No, they're not.

12 Q. Okay. What would -- what are they part of?

13 A. They're part of the projectile, which is this
14 portion here.

15 Q. Okay. And that's what actually gets fired out
16 of the firearm?

17 A. It's what travels down the barrel of the
18 firearm, yes.

19 Q. And would you consider State's Exhibit No. 72 a
20 deadly weapon?

21 A. Yes, I would.

22 MS. HARTMAN: Pass the witness, Your
23 Honor.

24 MR. MADRID: Cross-examination, Your
25 Honor?

1 **CROSS-EXAMINATION**

2 BY MR. MADRID:

3 Q. Good afternoon, Miss Zeller.

4 A. Hi.

5 Q. Would analyst be the right thing?

6 A. Firearms examiner.

7 Q. Just to address you correctly, I don't know if
8 I'm supposed to call you firearms examiner. Miss Zeller
9 is all right?

10 A. Yes, that's fine.

11 Q. Okay, now the things that you're talking about,
12 these State's Exhibits, the 9-millimeter and the casings
13 and jackets and all that, you get those -- I guess CSU
14 gets them, right?

15 A. I assume so, yes.

16 Q. And they put them in that container that we're
17 looking at?

18 A. I believe so, yes.

19 Q. And they leave them in a locker; and at some
20 point it gets to you, is the bottom line?

21 A. That's correct.

22 Q. And you had a report that you prepared of the
23 things that you analyzed, right?

24 A. That's correct.

25 Q. And in it you refer to some things, a couple of

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1 offense reports, I think. And you refer to ML132812 and
2 ML132860, that's from the Medical Examiner's Office,
3 right?

4 A. Those are numbers that are consistent as having
5 come from the Medical Examiner's Office, yes.

6 Q. So if somebody gets shot or some fragment, or
7 some part of a cartridge, or bullet or whatever you want
8 to call it -- but something is found in a person, they
9 go to the medical examiner because they've passed away.
10 They do autopsy. That piece of evidence, that's what
11 we're talking -- some of these things is what we're
12 talking about, right?

13 A. They appear -- some of these things do appear
14 to have come from the Medical Examiner's Office.

15 Q. And other evidence could be something left at
16 the scene, right?

17 A. It's possible.

18 Q. Cartridge flies out, CSU picks it up; and then
19 you examine it, right?

20 A. That is possible.

21 Q. And you also refer to an incident number. And
22 I'm going to show you something, an incident No. 108 --
23 hold on a second -- 108384913, right?

24 A. I'm not sure if that's the incident number
25 we're talking about today.

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1 Q. Well, as part of this -- let me -- I will show
2 you, and tell me if you prepared this or not. If you
3 look -- sorry. The third page of this. You're the
4 primary examiner in what I'm showing you, right?

5 A. Yes.

6 Q. Lab report No. 5. And on this report the
7 9-millimeter that was recovered in this case, you tested
8 it, right?

9 A. Yes. I'm not sure what State's Exhibit you're
10 talking about, the Starfire 9-millimeter Luger fire --

11 Q. Yes.

12 A. Yes, I tested it.

13 Q. I don't remember the number, but the
14 9 millimeter, serial number SBM2391.

15 A. Yes, that's correct.

16 Q. We're talking about the same thing?

17 A. Yes.

18 Q. And you tested that against a couple of things.
19 One is a Incident No. 108384913. Would you agree with
20 that?

21 A. Yes.

22 Q. And I'm going to show you -- going to show you
23 this incident number. Does it correspond -- sorry. I
24 don't expect you to remember that number.

25 A. Yes, it does.

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1 Q. And you tested a fired jacket bullet in that
2 Item 5.1, right?

3 A. Yes.

4 Q. And if you can help me fill this out, just
5 because I think it will help the jury a little bit.
6 This is the same item number -- I mean, incident number,
7 correct?

8 A. Yes.

9 Q. And look at that incident number. There is a
10 complainant named Ricardo Rodriguez --

11 A. Yes.

12 Q. -- is that right?

13 A. Yes.

14 Q. And I'm writing that here. And in that there
15 is Item 5.1. And if you could for me just fill in what
16 Item 5.1 is. It's a fired jacketed bullet fragment?

17 A. Uh-huh.

18 Q. And in the other incident number that's listed
19 in your report, it's 109872313. Does that correspond
20 with this incident number?

21 A. Yes, it does.

22 Q. And in that incident number there is a
23 complainant named Jhon Bermudez-Gilces; is that correct?

24 A. Yes.

25 Q. And I've listed that here under the incident

1 number. You see that?

2 A. Yes.

3 Q. And when you did your test, there were some
4 things, Item 5.1, and Incident No. 1084913, the one we
5 marked, and Items 1, 18, 16.2 and 16.3, and the other
6 incident number that you determined were fired from the
7 9 millimeter that we're talking about, correct?

8 A. Yes, that's correct.

9 Q. So if you can, if you have space here, next to
10 Item 1, if you could write fired 9-millimeter cartridge
11 case -- and I'm trying to fit it all on the paper, if
12 you can -- and 16.2, fired bullet jacket, and 16.3,
13 fired bullet jacket, and Item No. 18 would be fired
14 9-millimeter cartridge case?

15 A. Sorry. I'm catching up sorry.

16 Q. Okay. Okay. And these items that were tested,
17 they were the items that the State has presented as
18 evidence. They were both tested. And in your report,
19 you said they were fired in this 9-millimeter, right?

20 A. I'd like to double-check.

21 Q. Yes. I'm sorry.

22 A. Yes, that's correct. Those are my findings.

23 Q. And so, could you write that, fired from
24 9-millimeter and maybe put the serial number? That's
25 SBM23791. Okay. And, you know, looking at all this

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1 evidence, it gets a little confusing. So, I wanted to
2 do this diagram. Do you think it would help the jury to
3 understand what was fired from where?

4 A. Yeah. It seems a bit more of a summary.

5 Q. Okay. I know you do a lot more work, but I'm
6 trying to break it down and make it easy for me and for
7 the jury.

8 MR. MADRID: Your Honor, I offer State's 3
9 (sic), present it to the State for objection.

10 MS. HARTMAN: No objection.

11 THE COURT: Admitted.

12 Q. (By Mr. Madrid) Just go over this very
13 quickly. The thing we have listed here, incident
14 number, this is the one on top that you have listed in
15 your report. There was a complainant named Ricardo
16 Rodriguez. And from his case there was a fired jacketed
17 bullet, right?

18 A. Yes, according to your paperwork, yes.

19 Q. And according to the -- to your report that I
20 showed you, Laboratory No. 5, that shows you were the
21 primary examiner?

22 A. Yes. I just don't know who the suspects or
23 victims or complainants were in my cases.

24 Q. Oh, yeah, I know. That's why I showed you the
25 offense report. And when you saw the offense report,

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1 that's the name that you saw?

2 A. Yes.

3 Q. And this other incident number, the name that
4 you saw was Jhon Bermudez-Gilces?

5 A. Yes, that's correct.

6 Q. And there were things fired there, four
7 different things that you examined; cartridge case,
8 bullet jacket, bullet jacket and cartridge case. All of
9 those things with those two different complainants were
10 fired from the same 9-millimeter, correct?

11 A. That's correct, in my opinion, yes.

12 Q. And that's the 9-millimeter the State showed?

13 A. Yes.

14 Q. Thank you?

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

16 MS. HARTMAN: Nothing further, Your Honor.

17 THE COURT: You may step aside.

18 Members of the jury, I tried to tell you
19 before we had the last short witness, we're going to
20 take a short break. Not going to be that much longer,
21 but we have a couple of people we need to get out of the
22 way. Please retire. We'll call you back shortly.

23 (Brief recess)

24 MR. MADRID: Can I put something on the
25 record before we start?

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1 what he's going to say or what his expertise is or
2 anything about him. I'm just saying now I'll overrule
3 the objection, but please make it timely. Just say, I
4 object consistent with what we talked about. Can you do
5 that?

6 *MR. MADRID:* Yes, I can.

7 *THE COURT:* You don't have to say
8 anything.

9 *MR. MADRID:* Just so there is a context to
10 my objection, I don't think there is going to be any
11 evidence that my client is a current member of MS-13 or
12 anything to that effect, simply that he said he was an
13 MS-13.

14 *THE COURT:* Since he's been in jail, I
15 guess not.

16 *MS. HARTMAN:* He's a documented -- he
17 admits to being a documented gang member, so he is a
18 documented gang member.

19 *MR. MADRID:* And I'll object to it.
20 That's my objection.

21 *THE COURT:* All right. Until you learn
22 the definition of short, get out of here.

23 Let's bring the jury back in and get their
24 one witness.

25 *(Jury enters courtroom)*

1 THE COURT: Members of the jury, I've
2 changed my thinking a little bit. I had intended to
3 have two or three more witnesses, but we're only going
4 to have one because that person is not available Friday.
5 The others will be available Friday, and we'll just come
6 back Friday and finish it. Everybody's kind of tired, I
7 know. And you've been sitting and listening, and
8 everybody's been working pretty hard. So, we're going
9 to have one more witness, and that will be it for this
10 evening. I can't tell you whether it's going to be
11 short or long, because nobody knows the definition of
12 short any anymore.

13 All right. Call your next.

14 MS. COLLINS: Yes, Your Honor. State
15 calls Officer Sosa to the stand request.

16 (Witness sworn)

17 **JESUS SOSA,**

18 having been first duly sworn, testified as follows:

19 **DIRECT EXAMINATION**

20 BY MS. COLLINS:

21 Q. Officer, could you please introduce yourself?

22 A. My name is Jesus, J-E-S-U-S, Sosa, S-O-S-A.

23 Q. How are you employed?

24 A. I'm a police officer with the Houston Police
25 Department.

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1 Q. And where are you currently assigned within the
2 Houston Police Department?

3 A. Homicide Division.

4 Q. How long have you been with Homicide?

5 A. Seventeen years, ma'am.

6 Q. Okay. We've heard about the academy that peace
7 officers go through at HPD. Did you go through that
8 academy?

9 A. Yes, ma'am, I did.

10 Q. Are you a certified peace officer in the State
11 of Texas?

12 A. Yes, I am.

13 Q. And have you maintained the classes and
14 certification throughout your tenure at the Houston
15 Police Department?

16 A. Yes, I have.

17 Q. Specifically, with regard to being in the
18 Homicide Division, how many years did you say you've
19 been there?

20 A. Seventeen.

21 Q. When you first started at the Homicide
22 Division, did you receive additional training on how to
23 work as a Homicide investigator?

24 A. Yes, ma'am, I have.

25 Q. And additionally to that, do you have expertise

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1 in the field of gangs?

2 A. Yes, ma'am. I specialize in Hispanic prison
3 gangs and criminal street gangs.

4 Q. Can you tell us a little bit about the
5 education and training you've received in that field?

6 A. Besides regular classroom training that I've
7 taken throughout the years, I was assigned to the FBI's
8 Multi Agency Gang Task Force. And the FBI sent me to
9 the country of El Salvador for training specifically
10 regarding the MS-13 criminal street gang.

11 Q. Can you tell us what -- we hear the term,
12 MS-13. What does that mean really?

13 MR. MADRID: Your Honor, I object,
14 previous objection that I had to this matter.

15 THE COURT: That will be overruled.

16 A. MS-13 is pretty much an acronym. M stands for
17 Mara, S, Salvatrucha, and the 13 is trece, or referring
18 to the 13th letter of the alphabet, the M for Mexican or
19 Mexico.

20 Q. Now, you said you received specific training in
21 this -- is this considered a criminal street gang?

22 A. Yes, ma'am. It is an international criminal
23 street gang.

24 Q. And how long did you stay in El Salvador to
25 receive this training?

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1 A. Actually, it was a three-week period of
2 training. We trained in Los Angeles for one week. We
3 came back to Houston, and we trained the other officers
4 here in Houston for one week. And then we went down to
5 El Salvador and trained for one week down there.

6 Q. Why El Salvador? Why is that special with
7 regards to MS-13?

8 A. That's considered the hub of MS.

9 Q. When we talk about criminal street gangs, what
10 does that mean?

11 A. A criminal street gang is pretty much a gang
12 that has an established hierarchy with codes of conduct
13 and rules of discipline.

14 Q. And does MS-13 have that type of hierarchy?

15 A. Yes, they do.

16 Q. Can you tell us a little bit about the
17 hierarchy within MS-13?

18 A. On the national level you have one world ruler
19 with his echelon or soldiers that go below him. If you
20 break it down to the normal street level here in
21 Houston, every neighborhood pretty much has -- that has
22 the MS gang in them have their own Clique leaders. You
23 have one person who's called the Vatdepalebro,
24 V-A-T-D-E-P-A-L-E-B-R-O. And below him you will have --
25 or the Vatdepalebro is the Clique leader or the

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1 shot-caller. Below him you will have the Ranflero,
2 R-A-N-F-L-E-R-O, which is the driver, and then the Guia,
3 G-U-I-A, which is the guide or the one that gives the
4 intel. And then below them you'll have typically
5 thirteen or more soldiers.

6 Q. Okay. Now, hearing that sounds a little bit
7 like TV. How prevalent is this group in the Houston
8 area?

9 A. I've been working in MS-13 cases since 2000. I
10 was the first investigator to work the war that started
11 here in Houston with MS-13 and the Southwest Cholos.
12 We've been here for a long time.

13 Q. When you talk about every neighborhood, are we
14 talking about every neighborhood in Houston having some
15 form of this?

16 A. North, south, east, west, all the way up to
17 Conroe. In the Houston area, all the way down to
18 Galveston. They're all over.

19 Q. When we take about a hierarchy within MS-13,
20 does it tend to be the older guys in charge of the
21 younger guys?

22 A. Pretty much, but I will say this: The youngest
23 leader that I've worked on was thirteen years of age.

24 Q. Let me ask you this: In any type of criminal
25 street gang, but specifically MS-13, is this something

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1 you're born in or is there recruitment?

2 A. No. You're recruited into it. You're forced
3 into it, or you willingly go into it.

4 Q. When we talk about recruitment, what are we
5 talking about? What do they actually go out and do?

6 A. They'll target young kids anywhere from ten to
7 fifteen years of age, and they'll entice them with drugs
8 and girls. And then once they lure them into the gang,
9 they have to perform some type of criminal act.

10 Q. And is that sort of an initiation process into
11 the gang?

12 A. Yes, ma'am, it is.

13 Q. Now, obviously, you know we're here for a
14 specific case today, correct?

15 A. Yes, ma'am.

16 Q. Can you tell us what your involvement is in the
17 case involving Jhon Bermudez-Gilces?

18 A. I was one of the original scene investigators,
19 ma'am.

20 Q. Were you actually called out on September 1st?

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

22 Q. Now, can you tell us -- we've heard a little
23 bit about the scene, so I don't want to go into too much
24 detail with you.

25 A. Yes, ma'am.

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1 Q. But when you get out to the scene that day, do
2 you do an investigation of the neighborhood?

3 A. Yes, ma'am.

4 Q. Does that include knocking on doors and seeing
5 who heard what and who saw what?

6 A. That is correct.

7 Q. Now, in this case, were you able to find an
8 eyewitness to this murder?

9 A. No, ma'am, we were not.

10 Q. Were you able to find ear witnesses, people who
11 had heard something that evening before?

12 A. Some said they heard noises. But, you know,
13 that will lead us in a certain direction, no, we didn't
14 have anything like that.

15 Q. Okay. Did there seem to be a basic time frame
16 for when people had heard these noises?

17 A. Yes, ma'am, anywhere from late afternoon to --
18 through early evening.

19 Q. Now, in this case, were you tasked -- well, did
20 you follow the investigation through to the end?

21 A. No, ma'am. My partner and I, Xavier Avila,
22 X-A-V-I-E-R, A-V-I-L-A -- he and I were the scene
23 investigators, and then the case was reassigned to
24 Sergeant Dillingham and Sergeant Jewel. But because of
25 the Spanish involvement in the case, we were pulled back

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1 into the investigation.

2 Q. And just as a side note, can you tell me,
3 August 31st of 2013, what day of the week was that?

4 A. I believe that was a Saturday, ma'am.

5 Q. Now, through your interviewing different people
6 in this case, did you become familiar with who the
7 suspects were?

8 A. Yes, ma'am.

9 Q. Show you some photographs here. Can you tell
10 us, what was your understanding of the people who were
11 thought to be involved in the murder of Jhon
12 Bermudez-Gilces?

13 A. The three gentleman on the top are the three
14 codefendants, and the gentleman at the bottom is a
15 witness. The two gentlemen -- the one in the middle,
16 the defendant. The gentleman on the left, Osmin
17 Hernandez, they live in the same apartment complex. And
18 the gentleman on the far right Mr. Arredondo was a
19 friend of the witness.

20 Q. Okay. And let me back up just a little bit
21 with you. You mentioned State's Exhibit No. 61, Osmin
22 Hernandez, and 62, Mario Paredes, that you understood
23 they were friends; is that correct?

24 A. Yes, ma'am.

25 Q. Okay. Now, in the course of your

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1 investigation, being that you're involved in gang
2 investigation, did you see if these two individuals were
3 a part of a criminal street gang?

4 A. Yes, ma'am. I checked or researched the
5 database that we call the gang tracker system, and I was
6 able to find that both of them are listed and documented
7 in the gang tracker system.

8 Q. Now, let me ask you this: In your experience,
9 both through training, as well as your experience as a
10 homicide investigator, would you say that people who are
11 in a gang together tend to be pretty tight?

12 A. Yes, ma'am.

13 Q. Does it tend to be fairly close-knit groups?

14 A. Yes, ma'am.

15 Q. In your experience, are these people that --
16 well, that trust each other?

17 A. They have to.

18 Q. Commit crimes together?

19 A. In order to commit a crime with somebody, you
20 have to trust them.

21 Q. Now, in your investigation, were you able to
22 learn whether or not Gerardo Arredondo was a documented
23 gang member?

24 A. I cannot find anything to specifically say that
25 he was a gang member.

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1 Q. And do you believe that as of August 31st of
2 2013, he had been initiated into the MS-13 gang yet?

3 A. Through the information we developed, he was
4 being lured into an initiation process.

5 Q. Okay. Now, looking down here at State's
6 Exhibit No. 63, Nilson Alvarado, were you able to
7 confirm whether or not he was a documented gang member
8 at that time?

9 A. I was not, ma'am.

10 Q. Now, you mentioned this hierarchy within the
11 gangs.

12 A. Yes, ma'am.

13 Q. Were you able to confirm whether or not Osmin
14 Hernandez or Mario Paredes were a part of this
15 hierarchy?

16 A. They both told me they were, ma'am.

17 Q. Specifically, what did they say concerning
18 their position?

19 A. They claimed they were both no longer in the
20 gang, but they did admit they both belonged to MS-13.
21 Mr. Hernandez belonged to the Coronado's Clique, and the
22 defendant belonged to the Esperanza Clique.

23 Q. Now, let me ask you this, Officer Sosa: Did
24 you necessarily believe either of these two
25 individuals, either Osmin Hernandez or Mario Paredes,

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1 were actually no longer involved in MS-13?

2 A. No, ma'am.

3 Q. Why not?

4 A. MS-13 is blood in, blood out.

5 Q. What do you mean by that?

6 A. You have to kill someone to get out. You have
7 to die to get out.

8 Q. In your experience, did you discover anything
9 that would lead you to believe that these two
10 individuals were, in fact, then out of the gang?

11 A. They continue their criminal activity. They
12 continue hanging around with each other. They're still
13 MS.

14 Q. Now, were you ever out at the Coventry Street
15 Apartments where Osmin Hernandez lived?

16 A. Yes, ma'am.

17 Q. During your time there, did you discover any
18 evidence of what we called tagging or graffiti or
19 MS-13-related signs?

20 A. Yes, ma'am, I believe we did find some
21 graffiti.

22 Q. And we see graffiti all over Houston. What's
23 specific about MS-13 graffiti that would distinguish it
24 from just somebody painting on the side of a wall?

25 A. Typically, you'll have the distinguished --

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1 distinct MS followed by a hyphen with either the X and a
2 3 or the 1 and the 3. You'll also have the MS hand
3 sign. It could be open or closed. And you'll have
4 characters with the blue and white coloring, or you'll
5 have the Salvadorian flag somewhere near or on the
6 cartoon character or around the tag itself.

7 Q. Now, you mentioned that you did many of the
8 interviews of the people that we see up there.
9 Specifically, did you interview Osmin Hernandez?

10 A. Yes, ma'am, I did.

11 Q. Did you interview Gerardo Arredondo?

12 A. Yes, ma'am, I did.

13 Q. And did you do an interview of Nilson Alvarado?

14 A. Yes, ma'am.

15 Q. Now, I want to talk specifically about Gerardo
16 Arredondo first.

17 A. Yes, ma'am.

18 Q. Did you do the first interview with him or the
19 second?

20 A. I believe it was the second interview.

21 Q. Okay. Now, at the time that you go in to do a
22 second interview -- let me ask you this: Why are you
23 interviewing him again if you didn't get what you wanted
24 the first time?

25 A. Because I knew I could get into his head and --

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1 I'm considered a gang expert because of my Spanish
2 skills, and I can communicate with someone. And if I'm
3 able to communicate with them, they'll usually open up
4 to me and tell me what it is that they did.

5 Q. Did you feel like Gerardo Arredondo opened up
6 to you because of that?

7 A. No suspect completely tells you the truth.
8 They always leave you with a little bit of information
9 just dangling in front of you, but they won't give you
10 everything. It's like pulling teeth.

11 Q. And is that how you felt about your interview
12 with Arredondo?

13 A. With all of them, ma'am.

14 Q. Okay. Specifically, with Arredondo during that
15 second interview, did you believe that there were things
16 that he said that were truthful?

17 A. Yes, ma'am. Some of them were. But, you know,
18 specific details usually contradict one another.

19 Q. When people are contradicting themselves, is it
20 usually because they're trying to get out of trouble or
21 into trouble?

22 A. Get out.

23 Q. Did you feel like that Arredondo was trying to
24 shove aside responsibility during your interview with
25 him?

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Direct Examination by Ms. Collins

1 A. Yes, ma'am.

2 Q. Nevertheless, did a lot of facts that he told
3 you about the timeline of that evening add up with the
4 physical evidence and video surveillance?

5 A. Yes, ma'am.

6 Q. How many times did you interview Nilson
7 Alvarado?

8 A. I believe it was only one time, ma'am.

9 Q. Same with Nilson as I asked with Arredondo.
10 Did you feel like Nilson Alvarado a was completely open
11 and honest with you?

12 A. No, ma'am. He would get confused regarding the
13 seating arrangements in the vehicle. That's when I knew
14 he was trying to make things up.

15 Q. Now, same question again. Did you feel like,
16 as far as the timeline he gave of events and the people
17 involved, that he was consistent with the physical
18 evidence and video surveillance?

19 A. Yes, ma'am.

20 Q. And again, the thing that he was being
21 dishonest with, did you feel like he was trying to shove
22 aside some of the responsibility from himself?

23 A. That, and I believe he was trying to protect
24 his uncle.

25 Q. And is that Osmin Hernandez?

JESUS SOSA - July 29, 2015
Direct Examination by Ms. Collins

1 A. That is correct.

2 Q. Were you the officer that was speaking with
3 Arredondo when he agreed to give up the position of
4 where he dropped the gun?

5 A. Yes, ma'am.

6 Q. Did he, in fact, take you out to the bayou
7 where you eventually located the firearm used in this
8 case?

9 A. Yes, ma'am.

10 Q. At that point in the interview, did you feel
11 like he was opening up more about the truth of what
12 happened that evening?

13 A. Yes, ma'am.

14 MS. COLLINS: Pass the witness, Your
15 Honor.

16 THE COURT: Okay.

17 MR. MADRID: Cross-examination, Your
18 Honor?

19 **CROSS-EXAMINATION**

20 BY MR. MADRID:

21 Q. Is it Officer Sosa? Is that the proper term?

22 A. Yes, sir.

23 Q. Good afternoon.

24 A. Yes, sir.

25 Q. Osmin Hernandez and Mario Paredes, they were

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1 friends, right?

2 A. Yes, sir.

3 Q. It's your understanding that they told, you
4 they were in two different cliques but the same gang; is
5 that right?

6 A. Yes, sir, that is correct.

7 Q. And what was told to you about Mario Paredes
8 is -- it was to have the name of a neighborhood in El
9 Salvador, right?

10 A. That's correct.

11 Q. And your belief that he's somehow an MS-13,
12 well, that, that he was in it -- and I guess your belief
13 is that he's still in it; because through your training
14 you said you have to be killed or something to get out
15 of it, right?

16 A. Yes, sir.

17 Q. But you didn't have any -- other than that,
18 that's your belief. And you said he kept hanging out
19 with this other guy. The truth is they worked together,
20 didn't they?

21 A. Yes, sir, that's correct.

22 Q. And so -- and they worked at a job. I mean,
23 they didn't work -- like, they're not going out, as far
24 as you know, out breaking into houses or -- other than,
25 obviously, they were suspects and now defendants in this

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1 murder case, capital murder case. You're basing that on
2 them hanging out together and the fact they admitted to
3 it, right?

4 A. That and my experience, sir.

5 Q. And when you said you believe you saw graffiti,
6 you didn't take any pictures of graffiti or MS-13
7 graffiti in that area, did you?

8 A. No, sir. At the time we weren't aware that
9 there was an MS-13 nexus to the investigation. We were
10 working just as a drug rip.

11 Q. It's really just a drug thing. I mean, you
12 didn't see -- like when you say you're talking about
13 gangs, I'm thinking about a group of people as a gang
14 that hang out together, committing crime together,
15 things like that. These are two men that worked
16 together, right?

17 A. I'd have to agree with you.

18 Q. And there wasn't necessarily -- and the
19 evidence is there -- just like you see in a lot of these
20 immigrant-type neighborhoods and low income apartments,
21 couple of guys hanging out, drinking by a car or truck,
22 right?

23 A. Yes, sir.

24 Q. I mean, that's not necessarily any kind of
25 gang -- any sign of any kind of -- somebody

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1 participating in anything with a gang, right?

2 A. Not necessarily.

3 Q. I mean, maybe killing somebody is. And I'll
4 give you that, obviously. But you don't necessarily
5 know that, hey, this was some kind of gang hit. This
6 complaining witness, Jhon Bermudez-Gilces, he wasn't in
7 a gang or anything, right?

8 A. No, sir. I never found anything documenting
9 him as a gang member.

10 Q. He was a drug dealer, and he got killed for his
11 drugs probably?

12 A. That's what I believe, sir.

13 Q. Did -- I'm going to show you a map of the area.
14 Before I -- you also worked as a part of this -- I guess
15 there was four different investigators. You worked with
16 Avila, right?

17 A. Yes, sir. He was my partner at the time.

18 Q. And I think Chavez was working. I don't
19 remember his name. But there was like six different
20 other people from CSU that did supplements; but you had
21 a supplement in this case, right?

22 A. Several.

23 Q. And several, right?

24 A. Yes, sir.

25 Q. But you also had a supplement in the case that

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1 Arredondo was involved in two days before, right?

2 A. Yes, sir.

3 Q. The one with Ricardo Rodriguez was the
4 complaining witness?

5 A. I believe that was his name. I'm not prepared
6 for questions regarding that case.

7 Q. I'll show you -- you don't have to peruse the
8 whole thing. But if it helps you out, I'll give you a
9 copy here. That's the August 29th case.

10 A. Yes, sir, I believe this is it.

11 Q. Okay. So -- and you can see that's Ricardo --
12 I think it's Ricardo Rodriguez, the complainant?

13 A. Yes, sir.

14 Q. Now, Mario Paredes was not a suspect or named;
15 or he's not at all a part of that case, correct?

16 A. I was not able to link him to that case, sir.

17 Q. So, he's not a suspect. He wasn't named at
18 all. He's not in that report anywhere, is he?

19 A. I didn't enter any information on him in this
20 case.

21 Q. Well, he wasn't charged, was he?

22 A. I didn't work this case, sir.

23 Q. Well, okay. Go to Page 50 there. You've got a
24 supplement in there.

25 A. Yes, sir. I'm looking for my supplement right

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1 now. Any information that I entered into this report
2 was specifically on Mr. Arredondo.

3 Q. Because Mr. Arredondo came and talked to you;
4 and he talked to you about this case, and he talked to
5 you about that case?

6 A. Yes, sir.

7 Q. When I say this case, I mean John Bermudez's
8 case, and then the case you're looking at, the Ricardo
9 Rodriguez case.

10 A. That is correct.

11 Q. And based on your investigation, you would
12 agree they're very similar cases?

13 A. Similar MO.

14 Q. Somebody selling drugs is shot in the head,
15 right? They're both shot in the head?

16 A. Yes, sir.

17 Q. Their body was just dumped where they were
18 shot, and their car was burned?

19 A. That is correct.

20 Q. So, I would call that similar. Would you
21 calling that similar?

22 A. Yes, sir.

23 Q. The case that we're here on today, that
24 happened at 12400 block of Tambourine. Would you agree?

25 A. I agree.

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1 Q. And the car was dumped at 14030 Panhandle.
2 Does that sound right?

3 A. Yes, sir.

4 Q. I'm going to approach you. And then the gun
5 that was involved in both cases was at Aldine Clodine
6 Road, right?

7 A. Yes, sir.

8 Q. I'm going to show you this Defense Exhibit No.
9 4. And in the second case, the one that we're not here
10 on today but Arredondo was involved in, the body was
11 found at 10700 Bellefair. Does that sound right?

12 A. Yes, sir.

13 Q. And the car was dumped at 9900 Golden Glen?

14 A. I know it was not that far from the location.

15 Q. Okay. So, looking at these markers and this
16 map, would this help the jury in understanding the
17 locations and where the bodies were and the gun was and
18 the cars?

19 A. Yes, sir.

20 Q. Okay.

21 MR. MADRID: Offer Defense 4 and tender it
22 to the State.

23 MS. COLLINS: No objections.

24 THE COURT: It's admitted.

25 Q. (By Mr. Madrid) This area is kind of an

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1 overview of 59 South, right?

2 A. Yes, sir.

3 Q. 59 South, outside Sam Houston Tollway, and then
4 between the Westpark Tollway and 59 and bordered by
5 Highway 6 on the other end, right?

6 A. Yes, sir.

7 Q. So, it's in that square there, 12402
8 Tambourine. That's where Bermudez-Gilces' body was
9 found, where this is, right?

10 A. Yes, sir.

11 Q. And not too far from that, his car was found on
12 Panhandle. The gun was found right here on the Westpark
13 Tollway, and then on the first -- on the other case with
14 Gerardo Arredondo, the body was found at 10700 Bellaire,
15 which would be right here, correct?

16 A. Yes, sir.

17 Q. And then the car was found not too far from
18 where the first murder was on the 9900 Golden Glen,
19 right?

20 A. Yes, sir.

21 Q. So, these murders that were very similar, you
22 would agree, guns -- person shot in the head, and body
23 dumped in both of them, right?

24 A. Yes.

25 Q. And the body -- it's not like the body was

JESUS SOSA - July 29, 2015
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1 hidden in either one of them. One was dumped in the
2 street and one just in the yard?

3 A. Yes, sir.

4 Q. Kind of shot where they were and left where
5 they were, right? Both cars taken right around the same
6 area and burned, right?

7 A. Yes, sir.

8 Q. And it's your understanding that the gun used
9 to kill both these men was the same gun?

10 A. I believe so.

11 Q. Thank you, Officer Sosa?

12 MR. MADRID: Pass the witness.

13 MS. COLLINS: Brief redirect, Your Honor.

14 **REDIRECT EXAMINATION**

15 BY MS. COLLINS:

16 Q. Officer Sosa, we've been talking about two
17 different murders here. During your investigation and
18 your involvement in both of these murders, did you find
19 that not only this case that we're here about today, but
20 also the case involving Ricardo Rodriguez involved
21 MS-13?

22 A. Yes, ma'am.

23 Q. Is that the same gang that Osmin Hernandez and
24 Mario Paredes are involved in?

25 A. Yes, ma'am.

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Redirect Examination by Ms. Collins

1 Q. I'm going to direct you to State's Exhibit
2 No. 59A, Page 50 of 57. And I'd ask you to read aloud
3 Lines 785 and 786 and 787?

4 A. He identified his own picture in gang sequence
5 No. 32732, MS-13. MS-13. Is that it?

6 Q. Referring to, again, State's Exhibit 59A, the
7 statement given my Mario Paredes Venagas to Officer
8 Chavez, Officer, can you tell me, when Officer Chavez
9 asked him, what gang do you belong to, what's the
10 response by Mario Paredes?

11 A. MS.

12 Q. And when he says MS-13, what's Mario Paredes'
13 response?

14 A. Yes.

15 Q. And feel free to look through there. But at
16 any time do you see where Mario Paredes says, hey, I'm
17 not a part of that gang anymore; I dropped out; I don't
18 want to be involved in it?

19 A. No, he didn't.

20 MS. COLLINS: Pass the witness, Your
21 Honor.

22 MR. MADRID: No further questions, Your
23 Honor.

24 THE COURT: You may step aside.

25 Members of the jury, we will adjourn for

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1 the evening. Remember, we will not be here tomorrow,
2 but Friday morning. Please show up Friday the same way
3 you did today, about 8:45; and hopefully, we'll get
4 started by 9:00. And we should be finished with the
5 whole trial by Friday. Okay. Remember the instructions
6 I've given you, and we'll see you Friday morning. Thank
7 you.

8 (Court adjourned at 5:53 p.m.)
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Trial on the Merits
July 29, 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

Pamela Kay Knobloch/CSR, #1650
Official Court Reporter
339th District Court
Harris County, Texas
1201 Franklin - 14th Floor
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Telephone: 713-755-7784
Expiration: 12/31/16

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