

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A, HIDALGO, JR.

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Electronically Filed  
Feb 02 2011 01:19 p.m.  
Tracie K. Lindeman  
CASE NO.: 54209

On Appeal from a Final Judgment of  
Conviction entered by The Eighth Judicial  
District Court

**APPELLANT'S APPENDIX**

Volume 1 of 25

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DOMINIC P. GENTILE  
Nevada Bar No. 1923  
PAOLA M. ARMENI, ESQ.  
Nevada Bar No. 8357  
GORDON SILVER  
3960 Howard Hughes Pkwy., 9th Floor  
Las Vegas, Nevada 89169  
Telephone: (702) 796-5555

ATTORNEYS FOR THE APPELLANT LUIS A. HIDALGO, JR.

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<sup>1</sup> This CD is a copy of the original. The copy was prepared by a Clark County employee at the Regional Justice Center in Las Vegas Nevada. Eight hard copies of the CD are being mailed to the Nevada Supreme Court.

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

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FILED  
JUSTICE COURT  
JUSTICE COURT, BOULDER TOWNSHIP  
CLARK COUNTY, NEVADA

MAY 31 2005

THE STATE OF NEVADA,  
Plaintiff,

JUSTICE COURT  
BOULDER TOWNSHIP  
CASE NO: 05FB0052A-D

-vs-

KENNETH COUNTS, aka Kenneth Jay  
Counts, II, #1525643  
LUIS ALONSO HIDALGO, aka,  
Luis Alonso Hidalgo III #1849634,  
ANABEL ESPINDOLA #1849750,  
DEANGELO RESHAWN CARROLL  
#1678381,

CRIMINAL COMPLAINT

Defendants.

The Defendants above named having committed the crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030, 199.480); MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165) and SOLICITATION TO COMMIT MURDER (Felony - NRS 199.500), in the manner following, to-wit: That the said Defendants, on or between May 19, 2005 and May 24, 2005, at and within the County of Clark, State of Nevada,

COUNT 1 - CONSPIRACY TO COMMIT MURDER

Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, and DEANGELO RESHAWN CARROLL did, on or between May 19, 2005 and May 24, 2005, then and there meet with each other and/or Luis Hildago, Jr. and/or Kenneth Counts and/or Jayson Taoipu and between themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy, Defendants and/or their co-conspirators, did commit the acts as set forth in Counts 2 thru 4, said acts being incorporated by this reference as though fully set forth herein.

///

1 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

2 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS  
3 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, and  
4 DEANGELO RESHAWN CARROLL did, on or about May 19, 2005, then and there  
5 wilfully, feloniously, without authority of law, and with premeditation and deliberation, and  
6 with malice aforethought, kill TIMOTHY JAY HADLAND, a human being, by shooting at  
7 and into the body and/or head of said TIMOTHY JAY HADLAND, with a deadly weapon,  
8 to-wit: a firearm, the Defendants being liable under one or more of the following theories of  
9 criminal liability, to-wit: (1) by directly or indirectly committing the acts with premeditation  
10 and deliberation and/or lying in wait; and/or (2) by aiding and abetting the commission of  
11 the crime by, directly or indirectly, counseling, encouraging, hiring, commanding, inducing  
12 or otherwise procuring each other to commit the crime, to-wit: by Defendant ANABEL  
13 ESPINDOLA and/or DEFENDANT LUIS HILDAGO, III and/or Luis Hildago, Jr. procuring  
14 Defendant DEANGELO CARROLL to beat and/or kill TIMOTHY JAY HADLAND;  
15 thereafter, Defendant DEANGELO CARROLL procuring KENNETH COUNTS and/or  
16 JAYSON TAOIPU to shoot TIMOTHY HADLAND; thereafter, Defendant DEANGELO  
17 CARROLL and KENNETH COUNTS and JAYSON TAOIPU did drive to the location in  
18 the same vehicle; thereafter, Defendant DEANGELO CARROLL calling victim TIMOTHY  
19 JAY HADLAND to the scene; thereafter, by KENNETH COUNTS shooting TIMOTHY  
20 JAY HADLAND; and/or (3) by conspiring to commit the crime of battery and/or battery  
21 with use of a deadly weapon and/or to kill TIMOTHY JAY HADLAND whereby each and  
22 every co-conspirator is responsible for the foreseeable acts of each and every co-conspirator  
23 during the course and in furtherance of the conspiracy.

24 COUNT 3 - SOLICITATION TO COMMIT MURDER

25 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
26 ESPINDOLA did, on or between May 23, 2005, and May 24, 2005, then and there wilfully,  
27 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
28 DEANGELO CARROLL, to commit the murder of JAYSON TAOIPU; the defendants



1 being liable under one or more theories of criminal liability, to-wit: (1) by directly or  
2 indirectly committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
3 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
4 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
5 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
6 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
7 of the conspiracy.

8 COUNT 4 - SOLICITATION TO COMMIT MURDER

9 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
10 ESPINDOLA did, on or between May 23 and May 24, 2005, then and there wilfully,  
11 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
12 DEANGELO CARRALL, to commit the murder of RONTAE ZONE; the defendants being  
13 liable under one or more theories of criminal liability, (1) by directly or indirectly  
14 committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
15 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
16 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
17 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
18 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
19 of the conspiracy.

20 All of which is contrary to the form, force and effect of Statutes in such cases made  
21 and provided and against the peace and dignity of the State of Nevada. Said Complainant  
22 makes this declaration subject to the penalty of perjury.

23  
24  
25 5/27/2005

26 05FB0054A-C/jmh  
27 LVMPD EV# 0505193516  
28 CONSP MRDW; MWDW;  
SOLICIT MRDR - F  
(TK7)



# Justice Court, Boulder Township

CASE NO 05FB0052B

NAME: LUIS ALONSO HIDALGO AKA LUIS ALONSO HIDALGO III

PAGE 2

CHARGES: CT 1 CONSPIRACY TO COMMIT MURDER; CT 2 MURDER WITH USE DEADLY WEAPON  
CT 3 & 4 SOLICITATION TO COMMIT MURDER

DATE, JUDGE OFFICER OF  
COURT PRESENT

APPEARANCES - HEARINGS

CONTINUE TO:

06/13/05  
V. MILLER  
M. DIGICOMO, DA  
J. PESCI, DA  
R. DRASKOVICH, ESQ  
M. HARNESS, CR  
N. SPILKER, CLK

TIME SET FOR P/H  
DEFT PRESENT IN COURT IN CUSTODY  
MOTION TO EXCLUDE WITNESSES MADE BY DEFENSE  
MOTION GRANTED  
STATE CALLS WITNESSES #1 RONTAE ZONE-WITNESS ID' S DEFT  
COURT APPOINTS RANDY PIKE SPECIAL PUBLIC DEFENDER FOR WITNESS  
RONTAE ZONE  
WITNESS #2 PAGIT KARLSON  
#3 MICHAEL MCGRATH-WITNESS ID'S DEFT  
#4 MARTY WILDEMAN-WITNESS ID'S DEFT  
STATE RESTS  
DEFENSE WAIVES RIGHT TO CALL WITNESSES  
DEFENSE RESTS  
EXHIBITS 1 THROUGH 29 OFFERED-ADMITTED  
EXHIBITS 31 THROUGH 64 OFFERED-ADMITTED  
EXHIBITS 66 THROUGH 71 OFFERED-ADMITTED  
EXHIBITS 74 AND 75 OFFERED-ADMITTED  
EXHIBITS 30 AND 65 MARKED BUT NOT OFFERED AND NOT ADMITTED  
CLOSING ARGUMENT MADE BY STATE  
MOTION TO DISMISS AND ARGUMENT IN FAVOR OF SAID MOTION BY DEFENSE  
ARGUMENT AGAINST SAID MOTION BY STATE  
MOTION DENIED  
DEFT BOUND OVER TO DISTRICT AS CHAGED IN COMPLAINT ON CT 1 &2  
APPEARANCE DATE SET  
MOTION BY DEFENSE FOR BAIL SETTING/HOUSE ARREST  
MOTION TAKEN UNDER ADVISEMENT

06/27/05 9AM  
DIST CT #14

DEFT REMANDED TO THE CUSTODY OF THE SHERIFF

06/14/05

JUDGE MILLER DENIES DEFENSE MOTION FOR BAIL  
ORDER FILED WITH COURT. NOTICE SENT DA AND DEFENSE COUNSEL

06/13/05

DEFENSE FILES EX PARTE MOTION TO ALLOW CONTACT VISIT  
ORDER SIGNED BY JUDGE MILLER AND FILED

  
CLERK

**INFO**  
DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781  
MARC DIGIACOMO  
Deputy District Attorney  
Nevada Bar #006955  
200 South Third Street  
Las Vegas, Nevada 89155-2212  
(702) 455-4711  
Attorney for Plaintiff

I.A. 06/27/05  
9:00 A.M.  
Wildeveld/Oram  
Draskovich/Figler

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
KENNETH COUNTS, aka Kenneth Jay )  
Counts II, #1525643 )  
LUIS ALONSO HIDALGO, aka, Luis )  
Alonso Hidalgo, III, #1849634 )  
ANABEL ESPINDOLA, #1849750, )  
DEANGELO RESHAWN CARROLL, )  
#1678381 )  
Defendant.

Case No: C212667  
Dept No: XIV

INFORMATION

STATE OF NEVADA )  
 ) ss.  
COUNTY OF CLARK )

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That KENNETH COUNTS, aka Kenneth Jay Counts II, LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo, III, ANABEL ESPINDOLA, , the Defendant(s) above named, having committed the crimes of CONSPIRACY TO COMMIT MURDER (Felony - NRS 200.010, 200.030, 193.165); MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.165) and SOLICITATION TO COMMIT MURDER (Felony - NRS 199.500), on or between May 19, 2005, and May 24, 2005, within the County of Clark,

1 State of Nevada, contrary to the form, force and effect of statutes in such cases made and  
2 provided, and against the peace and dignity of the State of Nevada,

3 COUNT 1 - CONSPIRACY TO COMMIT MURDER

4 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS  
5 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, DEANGELO  
6 RESHAWN CARROLL and JAYSON TAOIPU did, on or between May 19, 2005 and May  
7 24, 2005, then and there meet with each other and/or Luis Hildago, Jr. and between  
8 themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire  
9 and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy,  
10 Defendants and/or their co-conspirators, did commit the acts as set forth in Counts 2 thru 4,  
11 said acts being incorporated by this reference as though fully set forth herein.

12 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

13 Defendants KENNETH JAY COUNTS, aka Kenneth Jay Counts, II, and LUIS  
14 ALONSO HIDALGO, aka, Luis Alonso Hidalgo III, ANABEL ESPINDOLA, DEANGELO  
15 RESHAWN CARROLL and JAYSON TAOIPU did, on or about May 19, 2005, then and  
16 there wilfully, feloniously, without authority of law, and with premeditation and  
17 deliberation, and with malice aforethought, kill TIMOTHY JAY HADLAND, a human  
18 being, by shooting at and into the body and/or head of said TIMOTHY JAY HADLAND,  
19 with a deadly weapon, to-wit: a firearm, the Defendants being liable under one or more of  
20 the following theories of criminal liability, to-wit: (1) by directly or indirectly committing  
21 the acts with premeditation and deliberation and/or lying in wait; and/or (2) by aiding and  
22 abetting the commission of the crime by, directly or indirectly, counseling, encouraging,  
23 hiring, commanding, inducing or otherwise procuring each other to commit the crime, to-  
24 wit: by Defendant ANABEL ESPINDOLA and/or DEFENDANT LUIS HILDAGO, III  
25 and/or Luis Hildago, Jr. procuring Defendant DEANGELO CARROLL to beat and/or kill  
26 TIMOTHY JAY HADLAND; thereafter, Defendant DEANGELO CARROLL procuring  
27 KENNETH COUNTS and/or JAYSON TAOIPU to shoot TIMOTHY HADLAND;  
28 thereafter, Defendant DEANGELO CARROLL and KENNETH COUNTS and JAYSON

1 TAOIPU did drive to the location in the same vehicle; thereafter, Defendant DEANGELO  
2 CARROLL calling victim TIMOTHY JAY HADLAND to the scene; thereafter, by  
3 KENNETH COUNTS shooting TIMOTHY JAY HADLAND; and/or (3) by conspiring to  
4 commit the crime of battery and/or battery with use of a deadly weapon and/or to kill  
5 TIMOTHY JAY HADLAND whereby each and every co-conspirator is responsible for the  
6 foreseeable acts of each and every co-conspirator during the course and in furtherance of the  
7 conspiracy.


8 COUNT 3 - SOLICITATION TO COMMIT MURDER

9 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
10 ESPINDOLA did, on or between May 23, 2005, and May 24, 2005, then and there wilfully,  
11 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
12 DEANGELO CARROLL, to commit the murder of JAYSON TAOIPU; the defendants  
13 being liable under one or more theories of criminal liability, to-wit: (1) by directly or  
14 indirectly committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
15 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
16 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by  
17 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
18 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
19 of the conspiracy.

20 COUNT 4 - SOLICITATION TO COMMIT MURDER

21 Defendants LUIS ALONSO HIDALGO, aka, Luis Alonso Hidalgo III and ANABEL  
22 ESPINDOLA did, on or between May 23 and May 24, 2005, then and there wilfully,  
23 unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit:  
24 DEANGELO CARROLL, to commit the murder of RONTAE ZONE; the defendants being  
25 liable under one or more theories of criminal liability, (1) by directly or indirectly  
26 committing the acts constituting the offense; and/or (2) ) by aiding and abetting the  
27 commission of the crime by, directly or indirectly, counseling, encouraging, hiring,  
28 commanding, inducing or otherwise procuring each other to commit the crime; and/or (3) by

1 conspiring to commit the crime of murder where each and every co-conspirator is liable for  
2 the foreseeable acts of every other co-conspirator committed in the course and in furtherance  
3 of the conspiracy.

4  
5  
6  
7 BY   
8 DAVID ROGER  
9 DISTRICT ATTORNEY  
Nevada Bar #002781

10 Names of witnesses known to the District Attorney's Office at the time of filing this  
11 Information are as follows:

12	<u>NAME</u>	<u>ADDRESS</u>
13	HADLAND, ALLAN	ADDRESS UNKNOWN
14	KARSON, PAJIT	ADDRESS UNKNOWN
15	KRYLO, JAMES	LVMPD P#5945
16	MADRID, ISMAEL	1729 STAR RIDGE WAY LV NV
17	MCGRATH, MICHAEL	LVMPD P#4575
18	MORTON, LARRY	LVMPD P#4935
19	RENHARD, LOUISE	LVMPD P#5223
20	SCHWANDERLIK, MICHELLE	4037 OVERBROOK DR LV NV
21	SMITH, STEPHANIE	LVMPD P#6650
22	TAOIPU, JAYSON	2008 JEANNE DR LV NV
23	TELGENHOFF, DR. GARY	C.C.M.E. #0003
24	VACCARO, JAMES	LVMPD P#1480
25	WILDEMANN, MARTIN	LVMPD P#3516
26	ZONE, RONTAE	c/o BILL FALKNER, Clark County D.A. Office
27	DA#05FB0052A-B/ddm	
28	LVMPD EV#0505193516	
	CONSP MURDER;MWDW;SOLICIT MURDER - F	
	(TK7)	

  
CLERK

**NISD**  
DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781  
MARC DIGIACOMO  
Deputy District Attorney  
Nevada Bar #006955  
200 South Third Street  
Las Vegas, Nevada 89155-2211  
(702) 455-4711  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

LUIS ALONSO HIDALGO,  
#1849634

Defendant.

CASE NO: C212667

DEPT NO: XIV

**NOTICE OF INTENT TO SEEK DEATH PENALTY**

COMES NOW, the State of Nevada, through DAVID ROGER, Clark County District Attorney, by and through MARC DIGIACOMO, Deputy District Attorney, pursuant to NRS 175.552 and NRS 200.033 and declares its intention to seek the death penalty at a penalty hearing. Furthermore, the State of Nevada discloses that it will present evidence of the following aggravating circumstances:

1. The murder was committed by a person who, at any time before a penalty hearing is conducted for the murder pursuant to NRS 175.552, is or has been convicted of a felony involving the use or threat of violence to the person of another and the provisions of subsection 4 do not otherwise apply to that felony, to-wit: Solicitation to Commit Murder, in that on or about May 23, 2005, DEFENDANT LUIS ALONSO HIDALGO, III and ANABEL ESPINDOLA, did then and there willfully, unlawfully, and feloniously counsel, hire, command or otherwise solicit DEANGELO CARROLL to commit the murder of JAYSON TAOIPU by DEFENDANT LUIS HIDALGO, III, in the presence of ANABEL

1 ESPINDOLA, inquiring of DEANGELO CARROLL whether KENNETH COUNTS would  
2 be willing to kill JAYSON TAOIPU and/or by DEFENDANT LUIS HIDALGO, III, in the  
3 presence of ANABEL ESPINDOLA, instructing DEANGELO CARROLL to put rat  
4 poisoning in a bottle of gin and have JAYSON TAOIPU drink it and/or by DEFENDANT  
5 LUIS HIDALGO, III, in the presence of ANABEL ESPINDOLA, instructing DEANGELO  
6 CARROLL to put rat poisoning in a marijuana cigarette and have JAYSON TAOIPU smoke  
7 it and/or soliciting any other manner to kill JAYSON TAOIPU and/or thereafter, ANABEL  
8 ESPINDOLA providing fourteen (\$1400) dollars to DEANGELO CARROLL, and/or by  
9 DEFENDANT LUIS HIDALGO, III providing a bottle of gin at the meeting to facilitate the  
10 killing. [See NRS 200.033(2)(b)]

11 It is anticipated that DEFENDANT LUIS HIDALGO, III will be convicted of count  
12 three (3) of the instant information by a jury at the same time he is convicted of the murder  
13 alleged in count II. The evidence upon which the State will rely is the testimony and  
14 exhibits introduced during the guilt or penalty phase of the trial, as well as the verdicts from  
15 the guilt phase. As such, the State will prove through the witnesses and evidence that  
16 Defendant committed the crime of SOLICITATION TO COMMIT MURDER, the  
17 Defendant being liable under one or more of the theories of criminal liability contained in  
18 the information filed in the instant matter and incorporated by reference herein.

19 2. The murder was committed by a person who, at any time before a penalty hearing  
20 is conducted for the murder pursuant to NRS 175.552, is or has been convicted of a felony  
21 involving the use or threat of violence to the person of another and the provisions of  
22 subsection 4 do not otherwise apply to that felony, to-wit: Solicitation to Commit Murder, in  
23 that on or about May 23, 2005, DEFENDANT LUIS ALONSO HIDALGO, III and  
24 ANABEL ESPINDOLA, did then and there willfully, unlawfully, and feloniously counsel,  
25 hire, command or otherwise solicit DEANGELO CARROLL to commit the murder of  
26 RONTAE ZONE by DEFENDANT LUIS HIDALGO, III, in the presence of ANABEL  
27 ESPINDOLA, inquiring of DEANGELO CARROLL whether KENNETH COUNTS would  
28 be willing to kill RONTAE ZONE and/or by DEFENDANT LUIS HIDALGO, III, in the



1 presence of ANABEL ESPINDOLA, instructing DEANGELO CARROLL to put rat  
2 poisoning in a bottle of gin and have RONTAE ZONE drink it and/or by DEFENDANT  
3 LUIS HIDALGO, III, in the presence of ANABEL ESPINDOLA, instructing DEANGELO  
4 CARROLL to put rat poisoning in a marijuana cigarette and have RONTAE ZONE smoke it  
5 and/or soliciting any other manner to kill RONTAE ZONE and/or thereafter, ANABEL  
6 ESPINDOLA providing fourteen (\$1400) dollars to DEANGELO CARROLL, and/or by  
7 DEFENDANT LUIS HIDALGO, III providing a bottle of gin at the meeting to facilitate the  
8 killing. [See NRS 200.033(2)(b)]

9 It is anticipated that DEFENDANT LUIS HIDALGO, III will be convicted of count  
10 four (4) of the instant information by a jury at the same time he is convicted of the murder  
11 alleged in count II. The evidence upon which the State will rely is the testimony and  
12 exhibits introduced during the guilt or penalty phase of the trial, as well as the verdicts from  
13 the guilt phase. As such, the State will prove through the witnesses and evidence that  
14 Defendant committed the crime of SOLICITATION TO COMMIT MURDER, the  
15 Defendant being liable under one or more of the theories of criminal liability contained in  
16 the information filed in the instant matter and incorporated by reference herein.

17 3. The murder was committed by a person, for himself or another, to receive money  
18 or any other thing of monetary value, to-wit by : by ANABEL ESPINDOLA (a manager of  
19 the PALOMINO CLUB) and/or DEFENDANT LUIS HILDAGO, III (a manager of the  
20 PALOMINO CLUB) and/or LUIS HILDAGO, JR. (the owner of the PALOMINO CLUB)  
21 procuring DEANGELO CARROLL (an employee of the PALOMINO CLUB) to beat and/or  
22 kill TIMOTHY JAY HADLAND; and/or LUIS HIDALGO, JR. indicating that he would pay  
23 to have a person either beaten or killed; and/or by LUIS HIDALGO, JR. procuring the injury  
24 or death of TIMOTHY JAY HADLAND to further the business of the PALOMINO CLUB;  
25 and/or DEFENDANT LUIS HIDALGO, III telling DEANGELO CARROLL to come to  
26 work with bats and garbage bags; thereafter, DEANGELO CARROLL procuring  
27 KENNETH COUNTS and/or JAYSON TAOIPU to kill TIMOTHY HADLAND; thereafter,  
28 by KENNETH COUNTS shooting TIMOTHY JAY HADLAND; thereafter, LUIS

1 HIDALGO, JR. and/or ANABEL ESPINDOLA providing six thousand dollars (\$6,000) to  
2 DEANGELO CARROLL to pay KENNETH COUNTS, thereafter, KENNETH COUNTS  
3 receiving said money; and/or by ANABEL ESPINDOLA providing two hundred dollars  
4 (\$200) to DEANGELO CARROLL and/or by ANABEL ESPINDOLA and/or  
5 DEFENDANT LUIS HIDALGO, III providing fourteen hundred dollars (\$1400) and/or  
6 eight hundred dollars (\$800) to DEANGELO CARROLL and/or by ANABEL ESPINDOLA  
7 agreeing to continue paying DEANGELO CARROLL twenty-four (24) hours of work a  
8 week from the PALOMINO CLUB even though DEANGELO CARROLL had terminated  
9 his position with the club and/or by DEFENDANT LUIS HIDALGO, III offering to provide  
10 United States Savings Bonds to DEANGELO CARROLL and/or his family. [See NRS  
11 200.033(6)].

12 The basis for this aggravator is the aggravated nature of the crime itself. The  
13 evidence upon which the State will rely is the testimony and exhibits introduced during the  
14 guilt or penalty phase of the trial, as well as the verdicts from the guilt phase.

15 In filing this NOTICE, the State incorporates all pleadings, witness lists, notices and  
16 other discovery materials already provided to Defendant by the Office of the District  
17 Attorney as part of its open-file policy as well as any future discovery received and provided  
18 to Defendant.

19 DATED this 6th day of July, 2005.

20 Respectfully submitted,

21 DAVID ROGER  
22 Clark County District Attorney  
Nevada Bar #002781

23 BY /s/MARC DIGIACOMO  
24 MARC DIGIACOMO  
25 Deputy District Attorney  
Nevada Bar #006955

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that service of NOTICE OF INTENT TO SEEK DEATH PENALTY,  
was made this 6th day of July, 2005, by facsimile transmission to:

ROBERT DRASKOVICH, ESQ  
FAX #474-1320  
  
D. McDonald  
Secretary for the District Attorney's Office

  
CLERK

**NISD**  
DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781  
MARC DIGIACOMO  
Deputy District Attorney  
Nevada Bar #006955  
200 South Third Street  
Las Vegas, Nevada 89155-2211  
(702) 455-4711  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ANABEL ESPINDOLA,  
#1849750

Defendant.

CASE NO: C212667

DEPT NO: XIV

**NOTICE OF INTENT TO SEEK DEATH PENALTY**

COMES NOW, the State of Nevada, through DAVID ROGER, Clark County District Attorney, by and through MARC DIGIACOMO, Deputy District Attorney, pursuant to NRS 175.552 and NRS 200.033 and declares its intention to seek the death penalty at a penalty hearing. Furthermore, the State of Nevada discloses that it will present evidence of the following aggravating circumstances:

1. The murder was committed by a person who, at any time before a penalty hearing is conducted for the murder pursuant to NRS 175.552, is or has been convicted of a felony involving the use or threat of violence to the person of another and the provisions of subsection 4 do not otherwise apply to that felony, to-wit: Solicitation to Commit Murder, in that on or about May 23, 2005, LUIS ALONSO HIDALGO, III and DEFENDANT ANABEL ESPINDOLA, did then and there willfully, unlawfully, and feloniously counsel, hire, command or otherwise solicit DEANGELO CARROLL to commit the murder of JAYSON TAOIPU by LUIS HIDALGO, III, in the presence of DEFENDANT ANABEL

1 ESPINDOLA, inquiring of DEANGELO CARROLL whether KENNETH COUNTS would  
2 be willing to kill JAYSON TAOIPU and/or by LUIS HIDALGO, III, in the presence of  
3 DEFENDANT ANABEL ESPINDOLA, instructing DEANGELO CARROLL to put rat  
4 poisoning in a bottle of gin and have JAYSON TAOIPU drink it and/or by LUIS  
5 HIDALGO, III, in the presence of DEFENDANT ANABEL ESPINDOLA, instructing  
6 DEANGELO CARROLL to put rat poisoning in a marijuana cigarette and have JAYSON  
7 TAOIPU smoke it and/or soliciting any other manner to kill JAYSON TAOIPU and/or  
8 thereafter, DEFENDANT ANABEL ESPINDOLA providing fourteen (\$1400) dollars to  
9 DEANGELO CARROLL, and/or by LUIS HIDALGO, III providing a bottle of gin at the  
10 meeting to facilitate the killing. [See NRS 200.033(2) (b)]

11 It is anticipated that DEFENDANT ANABEL ESPINDOLA will be convicted of  
12 count three (3) of the instant information by a jury at the same time she is convicted of the  
13 murder alleged in count II. The evidence upon which the State will rely is the testimony and  
14 exhibits introduced during the guilt or penalty phase of the trial, as well as the verdicts from  
15 the guilt phase. As such, the State will prove through the witnesses and evidence that  
16 Defendant committed the crime of SOLICITATION TO COMMIT MURDER, the  
17 Defendant being liable under one or more of the theories of criminal liability contained in  
18 the information filed in the instant matter and incorporated by reference herein.

19 2. The murder was committed by a person who, at any time before a penalty hearing  
20 is conducted for the murder pursuant to NRS 175.552, is or has been convicted of a felony  
21 involving the use or threat of violence to the person of another and the provisions of  
22 subsection 4 do not otherwise apply to that felony, to-wit: Solicitation to Commit Murder, in  
23 that on or about May 23, 2005, LUIS ALONSO HIDALGO, III and DEFENDANT  
24 ANABEL ESPINDOLA, did then and there willfully, unlawfully, and feloniously counsel,  
25 hire, command or otherwise solicit DEANGELO CARROLL to commit the murder of  
26 RONTAE ZONE by LUIS HIDALGO, III, in the presence of DEFENDANT ANABEL  
27 ESPINDOLA, inquiring of DEANGELO CARROLL whether KENNETH COUNTS would  
28 be willing to kill RONTAE ZONE and/or by LUIS HIDALGO, III, in the presence of

1 DEFENDANT ANABEL ESPINDOLA, instructing DEANGELO CARROLL to put rat  
2 poisoning in a bottle of gin and have RONTAE ZONE drink it and/or by LUIS HIDALGO,  
3 III, in the presence of DEFENDANT ANABEL ESPINDOLA, instructing DEANGELO  
4 CARROLL to put rat poisoning in a marijuana cigarette and have RONTAE ZONE smoke it  
5 and/or soliciting any other manner to kill RONTAE ZONE and/or thereafter, DEFENDANT  
6 ANABEL ESPINDOLA providing fourteen (\$1400) dollars to DEANGELO CARROLL,  
7 and/or by LUIS HIDALGO, III providing a bottle of gin at the meeting to facilitate the  
8 killing. [See NRS 200.033(2) (b)]

9 It is anticipated that DEFENDANT ANABEL ESPINDOLA will be convicted of  
10 count four (4) of the instant information by a jury at the same time she is convicted of the  
11 murder alleged in count II. The evidence upon which the State will rely is the testimony and  
12 exhibits introduced during the guilt or penalty phase of the trial, as well as the verdicts from  
13 the guilt phase. As such, the State will prove through the witnesses and evidence that  
14 Defendant committed the crime of SOLICITATION TO COMMIT MURDER, the  
15 Defendant being liable under one or more of the theories of criminal liability contained in  
16 the information filed in the instant matter and incorporated by reference herein.

17 3. The murder was committed by a person, for himself or another, to receive money  
18 or any other thing of monetary value, to-wit by : by DEFENDANT ANABEL ESPINDOLA  
19 (a manager of the PALOMINO CLUB) and/or LUIS HILDAGO, III (a manager of the  
20 PALOMINO CLUB) and/or LUIS HILDAGO, JR. (the owner of the PALOMINO CLUB)  
21 procuring DEANGELO CARROLL (an employee of the PALOMINO CLUB) to beat and/or  
22 kill TIMOTHY JAY HADLAND; and/or LUIS HIDALGO, JR. indicating that he would pay  
23 to have a person either beaten or killed; and/or by LUIS HIDALGO, JR. procuring the injury  
24 or death of TIMOTHY JAY HADLAND to further the business of the PALOMINO CLUB;  
25 and/or DEFENDANT LUIS HIDALGO, III telling DEANGELO CARROLL to come to  
26 work with bats and garbage bags; thereafter, DEANGELO CARROLL procuring  
27 KENNETH COUNTS and/or JAYSON TAOIPU to kill TIMOTHY HADLAND; thereafter,  
28 by KENNETH COUNTS shooting TIMOTHY JAY HADLAND; thereafter, LUIS

1 HIDALGO, JR. and/or DEFENDANT ANABEL ESPINDOLA providing six thousand  
2 dollars (\$6,000) to DEANGELO CARROLL to pay KENNETH COUNTS, thereafter,  
3 KENNETH COUNTS receiving said money; and/or by DEFENDANT ANABEL  
4 ESPINDOLA providing two hundred dollars (\$200) to DEANGELO CARROLL and/or by  
5 DEFENDANT ANABEL ESPINDOLA and/or LUIS HIDALGO, III providing fourteen  
6 hundred dollars (\$1400) and/or eight hundred dollars (\$800) to DEANGELO CARROLL  
7 and/or by DEFENDANT ANABEL ESPINDOLA agreeing to continue paying DEANGELO  
8 CARROLL twenty-four (24) hours of work a week from the PALOMINO CLUB even  
9 though DEANGELO CARROLL had terminated his position with the club and/or by LUIS  
10 HIDALGO, III offering to provide United States Savings Bonds to DEANGELO CARROLL  
11 and/or his family. [See NRS 200.033(6)].

12 The basis for this aggravator is the aggravated nature of the crime itself. The  
13 evidence upon which the State will rely is the testimony and exhibits introduced during the  
14 guilt or penalty phase of the trial, as well as the verdicts from the guilt phase.

15 In filing this NOTICE, the State incorporates all pleadings, witness lists, notices and  
16 other discovery materials already provided to Defendant by the Office of the District  
17 Attorney as part of its open-file policy as well as any future discovery received and provided  
18 to Defendant.

19 DATED this 6th day of July, 2005.

20 Respectfully submitted,

21 DAVID ROGER  
22 Clark County District Attorney  
Nevada Bar #002781

23 BY /s/MARC DIGIACOMO  
24 MARC DIGIACOMO  
25 Deputy District Attorney  
Nevada Bar #006955

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that service of NOTICE OF INTENT TO SEEK DEATH PENALTY,  
was made this 6th day of July, 2005, by facsimile transmission to:

CHRISTOPHER ORAM, ESQ.  
FAX #974-0623  
D. McDonald  
Secretary for the District Attorney's Office

  
CLERK

**NISD**  
DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781  
MARC DIGIACOMO  
Deputy District Attorney  
Nevada Bar #006955  
200 South Third Street  
Las Vegas, Nevada 89155-2211  
(702) 455-4711  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

DEANGELO CARROLL,  
#1678381

Defendant.

CASE NO: C212667

DEPT NO: XIV

**NOTICE OF INTENT TO SEEK DEATH PENALTY**

COMES NOW, the State of Nevada, through DAVID ROGER, Clark County District Attorney, by and through MARC DIGIACOMO, Deputy District Attorney, pursuant to NRS 175.552 and NRS 200.033 and declares its intention to seek the death penalty at a penalty hearing. Furthermore, the State of Nevada discloses that it will present evidence of the following aggravating circumstances:

1. The murder was committed by a person who, at any time before a penalty hearing is conducted for the murder pursuant to NRS 175.552, is or has been convicted of a felony involving the use or threat of violence to the person of another and the provisions of subsection 4 do not otherwise apply to that felony, to-wit: CONSPIRACY TO COMMIT ROBBERY. [See NRS 200.033(2)(b)]

The evidence will consist of certified copies of judgments of conviction showing that DEFENDANT DEANGELO CARROLL was convicted in Clark County, Nevada, on September 9, 2002, of the felony offense of CONSPIRACY TO COMMIT ROBBERY in

1 case number C184573. The testimony of the victim Steven Blodgett and/or police officers  
2 and/or other witnesses and/or exhibits, will be offered in support of this aggravating  
3 circumstance. Furthermore, the underlying facts of the conviction indicate that on or about  
4 May 18, 2002, DEFENDANT DEANGELO CARROLL did, then and there, willfully,  
5 unlawfully, and feloniously take personal property, to-wit: a wallet, contents and lawful  
6 money of the United States, from the person of Steven Blodgett, or in his presence, by means  
7 of force or violence, or fear of injury to, and without the consent and against the will of the  
8 said Steven Blodgett, to-wit: by DEFENDANT DEANGELO CARROLL beating Steven  
9 Blodgett with his fists; thereafter, by his co-conspirator continuing to beat Steven Blodgett  
10 while DEFENDANT DEANGELO CARROLL removed a wallet from the boot of Steven  
11 Blodgett, thereafter, DEFENDANT DEANGELO CARROLL fleeing from the scene with  
12 the property.

13 2. The murder was committed by a person, for himself or another, to receive money  
14 or any other thing of monetary value, to-wit by : by ANABEL ESPINDOLA (a manager of  
15 the PALOMINO CLUB) and/or LUIS HILDAGO, III (a manager of the PALOMINO  
16 CLUB) and/or LUIS HILDAGO, JR. (the owner of the PALOMINO CLUB) procuring  
17 DEFENDANT DEANGELO CARROLL (an employee of the PALOMINO CLUB) to beat  
18 and/or kill TIMOTHY JAY HADLAND; and/or LUIS HIDALGO, JR. indicating that he  
19 would pay to have a person either beaten or killed; and/or by LUIS HIDALGO, JR.  
20 procuring the injury or death of TIMOTHY JAY HADLAND to further the business of the  
21 PALOMINO CLUB; and/or LUIS HIDALGO, III telling DEFENDANT DEANGELO  
22 CARROLL to come to work with bats and garbage bags; thereafter, DEFENDANT  
23 DEANGELO CARROLL procuring KENNETH COUNTS and/or JAYSON TAOIPU to kill  
24 TIMOTHY HADLAND; thereafter, by KENNETH COUNTS shooting TIMOTHY JAY  
25 HADLAND; thereafter, LUIS HIDALGO, JR. and/or ANABEL ESPINDOLA providing  
26 six thousand dollars (\$6,000) to DEFENDANT DEANGELO CARROLL to pay KENNETH  
27 COUNTS, thereafter, KENNETH COUNTS receiving said money; and/or by ANABEL  
28 ESPINDOLA providing two hundred dollars (\$200) to DEFENDANT DEANGELO

CARROLL and/or by ANABEL ESPINDOLA and/or LUIS HIDALGO, III providing fourteen hundred dollars (\$1400) and/or eight hundred dollars (\$800) to DEFENDANT DEANGELO CARROLL and/or by ANABEL ESPINDOLA agreeing to continue paying DEFENDANT DEANGELO CARROLL twenty-four (24) hours of work a week from the PALOMINO CLUB even though DEANGELO CARROLL had terminated his position with the club and/or by LUIS HIDALGO, III offering to provide United States Savings Bonds to DEFENDANT DEANGELO CARROLL and/or his family. [See NRS 200.033(6)].

The basis for this aggravator is the aggravated nature of the crime itself. The evidence upon which the State will rely is the testimony and exhibits introduced during the guilt or penalty phase of the trial, as well as the verdicts from the guilt phase.

In filing this NOTICE, the State incorporates all pleadings, witness lists, notices and other discovery materials already provided to Defendant by the Office of the District Attorney as part of its open-file policy as well as any future discovery received and provided to Defendant.

DATED this 6th day of July, 2005.

Respectfully submitted,

DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781

BY /s/MARC DIGIACOMO  
MARC DIGIACOMO  
Deputy District Attorney  
Nevada Bar #006955

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that service of NOTICE OF INTENT TO SEEK DEATH PENALTY,  
was made this 6th day of July, 2005, by facsimile transmission to:

DAYVID FIGLER, ESQ.  
FAX #386-0344

D. McDonald  
Secretary for the District Attorney's Office

  
CLERK

**NISD**  
DAVID ROGER  
Clark County District Attorney  
Nevada Bar #002781  
MARC DIGIACOMO  
Deputy District Attorney  
Nevada Bar #006955  
200 South Third Street  
Las Vegas, Nevada 89155-2211  
(702) 455-4711  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

KENNETH JAY COUNTS,  
#1525643

Defendant.

CASE NO: C212667

DEPT NO: XIV

**NOTICE OF INTENT TO SEEK DEATH PENALTY**

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1. The murder was committed by a person, for himself or another, to receive money or any other thing of monetary value, to-wit by : by ANABEL ESPINDOLA (a manager of the PALOMINO CLUB) and/or LUIS HILDAGO, III (a manager of the PALOMINO CLUB) and/or LUIS HILDAGO, JR. (the owner of the PALOMINO CLUB) procuring DEANGELO CARROLL (an employee of the PALOMINO CLUB) to beat and/or kill TIMOTHY JAY HADLAND; and/or LUIS HIDALGO, JR. indicating that he would pay to have a person either beaten or killed; and/or by LUIS HIDALGO, JR. procuring the injury or death of TIMOTHY JAY HADLAND to further the business of the PALOMINO CLUB;

1 and/or LUIS HIDALGO, III telling DEANGELO CARROLL to come to work with bats and  
2 garbage bags; thereafter, DEANGELO CARROLL procuring DEFENDANT KENNETH  
3 COUNTS and/or JAYSON TAOIPU to kill TIMOTHY HADLAND; thereafter, by  
4 DEFENDANT KENNETH COUNTS shooting TIMOTHY JAY HADLAND; thereafter,  
5 LUIS HIDALGO, JR. and/or ANABEL ESPINDOLA providing six thousand dollars  
6 (\$6,000) to DEANGELO CARROLL to pay DEFENDANT KENNETH COUNTS,  
7 thereafter, DEFENDANT KENNETH COUNTS receiving said money; and/or by ANABEL  
8 ESPINDOLA providing two hundred dollars (\$200) to DEANGELO CARROLL and/or by  
9 ANABEL ESPINDOLA providing fourteen hundred dollars (\$1400) and/or eight hundred  
10 dollars (\$800) to DEANGELO CARROLL and/or by ANABEL ESPINDOLA agreeing to  
11 continue paying DEANGELO CARROLL twenty-four (24) hours of work a week from the  
12 PALOMINO CLUB even though DEANGELO CARROLL had terminated his position with  
13 the club and/or by LUIS HIDALGO, III offering to provide United States Savings Bonds to  
14 DEANGELO CARROLL and/or his family. [See NRS 200.033(6)].

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16 evidence upon which the State will rely is the testimony and exhibits introduced during the  
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19 other discovery materials already provided to Defendant by the Office of the District  
20 Attorney as part of its open-file policy as well as any future discovery received and provided  
21 to Defendant.

22 DATED this 6th day of July, 2005.

23 Respectfully submitted,

24 DAVID ROGER  
25 Clark County District Attorney  
Nevada Bar #002781

26 BY /s/MARC DIGIACOM  
27 MARC DIGIACOMO  
28 Deputy District Attorney  
Nevada Bar #006955



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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that service of NOTICE OF INTENT TO SEEK DEATH PENALTY,  
was made this 6th day of July, 2005, by facsimile transmission to:

BRET WHIPPLE, ESQ  
FAX #895-7315  
  
D. McDonald  
Secretary for the District Attorney's Office

ORIGINAL

FILED

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ROBERT DRASKOVICH, ESQ.

State Bar No. 6275

815 S. Casino Center Blvd.

Las Vegas, Nevada 89101

(702) 474-4222

2005 DEC 12 P 3:58

Attorney for Defendant

LUIS HIDALGO III

*Shirley Starnes*  
CLERK

CHRISTOPHER R. ORAM, ESQ.

State Bar No. 004349

520 South Fourth Street, Second Floor

Las Vegas, Nevada 89101

(702) 384-5563

Attorney for Defendant

ANABEL ESPINDOLA

DISTRICT COURT

CLARK COUNTY, NEVADA

\*\*\*\*\*

THE STATE OF NEVADA,

Plaintiff,

vs.

LUIS HIDALGO, III,  
ANABEL ESPINDOLA,

Defendants.

CASE NO. C212667  
DEPT. NO. XIV

MOTION TO STRIKE NOTICE OF  
INTENT TO SEEK DEATH PENALTY

Hearing Date:

Hearing Time:

**COMES NOW**, the Defendants, LUIS ALONSO HIDALGO III, by and through his attorney Robert M. Draskovich and ANABEL ESPINDOLA, by and through her attorney Christopher R. Oram, Esq. and each of them respectfully requests this Honorable Court to enter an Order Striking the Notice of Intent to Seek the Death Penalty heretofore filed by the Plaintiff in this matter.

1 This motion is based upon the attached Points and Authorities, any and all  
2 pleadings and transcripts on file herein, and any oral argument deemed necessary by  
3 this Court.

4 DATED this \_\_\_\_\_ day of December, 2005.

5 DRASKOVICH & DURHAM

6  
7 By: 

8 ROBERT M. DRASKOVICH, JR., ESQ.  
9 State Bar No. 6275  
10 815 South Casino Center Blvd.  
11 Las Vegas, NV 89101  
12 Attorney for Defendant  
13 LUIS HIDALGO, III

14 LAW OFFICES OF CHRISTOPHER R. ORAM

15 By: 

16 CHRISTOPHER R. ORAM, ESQ.  
17 Bar No. 004349  
18 520 South Fourth Street, Second Floor  
19 Las Vegas, Nevada 89101  
20 Attorney for Defendant  
21 ANABEL ESPINDOLA  
22  
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1 **NOTICE OF MOTION**

2 TO: THE STATE OF NEVADA; and

3 TO: MARC DIGIACOMO, Deputy District Attorney and GIANCARLO PESCI, Deputy  
4 District Attorney:

5  
6 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the undersigned  
7 will bring the foregoing Motion to Strike Notice of Death Penalty for hearing before the  
8 above-entitled Court on the 22 day of December, 2005, at the hour of 9  
9    a.m., in Department 14, or as soon thereafter as counsel can be heard.

10 **DATED** this        day of December, 2005.

11 DRASKOVICH & DURHAM

12  
13 By: 

14 ROBERT M. DRASKOVICH, JR., ESQ.  
15 State Bar No. 6275  
16 815 South Casino Center Blvd.  
17 Las Vegas, NV 89101  
18 Attorney for Defendant  
19 LUIS HIDALGO, III

20 LAW OFFICES OF CHRISTOPHER R. ORAM

21 By: 

22 CHRISTOPHER R. ORAM, ESQ.  
23 Bar No. 004349  
24 520 South Fourth Street, Second Floor  
25 Las Vegas, Nevada 89101  
26 Attorney for Defendant  
27 ANABEL ESPINDOLA  
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1                    THE STATE'S INTENTION TO SEEK THE DEATH PENALTY

2            On July 6, 2005 the State filed a Notice of Intent to Seek Death Penalty  
3 (hereinafter "the NISDP") against each movant. Although not a model of linguistic  
4 clarity, the NISDPs appear to rely upon the following as the statutory aggravating  
5 factors that will enable the State to seek the death penalty: (1) that Anabel Espindola  
6 and Luis Hidalgo III **will be convicted** of the Solicitation to Commit Murder of Jayson  
7 Taoipu, as alleged in Count 3, prior to the penalty hearing for the State's anticipated  
8 conviction of her on Count 2; (2) that Anabel Espindola and Luis Hidalgo III **will be**  
9 **convicted** of the Solicitation to Commit Murder of Rontae Zone, as alleged in Count 4,  
10 prior to the penalty hearing for the State's anticipated conviction of her on Count 2; and  
11 (3) the murder alleged in Count 2 was committed by Kenneth Counts for the purpose of  
12 someone receiving money or other thing of monetary value.  
13

14            Just exactly how this last allegation will be supported is difficult to discern from  
15 the NISDPs themselves, as they contain several somewhat irreconcilable variations and  
16 mutations. Defense counsels' best efforts to understand them leads to a belief that the  
17 State contends that DeAngelo Carroll was "procured" to "**beat** and/or kill" Timothy Jay  
18 Hadland by Anabel Espindola, and/or Luis Hidalgo III, and/or Luis Hidalgo Jr. (who isn't  
19 charged in the Information), all of whom are associated in some manner with the  
20 Palomino Club. Whoever did the "procuring", according to defense counsels' divining of  
21 the NISDPs, somehow the **beating** and/or death of Timothy Jay Hadland was designed  
22 to "further" the business of the Palomino Club. Moreover, despite his being the one  
23 allegedly "procured" by one or more of the aforementioned persons, DeAngelo Carroll  
24 was himself apparently a "serial procurer" and bereft of the competency to "**beat** and/or  
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1 kill" Hadland himself. He therefore, according to his incredible self, resorted to making a  
2 secondary offering to Kenneth Counts and/or Jayson Taoipu. The NISDPs allege that  
3 Kenneth Counts, having been "procured" by DeAngelo Carroll, terminated the life of  
4 Timothy Jay Hadland by shooting him with a firearm.  
5

6 The NISDPs go on to narrate events that allegedly took place after the by then  
7 recent demise of Mr. Hadland. They assert that DeAngelo Carroll, subsequent to the  
8 event, was paid \$6000 by either Anabel Espindola or Luis Hidalgo Jr. (who is not  
9 charged in the Information), or both of them, and that DeAngelo Carroll in turn later  
10 transferred all of the money to Kenneth Counts, apparently feeling unworthy of  
11 compensation himself or at least not having been motivated in his "procuring" efforts by  
12 the acquisition of worldly gain.  
13

14 Or perhaps not.

15 The NISDPs continue in the disjunctive to assert that maybe what happened is  
16 that Anabel Espindola and/or Luis Hidalgo III (who is charged and who brings this  
17 motion along with Anabel Espindola) may have done one or more of the following:  
18

19 - Anabel Espindola provided \$200 to DeAngelo Carroll (we know not when or  
20 why from the pleading itself) which he apparently either did not give to Kenneth  
21 Counts or the NISDPs are silent as to it;  
22

23 - Anabel Espindola and Luis Hidalgo III provided \$1400 and/or \$800 to DeAngelo  
24 Carroll (we know not when or why from the pleading itself) that he apparently  
25 either did not give to Kenneth Counts or the NISDPs are silent as to it;  
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1 -Anabel Espindola agreed to pay DeAngelo Carroll for twenty-four hours per  
2 week of work at the Palomino Club even though he had already terminated his  
3 "position" there;

4 - Luis Hidalgo III offered to provide DeAngelo Carroll and/or his family with United  
5 States Savings Bonds.  
6

7 It is not clear as to whether the foregoing were consideration for some pre-existing  
8 agreement to **beat** and/or kill Timothy Jay Hadland or were paid or promised out of fear  
9 of what harm – physical, fabricated or otherwise – the motivated and by this time  
10 allegedly accomplished Carroll and/or his minions could cause to fall upon Ms.  
11 Espindola and Mr. Hidalgo III.  
12

13 **STATEMENT OF FACTS CURRENTLY IN THE RECORD**

14 A preliminary hearing took place on June 13, 2005 presided over by Justice of  
15 the Peace Victor L. Miller in Boulder City<sup>1</sup>. During the preliminary hearing the State  
16 called Rontae Zone as a witness. Zone testified that he began working with co-  
17 defendant DeAngelo Carroll in May of 2005. Zone worked as a "flier boy" for the  
18 Palomino Club for three days before the events leading to the criminal charges. As part  
19 of his duties, Zone would pass out fliers to promote the Palomino Club. (Preliminary  
20 Hearing Transcript, pp. 16-19, hereinafter referred to as PHT).  
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23 According to Zone, DeAngelo Carroll told him that Luis Hidalgo Jr. (the owner of  
24 the club and not a defendant), wanted someone dead (PHT, pp. 26-27). Present during  
25 this conversation was Jayson Taoipu (PHT, pp. 27). Zone indicated that Taoipu agreed  
26 to be involved in the effort to kill that "someone" (PHT, pp. 28). Later that evening,  
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<sup>1</sup> The transcript of this preliminary hearing was submitted in this record with the Writ of Habeas Corpus previously filed herein.

1 Zone witnessed Taoipu with a .22 revolver (PHT, pp. 28) after work, at approximately  
2 8:00 p.m. on May 19, 2005, when Zone, Taoipu and Carroll went to Carroll's home  
3 (PHT, pp. 30). Thereafter, the three picked up Kenneth Counts on E Street (PHT, pp.  
4 31). According to Zone, Carroll, Taoipu, Counts and him proceeded out toward Lake  
5 Mead (PHT, pp. 37). During the drive, Zone admitted that they smoked marijuana (a  
6 hallucinogenic, psychoactive drug). (PHT, pp. 40).  
7

8 At this point in the testimony, Zone requested and was permitted to speak with  
9 an attorney (PHT, pp. 44). Thereafter, a lengthy delay occurred while the Court  
10 contacted and appointed an attorney for the witness.  
11

12 During this break, the State called Pajit Karlson (PHT, pp. 45). Ms. Karlson was  
13 in a dating relationship with the victim, Timothy Hadland and was camping at Lake  
14 Mead with him on the night of his death. (PHT, pp. 47). She knew that Hadland had  
15 previously worked at the Palomino Club but had stopped working there approximately  
16 two and a half weeks prior to the shooting (PHT, pp. 49). While with her at the lake,  
17 Hadland received a phone call from DeAngelo Carroll and agreed to meet him so that  
18 Hadland could receive some marijuana from Carroll (PHT, pp. 54). Hadland left and  
19 Ms. Karlson never saw him alive again (PHT, pp. 55).  
20

21 Zone was recalled to the witness stand and agreed to continue with his  
22 examination after consultation with an attorney (PHT, pp. 58). While in the vehicle,  
23 Zone was asked by Kenneth Counts if he had a gun (PHT, pp. 59). Zone claimed he  
24 did not have a gun but a gun was provided by Mr. Taoipu (PHT, pp. 59). While in the  
25 area of the north shore of Lake Mead, Hadland approached in his vehicle. Both  
26 vehicles stopped on the side of the road and DeAngelo Carroll exited and then  
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1 reentered his vehicle (PHT, pp. 60-61). Hadland exited his vehicle and waved at Carroll  
2 (PHT, pp. 63). As Hadland walked toward the Carroll driven van, Counts got out of the  
3 Carroll van and shot Hadland. (PHT, pp. 66-68). Counts reentered the Carroll van and  
4 Carroll drove Counts, Zone and Taoipu away from the scene of the killing and to the  
5 Palomino Club. (PHT, pp. 71). According to Zone, Counts and Carroll went inside the  
6 Palomino Club for about 30 minutes (PHT, pp. 73). Counts then left the Palomino Club  
7 in a cab (PHT, pp. 73). Carroll exited about 45 minutes after Counts came out of the  
8 Palomino Club. (PHT, pp. 73). Carroll got back in the van with Taoipu and Zone and  
9 they left to go buy some new tires. (PHT, pp. 76-77). DeAngelo Carroll told him that he  
10 had been paid \$100.00 to change the tires by Anabel Espindola (PHT, pp. 79). Zone,  
11 Taoipu and Carroll went to the IHOP to eat breakfast (PHT, pp. 82). After breakfast,  
12 they went back to the residence after Carroll stopped at a barber shop to get a haircut.  
13 Zone remained at Carroll's residence until the next morning, when Zone, Carroll and  
14 Taoipu went to Simone's Auto Plaza (PHT, pp. 84). Zone and Taoipu waited in the car  
15 as Carroll went into Simone's Auto Plaza (PHT, pp. 85).

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19       Zone admitted that he only knew Anabel Espindola from the news reports about  
20 her arrest. (PHT, pp. 101). Prior to that he never saw her nor had he ever seen Carroll  
21 speak with her. (PHT, pp. 102). Neither did Zone know or speak with Luis Hidalgo III.  
22 (PHT, pp. 103). Zone admitted that his review of the newspaper reports and television  
23 accounts of the incident helped him "put things together" (PHT, pp. 110). Zone knew  
24 only what Carroll told him about that subject matter and informed the police that  
25 Hadland was shot because he was "snitching" (PHT, pp. 120).  
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1 Detective Michael McGrath testified that he responded to North Shore Road near  
2 Lake Mead on May 19, 2005. (PHT, pp. 145). Detective McGrath observed the body of  
3 Timothy Hadland lying face up. (PHT, pp. 151). Near the body, Detective McGrath  
4 observed some Palomino VIP cards (PHT, pp. 152). On the driver's side floor board of  
5 Hadland's vehicle, Detective McGrath located Hadland's cell phone (PHT, pp. 153).  
6 Detective McGrath reviewed the cell phone history on Hadland's phone and learned that  
7 on May 19, 2005, at 11:27 p.m. Mr. Hadland had received a phone call (PHT, pp. 154).  
8 Detective McGrath attended the autopsy of Hadland and learned that he had a single  
9 gun shot wound to the left side of his head (PHT, pp. 156) and a second wound to the  
10 ear (PHT, pp. 157).  
11

12  
13 Detective McGrath described Luis Hidalgo, Jr., as the owner of the Palomino  
14 Club, and Louis Hidalgo, III, as his son (PHT, pp. 160).  
15

16 Detective McGrath eventually came into contact with DeAngelo Carroll and  
17 asked him to come to the homicide section wherein Carroll gave a recorded statement  
18 (PHT, pp. 164). Carroll informed Detective McGrath about Zone and Taoipu being  
19 present with him out at the lake (PHT, pp. 165). Detective McGrath also interviewed  
20 Zone (PHT, pp. 166) and eventually Taoipu (PHT, pp. 167). According to Detective  
21 McGrath, both Carroll and Zone described the residence where Kenneth Counts was  
22 picked up prior to driving out to the lake (PHT, pp. 167). Detective McGrath then  
23 prepared a search warrant and executed it at 1676 E Street (PHT, pp. 168). Detective  
24 McGrath obtained and executed an additional search warrant for 1677 E Street, wherein  
25 he located Kenneth Counts hiding in the attic (PHT, pp. 172-174).  
26  
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1 According to Detective McGrath, DeAngelo Carroll agreed to wear a body  
2 recorder to converse with others whom he alleged were involved in Hadland's death.  
3 (PHT, pp. 184). On May 23, 2005, law enforcement conducted a visual surveillance of  
4 DeAngelo Carroll at Simone's Auto Plaza (PHT, pp. 185). After Carroll exited Simone's  
5 Auto Plaza, Carroll was interviewed regarding what took place inside (PHT, pp. 186).  
6 The next day Carroll again wore a body recorder into the Palomino Club<sup>2</sup>. (PHT, pp.  
7 187-188). On this same date, police surveilled Simone's Auto Plaza until they observed  
8 Luis Hidalgo III leave (PHT, pp. 191). Patrol units were advised to stop Hidalgo III's  
9 vehicle and he was subsequently arrested (PHT, pp. 192-193, 199). He was then  
10 questioned by law enforcement after receiving his Miranda warnings (PHT, pp. 208-  
11 210).

14 Detective McGrath also conducted brief interrogation of Anabel Espindola who  
15 was in custody (PHT, pp. 211). During her interview she acknowledged seeing  
16 DeAngelo Carroll earlier in the day (PHT, pp. 214). Both of the interviews with the  
17 Movants were videotaped.

19 On May 24, 2005, police executed a search warrant at the Palomino Club (PHT,  
20 pp. 217). During the search, law enforcement located paperwork establishing that  
21 Carroll and Hadland had been employed with the Palomino Club. Additionally, law  
22 enforcement located proof of resignation by Carroll on May 23, 2005 (PHT, pp. 219).

24 Detective McGrath testified he was in possession of three surreptitious  
25 recordings made by DeAngelo Carroll, two on May 23 and one from May 24, 2005  
26 (PHT, pp. 222). On the May 23, 2005, recording made at Simone's Auto Plaza, Anabel  
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28 <sup>2</sup>Transcripts of the recordings are attached hereto as Exhibits 1 & 2.

1 Espindola, in response to Carroll speaking about having been asked to kill Hadland,  
2 clearly replies to Carroll, "Why are you saying that shit, what we really wanted was for  
3 him to be beat up." Detective McGrath explained that after DeAngelo Carroll left  
4 Simone's Auto Plaza that he collected a Tangueray bottle filled with \$1,400.00 United  
5 States currency from Mr. Carroll (PHT, pp. 251). On the recording made at the  
6 Palomino Club on May 24, 2005, Anabel Espindola clearly states, "I told you to talk to  
7 him, not fucking hurt him or kill him." (PHT, pp. 264). **Indicating his agreement with  
8 this statement of the historic facts, Carroll responds "there's not much I can do  
9 about that now."**

12 Detective McGrath characterized DeAngelo Carroll as a "habitual liar" (PHT, pp.  
13 267) and that during the recorded statement of DeAngelo Carroll, he made up several  
14 different stories and motives for the killing (PHT, pp. 268). Additionally, DeAngelo  
15 Carroll (following in the footsteps of that famed fantasy writer "Lewis G." with whom he  
16 shares a surname) blamed several different people involved in the murder and then  
17 would change and blame others (PHT, pp. 268). Detective McGrath explained that it  
18 was very late in Carroll's 128 page recorded statement that he first decides to start  
19 blaming Anabel Espindola.<sup>3</sup> In fact, Detective McGrath characterized Carroll's  
20 statements to him as a situation where Carroll would make up things as he went along  
21 (PHT, pp. 281).

24 On July 6, 2005, the State filed a Notice of Intent to Seek Death Penalty against  
25 each movant which are both challenged by this Motion.

26 ///

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28 <sup>3</sup> A transcript of the Carroll statement is attached hereto as Exhibit 3.

1 POINTS AND AUTHORITIES

- 2 I. THE DEATH PENALTY IS NOT AN AVAILABLE PUNISHMENT FOR  
3 ANABEL ESPINDOLA OR LUIS HIDAGLO III, AS NEITHER OF THEM  
4 KILLED, ATTEMPTED TO KILL, OR INTENDED THAT A KILLING OF  
5 TIMOTHY HADLAND TAKE PLACE, NOR DID EITHER PERFORM A  
6 MAJOR ROLE IN HIS MURDER OR ACT WITH RECKLESS DISREGARD  
7 FOR HADLAND'S LIFE.

8 Capital punishment is reserved for the most heinous of murders. Not all murders  
9 qualify for death as the punishment. "Death is different". The United States Supreme  
10 Court has been saying that and interpreting the Eighth Amendment in that light for thirty  
11 years. See Gregg v. Georgia, 428 U.S. 153, 188 (1976); Woodson v. North Carolina,  
12 428 U.S. 280, 303 (1976); Ford v. Wainwright, 477 U.S. 399, 411 (1986); Harmelin v.  
13 Michigan, 501 U.S. 957, 994 (1991); Morgan v. Illinois, 504 U.S. 719, 751 (1992)  
14 (Scalia, J. *dissenting*); Dobbs v. Zant, 506 U.S. 357, 363 (1993) (Scalia, J., concurring);  
15 Simmons v. South Carolina, 512 U.S. 154, 185 (1994) (Scalia, J. *dissenting*); Shafer v.  
16 South Carolina, 532 U.S. 36, 55 (2001) (Scalia, J., *dissenting*); Atkins v. Virginia, 536  
17 U.S. 304, 337 (2002) (Scalia, J. *dissenting*); Ring v. Arizona, 536 U.S. 584, 606 (2002);  
18 Wiggins v. Smith, 539 U.S. 510, 557 (2003) (Scalia, J. *dissenting*).

19 Not all defendants convicted of being associated with a murder may have the  
20 punishment of death imposed upon them. An example that is apropos and controlling in  
21 the case *sub judice* establishes that the Eighth Amendment does not permit the  
22 imposition of the death penalty on one who aids and abets a felony in the course of  
23 which a murder is committed by others but who does not kill, attempt to kill, or intend  
24 that a killing take place or that lethal force will be employed. In Enmund v. Florida, 458  
25 U.S. 782, 797 (1982), the Court reversed and remanded the defendant's death  
26 sentence, holding that his only participation in the crimes was as a partner in the  
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1 robbery, being the driver of the getaway car. The Court held that even in a felony-  
2 murder situation, if a defendant neither kills nor intends to kill the victim, the imposition  
3 of capital punishment is not constitutionally justifiable under the cruel and unusual  
4 punishment clause of the Eighth Amendment. The United States Supreme Court has  
5 recognized that there must be individual consideration as a matter of constitutional right  
6 in imposing the death sentence. See Lockett v. Ohio, 438 U.S. 586, 605 (1978). The  
7 Court has made it clear that there must be a focus on "relevant facets of the character  
8 and record of the individual offender." Woodson v. North Carolina, 428 U.S. 280, 304  
9 (1976).  
10  
11

12 Five years later the United States Supreme Court, in Tison v. Arizona, 481 U.S.  
13 137 (1987), broadened the Enmund standard slightly, making it sufficient to satisfy the  
14 Enmund culpability test even if the defendant is not the killer where there is evidence of  
15 his "major participation in the felony committed, combined with reckless indifference to  
16 human life". In Tison, the Court remanded the case after it found that the Arizona  
17 Supreme Court applied the wrong standard. However, the Court distinguished the facts  
18 of Tison from those in Enmund, noting that Tison's degree of participation in the crimes  
19 was major rather than minor, and the record would support a finding of the culpable  
20 mental state of reckless indifference to human life, as Tison's participation up to the  
21 moment of the killing of the victims was substantially the same as the one who actually  
22 shot them. That is, the Tison actively participated in the events leading up to the  
23 deaths by providing the murder weapons, assisting in the killer's escape from prison  
24 and helping to abduct the victims and steal their auto to act as a replacement getaway  
25 car. Tison was present at the murder site, saw that the killer was holding the victims at  
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1 bay with firearms and did nothing to interfere with the murders, and after the murders  
2 even continued on the joint venture. Id at 145.

3       The Nevada Supreme Court has held that based upon Enmund and Tison, to  
4 receive the death sentence, appellant must have himself killed, attempted to kill,  
5 intended that a killing take place, intended that lethal force be employed or  
6 participated in a felony while exhibiting a reckless indifference to human life. See  
7 Doleman v. State, 107 Nev. 409, 418, 812 P.2d 1287, 1292-93 (1991). In the aiding  
8 and abetting context, this is consistent with the Nevada Supreme Court's holding in  
9 Sharma v. State, 118 Nev. 648, 56 P. 3d 868 (2002) that to be guilty of a specific intent  
10 offense on an aiding and abetting theory the aider and abettor must have the same  
11 intent as required of the principal. In the case *sub judice*, the State pleads in the  
12 Information and the record evidence is clear that, at worst, the Movants wanted the  
13 victim "beaten" or "talked to" and, in the words of Anabel Espindola on the surreptitious  
14 recording made by co-defendant Carroll at the request of the State, "not kill him".

15       In this case, it is clear that neither Anabel nor Luis had any intent that Timothy  
16 Hadland be killed. Anabel makes her intent clear through her comments to DeAngelo  
17 Carroll. Anabel states, "Why are you saying that shit, what we really wanted was for  
18 him to be beat up." (Return to Writ of Habeas Corpus – Exhibit 2 pp 4). Anabel had no  
19 idea that Carroll was wearing a recording device and she spoke clearly about what she  
20 thought was to happen -she wanted someone beaten up – and there is nothing to  
21 indicate that the "agreement", if one existed, contemplated anything beyond a simple  
22 battery. Not even the use of a weapon of any sort or substantial bodily harm. There is  
23 no dispute that movants did not physically kill Hadland themselves. Neither did either of

1 them attempt to kill Hadland as they weren't even near Hadland when he did get killed.

2 Thus, under the Enmund theory, the death penalty is not an appropriate punishment.

3 Further, under Tison, Anabel did not play a major role in the activities that killed  
4 Hadland. Unlike the facts in Tison there is no evidence that Anabel helped plan, equip  
5 and/or carry out the murder of Hadland, nor is there any information supplied indicating  
6 that she was aware of it before it occurred. To the contrary, the record is clear that she  
7 intended for Hadland to be "beaten up" and nothing more. Based on these facts there  
8 could not be a finding of a culpable mental state of reckless indifference to human life or  
9 any major role in the homicide.  
10

11 The same is true as to Luis Hidalgo III. Moreover, it is clear that he had no intent  
12 to have Hadland killed. Luis' comments on the surreptitious recordings are limited and  
13 he makes no statements about knowledge of or involvement in Hadland being **beaten**  
14 or killed prior to the homicide. Although Zone states that Carroll told him that Luis also  
15 wanted Hadland dead, and that Carroll should grab baseball bats and trash bags, this is  
16 rank hearsay. Zone cannot testify to what Carroll claims to have heard Luis say  
17 because Zone was not present for any conversation between Carroll and Luis. There is  
18 no dispute that Luis did not physically kill Hadland himself. He also did not attempt to  
19 kill Hadland because he was no where near Hadland when he did get killed. Further,  
20 there is no admissible evidence that suggests that Luis intended for a killing to take  
21 place or that lethal force be used. Thus, under the Enmund theory, the death penalty is  
22 not an appropriate punishment for Luis.  
23

24 Under Tison, Luis did not play a major role in the activities that killed Hadland.  
25 Unlike the facts in Tison and Evans v. State, 112 Nev. 1172 (1996), there is no  
26  
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1 evidence that Luis helped plan and carry out the murder of Hadland. Specifically, there  
2 is no evidence that Luis knew of or participated in the events leading up to Hadland's  
3 death, or that he provided any assistance in it. Further, there is no evidence that Luis  
4 assisted in luring Hadland to his death. Based on these facts there cannot be a finding  
5 of a culpable mental state of reckless indifference to human life or major participation in  
6 the homicide itself.  
7

8 **II. The Pecuniary Gain Aggravator Should Be Stricken Because As There**  
9 **Was No Probable Cause Finding Of Its Presence As An Aggravator.**

10 **a. The Failure To Submit The Aggravator Of Pecuniary Gain For A**  
11 **Probable Cause Determination Violates Article I, Section 8 Of The**  
12 **Nevada Constitution, NRS 172.155, And Both Movants' Due Process**  
**Rights Under The United States Constitution.**

13 As a preliminary matter, the United States Supreme Court made clear in Ring v.  
14 Arizona, 122 S. Ct. 2428 (2002) that aggravating circumstances are "essential  
15 elements" of a capital offense and must be presented to a jury for testing against the  
16 beyond a reasonable doubt standard. Accordingly, the aggravating circumstances  
17 alleged herein are elements of the instant First Degree Murder charge, much like a "Use  
18 of a Deadly Weapon" enhancement is an "element" of the offense with which it is  
19 charged. The fact that the prosecution does not include the aggravators within the  
20 Information but files them in a separate document does not alter their character as  
21 elements of a Capital Murder charge.  
22

24 Article I, Section 8 of the Nevada Constitution provides that no person shall be  
25 held to answer to criminal charges without a finding of probable cause by a grand jury or  
26 a magistrate. This requirement is codified in NRS 171.206. Article I, Section 8 of the  
27 Nevada Constitution, serves as a check on prosecutorial power and requires notice of  
28 the charges that must be defended against. United States v. Cotton, 535 U.S. 625, 122

1 S. Ct. 1781, 1786-87 (2002). In accord with this, the United States Supreme Court has  
2 reversed criminal convictions where a charging document alleges facts or theories  
3 beyond that which the probable cause hearing found supported by the preliminary  
4 evidence. Russell v. United States, 369 U.S. 749 (1962) (charging documents  
5 exceeded finding of grand jury). The policy endorsed in Russell is "effectuated by  
6 preventing the prosecution from modifying the theory and evidence upon which the  
7 indictment is based." United States v. Silverman, 430 F.2d 106, 110 (2<sup>nd</sup> Cir. 1970).

9 Article I, Section 8 of the Nevada Constitution mandates – that "no person shall  
10 be tried for a capital... crime... except on upon information duly filed by a district  
11 attorney. NRS 171.206 states that upon the information being filed, the magistrate finds  
12 whether there is "probable cause to believe that an offense has been committed and  
13 that the defendant has committed it" before the magistrate shall forthwith hold him to  
14 answer in the district court. Thus, the Nevada Constitution and Nevada law expressly  
15 require that all crimes be subject to a probable cause determination. Inasmuch as  
16 aggravating circumstances are elements of a capital offense, they, too, must be subject  
17 to this determination. In the instant case, the prosecution failed to present the instant  
18 aggravators to the magistrate and has as yet not done so to a Grand Jury, and has  
19 violated Luis and Anabel's Due Process rights, as secured by federal and state  
20 constitutional law, as well as Nevada statutory law. See Hicks v. Oklahoma, 447 U.S.  
21 343 (1980) (holding that arbitrary denial of state created liberty interest amounts to Due  
22 Process violation).

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1                   **b. The Failure To Present The Pecuniary Gain Aggravator To The**  
2                   **Magistrate For A Probable Cause Determination Violates Luis And**  
3                   **Anabel's Equal Protection Rights.**

4                   The failure to present the aggravators to the Magistrate for a probable cause  
5 determination also violates the Equal Protection Clause of the United States  
6 Constitution. The Fourteenth Amendment to the United States Constitution (making  
7 applicable to the states the Fifth Amendment) guarantees all criminal defendants equal  
8 protection of the law. Accordingly, a State cannot subject some criminal offenses, but  
9 not others, to probable cause determinations at its whim. All crimes -- and all elements  
10 thereof -- must be subject to the same probable cause determination. To do otherwise  
11 would be to treat one class of defendants differently from another for no apparent  
12 reason, in direct contravention of the Equal Protection Clause.

13                   While the Equal Protection Clause permits the states some discretion in enacting  
14 laws which affect some groups of citizens differently than other, a statute or practice is  
15 unconstitutional if the "classification rests on grounds wholly irrelevant to the  
16 achievement of the State's objective." McGowan v. Maryland, 366 U.S. 420, 425-26  
17 (1961). The burden is on the State to show some rational reason why people facing a  
18 death penalty should be treated differently than other criminal defendants. There is  
19 none. If anything, death penalty cases should be subject to stricter scrutiny than other  
20 criminal offenses, not less. If this Court were to allow the prosecution to proceed on the  
21 NISDP which was not submitted to the magistrate for a probable cause determination,  
22 this Court would be sanctioning a process by which capital litigants are treated vastly  
23 different from their non-capital counterparts. Such a procedure amounts to a blatant  
24 violation of both Luis and Anabel's Equal Protection rights.

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1       **III. The Pecuniary Gain Aggravator Must Be Stricken As It Does Not**  
2       **Contain A Plain/Concise Written Statement Of The Essential Facts**  
3       **Constituting The Aggravator Charged.**

4       The Sixth Amendment to the United States Constitution provides that a criminal  
5       defendant is entitled to be informed of the nature and cause of any and all accusations  
6       against him. In conformity therewith, NRS 173.075(1) expressly requires that an  
7       indictment or information contain a "plain, concise and definite written statement of the  
8       essential facts constituting the offense charged." See also Sheriff v. Levinson, 95 Nev.  
9       436 (1979). The charging document should also contain, when possible, a description  
10      of the means by which the defendant committed the offense(s). NRS 173.075(2). The  
11      Nevada Supreme Court first contemplated the mandate of NRS 173.075 in Simpson v.  
12      District Court, 88 Nev. 654, 660 (1972).<sup>4</sup> Simpson was charged with murder by way of a  
13      Grand Jury Indictment. Simpson's Indictment alleged that she, "... on or about May 27,  
14      1970, did willfully, unlawfully, feloniously and with malice aforethought kill Amber  
15      Simpson, a human being." Id. At 655. At issue was whether Simpson's charges met  
16      the pleading requirements of NRS 173.075(2). The Supreme Court held that, because  
17      the indictment failed to specify the conduct which gave rise to the Simpson's charges,  
18      the indictment was insufficient under NRS 173.075. Accordingly, the Simpson Court  
19      issued a permanent writ of prohibition, disallowing further proceedings based on the  
20      defective indictment. Id. At 661.

21  
22  
23      Elaborating on the pleading requirements necessary for an Indictment to meet  
24      constitutional must, the Simpson Court held that:  
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<sup>4</sup> In Simpson, the respondent District Court denied petitioner Simpson's motion to dismiss a  
28      murder Indictment. Simpson, at 655. Desiring guidelines for pleading cases similar to Simpson's, the  
    Clark County District Attorney requested that the Supreme Court entertain Simpson's petition. Id.

1 Whether at common law or under statute, the accusation must include a  
2 characterization of the crime and such description of the particular act  
3 alleged to have been committed by the accused as will enable him  
4 properly to defend against the accusation, and the description of the  
offense must be sufficiently full and complete to accord to the accused his  
constitutional right to due process of law.

5 Id. At 660 (quoting 4 R. Anderson, Wharton's Criminal Law and Procedure, Section  
6 1760, at 553 (1957)). The Court further noted that the fact that an accused has access  
7 to transcripts of the proceedings before the Grand Jury does not eliminate the necessity  
8 that an Indictment be definite. Id. The Simpson Court reasoned that such indefinite  
9 pleading would necessarily allow the prosecution absolute freedom to change theories  
10 at will, thus denying an accused the fundamental rights the Nevada legislature intended  
11 a definite Indictment to secure. Id.

13 The pleading requirement described above is reiterated in Nevada Supreme  
14 Court Rule 250, which governs capital offenses. Specifically, SCR 250(4)(c) reads as  
15 follows:  
16

17 No later than 30 days after the filing of an information or indictment, the  
18 state must file in the district court a notice of intent to seek the death  
19 penalty. The notice must allege all aggravating circumstances which the  
state intends to prove *and allege with specificity the facts on which the  
state will rely to prove each aggravating circumstance.*

20 (emphasis added).

21 Under SCR 250, as well as NRS 173.075 and Simpson, the instant pecuniary  
22 gain aggravator must be dismissed. It contains absolutely no assertion of a factual  
23 basis as to how the alleged murder of Timothy Hadland furthered the business of the  
24 Palomino Club. Anabel and Luis are left to guess how the State is going to allege that  
25 the business was furthered. A simple allegation with no specificity is not sufficient to put  
26 Luis and Anabel on notice. Further, the purpose of the Notice is to provide defendants  
27 just that. The Pecuniary gain aggravators provide too many variables. With numerous  
28

1 and/or combinations, it is impossible for Anabel and Luis to know what allegation they  
2 are to defend against or exactly who was to "gain". Due to insufficient notice, Anabel  
3 and Luis have not received the process due to them under the Nevada statutory  
4 scheme or the United States and/or Nevada Constitutions. The prosecution cannot rely  
5 upon the magistrate's ruling in the case *sub judice* as a factual basis for the aggravating  
6 circumstances because the issue was not presented to him. Absent the requisite  
7 factual assertions, the Death Notice is constitutionally defective.  
8

9  
10 **IV. To The Extent That It Is Based Upon A Conspiracy To Commit A Battery**  
11 **("Beat") Or Utilizes The Unqualified Term "Kill", The NISDPS Are**  
12 **Duplicitous And Cannot Supply The Basis For Imposition Of Capital**  
13 **Punishment.**

14 Count One of the Information charges the defendants with Conspiracy to Commit  
15 Murder. Where there is an agreement to commit a murder, the end result is foreseeable  
16 if the agreement is carried out. Moreover, each conspirator must have the specific  
17 intent to kill. Therefore each is responsible as a principal for the murder as it was  
18 clearly committed in furtherance of and to achieve the purpose or object of the  
19 conspiracy. See Walker v. State, 116 Nev. 670, 674 (Nev. 2000). However, probably  
20 because the surreptitious recording of conversations between DeAngelo Carroll and  
21 movants clearly show that there was never an intention on the part of either movant that  
22 Timothy Hadland be killed, but only "beaten", the State adds an uncharged and  
23 unchangeable theory to its NISDPs as grounds for imposition of the death penalty upon  
24 conviction. The NISDPs state that the object of the conspiracy was either to "beat" or to  
25 "kill" Hadland. That this makes a great difference to the validity of the NISDPs is  
26 obvious. Moreover, to "kill" someone is not the equivalent of "murder" someone. State  
27 officials, jurists, police and even juries, enter into agreements to "kill" people that are not  
28



1 criminal. Persons who are defending themselves from lethal force also fit into that  
2 category.

3 First of all, even a deliberate battery does not have as a foreseeable  
4 consequence, much less an intentional one, a killing or great bodily harm. Absent it  
5 being the purpose of a burglary, battery does not form the basis of a felony-murder  
6 under Nevada law. See Contreras v. State, 118 Nev. 332, 46 p. 3d 661 (Nev. 2002).

7 Serious bodily injury is not inherently foreseeable in a battery.  
8

9 Moreover, serious bodily injury is not inherently foreseeable in a battery. State v.  
10 Huber, 38 Nev. 253, 148 P. 562, 563 (Nev. 1915) (where defendant intended only a  
11 battery and it results in killing of victim who fights back, result is manslaughter). An  
12 intentional act or intentional conduct done with no aim to cause death or serious bodily  
13 injury will constitute involuntary manslaughter if it creates an extreme risk of death or  
14 serious bodily injury and amounts to non-conscious recklessness. Alternatively, an  
15 intentional act which causes death is involuntary manslaughter if it is a misdemeanor  
16 dangerous in and of itself which is committed in a manner such that appreciable bodily  
17 injury to the victim was a reasonably foreseeable result. See Comber v. United States,  
18 584 A. 2d 26, 54 (D.C. Ct. App. 1990)(*en banc*). Thus, the "conspiracy to beat"  
19 alternative in the NISDP cannot form the basis of a capital punishment hearing, as it is  
20 not charged in the Information and is not a statutory aggravating factor.  
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1 V. The Two Aggravators Stating Anabel Espindola And Luis Hidalgo III  
2 Committed A Felony With Use Or Threat Of Harm, To Wit: Solicitation To  
3 Commit Murder - Must Be Stricken Because (A) NRS 200.033 (b)(2) Is  
4 Unconstitutionally Vague and Ambiguous; and (B) Solicitation For  
Murder, Especially When Made To A Police Agent, Is Not A Felony  
Involving The Use Or Threat Of Violence.

5 a. NRS 200.033(b) (2) is unconstitutionally vague and ambiguous.

6 The relevant Eighth Amendment law is well defined. First, a statutory aggravating  
7 factor is unconstitutionally vague if it fails to furnish principled guidance for the choice  
8 between death and a lesser penalty. See, e.g., *Maynard v. Cartwright*, 486 U.S. 356,  
9 361-364, 100 L. Ed. 2d 372, 108 S. Ct. 1853 (1988); *Godfrey v. Georgia*, 446 U.S. 420,  
10 427-433, 64 L. Ed. 2d 398, 100 S. Ct. 1759 (1980). Second, in a "weighing" State,  
11 where the aggravating and mitigating factors are balanced against each other, it is  
12 constitutional error for the sentencer to give weight to an unconstitutionally vague  
13 aggravating factor, even if other, valid aggravating factors obtain. See, e.g., *Stringer v.*  
14 *Black*, 503 U.S. 222, 229-232, 117 L. Ed. 2d 367, 112 S. Ct. 1130 (1992); *Clemons v.*  
15 *Mississippi*, *supra*, 494 U.S. at 748-752. Third, a state appellate court may rely upon an  
16 adequate narrowing construction of the factor in curing this error. See *Lewis v. Jeffers*,  
17 497 U.S. 764, 111 L. Ed. 2d 606, 110 S. Ct. 3092 (1990); *Walton v. Arizona*, 497 U.S.  
18 639, 111 L. Ed. 2d 511, 110 S. Ct. 3047 (1990). Finally, in federal habeas corpus  
19 proceedings, the state court's application of the narrowing construction should be  
20 reviewed under the "rational fact finder" standard of *Jackson v. Virginia*, 443 U.S. 307,  
21 61 L. Ed. 2d 560, 99 S. Ct. 2781 (1979). See *Lewis v. Jeffers*, *supra*, at 781.

22 Circumstances aggravating first-degree murder are codified in NRS 200.033.  
23 Section 2 in pertinent part to this argument states:

24 The murder was committed by a person who is or has been  
25 convicted of:

26 (b) A felony *involving the use or threat of violence to the*

1 **person of another** and the provisions of subsection 4 do not otherwise  
2 apply to that felony.

3 Subsection 4 enumerates the felonies that would constitute the felony murder rule.  
4 Specifically this subsection deals with if the murder was committed while engaged or  
5 attempting to engage in the following felonies: robbery, burglary, invasion of the home,  
6 kidnapping and arson in the first degree.<sup>5</sup> In a concurring opinion in Leslie v. Warden,  
7 118 Nev. 773 (2002), Justice Maupin voiced his concern over NRS 200.033(4) when he  
8 wrote:  
9

10 To meet constitutional muster, a capital sentencing scheme "must  
11 genuinely narrow the class of persons eligible for the death penalty and  
12 must reasonably justify the imposition of a more severe sentence on the  
13 defendant compared to others found guilty of murder." The question is,  
14 does the felony aggravator set forth in NRS 200.033(4) genuinely narrow  
15 the death eligibility of felony murderers? First, compared to the felony  
16 basis for felony murder, NRS 200.033(4) limits somewhat the felonies that  
17 serve to aggravate a murder. **But the felonies it includes are those**  
18 **most likely to underlie felony murder in the first place.** Second, the  
19 aggravator applies only if the defendant "killed or attempted to kill" the  
20 victim or "knew or had reason to know that life would be taken or lethal  
21 force used." This is narrower than felony murder, which in Nevada  
22 requires only the intent to commit the underlying felony. This  
23 notwithstanding, it is quite arguable that Nevada's felony murder  
24 aggravator, standing alone as a basis for seeking the death penalty, fails  
25 to genuinely narrow the death eligibility...

19 The Nevada Supreme Court has never addressed whether NRS. 200.033 (2)(b)  
20 is narrowly defined. However, if, as Justice Maupin has written, section (4) of the  
21 statute is not genuinely narrow then there is a strong argument that Section (2)(b) is not  
22 genuinely narrow. As stated above, Section (4) specifically states that if the murder was  
23 committed while the person was engaged in several enumerated felonies then that  
24 crime could be used as an aggravator under this section. Unlike Section (4), section (2)  
25 (b) does not enumerate any specific felonies. It simply states a felony involving the  
26  
27

28 <sup>5</sup> It is noteworthy that **battery** is missing from this list.

1 threat or use of violence. One is left to simply guess what types of felonies fall under  
2 this category. Significant to the instant case, the Nevada Supreme Court has never  
3 addressed whether the specific crime of Solicitation for Murder is considered a felony  
4 with the use or threat of violence.  
5

6 **b. Solicitation To Commit Murder, Both In General And On The Facts**  
7 **Of This Case, Is Not A Felony Involving The Use Or Threat Of**  
8 **Violence.**

9 NRS 199.500(2) states:

10 A person who counsels, hires, commands or otherwise solicits  
11 another to commit murder, if no criminal act is committed as a  
12 result of the solicitation is guilty of category B felony.

13 The crime of solicitation is complete once the request is made. Moran v.  
14 Schwarz, 108 Nev. 200, 202(1992). Unlike other criminal offenses, in the crime of  
15 solicitation, "the harm is the asking -- nothing more need be proven." Id. at 203. citing  
16 People v. Miley, 158 Cal. App. 3d 25 (Ct. App. 1984). There need be no real danger of  
17 the commission of the completed offense or of the person solicited being receptive to  
18 the invitation. It amounts to little more than speaking ones mind about wanting  
19 someone killed. Unlike a conspiracy to commit murder, where an agreement to  
20 complete the offense is involved, there is no threat of actual harm at the time of the  
21 solicitation, even to someone who is not a police operative. In a sense it is "half a  
22 conspiracy" or "half a contract", waiting for a willing person to accept or agree to fulfill  
23 the wishes of the desirous person. In Wood v. State, 115 Nev. 344, 350-351, 990 P.2d  
24 786, 790 (Nev. 1999) the Court held that if a defendant is convicted of conspiracy to  
25 commit murder or attempted murder, he cannot be convicted of solicitation to commit  
26 murder for the same acts. Noting that when a person solicits another to commit murder  
27 and the second person agrees, a conspiracy is formed and NRS 199.480(1) governs,  
28

1 the Court held:

2 A conspiracy is a criminal act, which triggers the exclusionary clause in  
3 the solicitation statute. In State v. Koseck, 113 Nev. 477, 479, 936 P.2d 836, 837  
4 (1997), we held that, "[w]hen a defendant receives multiple convictions based on  
5 a single act, this court will reverse 'redundant convictions that do not comport  
6 with legislative intent.' " (Citation omitted.) Based on the exclusionary language  
7 contained in NRS 199.500(2), on remand, Wood could be convicted of  
8 solicitation to commit murder in these circumstances only if he is not convicted of  
9 conspiracy or attempted murder for the attack on Lisa.

10 See also People v. Vieira, 35 Cal. 4<sup>th</sup> 264, 106 P. 3d 990, 1009 (Cal. 2005)(holding that  
11 conspiracy to commit murder is not a death eligible crime).

12 In reviewing Nevada case law, there are no cases where solicitation has been  
13 considered a "felony with use of threat of use or force." In determining, what is a felony  
14 with use of threat or violence Nevada has stated the following crimes fall in that  
15 category: second-degree assault<sup>6</sup>, aggravated criminal sexual assault, armed robbery,  
16 aggravated burglary<sup>7</sup>, kidnapping<sup>8</sup>, second degree arson<sup>9</sup>, battery causing substantial  
17 bodily harm<sup>10</sup>. None of these are inchoate offenses and the harm or threat of harm is  
18 direct and certain to flow from the criminal act itself. They are not crimes that are  
19 committed with words but with physical deeds that are clearly and imminently  
20 dangerous to a victim who is present at its place of commission. Not so with solicitation.  
21 It is noteworthy that both conspiracy to commit murder and solicitation of murder are  
22 Class B felonies. In terms of the legislative intent regarding their punishment, they are  
23

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24 <sup>6</sup> Dennis v. State, 116 Nev. 1075 (2000)

25 <sup>7</sup> Kaczmarek v. State, 91 P.3d 16 (2004)

26 <sup>8</sup> Petrocelli v. Angelone 248 F.3d 877 (2001)

27 <sup>9</sup> Dennis v. State, 116 Nev. 1075 (2000)

28 <sup>10</sup> Thomas v. State, 83 P.3d 818, 2004 Nev. LEXIS 7 (2004)

1 identical and given substantially lesser punitive treatment than murder.

2 Solicitation is not considered so inherently likely to lead to a murder that it is a  
3 statutory predicate for a felony-murder under NRS 200.033(4). Moreover, in Lopez v.  
4 State, 864 So. 2d 1151 (Fla. App. 2d Dist. 2003) the trial court ruled that solicitation to  
5 commit murder was encompassed within the catch-all provision of a Florida Statute that  
6 permitted enhancement of a sentence for commission of a "felony that involved the use  
7 or threat of physical force or violence against an individual." On appeal the Court  
8 reversed and remanded for a new sentencing hearing. In holding that violence is not an  
9 inherent element of solicitation to commit murder, the Court relied upon Elam v. State,  
10 636 So. 2d 1312 (Fla. 1994) wherein the Supreme Court of Florida rejected solicitation  
11 to commit murder as a violent felony in the context of an analysis of aggravating  
12 circumstances to support the imposition of the death penalty. The Lopez court also  
13 relied upon Duque v. State, 526 So. 2d 1079 (Fla. App. 2d 1988) wherein the Court held  
14 that committing the offense of solicitation to commit murder did not itself involve the use  
15 of a firearm, deadly weapon, or intentional violence and thus solicitation to commit  
16 murder is not a felony that involves the use or threat of violence. The Court in Lopez  
17 held:  
18  
19  
20  
21

22 The gist of criminal solicitation is enticement" of another to commit a  
23 crime. No agreement is needed, and criminal solicitation is committed  
24 even though the person solicited would never have acquiesced to the  
25 scheme set forth by the defendant. Thus, the general nature of the crime  
26 of solicitation lends support to the conclusion that solicitation, by itself,  
27 does not involve the threat of violence even if the crime solicited is a  
28 violent crime.

864 So. 2d 1153.

1 It is clear that the act of asking another to perform something is not itself an act  
2 that constitutes violence or an imminent threat of harm or violence. A request by one  
3 person to another is simply just a request, an exploration of interest. The minute one  
4 person makes that request; the crime of solicitation has occurred and is finished. The  
5 act of asking someone to complete a task does not require a threat of violence. The  
6 recipient has the choice to oblige or deny the request. Moreover, on the facts of the  
7 case *sub judice*, there was no real threat of violence to anyone. At the time the alleged  
8 solicitation occurred, DeAngelo Carroll was a police agent. As such the completed  
9 crime of murder or even conspiracy to commit murder could not have occurred as a  
10 matter of law. In Sears v. United States, 343 F.2d 139, 142 (5<sup>th</sup> Cir. 1965), the Court  
11 established the rule that, "as it takes two to conspire, there can be no indictable  
12 conspiracy with a government informer who secretly intends to frustrate the conspiracy".  
13 When two persons merely pretends to agree, the other party, whatever he may believe,  
14 is in fact not conspiring with anyone. Although he may possess the requisite criminal  
15 intent, there can be no criminal act. There are certain dangers with the crime of  
16 conspiracy. Such dangers however are non-existent when a person "conspires" only  
17 with a government agent. There is no continuing criminal enterprise and ordinarily no  
18 inculcation of criminal knowledge and practices. Preventative intervention by law  
19 enforcement officers also is not a significant problem in such circumstances. The  
20 agent, as part of the "conspiracy," is quite capable of monitoring the situation in order to  
21 prevent the completion of the contemplated criminal plan; in short, no cloak of secrecy  
22 surrounds any agreement to commit the criminal acts. See United States v. Escobar de  
23 Bright, 742 F.2d 1196, 1200 (9<sup>th</sup> Cir. 1984).

1 The Nevada Supreme Court has also held that an informant is a feigned  
2 accomplice and therefore cannot be a coconspirator. Myatt v. Nevada, 101 Nev. 761,  
3 763 (1985). When one of two persons merely pretends to agree, the other party,  
4 whatever he may believe, is in fact not conspiring with anyone. Johnson v. Sheriff,  
5 Clark County, 91 Nev. 161 (1975) citing Delaney v. State, 51 S.W.2d 485 (Tenn.1932).  
6 There is no conspiracy where the assent was feigned and not real, and that at no time  
7 was there any intention to assist in the unlawful enterprise. The danger to society of a  
8 conspiracy is not present. The same is true when a solicitation is made to a person  
9 unknown to the requester to be a police operative. The situation is feigned and not real.  
10 The informant's mere presence frustrates any potential harm that can be done. The fact  
11 that Carroll was a police operative and supplying the police with recordings of the  
12 discussions makes it clear that nothing would have come out of the alleged request.  
13 Therefore, it is clear that solicitation, especially in this context, cannot be considered a  
14 crime that involves use or threat of violence.

### 18 CONCLUSION

19 For the above reasons, each and all of the aggravators in the Notice of Intent to  
20 Seek the Death Penalty must be stricken.

21 In conclusion, the reliance on these three weak aggravators, affects Anabel and  
22 Luis' constitutional right to bail. As the Court is aware these aggravators are what  
23 distinguish this case as a capital murder case. Accordingly, the absolute right to bail  
24 becomes a limited right to bail. In re Wheeler, 81 Nev. 495 (1965). Surely when such a  
25 valuable unconditional constitutional right is being affected by the State's allegations,  
26 there should be strict adherence to constitutional, legislative and judicially recognized  
27  
28



1 and refined requirements of due process as applied to findings of probable cause,  
2 pleading and proof than that which is present here.

3  
4 DATED this \_\_\_\_ day of December, 2005.

5 DRASKOVICH & DURHAM

6  
7 By: 

8 ROBERT M. DRASKOVICH, JR., ESQ.  
9 State Bar No. 6275  
10 815 South Casino Center Blvd.  
11 Las Vegas, NV 89101  
12 Attorney for Defendant  
13 LUIS HIDALGO, III

14 LAW OFFICES OF CHRISTOPHER R. ORAM

15 By: 

16 CHRISTOPHER R. ORAM, ESQ.  
17 Bar No. 004349  
18 520 South Fourth Street, Second Floor  
19 Las Vegas, Nevada 89101  
20 Attorney for Defendant  
21 ANABEL ESPINDOLA  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT 1**

**EXHIBIT 2**

## **EXHIBIT 3**

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 1

EVENT #: 050519-3516

**SPECIFIC CRIME:** MURDER WITH A DEADLY WEAPON

**DATE OCCURRED:** 05-19-05

**TIME OCCURRED:** 2343

**LOCATION OF OCCURRENCE:** North Shore Rd. & Lake Mead Dr.

**CITY OF LAS VEGAS**

**CLARK COUNTY**

**NAME OF PERSON GIVING STATEMENT:** DEANGELO RESHAWN CARROLL

**DOB:** 01-28-81

**SOCIAL SECURITY #:** 530-92-1061

**RACE:** B

**SEX:** M

**HEIGHT:**

**WEIGHT:**

**HAIR:**

**EYES:**

**WORK SCHEDULE:**

**DAYS OFF:**

**HOME ADDRESS:**

**HOME PHONE:**

**WORK ADDRESS:**

**WORK PHONE:**

**BEST PLACE TO CONTACT:**

**BEST TIME TO CONTACT:**

The following is the transcription of a digitally-recorded interview conducted by Detective M. Wildemann, P#3516, LVMPD Homicide Section, on 05-18-05 at 2125 hours. The persons present during this interview are Deangelo Reshawn Carroll, Detective M. McGrath, P#4575, Detective Wildemann and are later joined by Detective J. Vaccaro, P#1480.

Q. Hello, operator. This is Marty. We're taking a, ah, taped statement. Uh, it's gonna be a death investigation under Event Number 050519-3516. Ah, person giving the statement last name is Carroll, C-A-R-R-O-L-L, first name of Deangelo, D-E-A-N-G-E-L-O, and middle name of Reshawn, R-E-S-H-A-W-N. He's a black male adult

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 2

EVENT #: 050519-3516

STATEMENT OF: DEANGELO RESHAWN CARROLL

with a date of birth of 01-28-1981 and a social security number of 530-92-1061. Ah, we're taking the statement at the Homicide offices and the date and time is 05-20-05, at approximately 2125 hours. Present are myself, ah, Mr. Carroll and, ah, Detective McGrath. Ah, Deangelo, is it okay if I call you Deangelo throughout this interview?

A. Yes, sir.

Q. Okay. And, ah, ah, I want you to know that we're taping it and we've made that understood to you and you understand that.

A. Yes, sir.

Q. Okay. And I also want you to know that you're not under arrest right now, okay, and you're here, you came down voluntarily with us and, and you're comfortable. Is that correct?

A. Yes, sir.

Q. Okay. Good. So we talked a little bit, ah, to let you know why, why we're talking to you and that was regarding the, ah, the death of your friend, T.J.

A. Yes, sir.

Q. I'm gonna call him T.J., okay.

A. Yes, sir.

Q. And, ah, you know who we're talking about.

A. Yes, sir.

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Q. Okay. And, ah, according to, ah, things that we've learned and, and from you yourself, that you and T.J., ah, had worked together over at the Palomino. Is that right?

A. Yes, sir. For three months, to be exact.

Q. Okay. Can you give me a little bit of date history on that, when that was?

A. Man, I can't even, I can't give you exact day but I can let you know the day he quit though.

Q. Okay. Well, so ah...

A. He quit, let me see, it was last... It was last Wednesday or Thursday \_\_\_\_\_. Let me see. Was a... so it had to be last Wednesday, Thursday he quit. He called me and told me that they had gave him his last paycheck.

Q. Okay.

A. Because him and P.K. had got into some kinda argument. P.K., he hangs around the club. He has no title at the club and P.K. likes to start trouble with everybody.

Q. Okay.

A. P.K. beat up the deejay in the past. We used to call the deejay Little John and I guess him and T.J. had a problem the night before. I was not at work. I was on leave.

Q. Okay.

A. The day that T.J. left, I had came back off of leave.

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Q. Okay.

A. 'Cause my uncle got killed August or not August but like in April 24<sup>th</sup>.

Q. Okay.

A. On Simmons and Alexander.

Q. Okay. So, ah, so you're, you've been employed at the Palomino for how long?

A. I've been on payroll for about six months.

Q. Okay.

A. But I've been around there for nine months 'cause I was working under the table for like three months.

Q. Okay. So you, ah, were working, are still working at the Palomino.

A. Yes, sir.

Q. T.J. was working at the Palomino and you say about May 11<sup>th</sup>, ah, he was terminated from there.

A. Correct.

Q. Okay. And P.K., do you know P.K.'s real name?

A. No.

Q. Okay.

A. Everybody knows him as P.K.

Q. (Sneeze) Okay.

A. \_\_\_\_\_ nobody at the club talks to P.K.



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Q. Alright.

A. P.K.'s a troublemaker \_\_\_\_\_

Q. Okay. And are you friends with P.K.?

A. No.

Q. Okay. Have you ever done anything social with him?

A. No. Talked to him at the club. That's it as far as that. I don't conversate (sic) with him outside the club or nothin' like that.

Q. Okay. And, ah, P.K.'s also still working there though, correct?

A. P.K. doesn't even work for the club. P.K.'s just always there when Mr. Hidalgo got, bought the club, I guess he inherited P.K.

Q. Okay.

A. P.K.'s been a technician there for years. He used to fix the sound. He fixes the sound equipment, the system and everything.

Q. Okay.

A. But he is not employed by the Palomino.

Q. Okay. Alright. Good enough. Alright. So let's talk about, let's talk about yesterday because that's our day in question here, okay, and, ah, let's start with your day. What time did you start work yesterday?

A. Yesterday I started promotin'. I got to the club about, I said it's about, it was still daylight outside, about six o'clock.

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Q. Okay. And when you say promoting, do you mean going out to businesses and handing out things?

A. No. We go out on the strip and we pass out flyers.

Q. Okay.

A. VIP passes to people.

Q. Okay.

A. And then later on that night, we got back to the club. We had some new flyers of our payout rates printed out and I'll go to like cab stations and I go to the cab lines and I pass 'em out to the cab drivers and I talk to the cab drivers and let 'em know what our payout rates are.

Q. Okay. So is that \_\_\_\_\_, what would you classify as your job primarily, is it promotions?

A. \_\_\_\_\_

Q. Say it again.

A. \_\_\_\_\_

Q. Okay. And what do you mean by that?

A. I do everything.

Q. Okay.

A. I drive the shuttle, I deejay. Ah, one day I might cash out girls. One day I might sell chips. I might work the floor. It just depends on where they need me basically.

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Q. Okay.

A. I learned all the position. Right now I'm kinda learning how to do like the front door, the tickets, the cab tickets.

Q. Okay. Alright. So, ah, yesterday, what time did you start your shift?

A. Six o'clock.

Q. Six o'clock. Okay. So six in the evening.

A. Yes, sir.

Q. Okay. And, ah, when you got there, ah, your primary job you said was starting your promotions.

A. Yes, sir.

Q. Okay. So that includes going out on the road, hittin' the road.

A. Yes, sir.

Q. Okay. What time d'you hit the road do you figure?

A. I left the club, I was at the club a whole matter of ten minutes. I waited on Ariel. She went downstairs. No. Yeah. She went downstairs, got the radios in the, a box of flyers for me \_\_\_\_\_

Q. Okay. When you say flyers, are you talking—

A. VIPs.

Q. Okay. The VIP—

A. The box.

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Q. Okay. Let me finish this one. Are they just those little business cards?

A. Yeah. They're VIP cards. They look like little business cards.

Q. Okay.

A. And then I had took... \_\_\_\_\_ We took some of the, uh, payout rate papers too.

Q. Okay. Alright. And, ah, are those like, like a, a sheet about this size?

A. Just regular paper, regular \_\_\_\_\_ paper size.

Q. Okay, so...

A. Just half of the page.

Q. Okay. And, ah, what other kind of flyers to you hand out?

A. Just those and then we used to hand, hand out the cards, tagging cards.

Q. Uh-huh.

A. But I haven't been handing those out 'cause I don't like giving those out 'cause people don't like to take 'em 'cause they think it's pornography.

Q. Okay.

A. So we just went passing out the VIP passes.

Q. Okay. Alright. So how long did you do the promotions yesterday?

A. Yesterday I promoted, I came back to the club at about, I say nine.

Q. Okay. Let me ask you somethin'. When you say we promoted, who was doing with you?

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A. It was me, Rontae and another kid named J.J. but underage kid.

Q. Okay.

A. About 16.

Q. Okay. Rontae and J.J. are underage kids.

A. Yes, sir.

Q. Okay. So you, uh, you guys just pay 'em a little bit of cash to help out.

A. Yeah. We pay 'em like thirty dollars.

Q. Okay.

A. You know what I'm saying.

Q. Okay. Sure, I do. Alright. So you came back and tell me again what time that was.

A. Probably about nine, 9:15, 9:30, somewhere around there.

Q. Okay. And I noticed that you carry a Nextel cell, a, a cell phone.

A. Yes, sir.

Q. Is that, ah, provided to you by, by your job?

A. Yes, it is.

Q. Okay. So that's a phone. Do you know the phone number to that phone?

A. It just got the number 34. That's it.

Q. Okay. So there's no, I couldn't take my phone and dial number and, and it would ring and you pick up.

A. You would have to actually go into my info to get the whole Nextel number out.

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Q. Okay, so—

A. In order for you to call me from your phone.

Q. So they're basically radios.

A. Yeah. They're just walkie-talkie. They're not cell phones.

Q. Okay. You don't have a phone function with it.

A. No, I don't.

Q. I gotcha. I gotcha. Okay. Now does T.J. have that, that information that we spoke of to radio to you?

A. Yeah. T.J., T.J. has my Nextel number.

Q. Okay.

A. Yes. He does.

Q. Okay. So you got back to the, ah, the club about nine-ish.

A. Yeah.

Q. And what happened then?

A. I hung out. We hung out by front for a while and then about 10:30, my wife called me and told me my son was running another fever. I went home.

Q. Okay. So you left. Did you check with anybody when you left of you just kinda slide?

A. No. \_\_\_\_ I, I just walk out.

Q. Okay, so—

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A. The cashier lady, she seen me throughout the night.

Q. Okay.

A. I was back and forth. She's taking my phone messages for me.

Q. Okay.

A. Ah, I went home, I made it home by like 11:15 'cause I fucked around for like another fuckin' 20 minutes before I even went home.

Q. Okay. And you say you live at 1917 Yale. You literally live...

A. Right behind \_\_\_\_\_

Q. Two minutes from there, right?

A. About a five-minute walk.

Q. So that'd be about 45 minutes then that, that yo were messin' around if you didn't get home 'til...

A. No. It was about 10:30 when she called me.

Q. Okay. And that's when you left. Is that—

A. And then I, I stood upstairs and I talked to fuckin' one of the dancers for a minute and then I talked to my cousin Andrew. He's a deejay over at the Saddle.

Q. Okay.

A. He's deejaying at the club now \_\_\_\_\_ I talked to him and his homeboy for probably like 15 minutes about trying to get a train on my promotions crew. His friend said he couldn't do it, he had to go home and be with his kids.

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Q. Okay.

A. So then after that, Andrew was gonna go with us but he never came and I went home.

Q. Okay.

A. I made it to my house about 11:15. Eleven twenty I called T.J.

Q. Okay.

A. And I asked him if he had any weed.

Q. Now was that the first call that you put into him?

A. That was the very first call.

Q. Okay, 'cause earlier when we were talking at the club real quick, you, you mentioned you called him about 10:30 or 10:20.

A. No, no, no, no. My wife called me about my kid.

Q. Okay. So you, you never...

A. I never called P, I never... Tell you the truth, the first call had to be around 11:15.

Q. Okay.

A. When I talked to him.

Q. Okay.

A. And then the second call was about 11:30 and then the last time I tried to call him when he didn't answer was like 11:45.

Q. Okay.



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A. And I left my house. It was 12. I got back to the club at 12:10 and I went upstairs and Ariel was, I think she was giving cocktail waitress her break.

Q. Let me ask you this. When you made these calls to T.J., you were at home then.

A. Yes.

Q. Okay. Ah, where'd you do it, in the livingroom, in the family room?

A. I was standing outside \_\_\_\_\_

Q. Okay, so...

A. No. \_\_\_\_\_ smoking last night, standing outside on the balcony.

Q. Okay. Was your wife or, or you say you live with your uncle too, right?

A. \_\_\_\_\_

Q. Was your uncle or your wife standing outside with you?

A. No. My wife \_\_\_\_\_

Q. Okay.

A. She, I was outside 'cause they told me that I can't smoke around my kid.

Q. Okay.

A. So that's why I was standing out on the balcony.

Q. Okay. And what was your motivation for calling T.J.?

A. I always talk to T.J.

Q. Okay.

A. Talk to T.J. all the time. Me and T.J. were close friends.

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Q. Okay. Did you have a goal in mind?

A. T.J. had this dream about opening up a strip club, called his self Cash Daddy. He wanted, see, his plan was we get like a group of 60 girls and we present 'em to Mr. H and then Mr. H you know what I'm saying gives 'em a chance to like help the club out but it never happened that way. Everybody thought T.J. was full of shit, that he was blowing hot smoke up everybody's ass, so that never happened.

Q. Okay. So when I was talking about you calling T.J. though, I meant, and we talked about it earlier and, and you, you were thinking that you would pick up some weed from him.

A. Yes, sir.

Q. So, ah, so your motivation at the time was you were thinking you'd pick up some weed from, from T.J.

A. Yes.

Q. Okay. Did you know where T.J. was when you call him?

A. He told me that he was out at the lake.

Q. Okay. And this was the call when, the first call?

A. That was the first call.

Q. And that was at 11:15.

A. Eleven fifteen. Around 11:15, 11:20, some \_\_\_\_\_

Q. How do you remember that time? I mean it's pretty cool that you can do that.

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A. 'Cause it was like, I was like around, I'm home around that time, you know what I'm saying.

Q. That's just the time you meandered home and you--

A. Yeah.

Q. As soon as you hit that stoop, you, you dialed up T.J.?

A. Yeah, 'cause they told me that somebody had called for me from my house \_\_\_\_\_  
I was on the phone with her last night about her car.

Q. Okay.

A. You know what I'm saying she called and she wanted to know if I had any money  
'cause the Kia still belongs to her.

Q. Okay. So when you called T.J. at, ah, at 11:15...

A. Uh-huh.

Q. And it's a Nextel, so it's a walkie talkie, right?

A. Yeah.

Q. And he's got a Nextel.

A. Yeah.

Q. So you're able to program his code into your phone and he's got your code in his  
phone.

A. Yes, sir.

Q. Okay. So you Nexteled (sic) him and what'd you talk about?

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A. Just weed, gettin' weed and then he was like, ah, he told me that him and his old lady and his dog was out at the lake, that we should come out there and I told him I have to talk to my wife to see what she thought. She didn't wanna go out there because my son was running a fever, so we were just trying to see if it was gonna break or not. His fever broke finally. We finally put him to sleep and then I went back to work. Miss Annabelle had called me and I had told her that I took my hour lunch break and she said that's fine but just come back to work.

Q. Okay. So she called you when?

A. Miss Annabelle called me, it had to be like, probably like 11:50 when she called me.

Q. And that'll be on your, on your Nextel she called you.

A. Yes, sir.

Q. Okay. Does it store the numbers?

A. Yes. It does.

Q. Okay. Can you bring up last night?

A. Ah, Miss Annabelle, this is when she called me, when she left the club at 2:54.

Q. Okay.

A. And then another time...

Q. Can you go further back? Can you go to 11?

A. \_\_\_\_\_ It won't go back.

Q. Oh, let me see.

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A. I got too many calls in from today and then my last call's from Miss Annabelle.  
Anytime like the same person calls you—

Q. It erases the time before.

A. It erases the time before.

Q. Okay.

A. And Miss Annabelle called me last night about 11:50 and asked me what, how was the promotion thing.

Q. Okay. So let's talk about the, the first phone call again real quick. Uh, you called him. You initiated the call.

A. Yes, I did.

Q. Okay. And he tells you that he's out at the lake, it's beautiful out there and you should come out.

A. Yeah.

Q. Okay. Ah, did you talk to your wife about going out there at all?

A. I never really mentioned it to him, you know what I'm saying. \_\_\_\_\_

Q. You got a sick little boy.

A. Yeah.

Q. Okay.

A. Know what I'm saying. She would've thought that I was just fuckin' off, so I ain't wanna mention that to her and have her mad at me.

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Q. Did you tell him that, ah, that you wanted to get some weed?

A. Yes. I did.

Q. Okay. And what was his reply?

A. He's like well, I'll meet you on Lake Mead and Hollywood 'cause he gets it from some guy over there.

Q. Okay.

A. So I said alright and then about 11:45, when we were at the house, I called him back to try to tell him that I might not come.

Q. Okay.

A. \_\_\_\_\_ you know what I'm saying, get called back to work and then I can't fuckin' tell Miss Annabelle where I was.

Q. Okay. So hold on. Let's get the call. You, you called him about 11:27 or 11:28, you say.

A. \_\_\_\_ (Talking at same time)

Q. What was that call pertaining to?

A. When I called him at 11:27, he was like well, I'll come meet you. That's when he had called me back.

Q. Okay.

A. And he's like well, I'll come meet you.

Q. Okay.

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A. And I was like well, alright, so then after that, I tried to call him back and it just kept saying user not available, bleep, bleep, bleep, bleep. That's all it kept doing and then it kept saying that \_\_\_\_\_

Q. Okay. What car were you riding in last night?

A. I was driving in my boss's white van.

Q. Okay. The big white van that we saw?

A. No, no, no, no, no, no. It's a sh, '96 Chevy van.

Q. Okay.

A. Two-door, three actually, a little van, Astro van.

Q. Okay. Alright. So you called him back at 11. How do you know it's 11:27? Why does that stick in your head that it was 11:27 that you called him?

A. Eleven twenty-seven when he called me is 'cause that's the last time I think that who fuckin' came to my house last night? Think I talked to Chris at 11:27, cousin Chris.

Q. Okay. Your cousin Chris.

A. But I'm sure it's like around 11:27. I'm not for sure, not actually a hundred percent sure what time it was.

Q. Okay.

A. I'm just giving you confirmation around—

Q. But you talked to him.

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A. Yeah.

Q. And he said I'll come meet you.

A. He told me to come meet him.

Q. Okay. Where did he say he'd come meet you at?

A. On Lake Mead 'cause I ain't know how to get out to like where he was. He said he was somewhere out on Mile Marker 5 or some shit like that.

Q. Okay.

A. And you know I don't ever go to the lake.

Q. Okay.

A. So...

Q. Alright. Could it be that he told you to meet him at Mile Marker 5?

A. I don't know how to get to Mile Marker 5.

Q. Okay.

A. \_\_\_\_\_ (Talking at same time)

Q. You've never been out there before?

A. No, sir.

Q. Okay. Alright. So...

A. The closest I've been to the lake is probably Hoover Dam.

Q. So tell me what the understanding was. The understanding was then that you would meet him at—



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A. Understanding that he would meet me on Lake Mead and Hollywood.

Q. Okay.

A. At the Chevron.

Q. At what time?

A. And he didn't give a time. He just said that he'd come meet me and that was like at 11, had to be around 11:20, 11:30.

Q. Okay.

A. 'Cause I had made it home by 11:15. I remember that for a fact.

Q. Okay. And when you made these calls, you were standing on your porch.

A. Yes, sir.

Q. At, at your house.

A. Yes, sir.

Q. Okay. So \_\_\_\_ your phone's working, it's sending out the, the, the, uh, the connection. You're, you're hearing it. You, and it's a good clear connection. All that stuff's working good.

A. Actually breaking up.

Q. Okay.

A. It was like you know how we talk and like it sounds like distorted?

Q. Uh-huh.

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A. Like somebody's trying to break in and \_\_\_\_\_ (unintelligible). That's how it was sounding. It kept doing that.

Q. When you called him or when he called you at 11:27...

A. Uh-huh.

Q. Could you hear people in the background?

A. No. Nothing.

Q. Okay. So did you get the impression that he was alone or he was with other people?

A. No. He's never alone.

Q. Okay. He's never alone.

A. He's always— if he, if he's out, he's either with his girl or he's with his son.

Q. Tell me about the white Chevy Astro Van. What's that used for?

A. Promotions.

Q. Okay.

A. Everybody drives that van.

Q. Okay. So is it loaded with stuff?

A. Usually it is. We took all the flyers out there in a big shuttle bus right now, uh, 'cause we got like a new thing we're startin' at the shop with, ah, it's like a window tint. It's a piece of plastic put over the window and you can fuckin' throw somethin' as hard as you can at it and it won't break the window.

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Q. Okay.

A. It'll leave like a little fuckin' circle in the plastic part but it won't shatter your window, shatterproof plastic.

Q. Okay. Alright. So the understanding was is that you would meet him at Lake Mead and Hollywood, he'd meet you and you guys would hook up for some weed.

A. Yes, sir.

Q. Okay. But you hung up the phone without giving any \_\_\_ any type of an arrival time, so you didn't know when he was gonna arrive, he didn't know when you were gonna arrive.

A. No. I didn't even know he was leaving yet, not at all.

Q. Didn't that seem weird? How would you know when to be there?

A. I never went. Ah, that's \_\_\_\_\_

Q. Was your plan, was your plan—

A. The whole purpose was calling him when I left my house.

Q. Was your plan right there at the time that you were gonna just you know take a little longer from work and get over there and, and hook up?

A. Yeah.

Q. Okay.

A. Smoke with him and then he was gonna go back to the lake and I was gonna go back to work.

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Q. Okay. Was there anybody with you?

A. No, not at all. My wife, them was at the house. My house, Rontae and, ah, the little kid. He was at the house with his baby mom.

Q. Okay. So 11:27 is the last time that you actually talked to Tim.

A. Yes, sir.

Q. Tell me exactly what Tim said. Let me hear Tim's side of the conversation.

A. At 11:27, he was all like, ah, \_\_\_\_ it's so beautiful out here, it's to die for, you know what I'm saying.

Q. Uh-huh.

A. It's beautiful scenery. You should see it, you know what I'm saying. You should come out hang out with me and my old lady.

Q. Uh-huh.

A. And I told him yeah, I want to, you know what I'm saying but I gotta talk to my wife first, see what she says. He was like well, alright, well call me back and let me know. So you know I'm saying talked to him and shit.

Q. Talked to him and shit. What do you mean?

A. \_\_\_\_\_ That's last time I talked to him.

Q. So that was, that was the conversation?

A. No. That wasn't the last time I talked to him 'cause he called me back at 11:30.

Q. He called you right back.

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A. Yeah. He called me back at 11:30.

Q. Okay.

A. And he's like \_\_\_\_\_

Q. So that means he called you twice in a row.

A. Yeah. I called him and then he called me.

Q. No, because you—

A. I called him twice. I called him the first two times \_\_\_\_\_

Q. Which would've been when, 11:15, 11:27?

A. Yes, sir.

Q. Okay.

A. And then \_\_\_\_\_ (Talking at same time)

Q. 'Cause earlier you said— (Talking at same time)

A. Called me back and then I tried to call him back at 11:45.

Q. Hold on. Let's, so let me just get this straight 'cause I want \_\_\_\_\_ have this clear in my mind, so, so you're saying that you called him at 11:15 and your motivation was hey, let's get some weed.

A. Yeah.

Q. Then 11:27, you called him again.

A. Yes, sir.

Q. Okay.

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A. Then he called me back at 11:30 and then a fourth time, I called him.

Q. Okay. Why'd you call, why'd you call him at 11:27 then if, if—

A. Eleven twenty-seven's when—

Q. Let me, let me finish just so we're clear 'cause you said earlier that he called you, so if you called him, then you had a goal in mind when you called him at 11:27,  
\_\_\_\_\_

A. Yeah. That was to get the weed.

Q. Okay.

A. So you know what I'm saying, the first time I call him was to get the weed.

Q. Right.

A. Second time I called him was to find out if he had any. He said yeah, I have some and I had like a \_\_\_\_\_ 'cause T.J. always gets the chronic and that's all we usually smoke is chronic with T.J.

Q. Okay. I went to high school like a million years ago, so what's the difference between weed and chronic?

A. Chronic, okay, we— regular weed, it has a lotta sticks and seeds in it.

Q. Uh-huh.

A. Chronic, all you do is just break it down and roll it up and smoke it.

Q. Okay. So \_\_\_\_\_

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A. And that's what T.J., T.J. gots this little thing, puts the weed in and it grinds it up and he just pours it into \_\_\_\_\_ we just put it \_\_\_\_\_ smoke out his pipe.

Q. Okay. Alright.

A. So \_\_\_\_\_ (Talking at same time)

Q. So when he, so when you called him again, 11:27, you said hey, do you have some and he said yeah.

A. Yeah. He said he had some.

Q. Okay. Okay.

A. And then--

Q. Did he tell you he had some--

A. He said he didn't-- (Talking at same time)

Q. Did he tell you-- (Talking at same time)

A. He said he didn't have--

Q. Did he tell you he had some at 11:15?

A. Ah, I think so. I'm not sure.

Q. When does he make the, when \_\_\_\_, when \_\_\_\_--

A. But, but when I ask him about the weed, he told me at 11:15, that he had a little bit.

Q. Okay.

A. He said that's all he had was a little bit and I told him that I had a blunt and he said okay.

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Q. What's a blunt, a joint?

A. It's a regular ci, cigarillo cigar.

Q. Okay.

A. \_\_\_\_\_ rolled with the weed inside.

Q. Oh, okay.

A. And then he stated that you know what I'm saying he wanted to get some more weed. That's why he was gonna come and meet me on Lake Mead and Hollywood, so you know I'm saying.

Q. Okay. So then at 11:27, you called him again and now he's telling you I got weed, I got weed for you.

A. \_\_\_\_\_ No. That's when he told me he was gonna meet me on Lake Mead and Hollywood. \_\_\_\_\_ and I told him well, let me call you back and then I had to be at like 11:30, he called me back 'cause I never called him back and then 11:45, I tried to call him and tell him that I wasn't gonna go.

Q. Eleven thirty, he called you back. What'd he say?

A. He said, ah, that he was gonna come meet me then and I told him I'll call him back and let him know but then it never happened.

Q. Okay.

A. I never \_\_\_\_\_

Q. Okay.



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A. After that.

Q. So you never called him back.

A. No, sir.

Q. \_\_\_\_\_

A. I kept trying to call him. I tried to call him this morning and it won't go through.

Q. Okay. So I'm still confused, so just tell me, bare with me here.

A. Okay.

Q. So the first two, the first two calls talking about going to Lake Mead and Hollywood never came up.

A. No.

Q. Okay.

A. \_\_\_\_\_ (Talking at same time)

Q. They came up on the last call.

A. It was the, when he called me back at 11:30 that he was talking about meeting him on Lake Mead and Hollywood.

Q. Okay. And you told him you, you don't know, you'd call him back.

A. I said I don't know, let me call you back and then you know I'm saying, probably like 15 minutes went by and then you know I'm saying I tried to call him. He didn't answer. It just kept going \_\_\_\_ unavailable \_\_\_\_\_ user busy \_\_\_\_\_ That's all it kept

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\_\_\_\_\_ It never got, never went through. It was like somebody was trying to use his phone basically.

Q. Okay.

A. So you know I'm saying, that's \_\_\_\_\_ and I don't know.

Q. What time did you go back to work?

A. I made it back to work, it had to be about 12, between \_\_\_\_ 12:15. I had went up to Ariel, asked her for some more flyers and she said she can't get 'em, that fuckin' Luis had to print 'em, so Luis print up the flyers out for me and I got out \_\_\_\_\_

Q. So about 12:15, you get back to work.

A. Yes, sir.

Q. Okay. Ah, let me explain to you somethin' to you about the scene, okay, the murder scene itself.

A. Okay.

Q. Okay. It took place right on you know where North Shore Drive is.

A. Where's that?

Q. Okay. It's when you go out to the lake.

A. Okay.

Q. Okay. So you go out the lake, go through the park thing, right. They got that little, the, ah, the kiosk there.

A. The what?

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Q. You know the thing where you go through and you pay to get in the—

A. A toll booth.

Q. Get in the deal, right?

A. Yeah.

Q. So they got that there and it's all loaded with cameras and it's taking pictures everything that's going by day or night, doesn't matter.

A. Yeah.

Q. So you gotta go through there, right?

A. Yes, I do.

Q. Okay. So then you go to the end of that road and there's a stop sign. You either gotta go left or right.

A. Yeah.

Q. Okay. So to get out to where T.J. was, you'd have to go left.

A. Yeah, but I'm not sure, I never, I went out there probably, only time I've been out to the lake is when we out to by Hoover Dam.

Q. Okay.

A. That's the only time I've been out there.

Q. Okay. Here's what, ah, here's what I need to ask from you though.

A. Okay.

Q. Okay. We talked about it on the way here.

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A. Yeah.

Q. We talked about this is an opportunity to get it all out there.

A. Yes, sir.

Q. To get it all out there, okay, because when you trigger that cell phone, what's it do?

A. What do you mean?

Q. When you trigger your cell phone, what's it do? It's sending out. It's transmitting, right?

A. Yeah. It sends out a transmission \_\_\_\_\_

Q. Okay. It sends our transmission and you know what? Cell sites pick up that transition.

A. Yes. It does.

Q. It's gonna be the closest cell site to you.

A. Yeah.

Q. Okay. It's not gonna send a, it's not gonna send a transmission past 30 cell sites and pick up a cell site in Green Valley and then shoot it somewhere.

A. I know. I know.

Q. It's gonna be the closest one to you.

A. Yeah.

Q. Okay. And the reason we're talking to you now is because we picked up his cell phone and saw that you had called and couple other people had called but you're

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the only calls around 11:30, the only ones. The only ones earlier than that was nine somethin'.

MM. Yeah. Family.

Q. Right in there. It's family.

A. Yeah.

Q. Okay. After that, it's you.

A. Yeah.

Q. Okay. So we're the police, so we put a call in to Nextel and we're like where are these cell sites happening? And they're at, they're right off suh- Sunrise Mountain.

A. They were right on Hollywood and Lake Mead.

Q. Okay. So you were up there driving.

A. Yes. I was.

Q. 'Cause...

A. I never said I wasn't driving up there.

Q. No, no, no.

A. I didn't, I didn't, you know I'm saying, tell you the truth, \_\_\_\_\_ I went out, went out up Lake Mead. That was it but I never \_\_\_\_\_

Q. Listen to me.

A. Yes, sir.

Q. Okay. We talked about this and we said you need to tell the truth.

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A. Yes, sir.

Q. You looked me in the eye, you looked Mike in the eye and you said you were gonna tell the truth.

A. Yes, sir.

Q. Okay. Then you told me, you sat there and you told me that you made those phone calls off your balcony.

A. Yes, I did.

Q. Okay. Now you're telling me that you were up there on Lake Mead and Hollywood.

A. No. When I made the 11:45 call, I was at my house. My wife tell you, my wife, you can call my wife right now and ask her. She'll tell you that, that I was at my house.

Q. You're still confusing me, okay. You went home, let me finish this, okay. You went home.

MM. Relax, okay. Just relax.

A. Yes, sir. I, I'm just not trying to get in trouble \_\_\_\_\_

Q. Right. Right.

A. I have a son at home.

Q. I know but you realize that you've not told us the truth, right?

A. Alright. Can we just start over?

Q. Yes. Start over.

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A. Tell you the truth. Last night, you know I'm saying, I was supposed to go meet T.J. He's supposed to meet us at the stop sign. T.J. never came. So if you look at camera at the toll booth, you see where I turned around and I went back out to try to call T.J., never got ahold of T.J. I waited out there for 15 minutes. T.J. never came \_\_\_\_ I left. I went back to the club.

Q. What car were you driving?

A. I was driving the white Astro van.

Q. Okay.

A. I just, I don't wanna get in trouble, you know what I'm saying, I got a kid at home.

MM. Okay, okay. Let me just \_\_\_\_\_. Listen, listen. Okay, listen me.

A. Yes, sir.

MM. Okay. Maybe you're with somebody, okay, just think of this. Maybe you're with somebody, okay. Something happens. This isn't like your other case, alright. We're looking for witnesses as well as the person that did this, okay. I know you have more to tell us. Detective Wildemann knows that you have more to tell us.

A. How, how do I know that I'm fuckin' gonna be protected if I fuckin' say anything?

MM. Listen, listen.

A. I'm fuckin' scared for my life here.

MM. Listen. You're gonna be protected. I promise you, okay. We're gonna protect you one hundred percent and if you tell us now that you're in fear of your family, guess

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what? We'll make phone calls, we'll move you, okay, but listen. All we want from you is for you to tell us the truth. Your other charge was conspiracy because you were in the wrong place at the wrong time. You talk to us now and tell us.

A. But am I gonna— my question is if I tell you guys what happened, am I going to jail?

MM. You, listen—

A. That's what I wanna know.

MM. Alright. Here's this. Here's this, okay. Look at me. You tell me what happened. You tell Detective Wildemann what happened, alright. You truthfully tell us what happened. I'm gonna take you back. I'm gonna promise you that. I'm gonna take you back and if you tell us the truth, right, we're gonna, we'll do everything to prove your story is the truth and if you tell us the truth, start to finish.

A. That is the truth, you know what I'm saying, let me just start over and—

MM. Okay. Let's, let's, let's start over right now. Okay. Tell us.

Q. Start over from the phone calls.

MM. Just...

A. Phone calls, I called T.J., you know I'm saying. It was to get some weed. We we're supposed to just go meet T.J. and—

MM. Who's we?

A. It was me, two guys, Rontae and J.J. and there's another guy. He's in the van with us. We had picked him up. He want some weed, so \_\_\_\_\_



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Q. Who's the other guy?

A. We don't know him. That's the thing.

Q. Where'd you pick him up at?

A. Over there by my mom's house. He asked us if we know where to get some weed at, so we were gonna take him to go get some weed and fuck and we get up there and shit, he got to talkin' about he was gonna rob T.J. I was like no, this is my homeboy.

Q. Who's this that's gonna rob T.J.?

A. The guy that was with us.

Q. The guy that you don't know.

A. His name, he goes by name of Kay and fuckin' he's all like, ah, and \_\_\_\_\_ we gonna go rob. I was like no, we're not robbin' shit and fuck, when we got there, T.J. pulled up and T.J. was like Deangelo. I was like what up, T.J. and fuckin' T.J. walked up to the van and fuckin' shot T.J. twice in his head and fuckin' that was it and fuckin' he told us man, you say anything, I fuckin' kill all you.

MM. Okay.

A. And that's, and I'm fuckin' scared for \_\_\_\_\_

MM. Alright. Listen, listen, listen. Big step. You just made it. You just made the biggest step of this whole thing, okay, but I'm gonna ask you some more. We're gonna ask

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you some more questions, okay. Now this is what you need to do. The hardest thing's over. You understand that?

A. Yes, sir.

MM. Okay. So now I'm gonna ask you some more details and we'll get into it and maybe some of the things that you don't think you know you really know because a lotta times when traumatic events happen, people forget things that are happening and when we start asking you questions, things trigger in your mind, okay, but don't get upset, alright.

A. \_\_\_\_\_ go to jail \_\_\_\_\_ (Talking at same time)

MM. Alright. Listen, listen, listen. I'm gonna, I'm gonna, if you told us the truth and when we go through this whole statement, if you told us the truth, alright.

Q. The whole truth.

MM. The whole truth.

Q. The whole truth.

MM. Alright.

Q. Names.

MM. We're gonna go and try to, try to prove it and in my experience and Detective Wildemann's is people try to minimize stuff.

A. I'm not gonna try to—

MM. Okay. Listen, listen, listen.

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A. \_\_\_\_\_ (Talking at same time)

MM. Alright. Listen, listen. Don't minimize things, alright. If we start talking about your mom's house and, and all stuff like that, that's what we're gonna do. We're gonna go step by step.

A. \_\_\_\_\_ 'cause dude lives across street from my mom.

MM. Okay. Listen, listen, listen, listen, listen, okay. I mean in our experience, when we get people, we put the case against, against a person, that person goes. He don't get out. He don't get bail. You tell me that you need to move.

A. He has, he has friends that live, that's, that's only reason I lied to you is 'cause my mom. My mom's fuckin' sick. My mom don't need this shit.

MM. Okay. Listen, listen. Do you understand your mom's a grown person?

A. Yes. She is.

MM. She loves you, okay. She, you know what she's gonna say? She's gonna say I didn't ask him to do that, he's turned his life around. Okay?

A. \_\_\_\_\_

MM. You wanna do the right thing. Look at how well dressed you are. Every employee at that place says that you're a great guy.

A. Fuckin' \_\_\_\_\_

MM. Okay. So let's, let's go back, okay. Slowly go back. Take a deep breath.

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A. It was about 11, 11:30, I talked to T.J. and he's all like well, why don't you come out here and I was like alright, dude, you know what I'm saying. We was gonna go fuck off, you know what I'm saying, 'cause we already \_\_\_\_\_ but then we picked this dude up.

MM. Okay, okay.

A. \_\_\_\_\_ to get some weed from. That's the reason why I called you.

MM. Okay. Let's go back. Let's go back. We got the two people at your...

A. My house.

MM. And tell me who they are.

A. Rontae and J.J.

MM. Rontae.

A. And J.J.

MM. And J.J. And tell me who they are, their real names.

A. That's, that's their name, Jason and Rontae.

MM. And Jason.

Q. Jason who?

A. I don't know Jason's last name.

Q. Where's Jason live?

A. He lives off of, ah, \_\_\_\_\_

MM. Is this phone number in your, ah, cell phone?

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A. Don't have, he don't have a phone.

MM. Do you know how we get to his house?

A. I know how you can get ahold of him.

MM. Okay. And how's that?

A. Staying my house right now.

MM. He's at your house. And what about-

Q. Is he staying with you?

A. Yes.

MM. And what about, ah...

A. He's also at my house.

MM. Okay. They're both at your house. Okay. So you three are together in the white van.

A. Yes, sir.

MM. Is that right?

A. There's four of us in there.

MM. Okay. Where did this other person come from?

A. We picked him up over by my mom's house?

MM. And where is your mom's house?

A. 1669 E Street on, on the west side.

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MM. Okay. And I mean I used to work down there. That's why when you said your mom's name, I thought I knew your mom, okay.

A. Oh, I seen you before.

MM. Yeah. And, and I really know that area because I mean I used to go down to the Jets and one of the things I know is when you come down, White is one street and, ah, and-

A. Burns.

MM. Burns, as you come down Burns, you, you turn on G but as you turn around, you go down E Street.

A. Yes, sir.

MM. Right?

A. Yes, sir.

MM. And as you turn E, your mom's house on, on one of the sides is on the left side?

A. Yes, sir.

MM. And, ah-

A. It's on the right side.

MM. It's on the right side.

A. If you, if you come down from Burns, it's gonna be on the, yeah, it's gonna be on the left side. It's a blue and white house with the bars with the stone lying in the front yard.

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MM. Okay. Okay.

A. And, and the dude that fuckin' shot T.J., he lives in a house right catty-corner to my mom \_\_\_\_\_ 357.

MM. Okay. Let me, let, let's go back, okay. You grew up there.

A. No. I grew up in North Las Vegas.

MM. But, but your mom lives there.

A. Yeah.

MM. You've been over there. You're not just gonna pick up some guy that lives near your mom, okay, so you have to truthful and tell us his name, okay.

A. His name K.C.

MM. K.C. who?

A. That's what we know him by, K.C. I don't know his real name. I promise you I don't know his real name.

MM. Where, where's he from? I mean...

A. From California.

MM. Okay.

A. He's a, he's a Blood from California and you know I'm saying dude, dude don't play 'cause he threatened to shoot J.J. last night.

MM. Why, why would you take this guy if, if you know he's a player like he is?

A. I didn't, I didn't know him like that though.

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MM. Did you drive over your mom's to pick him up?

A. I was already, I was gettin' ready to go see my mom when he asked us for the weed.

MM. Wait a minute. How did K.C. get in van with you three?

A. 'Cause we told him we're taking to get some and that's when I called T-

MM. Where though, where were you?

A. Over across street from my mom's house.

MM. Okay. So...

A. \_\_\_\_\_ going to try to buy weed from \_\_\_\_\_ and he didn't have none and he asked us if we knew where to get some from.

MM. Okay.

A. So it was like yeah, we get can get some from my homeboy, T.J.

MM. Okay. So you turn around, call T.J.

A. And T.J. was like come on out and he was supposed to meet us at the stop sign.

MM. Okay.

A. But then he go when you get to the stop sign \_\_\_\_\_ T.J. walked up to the car and fuckin' he shot T.J.

MM. Tell me, tell me how were you guys driving this way and, and T.J. comes by this way and does he swing around? Tell me how-



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A. \_\_\_\_\_ was the one. T.J. was coming this way, we were going this way. We parked and fuckin'... T.J. flipped a bitch and got out of his car.

Q. So he pulls up front of you guys.

A. Yeah.

Q. Okay. The he hops out. Who's driving the van?

A. I was driving the van.

Q. Okay. Where is K.C. sittin'?

A. K.C. got out of the van. He got out of the van and shoot. He wanted to just rob him at first but then I was like no, \_\_\_\_\_

Q. Where was K.C. sitting when you guys pull into your parking spot?

A. In the back seat.

Q. In the far back seat.

A. Yes, sir.

Q. Okay. Did he slip out of the side or out of the back?

A. He went out the side door and walked around the front as soon as, when T.J., when T.J. was talking and then all of a sudden, he shot T.J. and T.J. dropped and I got scared. We all started panicking and shit. We're all lookin' around. He goes just fuckin' drive, fuckin' drive. He pulled a gun on us. I'm like man, no fuck that. He's like you better fuckin' drive.

Q. Who three the flyers out the window?

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A. What flyers?

Q. All the Palomino flyers that are laying on the ground right next to T.J.'s body.

A. Fuckin', it had to be fuckin' him. He had to have the fuckin' Palomino flyers.

Q. Did you guys go through a bank or something on the way there just, just messin' around? Did you guys, somebody grabbed a tube out of one of them drive-up teller things?

A. No. That tube's been in the van for the longest.

Q. Whose fingerprints are on that tube?

A. Mine.

Q. Did you throw it out the window?

A. No. I didn't.

Q. 'Cause it's laying on the ground.

A. It had to fall out the car, look 'cause it was in the, it was in the back seat. It was in the back seat.

Q. Okay.

A. On the floor.

MM. When you said K.C. got out of the van, we're talking on the passenger side?

A. Out of the sliding door.

MM. Okay. So is there any way you think that when he got out to run out T.J., that stuff might've just fallen?

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A. It had to fall out 'cause the, the cannister that you're talking about from the bank was in the, it was in the van. It was in the back seat.

MM. Okay. I'm gonna, I'm, I'm gonna ask you to, ah, this is the stop sign right here and this is the thing. Show me where T.J.'s car was.

A. This is the stop sign. We got here, we went back.

MM. Okay.

A. I say, ah, you know how long the, the road is about right here.

MM. Right.

A. Fuckin' T.J. was coming this way. I was going this way. T.J. rolled down his window. I was like what up, T.J., you know I'm saying. I got out the van to take a piss, to talk to T.J. and then fuckin' the side van door opened and fuckin' that's when K.C. slid out and I'm like looking, see what the fuck he was doing and then T.J. was talking and I, by then, I'm back in the van and T.J. was gettin' ready to walk back to his car fuckin'... He turned his car around right here and he got out and he walked back to the van. K.C. got out of the side door right here, walked this way, went right here fuckin' in front of the hood, \_\_\_\_\_ and fuckin' shot T.J. and T.J. fuckin' dropped and I started to get out of the van. That's probably how the flyers got by his body because they were in, on the driver's side. They were all over the floor \_\_\_\_\_ and when I tried to get out to see if he was all right, that's when he was like you better fuckin' drive.

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MM. Okay. So I understand the diagram but you sorta talked about, ah, K.C. getting out of the van and then get back in the van and then get back out of the van--

A. No. Ah, I'm saying... (Talking at same time)

MM. So just, just explain that again to me.

A. When we got here--

MM. You stopped the van. Show me where you stopped the van. Put a little...

A. I stopped, I stopped right here.

MM. Okay. Put a little, draw me a car.

A. He, he fuckin'...

MM. Draw me the van, where the van it. No. This is T.J.

A. That's T.J.

MM. Okay.

A. And here's the van.

MM. Okay.

A. Okay. Fuckin' right here, T.J. flipped the bitch, came back in front of the van and he parked like right here.

MM. Okay.

A. T.J. got out of his van and he walked back here and when he was gettin' out of his car, I had got out to take a piss and I was pissing right here at the sagebrush right here. When I got back in the car, when I was going to get back in the car, the side

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door opened. K.C. came out, fuckin' walks to the front \_\_\_\_ and fuckin' shot him twice. T.J. dropped. Opened the door, tried to see if T.J. was all right and that's when he aimed the gun at me, is like fuckin' drive. I fuckin' drove off.

MM. Okay. Let me ask you, let me ask you, ah, a couple quick questions. You had mentioned that the flyers might've come out the passenger side when K.C. jumped out.

A. Yes. And if, uh, if there was any in the dirt, that's when he jumped out of the van.

MM. Okay. And they might've been on the floor.

A. Yes, sir.

MM. On your side.

A. Yes, sir.

MM. But was it your intent to, to get out and help T.J.?

A. Yeah. To help him 'cause T.J.'s my fuckin' friend, you know what I'm saying. I ain't want nothin' happenin' T.J.

MM. Okay.

A. Nothing.

MM. Okay. You, you talked to us quick earlier about, ah, this gun being a .357. Describe it to me.

A. It's a chrome .357. It's long, got a pistol grip on it. Fuckin' he had on black gloves. He had on, K.C. had on all black already when he picked him up.

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MM. Okay.

A. So his intentions was probably robbin' us anyway once we got the weed.

MM. Okay.

A. So you know...

MM. Okay.

Q. Where were, where were, ah, Rontae and, and J.J. sitting?

A. Rontae, Rontae was in the back. He was laying down in the back seat like leaning up against a window and J.J. was in the front seat.

Q. Okay. What are they saying after the thing occurred?

A. Everybody was fuckin' nervous. We didn't know what the fuck to do. Everybody was fuckin' scared.

MM. Okay. Do, ah, so you leave.

A. Yes, sir.

MM. Right?

A. Yes, sir.

MM. And do you go back through the toll?

A. No.

MM. How, how do you get...

A. Fuckin', ah...

MM. How do you get back?

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A. We went through a toll booth. We was driving straight and we ran into another one.

MM. Okay. So did you go back to the stop sign and turn or did you continue to go straight?

A. After T.J. got shot, tell you the truth, everything was like fuckin' just like crazy.

Q. Well, let's, let's, let's do it this way then. After T.J. shot, you came, pulled forward because his car's right in front of the van, right?

A. No. It wasn't right in front of the van. It was \_\_\_--

Q. Okay. The van was a ways back.

A. Alright. Say like the hall, like say like...

Q. Hey go ahead, draw right here.

A. Our van was right here. T.J.'s van was up a ways.

Q. Okay. So what'd you do? Did you pull your van out on this side of T.J.'s car or on this side? How'd you do it?

A. \_\_\_\_\_

MM. Well, if you went this way, you'd run over T.J.

A. I made a U-turn.

MM. If T.J. was in the...

A. Yeah. T.J. was right by my window.

Q. Okay, so--

A. When he got shot.

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Q. So show me how you did it.

A. I made a U-turn and I drove off.

Q. Okay. And did you take a right where the stop sign was or did you just keep going straight.

A. And after that, I don't even remember \_\_\_\_\_

Q. Let me ask—

MM. \_\_\_\_\_

Q. That's Okay. Did you come back through Henderson?

A. Yes, sir. \_\_\_\_\_

Q. Okay. So you went straight. You didn't take a right.

A. We came, we came back from like the 95.

Q. Okay. So you came back through Henderson. You went across Boulder Highway and the whole thing, huh?

A. Yes, sir.

Q. Okay. Then you hopped on 95 by the Fiesta up there.

A. Yeah.

Q. Okay. Where all that construction is.

A. Yes, sir.

Q. You saw all that construction.

A. Yes, sir.



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Q. All the flyovers and stuff.

A. Yes, sir.

Q. And then you got on 95.

A. Got on 95 and then got off on Las Vegas Boulevard and then that's when he jumped out of the van and took off and I ain't see him no more since then.

Q. Let's take a break, Mike.

MM. Okay. Real quick.

Q. Go ahead.

MM. Two, two little questions. Where is the van?

A. At the shop.

MM. What shop?

A. Simone.

MM. What, what's Simone's?

A. Mr. H's shop.

Q. Why is it there?

A. That's where \_\_\_\_\_ I went to get the shuttle bus.

Q. Okay. So the one on Bermuda?

A. Yes.

Q. Okay. How—

A. \_\_\_\_\_ I ain't run over T.J. T.J. was like in the street.

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MM. I know but listen, listen, listen. We're gonna have to get the van.

A. Okay.

MM. Okay. So we're gonna have to go get the van, okay. We're gonna have to tow the van, process the van and we wanna do as much minimal to you, you know 'cause I wanna keep my word.

A. Am I, am I gonna be able to go home?

MM. Yeah. I'm gonna keep my word to you, okay. If you told us the truth, we're gonna go out and talk for a minute and give you a minute to think about you know any changes you wanna make in your story and, ah—

A. I'm not changing a thing. Can I just call Rontae and them and tell 'em to tell you guys everything?

MM. No, no, no. We'll go get 'em and, ah, and fact, I'm gonna hold on. Where's your other phone then?

Q. \_\_\_\_\_ second, okay. (Talking at same time)

MM. We're gonna go get 'em. We'll bring here and, ah, we'll tell 'em that you talked to us. Okay? They're at your place.

A. Yes, sir.

MM. Right now.

A. No. Actually, no. They left. They said they were going home going back to Rontae's baby mama's house \_\_\_\_

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Q. I thought you said you, they were staying with you.

A. They were staying at my house but after I left work, they said that they were gonna leave my house \_\_\_\_\_

MM. I'm gonna pause this, okay.

Q. Yeah. Pause it. We'll be back. Hold on, let me tell you the time. What time is it, Mike?

MM. Ah, I got, ah, 2208.

Q. Okay. Okay. We're back on. The time is 2221 hours. Ah, present, ah, once again are myself, Detective McGrath and, ah, Mr. Carroll. Ah, Deangelo, ah, Mike and I took a couple minutes to talk when we were outside the room and, ah, we came in, we talked to you. We know that we've got more stuff to cover here. We know that, ah, that, ah, you've got more stuff to tell us.

A. Yes, sir.

Q. And you asked for the opportunity to say what happened, so we said here it is, okay. So let's sit down there and I'm gonna—listen to me now. I'm gonna stop you if, if I'm startin' to smell bull shit, okay?

A. Yes, sir. Yes, sir.

Q. I'm gonna stop you because I smelled a lot earlier.

A. Yes, sir.

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Q. Okay. And I know you did, you did a tremendous thing for you to even say what you said instead of saying listen, I never made it outta, out of, ah, Jerry's Nugget is huge, okay, and we understand that but if you start compound lying, lying more and more, it's gonna look bad and I don't think you're a bad guy.

A. I'm not gonna lie to you anymore. I'm just gonna go ahead and tell you exactly what the hell happened.

Q. Let's start, let's start from the beginning. You guys all work together. Am I right?

A. Yes, sir. Not all of us. K.C. don't work with us.

Q. Okay, so—

A. Me, J.J. and Rontae were all \_\_\_\_\_ Yesterday I got called into the officer. Mr. H said he needed to talk to me.

Q. Mr. H is, is Luis.

A. Luis Hil, Hildy, I can't pronounce \_\_\_\_\_ Hidalgo.

MM. Okay.

A. You know what I'm saying, he called me up to the office and that's when the thing came up that supposedly T.J. was puttin' bad shit on his club and didn't like, so he tried to tell us, what, what, what he said is if you guys don't knock him out, at first he wanted us to beat him up, then he said that he wanted T.J. knocked off, so you know I'm saying \_\_\_\_\_ none of us wanted to do it, so fuckin' he had us go get

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somebody, so we went and got K.C., which is, I know K.C. from when I lived at my mom's. That's before I got married.

Q. Okay. So let's talk about this. Let's slow this down a little bit. So you go in there. Does, does— I'm gonna call him Mr. H, okay, and you know who we're talking about. We're talking about, ah, Luis.

A. Yes, sir.

Q. Ah, the older one.

A. Yes, sir.

Q. Who's the owner of the Palomino. Correct?

A. Yes.

MM. Hidalgo.

A. Hidalgo.

MM. Hidalgo, Okay.

Q. Hidalgo.

MM. Yeah.

Q. Okay.

A. Well, yes, sir, \_\_\_\_\_

Q. So he calls, he calls you in the office.

A. Before I got the shift and you know I'm saying, first, Junior called me and he's all like bring two garbage bags and a baseball bat, we have to go take care of \_\_\_\_\_

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but he never told me what it was about. Then when I got there to the club, I was called into the office.

Q. What time was this?

A. It had to be, I got to work yesterday. It was about six somethin' and I got back to, I had went and got the flyers and we were gonna go out to promote \_\_\_\_\_ and then Mr. H had to get to the club about 8:30, nine o'clock.

Q. Okay. So you, Ron-Rontae.

A. Rontae.

Q. You, Rontae and J.J. did go and do your promoting.

A. Yeah. We did go do our promoting.

Q. What vehicle were you in?

A. We was in the white Astro van.

Q. Okay. And so you went, you guys went did your stuff and you came back to... Did you have a feeling that somethin' was up while you were promoting? In the back of your head are you like...

A. When, when Luis told me to bring the baseball bat and the two bags, I already knew somethin' was up. My wife was like don't get in no trouble. I ain't even wanna do it and I told my wife I ain't wanna do it.

Q. Okay. So you, you told your wife, hey, man.

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A. I don't, I don't feel comfortable doing it, so then that's what that was the whole point of going to get K.C.

Q. Okay.

A. Somebody who didn't give a fuck.

Q. Slow down for a second. When you say doing it, do you, you mean at that time you knew that they want you to do somethin' to T.J.?

A. I never knew it was T.J. until we got to the office and I ain't wanna do it, you know I'm saying.

Q. Okay.

A. But everybody, everybody's been trying to put stuff on me at the club saying that I did this and that to Mr. H and Mr. H was gonna—

Q. Well, tell me what, tell me what you're talking about because it needs to make sense.

A. \_\_\_\_\_ (Talking at same time) See T.J. was selling the VIP passes in the front. Everybody knew that. They tried to say that I was rippin' Mr. H off and Mr. H is the type of person, you know I'm saying if he's gettin' ripped off, he'll have you hurt. This isn't, you know I'm saying, the first time they did somethin' like this.

Q. So you're saying that T.J. was really rippin' Mr. H off.

A. Yes, sir.

Q. Okay.

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A. \_\_\_\_\_ (Talking at same time)

Q. But for some reason, the mouth was gettin' put on you?

A. Everything, everything, after T.J. was gone, they were trying to get rid of me. Everybody at the club, Ariel and there's another little dude named Jerry. Jerry, Jerry tried to fuckin' threaten to kill me \_\_\_\_\_ there's another dude named Moose that's usually there but now he's in Arizona, you know I'm saying, and fuckin' Mr. H said he wanted him knocked off. By time fuckin' we got there...

Q. Okay. So he calls you. This is after the promotion.

A. Yes, sir.

Q. He calls you back in the office.

A. I went, I went in the office. I was in the office for about probably like 20 minutes

\_\_\_\_\_

Q. Was Rontue and J.J. with you?

A. No, sir. They had \_\_\_\_\_

Q. Okay. What are you wearing?

A. Last night, I had on this.

Q. Okay. So you had the exact same thing.

A. \_\_\_\_\_ exact same shit on last night.

Q. Okay. So he calls you in the office and he says, now he's laid it on the line. He says, hey, look, I mean—



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A. \_\_\_\_\_ (Talking at same time)

Q. I'm not trying to put words in your mouth. You tell me.

A. He said, he said, ah, go take care of that mother fucker that when you guys get back, that he'll have some money in a envelope for us.

Q. Okay. And how did you know who the mother fucker was?

A. 'Cause he said his name, T.J.

Q. Okay. And you know T.J. to be your friend Tim that used to work there.

A. I don't him by his full name. I just know him by T.J.

Q. Okay.

A. Cash Daddy.

Q. Okay.

A. And fuckin' you know I'm saying, so fuckin'...

Q. Did he tell you how much, ah, cash would be in the envelope?

A. No. He never did.

Q. Did he tell you how he wanted him taken care of?

A. First he said he just wanted him hurt bad, then he changed his mind and told, told, ah, told me to tell dude to do whatever he felt was necessary to take T.J. out, whatever. So when I told dude, dude went, by time we got there--

Q. Don't say dude. Tell me--

A. By time me, K.C. and Rontae and all of us got there, \_\_\_\_--

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Q. How did you, how did you pick K.C.?

A. We went to his house and picked him up.

Q. Okay. Did, did Mr. H tell you K.C.'s your man or did you say Mr. H, I got a guy that'll do this.

A. No, no. We.... No. We know who K.C. was and we knew K.C. would do it 'cause we didn't wanna do it.

Q. Okay.

A. You know I'm saying, we don't nothin' to come back on us, so we went and got K.C. and fuckin' so by time we got there, it was already too late, K.C. had shot him and Miss Annabelle called us and said that she wanted him beat up.

Q. Okay. You made no sense right there. You made no sense.

A. Miss Annabelle-- (Talking at same time)

Q. By the time, wait, slow down.

A. By time, by time \_\_\_\_-- (Talking at same time)

Q. So you--

A. \_\_\_\_\_ after we got our orders. (Talking at same time)

Q. Stop. Let me talk. Stop. Okay. So when you, when you leave the club, Mr. H has told you what he wants.

A. Yeah.

Q. You leave the club. What time is it?

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A. Probably like 11 somethin', 11 o'clock, when we left the club.

Q. Okay. Did you put a call into, into T.J. at that time?

A. I had called T.J. for some weed. That was original call and then that's when—

Q. At what time? At what time?

A. I couldn't give you the exact time but I know it was around 11 somethin'.

Q. Okay.

A. It was, it was around 11.

Q. So you knew T.J. was at the lake.

A. Yes, sir.

Q. Okay. And at this time, you knew that Mr. H want somethin' done to T.J.

A. Yes, sir, and—

Q. And at that time, you felt that, in your gut, you felt any, as any reasonable man would, that Mr. H wanted more than just a beating administered to T.J., he wanted T.J. killed.

A. Yes, sir. That's the way...

Q. That's the way you \_\_\_\_

A. It was brought to me.

Q. Okay.

A. And you know I'm saying I didn't wanna do it myself. I didn't really wanna go.

Q. Did you tell Mr. H that?

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A. They already knew I didn't wanna go.

Q. Okay.

A. They didn't wanna do it \_\_\_\_\_

Q. Did you tell Mr. H that you know somebody that might do this?

A. No. I never told him straight I knew somebody who might do it. He just said find somebody, get it done, I don't care what y'all do, just make sure it's done tonight. So fuckin' we went got K.C., K.C. did it. I brung K.C. \_\_\_\_\_

Q. \_\_\_\_\_ Slow it down.

A. \_\_\_\_\_ (Talking at same time)

Q. So you leave, you leave the club.

A. Yes, sir.

Q. Okay. Do you put another call in to T.J.?

A. Yes, sir. That was the call that told T.J. that we was on our way out there.

Q. Okay. And about what time was that?

A. Roughly probably like 11:30.

Q. Okay.

A. And T.J.--

Q. Were you already well on your way out there?

A. We were already damn near there.

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Q. Okay. So \_\_\_ stop. So you, Ron--Rontae and J.J. leave the club, you get in the Astro van and you decide you're gonna go pick up K.C.

A. Yes, sir.

Q. Where, did you get ahold, did K.C. know this was coming or did you just take a chance that you'd catch 'em?

A. No. K.C., you know I'm saying, he had knew that my boss, 'cause I told him that my boss would pay him before, that my boss was willing to pay him to go take care of some people 'cause he does stuff like that and K.C. was like as long as the money's right, then he'll do it, so then--

Q. So what, what's the money right? What, what did your--

A. So last night after everything was done, said, we got back to the club. K.C. was like in a panic and shit. He was all like well, tell your boss I want six thousand dollars.

Q. Okay.

A. So they paid him off six thousand dollars in cash. They gave him it to me and I handed it to him.

Q. Okay. Slow this down, okay.

A. \_\_\_\_

Q. So you leave the club with, with Rontae and J.J.

A. Yes, sir.

Q. Where do you go to pick up K.C.?

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A. Across the street from my mom's house off of E Street.

Q. So he truly lives there.

A. Yes, sir.

Q. How long has he lived there?

A. He's been living there for a couple years now.

Q. Okay.

A. He has a black Suburban. He got a old Caprice. He got a old \_\_\_\_

Q. Slow down. Slow down. Black Suburban. He's got an old Caprice.

A. A old—

Q. Old square style, right?

A. Yeah. It's like a, probably like a maroon color, then he got a white old '76 Impala.

Q. A white '76 Impala.

A. Yes, sir.

Q. Okay. Who's he live in the house with?

A. His wife, kids and there's just a buncha people there. He sells drugs out of his house.

Q. Okay.

A. \_\_\_\_\_

Q. So is this, ah, is this house on your mom's street?

A. Yeah. It's right across the street from my mom.

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- Q. Right across 'cause your mom's right on the corner, right?
- A. No. My mom isn't in the corner.
- Q. She's a little bit further down.
- A. If you, if you come in from D Street...
- Q. Yeah.
- A. And you make a right on E, my mom's like where the cul-de-sac bends.
- Q. Okay.
- A. Where it goes around. She's right here \_\_\_\_\_
- Q. So he's right across the street.
- A. And he's like catty-corner right across the street.
- Q. Okay. So do you and, so you, Ron-Rontu-Rontae-
- A. Rontae.
- Q. And J.J. pull up to his house.
- A. Yeah.
- Q. Okay.
- A. In case he got- he \_\_\_\_\_
- Q. Do you honk the horn or what happens?
- A. No. We went up there, knocked on the door. K.C. came out. He was already dressed, had his pistol \_\_\_\_\_
- Q. How does he know that you were coming?

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A. 'Cause we had went up over there. We were over there earlier \_\_\_\_

Q. Earlier when?

A. Earlier that night, probably like...

Q. Did you--

A. Right after we left Mr. H's office.

Q. Okay. Did you ever call K.C.?

A. No. I didn't.

Q. Okay. You never called him.

A. No.

Q. Okay. So you had gone by K.C.'s house and you told him, hey, look, something's coming up, be ready.

A. And my boss wants you to take care of somethin' for him.

Q. And what did K.C. tell you to tell your boss?

A. He, he didn't tell me tell my bah-- all he said was as long as the money right, I'll do it.

Q. Okay.

A. So you know I'm saying I was like whatever, you know I'm saying. I didn't really wanna drive. I was like man, I don't even wanna go, I'll tell you where to go. He's like no, you gonna take me out there. So then he's all like well, and 'cause if you don't take me out there and I go out there, then I know somethin' ain't right, you



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gonna try to snitch on me and shit and then fuckin', he wanted J.J. to shoot. J.J. had a little 22 revolver, you know what I'm saying.

Q. So K.C. wanted J.J. to do the shooting.

A. \_\_\_\_ he had, J.J., he want J.J. to reach over me and shoot him but I was like man, no, fuck this, you know I'm saying—

Q. So when's—

A. And I told J.J. then not, not to do anything \_\_\_\_\_. I told them not to do nothin'.

Q. What's the conversation? Is this, all this taking place on the drive out there?

A. Yes, sir. It's all taking place out there and K.C. just kept \_\_\_\_ man, why, why you got all these mother fuckers with you, why you got all these mother fuckers with you? And you know I'm saying I just kept telling him man, they all right, they're cool, they're cool, you know I'm saying and that's to cover my ass so if this did come back on me and mother fuckers tried to say that I killed somebody, I'm not the gunman, there's two other people that knows that I didn't shoot him. There's two other people that saw him shoot him, you know I'm saying.

Q. Okay.

A. So then when we got, after it all happened, \_\_\_\_\_

Q. Let's, let's, let's...

MM. Can I just?

Q. Yes.

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MM. One question that we missed \_\_\_\_\_, tell me who K.C. really is.

A. I don't know K.C. by his real name. All we know him by is K.C. or K. I don't know him. I promise you.

Q. What set's he claim?

A. He's a Blood from California. I think Black Peace \_\_\_\_\_

Q. Okay. So the gang unit's over there at the house probably all the house, huh? How many times has dope kicked door?

A. Never.

Q. Never kicked in the door.

A. Never kick in his door but I can tell you where he keeps the drugs and everything. \_\_\_\_\_ if you go in his carport in front of the Suburban, it's like a little laundry room. If you open the door, behind the door is a little tin can, one of those popcorn cans with like the three popcorns in it and it's full of drugs. That's where he hides his drugs at.

Q. Okay. So you guys are on your way out there. You go through the toll booth.

A. Yes, sir.

Q. At what point do you call T.J.?

A. T.J. back? When, ah, it was, it was no service. We were supposed to call T.J. when we got to the fuckin' stop sign and he was gonna come meet us at the stop

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sign but then when we got to the stop sign, K.C. was like just go left and we're gonna meet him. The first time we went, we drove for—

Q. When, when did you call?

A. I called, it had to be like 11, it was probably like 11:35, 11:40 \_\_\_\_\_

Q. Okay. So you guys are in between the toll booth and stop sign when you call him?

A. No. We had to go back outside the toll booth to get reception.

Q. Okay.

A. \_\_\_\_\_ call him, so when I call him, he had no reception.

Q. So how many times did you go through that toll booth?

A. I went through there twice.

Q. So you went, you went like you go to the lake.

A. Three times. Three times. (Talking at same time)

Q. Then you came back through.

A. It was three times \_\_\_\_\_ (Talking at same time)

Q. Then you went back out.

A. Yes, sir.

Q. Okay.

A. It was once in, once out and once back in.

Q. Okay.

A. So three times.

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Q. Okay.

A. And then the next time—

Q. So you make a call to T.J. T.J. says I'm on my way out.

A. T.J. was already on his way.

Q. Okay.

A. His phone had no reception. When we seen T.J., T.J. was coming this way. Uh, can I use a paper?

Q. Yeah. \_\_\_\_

A. Like I showed you, T.J. was coming from, ah, this way from wherever he was and we was coming this way and then T.J. stopped right here and like yes. I was like yeah. He's like what's up, dude? And I was like nothin', so T.J., he was drunk. Don't leave that part out. Fuckin', he was fuckin' lit off his ass already, fuckin' he turned around and fuckin' parked off into the side right here and he got out and walked to the van. I had got out to take a fuckin' piss right here in the sagebrush and then K.C., when I was walking back to, uh, van, the side door slid open. K.C. slid out and then he went to the front and then while T.J. was talking to me, I looked and I seen K.C. coming and I went to tell T.J. fuckin' move, you know I'm saying but I couldn't get anything out. K.C. went down like this and came up in front of the van.

Q. (Coughing)

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A. And he shot him twice and he jumped back in the van and then I start to get out and that's how the flyer, the flyers fell out the van right there were he was. I was trying to see if he was all right, tried to help him and \_\_\_\_\_ I was gonna tell him to take the van but then fuckin' K.C.'s like you better fuckin' drive, drive this mother fucker, you're smashin' on the way up here, you better smash to get us the fuck outta here.

And then last night at the club \_\_\_\_\_

Q. Okay. Stop. Stop, stop, stop. So you guys drive out but you drive past the stop sign and you go out the, the, the Henderson exit.

A. Yes, sir.

Q. Okay.

A. Yes, sir. Off the 95.

Q. Okay.

A. And like fuckin' when we got back to the club, we were in. K.C. stood outside for Mr. H's office. I wanted to tell Mr. H K.C. had done it, he took care of it. Mr. H is like fuck and he was all like, man, I just wanted him hurt. I was like that ain't what you said but then he, and I told him, I was like dude wants to be paid, he said he wants six thousand dollars. So Miss Annabelle was hesitant about paying off the money. Mr. H told him well, go ahead and pay out the money and she counted out—

Q. Who's Miss Annabelle? Tell me who Miss Anna—

A. Mr. H's assistant.

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Q. Okay. Now Miss Annabelle, is she in the office when all this conversation's taking place?

A. She, \_\_\_\_\_ (Talking at same time) Yes, sir.

Q. Was she in the office at the original conversation when Mr. H is telling you—

A. She, she was in the office the whole time.

Q. To both conversations for, before you guys left to go do it and when you got back...

A. Yes.

Q. She's there for the whole thing.

A. She was in the whole time \_\_\_\_\_ She, she never leaves that office. Miss Annabelle comes out of the office, really you have to be doing somethin' wrong for her to come up out.

Q. Okay.

A. Any other time, she's in there \_\_\_\_\_ and she's sleeping \_\_\_\_\_

Q. So, so she pay, she counts out the money.

A. She went back into the livingroom, into Mr. H's office. This another little room where the kitchen is and then there's another door and I guess \_\_\_\_\_ I never been back there. She came back with the money in a rubber band.

Q. Tell me about how money was, what it, twenties, hundreds?

A. It was all hundreds.

Q. It was all hundreds.

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A. Wrapped up in a rubber band and I handed it to K.C., counted his money and then--

Q. Did you count it?

A. No. I didn't. He counted it.

Q. Did, was the money very new crisp bills or was it shit that's been around?

A. It was crisp bills.

Q. It was crisp bills.

A. \_\_\_\_ Yes, sir.

Q. They're all Franklins.

A. Yes, sir.

Q. Okay.

A. He counted it up, then he got in a cab and he left.

Q. He didn't hang out the club at all.

A. No. That was the last time we seen K.C. that night and then I went back in the office and I was talking to Mr. H and Mr. H told me, he goes well you guys better go get some more flyers from Ariel and go out to the cab stands and make it look like you guys were out there, so that's what we did.

Q. How much, how much money, and I need you to tell me the truth...

A. Yes, sir.

Q. How much money did you get for this?

A. Like a hundred bucks.

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Q. You got a hundred dollars.

A. Yes, sir.

Q. Like a hundred dollars or a hundred dollars?

A. It was a hundred bucks.

Q. Was it two hundred bucks? Was it five hundred bucks?

A. No. It, it was a hundred bucks.

Q. So you got one Franklin for that.

A. Yes, sir.

Q. How'd you feel about that?

A. Felt shitty about it, you know I'm saying I didn't even wanna take it from him. He's like man, no, here take it, you helped me out. I was like no, because now I'm an accessory to murder and now my fuckin' family life's gonna be fuckin' ruined behind this shit. Now I might fuckin' go to prison for somethin' I, I didn't even do \_\_\_\_\_

Q. Why did you do this?

A. 'Cause Mr. H and them, they're always tellin' and everybody here isn't your friend, everybody's against you, you know I'm saying, show loyalty and this, that, loyalty and that. Everything with them was loyalty. If you're not loyal to them, then they'll fire you. They're always talking about firing me and this and that.

Q. So was just you that went up into the office for these meetings or did J.J. and Ron-Rontae go in there?



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A. J.J. and Rontae weren't allowed inside the office. They, they sat out in the van. There was witnesses that seen 'em sittin' out in the van. There's a fat guy, there's a fat guy that always comes to the club. I think he's on the— I think he's a homosexual that wear glasses and they were all sittin' out in the van \_\_\_\_\_ and fuckin' we went to the cab station, we pass out a couple flyers and we came back to the club and I talked to Mr. H again and he left and then I—

Q. Is this after the deed's done or is this before?

A. This is, this is all after it's done.

Q. This is after. So this is gettin' late now.

A. Yeah. It's late and then Mr. H left the club and I had to go relieve the deejay. The deejay went on his break. When the deejay came back, I went home.

Q. It's about 2:30, right?

A. Yes, sir. And then when the deejay came back, I went home.

Q. Okay. Ah—

A. And that's the whole story.

Q. Okay.

A. I can't sugarcoat it and I can't hide anything. That's exactly what happened.

MM. Okay. Ah, did, ah, Rontu (sic) and, ah, the other dude, they get a hundred bucks too?

A. No. I bought 'em all, I got, we all went to breakfast this morning.

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MM. With your hundred bucks?

A. Yes, sir.

MM. Okay.

A. I paid for breakfast. The breakfast came to like fifty bucks and I went and got a haircut and then I bought a fan for my house.

Q. And where'd you get- where'd you go to, to breakfast at?

A. Went to IHOP.

Q. Where?

A. Off of Craig Road and Simmons.

Q. Craig and Sim-

A. Or Clayton.

Q. Clayton and Simmons.

A. Yes, sir.

Q. You went to IHOP.

A. Oh, Clayton and Craig.

Q. About what time?

A. We went to IHOP, it had to be, 'cause Felicia had to be to work 12:30. We left my house at like 10:30 this morning.

MM. Okay. Uh, a couple quick things that \_\_\_\_\_

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A. And a wait- if you guys wanna check that, the waitress, it was a black wait- waiter with braids. We tipped him fifteen dollars.

MM. Male or female?

A. It was a male. He'll tell you that we came, we all came and there was like a group, me, Rontae, J.J., Crystal, my wife, my son, uh, Joseph and Felicia, which is my uncle that got killed, his girlfriend.

MM. Okay.

Q. Did you pay with the hundred dollars?

A. Yes, sir.

Q. So you paid with a hundred dollar bill.

A. Yes, sir.

Q. Okay.

A. I paid the bill before we even ate.

MM. Okay. Here, here's a couple important things, okay. Ah, number one, if K.C. got into a van, I mean into a cab, right?

A. Yeah.

MM. And presumably he went home to his house, right?

A. \_\_\_\_ (Talking at same time)

MM. Ah, the cab's log, when they leave there and where they go, do we know what cab company it might've been?

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A. \_\_\_\_\_ I don't. I have no idea what company they got in when I came outside 'cause he was like in a hurry to go home. He's like now get me the fuck outta here, get me the fuck outta here while Mr. H was still talking. So then he got impatient and I, I, when I came out, I was like where'd K.C. go? He said man, he got impatient and he jumped in a cab and he went home.

MM. Okay. How about this one? Ah, anything happen with the gun?

A. He has the gun. He keeps the gun. That gun has been used in murders, murders after murders. Ah, I don't know if you guys know him, Javon Gay (phonetic spelling), he shot a kid over there by the Jets a couple months ago in the neck.

Q. Okay.

A. That's the gun that was used.

Q. Did you, when K.C. came out of the house and got in, into the van to go to Lake Mead, he had a gun on him?

A. Yes, sir.

Q. So you saw him walk straight out of the house in your van?

A. I seen him when he walked out the house.

Q. Okay.

A. So \_\_\_\_\_

Q. He walked straight in your van.

A. He walked straight into the van.

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Q. Okay.

A. Had on black, all black.

Q. Did he show you the gun when he got in the van?

A. We didn't see the gun until fuck it he shot.

Q. Okay. \_\_\_\_

A. And then he got mad and he's all like man, he asked, he asked J.J. how come you didn't bust, how come you didn't bust and he was gettin' mad and that's when he was talking about shooting J.J. 'cause J.J. wouldn't shoot 'cause J.J. has a 22.

MM. Let me ask you this. How will we prove your story? I mean how, you, you tell us how we're gonna prove your story.

A. Talk to Rontae and them. Rontae and them knew about Mr. H wantin' to pay for the fuckin'...

MM. Just from you. Just from you telling them...

A. Yes, sir.

MM. I mean how are we gonna prove that Mr. H ordered you or told you to do this?

A. I'll testify in court, do whatever I have to do, you know. You guys asked me to tell you guys the truth. I told you guys the truth. Mr. H told me today, I was at the shop when after you guys talked to Mr. H. Mr. H told me you guys were looking for me, you know what I'm saying.

MM. How'd he get ahold of you?

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A. I was already at the shop. Miss Annabelle called me and told me to come to the shop to get more flyers.

MM. The, the shop down on Sunset?

A. Sunset and Bermuda and then when I got there, I was like where's Mr. H? She said Mr. H is at the \_\_\_\_, the \_\_\_\_

MM. Did, did anybody get blood on him? Did, when, did get any on the van when \_\_\_\_

A. There's no blood on the van, nothing.

MM. \_\_\_\_ (Talking at same time)

A. When he shot him, T.J. was like, like say like front of the van where you're at and T.J. was like standing in a window. He stooped down when he shot T.J. I don't where he hit T.J. in the head 'cause when he shot, I ducked down like this because I ain't wanna look at it.

MM. Okay.

A. Fuckin' T.J. was telling me, he was like drive.

MM. Now let me ask you something else. Ah, did, did someone throw at hat that was like a, a, a tan hat on T.J.'s chest?

A. No. T., T.J. had a hat on. He took his hat off. He had, he had on a tan hat when he got out of his car.

MM. Okay.

A. He had on a hat, no shirt and some shorts and some sandals.

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MM. Okay. So he took his hat off and what'd he do with it, hold it in his hand?

A. No. He, he had took his hat off and he had it in his hand and then when K.C. fired, T.J. dropped, all you heard was a thump and then K.C. jumped back in the van, like drive, nigger, drive and then we drove off and then that was...

MM. When you did the U-turn, you didn't go through any blood or, or anything like that with the van?

A. \_\_\_\_\_ No.

MM. Sure?

A. Positive. I, and if I did, I don't remember 'cause I was in a state of shock when this shit happened. I was just worried about gettin' the fuck away from there.

MM. Where is, ah, Rontu and J.J.?

A. When I left for work, they were all at my house.

MM. Okay.

A. But I think Rontae was talking about going back over his baby's mom's house and J.J. had left and then he came back.

MM. Okay. Let us do this. Let us walk out, digest this new story, okay, because I mean you've gone through one story, then a second story, a third story. Now we're on like a fourth or fifth story, alright?

A. And I, I understand \_\_\_\_\_

MM. \_\_\_\_\_ (Talking at same time)

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A. Hey, you guys, you guys could bring Rontae them in here. \_\_\_\_\_  
tell you exactly what happened. I have no reason to lie about it because you know  
right now—

Q. Let me ask you. Will they lie about it?

A. \_\_\_\_\_ (Talking at same time) No. They won't lie about it.

Q. Why?.....

A. They, they will try to lie about it at first because they don't wanna get in trouble but  
I'm telling you if you tell, if you tell Rontae them to tell you exactly what happened,  
they're gonna try to deny. Rontae pro—probably tell you man, I don't know nothin',  
I'm not gonna say nothin' 'cause that's exactly what he said. Only way Rontae is  
gonna open his mouth is if you guys stand there and I tell Rontae to tell you guys  
exactly what happened.

MM. Okay.

A. I don't have to talk to Rontae, I don't have to coach Rontae. We can go get Rontae  
right now and all I have to do is tell him, tell him exactly what happened and he'll tell  
you.

MM. Okay. Let's go digest this. Just hang, okay. Okay? Drink your water. \_\_\_\_\_  
for a second.

Q. Okay. We're back on tape. Present are Detective Vaccaro and Detective  
Wildemann, along with, ah, Deangelo. Time is 1103 hours.



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JV. Eleven-o-three, okay. It's been a long 24, almost 24 hours since this all happened.

A. Yes, sir.

JV. Now, you know I, I know these detectives have been here talking to you, ah, but I gotta tell you I'm tired and, ah, I've been paying attention to what's been going on in this room and, ah, you know I'm at a point where we don't play games here. We need to get the serious end of this thing and you have just come up with a, ah, a, a fascinating account of what's happened and I, I gotta tell you that I'm not buying your story right now and why I'm telling you that is because I wanna tell you about your rights, okay.

A. Yes, sir.

JV. Alright. And this is very serious right now. I want you to understand that because I wanna tell you your rights, that it's probably in your best interest right now for you to clear this matter up with us.

A. Okay.

JV. Okay? So you do have the right to remain silent and anything that you say could possibly be used against you. You understand that?

A. Yes, sir.

JV. Okay. And that would be against you in court, says it right here. You have the right to the presence of an attorney and if you cannot afford an attorney, one'll be

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appointed to you before questioning. Do you understand these rights just like you probably heard before?

A. Yes, sir.

JV. Okay. Ah, the fact is we wanna talk to you about this last account that you gave us where you talked about Mr. H.

A. Yes, sir.

JV. Now as detectives, what do you think we would do, our next step would be to do now that you've told us all the things about Mr. H? What do you think that we would wanna do?

A. Go investigate it.

JV. Okay. We wanna go investigate it but how are we gonna- It's kinda warm in here.

Q. I know. I know.

JV. How are we going to investigate this without bringing Mr. H right down here and puttin' him in a room right next door?

A. Put a wire on me. I'll wear a wire and I get you the fuckin', I'll get Mr. H to tell you. You hear everything Mr. H has been telling me all day. Mr. H called, his assistant called me to the shop today, sir.

JV. Okay.

A. And she pulled me into the office saying that she needed to give me some flyers.

JV. What's her name?

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A. Miss Annabelle \_\_\_\_\_

JV. Okay. I know who that is and so let's go over this, so let me just me and you, we're gonna get \_\_\_\_\_ right here, alright? So your story is that this guy, T.J. or whatever his name is, ah, Timothy. Is that what you know him by?

A. I know him by T.J.

JV. T.J., okay. That he has done so much damage over there at the club that this man, this man who may very well be a millionaire, he wants to have something done with this guy. Is that right?

A. Yes, sir.

JV. And what does he tell you? Tell me the words exactly that he tells you.

A. First, it started yesterday. I was at home and I got a phone call. Everybody was in the livingroom when Little Louie called.

JV. And Little Louie, tell me who that is.

A. \_\_\_\_\_ that's Mr. H's son.

JV. H's son. Okay.

A. He tells me, he goes man, you need to come to club, bring two black bags and a baseball bat.

JV. Okay, and--

A. And everybody in the livingroom heard him when he said that.

JV. Why? Was it over the radio?

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A. It was over the walkie talkie.

JV. Okay. And, ah—

A. That was like about, probably like eight o'clock.

JV. Okay.

A. Right before Mr. H got there. Mr. H and Miss Annabelle got to the club before Little Louie did. By time Little Louie got to the club, I was upstairs in the office talking to Miss, Miss A, Mr. H and Miss Annabelle. They said they didn't want Luis to get involved because Luis was gettin' real upset about everything, wanted to go take care of T.J. Luis came in a pair of black \_\_\_\_\_

JV. Luis, talking about the younger one.

A. \_\_\_\_\_ Luis the third.

JV. And he's getting upset. Why is he so bent about this?

A. Because people are, T., supposedly T.J. went and spreaded a buncha rumors about Mr. H's club and we haven't had any customers. The club's been dead for like the last—

JV. Come on, man. Listen. Wait a minute. This is some guy that just happens to work the front door.

A. Right.

JV. He's spreading rumors and he's hurtin' that business has been going there for 30, maybe 35 years?

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A. And this, I'm telling you exactly what was being said, sir. You asked me to tell you what was said \_\_\_\_\_

JV. Yeah, I am but I, I'm gonna be a little confrontational with you, okay.

A. \_\_\_\_\_

JV. I'm not gonna patty-cake you in here.

A. I understand.

JV. Okay. So we're gonna get down to it right now. You and I, we're gonna talk about it and I don't want you to bull shit me.

A. Yes, sir. I know.

JV. Because I'm not gonna, I'm not gonna stand here and listen to it and if your account of this has one single hole in it, I swear I'm gonna jam it down your throat. Do you understand?

A. Yes, sir.

JV. Okay. So now Little Louie doesn't want any part of it, so he's calling you? What's he calling you for? What does he need your jokey ass to come down there and do this for him?

A. \_\_\_\_\_ before, couple months ago, there was a check stolen from Simone's.

JV. Alright.

A. And the guy that stole the check had Mr. H's daughter strung out on crystal meth, so Mr. H wanted us to go kidnap the dude and beat this dude up real fuckin' bad.

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JV. Uh-huh.

A. That's why Luis called me.

JV. So and that's what you did? And that's what you did? Did you that on occasion?

A. We never, we never, we never went and got the dude. Miss Annabelle called us off on it. She said don't worry about it because—

JV. How much were you supposed to make on that?

A. She didn't say nothing. She didn't say \_\_\_\_\_

JV. So Miss Annabelle is who to Mr. H?

A. Mr. H's assistant.

JV. So you want us to believe then that Mr. H and his, ah, his assistant, Annabelle, have, have gotten enough bad publicity about the club that they call you and whatever punks you can bring in to go and do something to somebody? That's their little thing that they do?

A. Yes, sir. Sir, if you don't believe me, I will wear a wire and I will go in Mr. H's office.

JV. But we may very well do that.

A. \_\_\_\_\_ and you can get the con— you can get a confession from him because all I got to do is go tell Mr. H, oh, yeah, they bought the story that you fuckin' tried to get me to tell 'em and he's gonna be like, okay, good. I promise you that. I will wear a wire right now. No bull shit, nothing.

JV. Alright. Stop.

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A. Straight up.

JV. So after you make this deal, Little Louie doesn't wanna get involved in it nor—

A. No. Mr. H wouldn't let Little Louie get involved. He didn't want him to get involved.

JV. He didn't want him get involved, so he comes to you and he says—

A. \_\_\_\_\_

JV. For you to get a couple guys. Is that right?

A. No. He didn't say get a couple guys. He wanted me to take care of it personally.

JV. Okay.

A. But I didn't wanna do it because I didn't wanna have that on my conscience, so we went and got K.C. K.C. don't give a fuck. K.C. said that he'll pop a nigger's noodle as long as the money right. So Mr. H told me, well, he wanted it done tonight, so we went to \_\_\_\_\_ because he was tired of T.J. spreading the rumors.

JV. And he says he wants it done that night.

A. He said he wanted it done tonight.

JV. Okay.

A. \_\_\_\_\_ (Talking at same time)

JV. This is what time on Thursday is he saying this?

A. This happened, was in his office about 8:30, nine o'clock.

JV. So 8:30, nine p.m. on that would be I think at that point Thursday night.

A. Yes, sir.

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JV. You have, ah, do you have any kind of cell phone conversations with him, ah, that will substantiate \_\_\_\_\_

A. No. If you get Miss Annabelle's, if you can get Mrs. Annabelle's, ah, cell phone, there was a call placed to Miss Annabelle between the time we were on our way to the lake and the time we got there.

JV. Okay. Why-

A. There was a phone call placed to her from a cell phone where she called me on my phone and told me that, ah, I needed to call her on her cell phone.

JV. And did you?

A. Yes. I did.

JV. And what was the conversation?

A. That's when she was like well, if he's by his self, then do him, if he isn't by his self, then just fuck him up \_\_\_\_, fuck him up and fuck up whoever's with him.

JV. This is Annabelle telling you this.

A. This is Miss Annabelle \_\_\_\_

JV. That's her language.

A. Yes, ma- yes, sir. That's how Miss Annabelle \_\_\_\_

Q. Why didn't you tell me that when we were in here a couple minutes ago?

A. You asked me, I told you the whole story, what was said in the office.



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JV. Alright. Let's keep going with this. So Miss Annabelle tells you if he's alone. Now at this point, do you already know that T.J. is out there at the lake?

A. Yes. \_\_\_\_\_

JV. How did you know that? When did you learn that he was gonna go \_\_\_\_\_

A. When I called him, when I called him the second time and he was like well, just come on up, it's beautiful, you know I'm saying.

Q. Okay.

A. And we went to the lake.

JV. So did you already have the other guys with you at that point?

A. Yeah. \_\_\_\_\_ was in the van already when we \_\_\_\_\_

JV. So you had them in the van with you before you knew T.J. was at the lake.

A. Yeah.

JV. So what were you guys gonna do? What were you just out cruising around?

A. No. We're out, it started \_\_\_\_\_ yesterday, sir, you know what I'm saying.

JV. Okay. Okay.

A. And then Miss Annabelle \_\_\_\_\_

JV. So then the opportunity presents itself 'cause you find out he's out by the lake.

A. Yeah. And that's why that happened at the lake, okay.

JV. Who asked who for weed?

A. I asked T.J. for weed.

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JV. You sure T.J. didn't ask you for the weed?

A. I'm positive.

JV. Okay, so—

A. And I told T.J., you know I'm saying, I said T.J., you know where to get weed from, he said he didn't have any on him, that he knew where to get some from and he was gonna come meet me and was gonna go back to the campsite but it never happened like that.

JV. Wait. Wait. Wait. He's gonna leave the campsite, come and meet you somewhere and then together, you're gonna go get some weed?

A. And then we're all go back to the campsite.

JV. Why, why does he need to go, why do you guys need to hold hands to go get the weed if he's the one \_\_\_\_\_

A. 'Cause we're all gonna hang out.

JV. So he's \_\_\_\_\_

A. I didn't know— (Talking at same time)

JV. He leaves the campsite...

A. See, the thing was I didn't know how to get to where T.J. was. He said he was on mile marker five or some shit like that.

JV. Right.

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A. I only been to the lake once and I came in by Hoover Dam. I never been out to the lake before, after that ever again. I never knew where T.J., exactly where T.J. was.

JV. Okay. Okay. So you decide that you're gonna go out with these other thugs out there by the lake.

A. Yeah. Let K.C. do what he had to do. We weren't gonna fuckin' touch \_\_\_\_

JV. Okay. So here you are. You're driving out there, all the way out there knowing that your buddy's gonna get popped by this thug in the car.

A. No. We, at first, it was, it was just, he was rob him and beat him up but then we got out there, he fuckin' got out and he shot him anyway. He got antsy and shot him. T.J. was never, it was never meant for T.J. to get shot. It was always meant for T.J. just to get beat up.

JV. Who was gonna beat him up? Uh, how big is T.J.? T.J. looks like he can whip your ass.

A. T., T.J., T.J.'s taller than I am. T.J., let me see, T.J.'s about this tall. He's about six four and \_\_\_\_ you know I'm saying, tell you the truth, me personally, I can't fight worth a fuck, you know what I'm saying. I might talk a good game but I cannot fight worth a fuck.

JV. Okay. So, so these other little thugs, they're gonna just whip up on him?

A. No. They were—

JV. Or you thought they were gonna?

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A. No. They were with me. They were, we were all promotin'. We're all together already as it was.

JV. Right.

A. We had K.C. 'cause K.C. was gonna do everything. We weren't gonna do anything. We weren't even gonna get our hands dirty. K.C. was s'posed to do everything and instead, K.C. beatin' him up, he fuckin' shot him twice and that's right hand to God. That's everything.

JV. What kinda gun did this K.C. have?

A. K.C. had, it was chrome .357 with a black handle, was a long extended barrel with a pistol grip handle.

JV. Where was he keeping that on his person?

A. It had to be under his sweater.

JV. He had a sweater on.

A. He had all black on. He had on black pants, black sweater and he had on a hoodie.

JV. When did you first see that gun?

A. I didn't see the gun until he got out to shoot T.J.

JV. No, no, no. You don't get in the car together.

A. We, we- (Talking at same time)

JV. Everybody talking shit to each other and you don't see the gun until you get out there, so stop lying. Tell me when you saw the gun earlier than that.

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A. I didn't, I didn't see that. Before I seen the gun?

JV. Yeah.

A. I seen the gun before another, when Javon (phonetic spelling) had it. That was the first time I seen the gun.

JV. When what-

A. But I \_\_, I hadn't seen the gun yesterday until he got out to shoot T.J. 'cause he came directly out his house, got into the van.

JV. Was Javon one of the guys in the van?

A. No. Javon in jail right now.

JV. So how does K.C. or whatever his name is get the gun from Javon?

A. No. No. Listen. Javon shot a dude.

JV. Yeah.

A. He gave the gun to K.C. It's K.C.'s gun.

JV. Okay.

A. K.C. had the gun at his house.

JV. Alright.

A. Javon's been in jail for shootin' a guy in the neck.

JV. Okay.

A. So K.C. already had the gun. When K.C. came out the house, he already had the gun tucked away and he got in the van.

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JV. And you knew that.

A. The gun, the gun was never, you know I'm saying, I never seen the gun until he got out.

JV. You knew he had a gun on him.

A. Yeah. He always has a gun. I knew he had a gun but I didn't think he was gonna shoot T.J.

JV. Was there conversation about the gun? Even if you didn't see—

A. No. It wasn't.

JV. Was there conversation in the car about the gun?

A. There was no, there was no conversation \_\_\_\_\_

JV. So then \_\_\_\_ going out here to go meet this guy.

A. It was cah— it was conversation about just going to fuck him up. That's all \_\_\_\_\_

JV. Well, you can't fight, so who's gonna \_\_\_\_ this guy up?

A. K.C. was gonna fight him.

JV. And K.C.'s, tell me how big he is and what he's all about.

A. K.C., K.C. bigger than I am, he probably a little bit bigger than I am. He's from one of the hardest Blood gangs in L.A.

JV. Okay.

A. He don't give a fuck about shootin' anybody. K.C. wanted to shoot \_\_\_\_\_

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JV. Okay, but we're not shooting him now. We're just gonna beat him up. Is he capable of beatin' up, uh, T.J.?

A. Yeah. He's capable of beatin' us all up.

JV. Okay.

Q. About halfway there, Jimmy, Miss Annabelle's called and said--

A. Yeah.

Q. If he's alone, kill him.

A. Yeah. That's what was said.

Q. So did you relay that story to T.J.?

A. No. To T.J.?

Q. Ah, did you relay that to K.C.? Did you tell K.C. that?

A. No. I never told K.C. that. I never once told K.C. that Miss Annabelle, what Miss--

Q. K.C.'s understanding when he got in that van was is he was gonna kill. You said he'd pop--

A. \_\_\_\_\_ (Talking at same time)

Q. He'd pop a brother's noodle, right?

A. Yeah. That's what, exactly what he said.

Q. So he, his intention when he got in there--

A. \_\_\_\_\_ (Talking at same time)

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Q. And he must've gotten it from you 'cause you talked to him, was T.J.'s gonna get killed.

A. No. All, all that was said in the whole conversation with K.C. is that Mr. H needed somethin' handled, so K.C. was like how much is he paying? I said I don't know, all he said is he was gonna put money in a envelope and that's exactly what's said. If you call, \_\_\_\_\_ I promise you if you put a wire on me, I can get a confession from Mr. H for you and I can, I promise you, I give you my word on his. I'll give you \_\_\_\_\_

JV. Okay. So let's go ahead with the story. So you go out there.

A. \_\_\_\_\_

JV. You drive out there and I know, I heard the whole you went in, came out, went back in. Is that right?

A. Yeah, 'cause I can't get no service to find out where T.J. was.

JV. Right.

A. Went out and when I got service, I tried to call T.J. He was out of service. So then we went back in and we went left at the stop sign. We were driving for like, probably like five or six minutes and fuckin' T.J. appeared coming towards us and we stopped.

JV. How did you know it was him?

A. 'Cause I know his car.

JV. What kinda car is it?



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A. It's a little SUV Sportage with a black tire on the back. It ain't got tinted windows. It's a little four-door, you know I'm saying. I know T.J.'s car 'cause we smoked in his car all the time at work.

JV. Okay. Whose car is it? It's his car?

A. I, I believe so. He has a car, then he has another work truck.

JV. Did he say he was out there with anybody?

A. His wife and his dog, his old lady. He called her his old lady. He never called her his wife.

JV. And you knew that if he was coming to meet you, that she wouldn't be out there?

A. No. I had no idea that he would leave her out there.

JV. Okay.

A. By herself.

JV. Okay. So you saw his car coming--

A. \_\_\_\_ (Talking at same time) See, what I was specting (sic), I was expecting her and T.J. to be together, so then it would've just been a fight. T.J. would've never got killed. I never meant for T.J. to get killed. I never wanted anything like that to happen to T.J.

JV. You went all the way out there to meet him with this guy who's ready, who you know is a killer.

A. Yes, sir.

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JV. \_\_\_\_ (Talking at same time)

Q. Carries a gun all the time.

A. So you know I'm saying it was never, ah, it wasn't my intention on T.J. dying. T.J. was a good friend of mine. I never had no intentions on harming T.J. in that way. It was just dude fuckin' got all upset and fuck got out and fuckin' shot T.J. and then he want to shoot J.J. because J.J. wouldn't shoot.

JV. Okay. So J.J.'s in the car, K.C.'s in the car.

A. And Rontae's in the car \_\_\_\_ (Talking at same time)

JV. Rontae's in the car.

A. Yes, sir.

JV. And then you're in there, right? And, ah--

A. Yes.

JV. You knew that, ah, J.J. had a gun?

A. Yeah. He had a 22.

JV. And you knew that. Tell me what that looks like.

A. It's a little black revolver with a brown handle.

JV. Uh-huh. And was it loaded?

A. I don't think so. No. It was no shell. \_\_\_\_ 22 shells.

JV. Okay. So you saw the gun. Did you see it opened up and it had no shells in it?

A. Yeah. I seen it open up. It was at my house.

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JV. Why would K.C. get mad if he didn't shoot, if he you knew he didn't have any, any bullets in there?

A. That's when K.C. had got mad, was like how come you didn't shoot and that's when K.C. find out there was no bullets and then he asked me the fuck you bring these punks for \_\_\_\_\_ nothin' but a bitch and he started going off talking about how he wanted to do him because he felt that he was gonna snitch on him.

JV. Okay. So K.C. comes around the car. Do that whole car thing again.

A. K.C.

JV. I wanna know exactly who was sittin' where in the car. You're driving.

A. I was in the driver's seat. J.J. was right here. K.C. was in the back right here and Rontae was right here.

JV. Alright. Is there a van, is there a sliding door on both sides of the van?

A. No, sir. A sliding door on one side. It's a, it's a old Astro van.

JV. And it's on the passenger side?

A. Yes, sir.

JV. Okay. And that was K.C.'s position.

A. Yes, sir.

JV. And who was behind you in the driver's seat?

A. I was, Rontae was behind me in the driver's seat.

JV. Rontae and you don't know Rontae's whole, whole name, do you ?

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A. No, I don't.

JV. You just know him as Rontae.

A. I just know him \_\_\_\_\_

JV. Describe him. What's all about?

A. Rontae's probably like six-foot, dark skinned he got, can't really, he don't ever, you know I'm saying when he smiles, his teeth show, fuck and he always wears a black hat with a do-rag and then J.J., J.J., he's like Filipino or somethin', Asian or some shit and he gots long hair, skinny kid.

JV. Uh-huh.

A. You know what I'm saying.

JV. How, how old are these guys? Talk about Rontae.

A. Rontae' probably 18 now. Rontae should be 18.

JV. Okay. And J.J.?

A. And JJ is seventeen.

JV. Okay. And, ah, do they have any school time here at all? Do you know what schools they went to?

A. Rancho. (Talking at same time)

JV. \_\_\_\_\_ (Talking at same time) Rancho?

A. Rancho. Yes, sir.

JV. So if I show you a Rancho High School yearbook, can you pick them out?

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A. Yes, I can.

JV. Okay. And, ah, we'll be able to identify them. Where are the rest at? Where are they sleeping at?

A. Rontae was staying at my house but when I left to to work, I think they were talking about going back to his baby's mama's house and J.J. had just came back when I was leaving to go to work.

JV. Right. So J.J. and Rontae have gone to Rancho High School both.

A. Ahm, I don't know about J.J. I know Rontae went to Rancho.

JV. Oh, Okay. And you don't know where J.J. went to school at.

A. No. That's Rontae's friend.

JV. Okay. And, ah, and K.C., he's from?

A. California and he lives like at catty-corner from my mom's house. My mom's house is right here and if you walk across the street, K.C. lives right here.

JV. Okay. Ah, so is K.C. there? Is he out of town?

A. He's there right now.

JV. Yeah. He is there right now.

A. Yes, sir.

JV. Okay. And, ah, where's the pistol?

A. K.C. has the pistol.

JV. It's at, it's at that house right now?

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A. I don't know. Ain't no tellin' 'cause he mighta thought that we snitched but K.C. had the pistol.

JV. Okay. Who else cut their hair besides you?

A. I'm the only one that cut my hair. I cut my hair 'cause my wife asked me to cut my hair. I wasn't cuttin' my hair to fuckin' change my appearance 'cause everybody knows me with long hair \_\_\_\_\_

JV. Yeah, but I mean it seems kinda odd that you have long hair and then that, the day of this incident you get your hair cut short.

A. No. I was already getting my hair cut, sir. That's, swear to God I was already gonna get my hair cut 'cause Mr. H and them was complaining about me fuckin' have long hair. They were talkin' about fuckin' gettin' rid of me stuff from the club.

JV. So he's worried about you having long hair but doesn't mind asking you to go out put some lumps on somebody, right?

A. No.

JV. And Annabelle doesn't mind calling you and, and telling you go ahead and kill him if he's out there by himself, right? You must be heck of a guy to them.

A. Well, I just—

JV. Worry about your haircut, right?

A. Sir.

JV. \_\_\_\_\_ (Talking at same time)

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A. \_\_\_\_\_ (Talking at same time) Everybody talked about my haircut because they thought I was some kind big gang banger because I always fuckin' talk but I would never fight anybody. You know what I'm saying. I never like me and Jay got in a incident. It's another guy that works there, where he threatened to kill me and I, you know I'm saying, I didn't stand down to him. I was like fuck you, you know I'm saying do whatever the fuck you wanna do, you know I'm saying 'cause I knew he wasn't gonna do anything inside and so now we're here.

JV. Okay. So the next thing that happens is this thing goes ugly out there. Do you actually get out of the van on the driver's side to talk to, ah, T.J. out there?

A. No. I got out the, I got out the car \_\_\_\_\_

JV. You pass each other and \_\_\_\_\_ (Talking at same time)

A. \_\_\_\_\_ passing each other when T.J. was pulling up. I had got out to use the bathroom and then that's when you know I'm saying, T.J. had \_\_\_\_\_ parked in front of us and he got out of his truck and he walked back towards the van and K.C. had got out the side and then he walked in front of the van and he shot twice. After he shot T.J., I tried to get out of the van and to see if T.J. was all right and fuckin' K.C. was like drive mother fucker, drive, you ain't fuckin' act like this when we was on our way up here, fuckin' drive and fuckin' then he, that's when he got trip and yellin' at us when we was on our way back to town.

JV. Okay. Well, you're in the driver's position right now. Right? And I'm T.J.

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A. Yeah.

JV. Okay. So I just came up to your, you at the driver's window to greet you, right?

A. Yeah.

JV. And now how do I end up gettin' shot by K.C.? Where does he come from? Just stay where you're at in the driver position.

A. Okay.

JV. \_\_\_\_\_ (Talking at same time)

?: \_\_\_\_\_ (Talking at same time)

JV. Around the back this way.

A. I'm in driver's position. T.J. walks up to the window and he's taking his hat—

JV. I'm, I'm T.J. (Talking at same time)

A. He's taking his hat off.

JV. Right.

A. By then K.C. had already slid out the door and he's standing on the side of the van like this, he came to the hood and then he shot T.J. and then he jumped back in the car.

JV. So how far away, ah, from T.J. is he when he shoots him?

A. Is who, K.C.?

JV. Yeah.



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A. The front of the car's right here and the window's right here. He was right here in front of, he's in front of the hood.

Q. Did he— does he pass the headlights or does he stay?

A. No. He, he was in front of the hood and he stayed in front of the hood the whole time that he shot.

JV. And, ah, and T.J. didn't see him coming and do anything.

A. No. T.J. never saw him coming because it was dark outside, he had on a black hoodie and he fuckin' walked in front of the hood and the lights on the van went off.

JV. Where on T.J.'s body would you expect that he was shot? Where would you expect to have a bullet?

A. I, tell you the truth, I didn't even look. When, when he went to the front, I bent over like this 'cause I didn't wanna look at and fuckin' all I heard was T.J. drop.

JV. How many shots were fired?

A. Two.

JV. Just two.

A. Yes, sir.

JV. And it was from this revolver?

A. Yes, sir.

JV. Okay. And do you know what kinda ammunition was in that revolver?

A. I have no idea.

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JV. Okay. And, ah, was it pretty loud pops?

A. It was like pop, pop. We couldn't hear 'cause it was like out in the open in the desert.

JV. Right.

A. It was like a muffle 'cause he was in the front of the fuckin' van or whatever.

JV. Were the headlights still on on the van?

A. Yeah.

JV. So your headlights were on and T.J. never saw him.

A. T.J. was, T.J. was under the influence last night. T.J. was drunk.

JV. Okay.

A. When he, when he got out of this car, T.J. staggered. He staggered to the van. I mean literally staggered.

JV. Okay.

A. And he took off his hat and then that's when K.C. was at the front and he shot twice and then he ran and jumped back in the van. He was like fuckin' drive, fuckin' drive.

JV. Okay. So then if I'm T.J. and I've just now been shot someplace by a person that's over here like where this detective is, then, ah, what did you do? Did you drive out that way?

A. I drove up and I made a U-turn, turned back around.

JV. So basically you went around T.J.'s body.

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A. Yes.

JV. In the road.

A. Yes.

JV. And but did you say something earlier that you got out of the van? I thought you said you got out of the van?

A. That's what I just told you. I tried to get out of the van to see if T.J. was all right and he yelled get the fuckin' van and fuckin' drive.

JV. But you said you got out of the van.

A. And take a piss.

JV. Well, you said you got out of the van and that's how flyers came out of the van.

A. Yeah. Right by T.J.'s body but on a side. I was never on a side. And then he asked me about the cannister from the fuckin' bank teller that was in the van. That was in the back seat where K.C. was sittin'.

JV. Okay.

A. \_\_\_\_\_

JV. So when K.C. slid the door open, did that bounce out on the ground?

A. It had to 'cause when K.C., when K.C., he didn't like step out. He slid out the van. He slid his body out the van and then at first 'cause T.J. and at first, T.J. was parked behind us and then he pulled in front of us.

JV. Right.

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A. And that's, when I was pissing, T.J. was behind us.

JV. Okay.

A. And then I got back in the van and then fuckin' T.J. pulled in front of us \_\_\_\_

JV. Why? I mean how long did it take you to piss? I mean if he's back there, why would he reposition his vehicle?

A. No. He pulled in front of us and then he got out.

JV. Right.

A. 'Cause he as like \_\_ well follow me and then he got out and he was walking back to the van and then that's when K.C. shot him.

JV. Okay. And K.C. shot him just because you brought him out there and the whole plan was to go out there and take care of business.

A. Yes, sir. That was the whole fuckin' plan. That was the whole reason why.

JV. Now what's Rontae doing while this is all happening?

A. Rontae's just sittin' in the, in the van. Both Rontae and J.J. are just sittin' there. They're both fuckin' scared. They're sittin' in the van and Rontae all like this. He was in the back seat behind me and he was just sittin' there and then J.J. was sittin' in the front seat and then K.C., K.C. got in and the whole time we're driving he had the pistol like this in his hand and then that's when he started talkin' shit to us, \_\_\_\_ you mother fuckers weren't driving like this before, fuck, smash, nigger, smash, get me the fuck up out these mountains and those were his exact words.

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JV. So you decided to go out a different way because...

A. \_\_\_\_\_ after it all happened, I was in shock. He said just drive and I must've missed the stop sign or whatever and then I kept going straight and I came, when we came back to town, it was off the 95. I remember that much.

JV. Okay. So you went past another toll booth, right?

A. Yes, sir.

JV. And then you ended up out there by a casino maybe or somethin'?

A. Off of like the Fiesta.

JV. Okay.

A. And that's where we got on the freeway.

JV. You came in that way.

A. Yes, sir.

JV. Okay. And is he just giving you a bad time the whole time?

A. The whole time we're on the road, he just fuckin' flippin' out and shit, going off on us.

JV. Saying what? Tell me some more what he said.

A. Man, you brung all these mother fuckers with you and shit, now these mother fuckers have seen my face and this and that, that's a bitch, shit, nigger, how come you didn't shoot, nigger, how come you didn't shoot and he wouldn't even give us time to say anything.

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JV. Uh-huh.

A. He was just going off and then when we got back to the club, fuckin' we went upstairs and he was like beatin' on the doors like man, hurry the fuck up, hurry the fuck up. I went and told Mr. H, man, he wants to get paid for what he did and Mr. H was like well, how much. I said he said six thousand dollars and Miss Annabelle hes-hesitated to get the money and Mr. H said go ahead, pay the man. He was like shh, just pay him and he was like get this mother fucker away from here and then that's when he went outside and he was waiting for me to come out. Mr. H told me go get more flyers from Luis so that Ariel can see me. He wanted Ariel to see me.

JV. So you're the one—

A. \_\_\_\_\_

JV. You're the one that went in there and got Annabelle and told her that it happened, right?

A. Yes.

JV. What were the words that you said to her? What did you say?

A. I said Miss Annabelle, he shot him. He jumped out, flipped out and he shot dude.

JV. And what did she say?

A. She goes man, I, I told you guys only to hurt him and all this and that. I was like dude, you said you wanted him done, you said to get somebody to do it, I went and got it and it's done, you know what I'm saying, what do you want me to do? Fuckin',

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then they're all fuckin' trippin' telling me to shut up, shut up and then they were trying to cover everything.

JV. So who was in that room while you were talking to Annabelle?

A. It was just me, Miss Annabelle and Mr. H and then Luis kept walking in and out and then they kept telling me to be quiet every time Luis came in because they thought Luis might fuck somethin' up.

JV. Who came up with the six thousand dollar figure?

A. K.C.

JV. K.C. tells you to go in there and tell them he wants six grand.

A. Yes, sir.

JV. Why? Why not five? Why not ten?

A. He said six grand. He said that it was worth more but he's only gonna charge him six grand. And those were K.C.'s exact words \_\_\_\_\_

JV. And what was he gonna do if they didn't pay?

A. Fuckin' trip out on us and trip out with Mr. H. Mr. H never wanted K.C. to see his face and 'cause I tried to get K.C. to go in the office. I like come on, K.C., let's go in there and talk to him and Mr. H would never talk to him. Mr. H was like I don't want that mother fucker to know that I have anything to do with this. I don't wanna be involved. That's what Mr. H was telling us the whole time. Mr. H don't want ever let anybody--

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Q. \_\_\_\_\_ telling us. Who's us?

A. He was telling me. I can't say us 'cause he was talking to me but Mr. H don't ever let nobody see his face when he's talking business, nobody.

JV. He trusts you, a guy, he's worried about your haircut, he's trusting you to with all this shit that could destroy his world.

A. Sir, and he told me today, he goes man, just stand firm, don't break and my lawyers'll get you out, I got good lawyers but if I'm on the inside, then I'm dead, I can't do nothin' for you. That's after you guys talked to him today.

JV. And he gave you that little bit of advice.

A. He came, he's the one- he told me about the, the telephone calls that you guys knew that I talked to T.J. and everything. He's the one that came up with the whole fuckin' story to tell you guys from jump.

JV. Okay, so let's go over that too but first, ah, he called you today after we talked to him in the morning?

A. No. Miss Annabelle called me and told me I needed to come to the club, to the shop to get some flyers.

JV. Okay.

A. Mr. H had already been gone to go talk to you guys or whatever and she pulled me in to the little office off the main office.

JV. And what was the conversation?



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A. The conversation was she was telling me that Lu- Mr. H, they call him Luis, was at the PD station with the PD and that then they told how she said that one of his Palomino employees might've been involved in a homicide. That's what she told me and then she went in there, she started talking to a white lady and a white guy and I fell asleep in the office and Mr. H came in and he woke me up.

JV. So Annabelle's telling you that Mr. H is at the police department?

A. Yes.

JV. And he's reporting what, that one of his-

A. No. That you guys, you guys called him and told him he needed to come to the PD 'cause one of his employees had been involved in a homicide and then when he got back, I was in the chair sleeping. He kicked the chair and told me go back to his son's room 'cause his son sleeps at the shop in the back room and so we went in there and he was writing it down on a piece of paper, said that you guys \_\_\_\_\_

JV. The shop off of, ah...

A. Bermuda.

JV. Bermuda.

A. That you guys got the Nextel records and that's how you guys linked it back to me, that you guys were looking for me.

JV. Right. So then do you have the conversation with Annabelle or with Mr. H about what story to tell us? Who tells you?

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A. Both of 'em.

JV. And when does that take place?

A. Right when he, we went in Luis's room. He wrote on a piece of a paper \_\_\_\_--

JV. This is down at the shop on Bermuda.

A. Yes, sir. He brought the piece of paper, then he flushed the piece of paper in the toilet and told me, he goes man, now how am I gonna get him out of the shop? That was the whole point of me taking the shuttle bus 'cause I was supposed to take the van again. There was never really any pickups tonight. That's where the shuttle bus came in. If you go to the shuttle bus, the fuckin' papers that's in there, we don't pass those flyers out. I never pass those flyers out. I always pass out the Palomino flyers. There's a bunch of 'em inside the shuttle bus.

JV. So the shuttle bus is down at the shop is what you're saying.

A. Yes, sir.

JV. And you got--

A. That's how, that's how I got back home.

JV. Because the van is now down at the shop.

A. Yes.

JV. Okay. Has anything happened to the van other than it got parked?

A. The tires are changed on it.

JV. Why would the tires change?

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A. Because Mr. H asked if there was any blood or anything on 'em. I said I'm not sure, I don't know if there was any blood or anything. He goes, he gave me a hundred dollars, told me to go have all four tires changed and that's what I did this morning at the car shop.

JV. And where did you go do that?

A. Right there off of Griswold and Las Vegas Boulevard, the Mexican shop. You remember where Cal's Bar used to be at?

JV. Yeah.

A. Right there. Mexican shop.

JV. Okay. And you went in there and you said what?

A. I told him that, ah, I needed four new tires.

JV. And wheels or just tires?

A. Just, just tires.

JV. And, ah, and who, where did you get the money from to do that?

A. Mr. H gave me a hundred dollars.

JV. A hundred dollars for four tires?

A. Yes.

JV. Okay.

A. They only charged me sixty 'cause they put used tires on the van.

JV. Okay. And, ah, did they keep the tires?

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A. No. We threw the tires away.

JV. Where'd you throw 'em away at?

A. In a dumpster right there by the, ah, like you know where the, if you go down Van Der Meer, it's like a tire club.

JV. Right.

A. --- There's two in that, in that dumpster right there and there's one in the Seven Eleven dumpster right there on Civic Center, Las Vegas Boulevard, two of 'em.

JV. Do you remember what size tires or brand they were \_\_\_\_\_

A. No, but I can tell you they were white wall tires.

JV. They were white wall.

A. Yes, sir. Now there's no white walls on the van.

JV. Okay. So if we see the van going through the toll booth on the TV cameras...

A. It'll have white walls.

JV. It'll have white walls.

A. Yes.

JV. And it doesn't now.

A. It doesn't now.

JV. And you got that done, performed because Mr. H asked you to do that.

A. Yes, sir.

JV. Not Annabelle.

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A. Mr. H.

JV. Mr. H asked you to do that. And, ah, and then he told you and she told you what story to tell us. Tell us the story they told you.

A. They was like man, \_\_\_\_\_ and T.J. had a relationship, just tell 'em that you know T.J. were, you know I'm saying, 'cause I would've never told you guys that me and T.J. got high together. That was their idea to tell you guys that we got high together so it look like I was, you know I'm saying.

JV. No. I don't know what you're saying.

A. Cooperating with you guys, telling you know what I'm saying, cooperate with you guys and so I did. I told you guys that me and T.J. got high together, which we did. It was no lie, you know I'm saying. Me and T.J. got high on occasion. Every night we got high.

JV. So, so the first story you told about your, your going home to your wife at 10:30 or whatever that was 'cause the kid was sick, who told you to tell us that story?

A. That was the idea that they, that was the idea that they came up with because my son was sick and I had proof that he, we took him to the hospital the day before but my son was sick last night. I did go home at ten to go check on my son and my wife could vouch for that. I did go check on my son.

JV. And then that's when you found the thugs and you all got in the van together.

A. No. We're all together.

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JV. You were all together already.

A. We're all, we had already been out promotin'.

JV. From earlier in, in the evening.

A. Yes, sir. And then when Mr. H came to work, he called me into his office.

JV. Did you guys stop and get food someplace while you're out promotin'?

A. No. We ate at my house.

JV. Okay, 'cause you said somethin' about you ate afterwards at an IHOP someplace.

A. No. We ate today at IHOP.

JV. Oh, today at IHOP.

A. This morning.

JV. This morning. Right.

A. Yes.

JV. And that's after the shooting obviously, right?

A. Yeah. Yeah.

JV. And, ah, and, ah, but did you have any food while you're with those guys before?

A. No.

JV. So I can't see all you guys together inside some sandwich shop or somethin' like that?

A. No. You can't.

JV. Okay.

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- A. We never went and got anything to eat. We went and got gas at the 76 Station. I think it was 76 Station. \_\_\_\_\_ gas, the gas money came from \_\_\_\_\_
- JV. Which, which 76 Station?
- A. Right there on Las Vegas Boulevard and Lake Mead.
- JV. Okay. What about time, about what time was that?
- A. It had to be right before we left to go to the lake, so it had to be like elevenish.
- JV. About 11. And is everybody in the van then? All four of you are in the van.
- A. \_\_\_\_ Wait a minute. There was only three of us in the van, then we had to go and pick up K.C.
- JV. And you went over by E Street.
- A. Yeah.
- JV. He was at that house.
- A. Yes.
- JV. And—
- A. He was gettin' his hair cut when we got there.
- JV. And you pulled up and what'd you do? Somebody run up there or did you just wait out front?
- A. I went up there and I waited out front 'cause the first time we went over there, my uncle's girlfriend, Felicia, took me over there. It was just me, her and fuckin' J.J. We went up over there.

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JV. So you didn't go and get K.C. for any reason to be promotin' or nothin' like that.  
You went and got him for one reason.

A. Yes, sir.

JV. And what was that?

A. To go beat up T.J.

JV. Okay, but you knew he always carried a gun.

A. Yeah.

JV. And you knew he would shoot anybody.

A. I didn't think he would shoot T.J. 'cause at first, he was like yeah, I'm just gonna whoop this fool and then go get paid but then when we got up there, for some reason he got frustrated and he shot him and that's when everything went bad.

JV. Did T.J., when he came over by your window to greet you, did he touch the van in any way? Did he lean in the window and say what's going on or anything like that?

A. No. He had took off his hat and as soon as he took off his hat, that's when K.C. shot him.

JV. Okay.

A. He never touched the van.

JV. What was T.J. wearing?

A. T.J. had on some shorts, a hat, some sandals and no shirt.

JV. Okay, and he was drunk.



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A. Yes.

JV. Okay. Did he threaten you or say anything threatening to anybody there?

A. T.J. would never threaten anybody. That isn't T.J.'s way.

JV. Okay.

A. T.J. don't.

JV. Okay. What did he think was gonna happen, you were all-gonna drive \_\_\_\_\_  
someplace to get weed?

A. We're all, we're all just gonna go fuckin' get some weed, go back to the campsite  
and smoke.

JV. Okay. How were you dressed at the time?

A. Just like this.

JV. And you just gonna go to the camp out there with a suit, pants and a tie and shirt  
on, right?

A. This is exactly what, actually, I didn't have this on. I had on black dress pants, white  
dress shirt \_\_\_\_\_

JV. And where is that clothing now?

A. It's at my house.

JV. Okay. And, ah-

A. And this is the shirt that I had on.

JV. \_\_\_\_\_ clean the, those items of clothing?

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A. No. This is the shirt that I had on right here.

JV. That's the shirt.

A. Yes, sir. It has never been washed. You can see in the collar where it's all brown and dirty.

JV. I believe you.

A. It hasn't been washed. I had on a ba- black pair of pants, I had on these shoes. I never, only thing that's different tonight is these pants and this tie.

JV. Okay. Your window of the van was down.

A. Yes, sir.

JV. And you ducked away, so you didn't have to see what happened.

A. Yes, sir.

JV. And you never did get back out of the van then after that.

A. No, sir.

JV. Okay. So now you're telling us then that these people were there, ah, believe that you're gonna keep this secret forever, right? Annabelle and Mr. H.

A. Yes, sir. They told me to stand firm, don't break. She even told me to put a tack in my, in my fuckin' shoe and step on it every time I felt the fuckin' adrenalin start to build up.

JV. Really?

A. Yes, sir.

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JV. Does that work?

A. I don't know. I ain't got no tack in my shoe. The fuck do I look like? I'm not trying to poke myself.

JV. Okay.

A. I came to work, you know I'm saying, I wasn't, you know I'm saying, that's the only reason why, you know I'm saying hey, 'cause at first, I was scared. I seen the other cops when I pulled up in a white SUV like the one we're in that are parked right there and then I went in. Mr. H was downstairs and Mr. H was like man, the homicide detectives is in the office.

JV. And what'd you say?

A. I said okay, let's go talk to 'em and Mr. H kept telling me to hold on right here and then he went in talked to you. That's when I came around the corner. I was like how ya' doin', I'm Deangelo. I ain't wanna wait. I want to go talk to the detective and that's exactly what I did. I went in and I talked to 'em.

JV. Alright. You gotta sit here and choke for a minute. We gotta go out and talk some more.

A. Do you wanna take the test?

JV. Yeah. I'll do in a second. I'll do in a second. It's gonna show that you didn't fire a gun, right?

A. Yes, sir. Yes, sir. I did not fire a gun.

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JV. You didn't handle that gun at all.

A. I did not touch that gun. If you want, I promise you guys right now, you can put a, a wire on me and I can get a statement from Mr. H and he'll be like yeah, okay, they bought the story, woo-dee-woo, and he'll be high-fiving me in the office. I guarantee you. I give you my word on that.

JV. Alright. We're gonna go out and talk: . . . . .

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THIS VOLUNTARY STATEMENT WAS COMPLETED AT THE LVMPD HOMICIDE OFFICE ON THE 18<sup>th</sup> DAY OF MAY, 2005 AT 2125 HOURS.

MW/MM/JV/im  
05V0536

ORIGINAL

9

1 **ORDR**

2 DAVID ROGER  
3 Clark County District Attorney  
4 Nevada Bar #002781  
5 MARC DIGIACOMO  
6 Chief Deputy District Attorney  
7 Nevada Bar #006955  
8 200 Lewis Avenue  
9 Las Vegas, NV 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

FILED

Oct 3 9 26 AM '06

*Shelly B. Pungjira*  
CLERK

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,  
11 Plaintiff,

12 -vs-

13 KENNETH COUNTS, ID# 152564  
14 LUIS HIDALGO, III, ID# 1849634  
15 ANABEL ESPINDOLA, ID# 1849751  
16 DEANGELO CARROLL, ID#1678381

Defendant.

Case No. C212667  
Dept No. XIV

17 ORDER

18  
19 DATE OF HEARING: 8/31/2006 & 9/8/2006  
20 TIME OF HEARING: 9:00 A.M.

21 THIS MATTER having come on for hearing before the above entitled Court on the  
22 31<sup>st</sup> day of August and the 8<sup>th</sup> day of September, Defendant Kenneth Counts being present,  
23 KRISTINA WILDEVELD and BRET WHIPPLE, Defendant Luis Hidalgo, III being  
24 present, represented by ROBERT DRASKOVICH and STEVEN STEIN, Defendant Anabel  
Espindola present, being represented by CHRISTOPHER ORAM and JONELL THOMAS,  
Defendant Deangelo Carroll being present on September 8, 2006, represented by DAYVID  
FIGLER, the Plaintiff being represented by DAVID ROGER, District Attorney, through  
MARC DIGIACOMO, Chief Deputy District Attorney, and the Court having heard the

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COUNTY CLERK

1 arguments of counsel and good cause appearing therefor,

2 IT IS HEREBY ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
3 MOTION TO CONDUCT VOIR DIRE ON POSSIBLE RACIAL BIAS AND PREJUDICE  
4 shall be, and it is DENIED.

5 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
6 MOTION TO PROHIBIT INTRODUCTION OF VICTIM IMPACT EVIDENCE DURING  
7 THE GUILT PHASE shall be, and it is GRANTED.

8 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
9 MOTION FOR EXCHANGE OF PROPOSED JURY INSTRUCTIONS AT CALENDAR  
10 CALL shall be, and it is DENIED.

11 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
12 MOTION FOR JURY QUESTIONNAIRE TO BE COMPLETED BY JURY VENIRE ONE  
13 WEEK PRIOR TO TRIAL shall be, and it is DENIED.

14 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
15 MOTION TO STRIKE THE DEATH PENALTY AS UNCONSTITUTIONAL BASED ON  
16 ITS ALLOWANCE OF INHERENTLY UNRELIABLE EVIDENCE shall be, and it is  
17 DENIED.

18 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
19 MOTION FOR PROCEDURES REGARDING BAILIFFS AND OTHER COURT  
20 PERSONNEL CONCERNING JURORS AND PROSPECTIVE JURORS shall be, and it is  
21 DENIED.

22 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
23 MOTION TO PRECLUDE THE INTRODUCTION OF HEARSAY DURING  
24 SENTENCING shall be, and it is DENIED.

25 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
26 MOTION TO PROHIBIT ARGUMENT ON DETERRENCE OR IN THE ALTERNATIVE  
27 TO PERMIT EVIDENCE OF LACK OF DETERRENCE shall be, and it is DENIED.

28 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S

1 MOTION TO PRECLUDE THE COURT FROM PARTICIPATING IN  
2 REHABILITATION OF POTENTIAL JURORS shall be, and it is DENIED.

3 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
4 MOTION FOR COURT TO ALLOW PRESENTATION OF EVIDENCE TO THE JURY  
5 OF THE DISPROPORTIONALITY AND ARBITRARINESS AND UNFAIRNESS OF A  
6 DEATH SENTENCE shall be, and it is DENIED.

7 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
8 MOTION TO BIFURCATE PENALTY PHASE PROCEEDINGS shall be, and it is  
9 DENIED.

10 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
11 MOTION TO CONDUCT FULL VOIR DIRE ON POTENTIAL JUROR'S PERSONAL  
12 AND PROFESSIONAL EXPERIENCES shall be, and it is DENIED.

13 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
14 MOTION TO DECLARE AS UNCONSTITUTIONAL THE UNBRIDLED DISCRETION  
15 OF PROSECUTION TO SEEK THE DEATH PENALTY shall be, and it is DENIED.

16 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
17 MOTION TO STRIKE DEATH PENALTY BASED UPON UNCONSTITUTIONALITY  
18 shall be, and it is DENIED.

19 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
20 MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY BASED  
21 UPON UNCONSTITUTIONALITY OF LETHAL INJECTION shall be, and it is DENIED.

22 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
23 MOTION TO PRECLUDE USE OF PEREMPTORY CHALLENGES shall be, and it is  
24 DENIED.

25 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
26 MOTION TO PROHIBIT USE OF IMPUTED AGGRAVATING CIRCUMSTANCES shall  
27 be, and it is GRANTED.

28 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S

1 MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH BASED UPON  
2 UNCONSTITUTIONAL WEIGHING EQUATION shall be, and it is DENIED.

3 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
4 MOTION TO DETERMINE ADMISSIBILITY OF STATE'S HEARSAY EVIDENCE  
5 BEFORE TRIAL shall be, and it is DENIED.

6 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
7 MOTION TO PROHIBIT EVIDENCE AND ARGUMENT ON IRRELEVANT  
8 MITIGATING CIRCUMSTANCES shall be, and it is GRANTED.

9 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
10 MOTION TO DECLARE NRS 704.206 UNCONSTITUTIONAL shall be, and it is  
11 DENIED.

12 IT IS FURTHER ORDERED that DEFENDANT HIDALGO'S and ESPINDOLA'S  
13 MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY shall be, and  
14 it is DENIED.

15 IT IS FURTHER ORDERED that DEFENDANT COUNTS' MOTION FOR JURY  
16 QUESTIONNAIRE shall be, and it is DENIED.

17 IT IS FURTHER ORDERED that DEFENDANT COUNTS' RENEWED MOTION  
18 TO SEVER DEFENDANTS shall be, and it is DENIED.

19 IT IS FURTHER ORDERED that DEFENDANT COUNTS' MOTION TO  
20 SUPPRESS EVIDENCE OF THE DEFENDANT'S PRIOR FELONY CONVICTIONS  
21 shall be, and it is DENIED.

22 IT IS FURTHER ORDERED that DEFENDANT COUNTS' MOTION FOR AN  
23 ORDER PERMITTING DISCOVERY OF RECORDS PERTAINING TO FAMILY LIFE  
24 OF VICTIM shall be, and it is DENIED.

25 IT IS FURTHER ORDERED that DEFENDANT COUNTS' MOTION FOR  
26 DISCLOSURE OF EXCULPATORY EVIDENCE PERTAINING TO THE IMPACT OF  
27 THE DEFENDANT'S EXECUTION UPON VICTIM FAMILY MEMBERS shall be, and it  
28 is DENIED.



1 IT IS FURTHER ORDERED that DEFENDANT COUNTS' MOTION FOR  
2 RELEASE OF JUVENILE RECORDS shall be, and it is GRANTED, to the extent that the  
3 records will be received by the COURT for an in camera review to determine whether any  
4 information should be released.

5 IT IS FURTHER ORDERED that DEFENDANT COUNTS' MOTION FOR  
6 REDUCTION IN BAIL OR, IN THE ALTERNATIVE, FOR RELEASE ON HOUSE  
7 ARREST shall be, and it is DENIED.

8 IT IS FURTHER ORDERED that DEFENDANT COUNTS' MOTION IN LIMINE  
9 TO PRECLUDE ADMISSION OF PHONE CONVERSATIONS shall be, and it is  
10 DENIED.

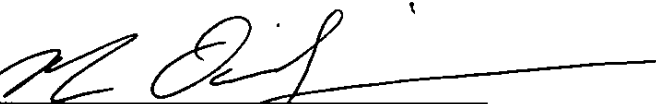
11 IT IS FURTHER ORDERED that DEFENDANT COUNTS' MOTION TO DISMISS  
12 THE DEATH PENALTY DUE TO FEDERAL DUE PROCESS VIOLATIONS shall be,  
13 and it is DENIED.

14 IT IS FURTHER ORDERED that DEFENDANT COUNTS' MOTION IN LIMINE  
15 TO PRECLUDE ADMISSION OF EVIDENCE OF ARREST OR FLIGHT shall be, and it  
16 is DENIED.

17 DATED this 29<sup>th</sup> day of September, 2006.

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19  
20 DISTRICT JUDGE  
21

22 DAVID ROGER  
23 DISTRICT ATTORNEY  
24 Nevada Bar #002781

25   
26 MARC DIGIACOMO  
27 Chief Deputy District Attorney  
28 Nevada Bar #006955

md