

1 A Next week, Tuesday.

2 MR. WHIPPLE: Court's indulgence, Your Honor.

3 (Pause in proceedings)

4 MR. WHIPPLE: Nothing further. Thank you, Your Honor.

5 THE COURT: All right. Redirect, Mr. Pesci.

6 MR. PESCI: Can I get --

7 MR. WHIPPLE: Sure. Sure.

8 REDIRECT EXAMINATION

9 BY MR. PESCI:

10 Q Jayson, you've heard a whole lot of questions about
11 what's been shown to you almost ten, 15 times, that guilty plea
12 agreement. Do you recognize what that is?

13 A Yes, sir.

14 Q Is that a deal that you've entered into with the State
15 of Nevada and yourself?

16 A Yes, sir.

17 Q Now, you've had representation of counsel throughout
18 this process?

19 A Say that again.

20 Q You've had an attorney --

21 A Yes, sir.

22 Q -- from the very beginning?

23 A Yes, sir.

24 Q Has your attorney been working for you?

25 A Yes, sir.

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1 Q Has he been working for the State?

2 A No, sir.

3 Q Has your attorney just done whatever it is the State
4 asked, as far as you know?

5 A No, sir.

6 MR. WHIPPLE: I will object, Your Honor. How would he --

7 THE COURT: Well, he said as far as he knows.

8 BY MR. PESCI:

9 Q Has your attorney been working for your interest or
10 for the State's interest?

11 MR. WHIPPLE: Objection, Your Honor. Again, lack of
12 foundation.

13 THE COURT: Based on his understanding or his belief.

14 BY MR. PESCI:

15 Q Do you think -- do you think your attorney's working
16 for you or is he working for me?

17 A For me.

18 Q I think towards the end here you were asked
19 specifically, as long as you kept working for the State, you would
20 get the benefit. Do you remember those words?

21 A Yes, sir.

22 Q Are you working for the State in the sense that you're
23 saying what we want you to say?

24 A No, sir.

25 Q Are you saying what actually happened out there?

1 A Yes, sir.

2 Q Now, showing you Proposed Exhibit 169, do you

3 recognize that? Do you recognize this document?

4 A Yes, sir.

5 Q Is this the document Mr. Whipple's been showing you?

6 A Yes, sir.

7 Q Is this your guilty plea agreement?

8 A Yes, sir.

9 Q And is this an accurate copy of your agreement?

10 A Yes, sir.

11 Q Is it, in fact, file stamped on -- above?

12 A Yes, sir.

13 Q Is that where Mr. Whipple helped you to see the exact

14 date that you entered this plea?

15 A Yes, sir.

16 Q Do you remember Mr. Whipple asking you questions about

17 what's referred to as an amended information?

18 A Yes, sir.

19 Q Do you remember him asking you questions --

20 specifically, to read on page 2 of the amended information of lines

21 10 through 11?

22 A Yes, sir.

23 Q Now, lines 10 through 11, is that under the voluntary

24 manslaughter with use of a deadly weapon charge?

25 A Yes, sir.

1 Q That's one of the charges you pled to?
2 A Yes, sir.
3 Q Now, if you were originally charged with murder of the
4 first degree --
5 A Yes, sir.
6 Q -- is it your understanding that voluntary
7 manslaughter is a lesser charge within murder of the first degree?
8 A Yes, sir.
9 Q Okay. So you pled to something less than first degree
10 murder?
11 A Yes, sir.
12 Q When he asked you a ton of questions about your intent
13 when you went out to go to the lake -- do you remember those
14 questions?
15 A Yes, sir.
16 Q When you told the ladies and gentlemen of the jury
17 that your intent when you went out there was for the hit to occur,
18 was that accurate?
19 A Yes, sir.
20 Q Okay. Is the language in this plea for the purposes
21 of getting it to fit to the lesser charge?
22 A Yes, sir.
23 Q Okay. So the lack of intent is what changes it from
24 first degree murder down to voluntary manslaughter?
25 A Yes, sir.

1 Q Okay. And that was for the purposes of the plea?
2 A Yes, sir.
3 Q You didn't stand here and try to tell these ladies and
4 gentlemen of the jury, I didn't intend when I did my plea, but I
5 intended when I went to go out to the lake?
6 A Say that one more time.
7 Q It was badly stated.
8 When you stood before this Court and you answered this plea
9 and it had this language about not having the intent, was that
10 because you were trying to get the benefit of the deal?
11 A Yes, sir.
12 Q Had you truly intended, when you went out there, that
13 this hit was going to occur?
14 A Yes, sir.
15 Q And as you testified to this jury, your understanding
16 was the intent was to do a hit?
17 A Yes, sir.
18 Q So you haven't lied to the jury about your intent?
19 A No. No, sir.
20 Q Now, also attached here is what's referred to as an
21 agreement to testify, isn't it?
22 A Yes, sir.
23 Q Does that spell out specifically the way in which that
24 will work?
25 A Yes, sir.

1 Q Now, does this agreement to testify say only if you
2 say what the State told you to say you get the benefit of the deal?
3 A Say that one more time.
4 Q Does the agreement -- does your understanding of the
5 agreement to testify mean that you have to say what I tell you to
6 say?
7 A No, sir.
8 Q What is your understanding about what you're supposed
9 to say about what happened at the lake?
10 A The truth, sir.
11 Q What happened at the lake?
12 A A kill.
13 Q I'm sorry?
14 A Somebody got killed.
15 Q Okay. And let's talk about that too because there was
16 a lot of questions put to you.
17 MR. PESCI: And actually, I'm going to move for the
18 admission of State's 169, Your Honor.
19 THE COURT: I'm sorry?
20 MR. PESCI: I move for the admission of State's 169.
21 THE COURT: Any objection?
22 MR. WHIPPLE: Just put it on the record, Your Honor.
23 THE COURT: All right. 169 is admitted.
24 (State's Exhibit 169 admitted.)
25 BY MR. PESCI:

1 Q Now, you were asked a lot of questions about your
2 involvement and Rontae's involvement out at the lake. Do you
3 remember those questions?
4 A Yes, sir.
5 Q In fact, Mr. Whipple asked you a lot of questions
6 about you and Rontae being the same as far as what you did out there.
7 A Yes, sir.
8 Q Do you remember those questions?
9 A Yes, sir.
10 Q Did Rontae have a gun?
11 A No, sir.
12 Q Did Rontae have bullets?
13 A No, sir.
14 Q Did Rontae tell Deangelo that he was in on this?
15 A No, sir.
16 Q Did you say you were in on this?
17 A I didn't say -- understand, sir.
18 Q Okay. Did you have the gun?
19 A I had it.
20 Q The one Deangelo gave you?
21 A Yes, sir.
22 Q Did you have the bullets?
23 A Yes, sir.
24 Q Did Deangelo speak to you and to KC about who was
25 going to go to the front and who was going to go to the back?

1 A Yes, sir.

2 Q Was Rontae included in that plan?

3 A No, sir.

4 Q Did Rontae get out of the van?

5 A No, sir.

6 Q Did you get out of the van?

7 A No, sir.

8 Q Did KC Counts get out of the van?

9 A Yes, sir.

10 Q Is the defendant here today the person that shot T.J.

11 Hadland?

12 A Yes, sir.

13 Q Are you saying that because I want you to say that?

14 A No, sir.

15 Q Why are you saying that?

16 A Because I seen his face when he came out of the

17 Palomino Club.

18 Q Now, the letter that we were shown earlier -- was it

19 K, Defendant's K? Do you remember this letter?

20 A Yes, sir.

21 Q Okay. Just so it's really clear to the ladies and

22 gentlemen of the jury, did you write that letter after you had

23 entered a plea?

24 A After.

25 Q Well, let me say it this way -- I don't remember

1 exactly -- after you had been arrested?

2 A Yes, sir.

3 Q Okay. Did you write that letter before you came here
4 today?

5 A Yes, sir.

6 Q All right. So sometime after you get arrested and
7 before you came in today you wrote this letter?

8 A Yes, sir.

9 Q Did you write it to that man sitting here in court
10 today?

11 A Yes, sir.

12 Q Now, Mr. Whipple read to you the first part of that.
13 Could you read the entire first paragraph to the ladies and
14 gentlemen, and let's not stop where he said. Let's keep going.

15 A "What's with it, man? Me, same old shit. But let me
16 get straight to the point. I know I'm going back on what I said, but
17 right now I just -- I'm just saying fuck it and ride till the wheels
18 fall off. Hey, believe me when I say this, it was hell or hard
19 taking that damn deal and now I see that it was a death sentence
20 packet. Man, I wish he would have just offed me that night
21 everything went down because this shit is a lot of mother fucking
22 weight to carry over my head just like the S jacket and I got to live
23 with that."

24 Q S jacket, what's that?

25 A Snitch jacket.

1 Q Now, I think you said in the beginning there you went
2 back on what you said?

3 A Yes, sir.

4 Q What are you talking about?

5 A The deal.

6 Q What deal?

7 A The first one.

8 Q The first deal?

9 A Yeah.

10 Q Okay. Did you discuss a deal with Mr. Counts that you
11 had done?

12 A Yes, sir.

13 Q All right. What was the discussion you had with the
14 defendant?

15 A Can you say it in another way?

16 Q Yeah. I apologize.

17 What I'm trying to understand is, it appears as if you're
18 saying in this paragraph that you're going back on something that you
19 said to Mr. Counts before.

20 A Yes, sir.

21 Q Okay. What is it that you said to Mr. Counts before?

22 A That I'll try to help him out.

23 Q Okay. How did that conversation even come about? Was
24 there a time when you were together with Mr. Counts?

25 A In the holding cells.

1 Q And did Mr. Counts say anything to you about this
2 case?
3 A He said we could flip it around.
4 Q This man sitting right here said you could flip it
5 around?
6 A Yes, sir.
7 Q Well, did he say "you" or "we"?
8 A We.
9 Q What did you understand that to mean?
10 A Me and him.
11 Q Flip it around in what way?
12 A Flip it on somebody else.
13 Q Okay. At the time you had this conversation with
14 Mr. Counts, had you already spoken to the police?
15 A Yes, sir.
16 Q Had you already told the police what had happened in
17 your voluntary statement?
18 A Yes, sir.
19 Q In the voluntary statement, did you tell the police
20 that it was Mr. Counts that shot?
21 A Yes, sir.
22 Q So would that be what you'd have to flip around from?
23 A Yes, sir.
24 Q Did Deangelo Carroll tell you to say KC Counts was the
25 shooter?

1 A No.

2 Q Did I tell you to say KC Counts was the shooter?

3 A No.

4 Q Is he the shooter?

5 A Yes, sir.

6 MR. PESCI: Pass the witness.

7 THE COURT: All right. Mr. Whipple.

8 RECROSS-EXAMINATION

9 BY MR. WHIPPLE:

10 Q Well, Jayson, it seems to me you can pretty much flip
11 around anything you want, can't you?

12 A Yes, sir.

13 Q It depends on who asks you the question, doesn't it?

14 A Yes, sir.

15 Q You're going to flip it for them if they ask you the
16 question, right?

17 A No, sir.

18 Q You're going to flip it for me if I ask you the
19 question?

20 A No, sir.

21 Q Well, why is it them that determines the benefit?
22 They're the future for you, aren't they?

23 MR. PESCI: Objection, Your Honor. The agreement to
24 testify specifically indicates that Your Honor is the person that
25 determines the sentence.

1 THE COURT: Well, ask your question another way.
2 MR. WHIPPLE: Sure.
3 BY MR. WHIPPLE:
4 Q It's these individuals that have you sign a guilty
5 plea agreement, isn't it?
6 A Yes, sir.
7 Q You know you can flip it any way you want?
8 A Yes, sir.
9 Q You've got this amazing power out there, don't you?
10 A No, sir.
11 Q You've got the power of being in here and testifying.
12 A That's about it.
13 Q Amazing power -- you have the power to get yourself
14 out of custody?
15 A It's not up to me.
16 Q Well, sir, if you don't testify, what's going to
17 happen?
18 A Go back on my deal.
19 Q Okay. And then what's going to happen?
20 A Probably prison time.
21 Q I'm sorry?
22 A Probably prison time.
23 Q Probably a lot of prison time, huh?
24 A Yes, sir.
25 Q 40 years?

1 A Maybe.
2 Q Life?
3 A I don't know.
4 Q Do you think your father wants to see you spend the
5 rest of your life in prison?
6 A Say that again.
7 Q Do you think your father wants to see you spend the
8 rest of your life in prison?
9 A Does my father?
10 Q Yeah.
11 A No.
12 Q That's why he was here today, right?
13 A Yes, sir.
14 Q That's why they're here today, right?
15 A Yes, sir.
16 MR. WHIPPLE: Nothing further.
17 THE COURT: Mr. Pesci.
18 FURTHER REDIRECT EXAMINATION
19 BY MR. PESCI:
20 Q Talking about flipping --
21 MR. PESCI: I'm sorry. May I?
22 THE COURT: Yeah.
23 BY MR. PESCI:
24 Q Jayson, 169, that's your guilty plea agreement, right?
25 A Yes, sir.

1 Q There's an agreement to testify, correct?
2 A Yes, sir.
3 MR. WHIPPLE: Your Honor, unfortunately I've lent my copy.
4 Would you make a copy of that?
5 MR. PESCI: Here.
6 MR. WHIPPLE: Thank you.
7 MR. PESCI: The defense counsel has been provided with a
8 copy filed stamped.
9 THE COURT: And you've got --
10 MR. WHIPPLE: Mr. Pesci, what page are you looking at,
11 please?
12 MR. PESCI: Agreement to testify. It starts as page 1, but
13 it's Exhibit 2.
14 BY MR. PESCI:
15 Q Do you recognize this, Jayson?
16 A Yes, sir.
17 Q Okay. Now, Jayson, I want you to look at page 2 and
18 read to yourself lines 23 and 24. Let me know when you're done.
19 A (Complying).
20 Q Jayson, do I get to determine whether or not you've
21 done your part in this, or does the Court get to determine whether or
22 not you've done your part?
23 A Court.
24 Q So it's not you or me who gets to flip this all
25 around, is it?

1 A No, sir.

2 MR. PESCI: Nothing further.

3 THE COURT: Mr. Whipple.

4 FURTHER RECROSS-EXAMINATION

5 BY MR. WHIPPLE:

6 Q Jayson, by the way, when does the Court get to make
7 that determination?

8 A The 12th.

9 Q Okay. And who's going to be there, Jayson? Am I
10 going to be there?

11 A No, sir.

12 Q He's the one that's going to be there, right?

13 A Yes, sir.

14 MR. WHIPPLE: Nothing further.

15 THE COURT: Nothing else, Mr. Pesci?

16 MR. PESCI: No, Your Honor. Thank you.

17 THE COURT: All right. Mr. Taoipu, please don't discuss
18 your testimony with anyone else who may be a witness in this case.

19 (Portions of proceeding ended)

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1 drug out of the courtroom and being brought into a special room where
2 he could talk with somebody?

3 A No, sir.

4 Q Never heard of it, right?

5 A No.

6 Q Okay. So then you had a special arrangement -- did
7 you hear the fight between the prosecutor and the guard over here?
8 Did you hear the fight about removing you from their custody?

9 MR. PESCI: Objection. Assumes facts not in evidence.

10 MR. WHIPPLE: We'll, I'm asking, Your Honor.

11 THE COURT: Well, that's sustained anyway.

12 BY MR. WHIPPLE:

13 Q You didn't hear it -- anything out there?

14 A No, sir.

15 Q Okay. So then you went into this back room, right?

16 A Yes, sir.

17 Q Now, who's in the back room with you?

18 A Just my lawyer.

19 Q Your lawyer. Is this your lawyer right here --

20 A Yes, sir.

21 Q This person right here. And how many people was with
22 him?

23 MR. PESCI: Judge, we're going to stipulate for the record
24 that Mr. Jackson's his lawyer. We don't need to do it for the fourth
25 time now.

1 THE COURT: All right.

2 MR. WHIPPLE: I'm not stipulating. I'm asking him to point
3 out who's in the back room --

4 THE COURT: All right. So --

5 MR. WHIPPLE: We know he's in that room. Now we want to
6 find out who's in that room.

7 THE COURT: All right. Go on, Mr. Whipple.

8 MR. WHIPPLE: Thank you, Your Honor.

9 BY MR. WHIPPLE:

10 Q So now I want to find out who's in that back room back
11 there, right?

12 A Yes, sir.

13 Q How many rooms were you in with different people this
14 morning?

15 A Just three.

16 Q Three different rooms. So let's start with -- where's
17 the first room at?

18 A Back there.

19 Q Okay. This is the first room. Where's the second
20 room? And who's in this room back here?

21 A Just me, my lawyer, and the DA.

22 Q Okay. Which DA?

23 A Mr. Pesci.

24 Q Okay. And what did he tell you?

25 A He just asked me about a letter.

1 Q He asked you about a letter. He was surprised about a
2 letter, wasn't he?

3 A Who?

4 Q The DA.

5 A Yes.

6 MR. PESCI: Judge, I'm going to object as to what --

7 THE COURT: Yeah. That calls for --

8 MR. PESCI: He can't testify as to my --

9 THE COURT: -- speculation unless Mr. Pesci said, Oh, I'm
10 surprised.

11 BY MR. WHIPPLE:

12 Q Okay. Then I'll just ask, how was he acting when he
13 showed you that letter?

14 A Surprised.

15 Q Okay. Well, what did he tell you about that letter?

16 A Really nothing. He just asked me.

17 Q Okay. Never seen the letter before, had he?

18 A No, sir.

19 Q Okay. So this gentleman was back there and that
20 gentleman was back there. And was there any other investigators back
21 there?

22 A Just my investigator.

23 Q Okay. And so -- so nobody -- when he left, what was
24 his attitude, sir?

25 A Calm.

1 Q He was calm. He wasn't upset that you weren't going
2 to testify at that point?

3 A No.

4 Q He didn't act upset about this letter?

5 A No.

6 Q So why did you go back in the back room?

7 A To talk with my dad.

8 Q Well, why did you want to talk to your dad?

9 A Do I have to answer that?

10 Q Well, yeah, you have to answer that. You're under
11 oath.

12 A Just talking -- talk to him about the stand.

13 Q You weren't going to take the stand unless you talked
14 to your dad back there, right?

15 A Most likely.

16 Q Most likely?

17 A Yes, sir.

18 Q So you had to talk to your dad ahead of time, right?

19 A Yes, sir.

20 Q In fact, you -- okay. So then you went -- let's talk
21 about the second room you went into. Who was in the second room?

22 A Nobody.

23 Q Nobody. You were all alone in the second room?

24 A Yes, sir.

25 Q Which room was that?

1 A Out there.

2 Q So, oh, wait a minute. So we actually have two rooms;

3 a room back there and then this room back here, huh?

4 A Yes, sir.

5 Q Was the guard, the Clark County Detention Center guard

6 that's with you, did he go back there with you?

7 A No, sir.

8 Q Have you ever seen a person who's in the custody of

9 the Clark --

10 MR. PESCI: Judge, objection. He doesn't --

11 THE COURT: That's sustained.

12 MR. WHIPPLE: He doesn't know what I'm going to ask, Your

13 Honor.

14 THE COURT: Well, I can anticipate --

15 MR. PESCI: Foundation.

16 THE COURT: -- what you're going to ask, whether he would

17 know what normally occurs in other people's trial and I think it's

18 beyond the ambit of what he would know so...

19 MR. WHIPPLE: I can ask what he saw, Your Honor.

20 THE COURT: Well, he can say what he experienced or what he

21 witnessed, but in terms of other cases, it's not -- he doesn't --

22 it's not relevant. He doesn't --

23 MR. WHIPPLE: I'm just going to only ask him what he saw

24 today in this courtroom.

25 THE COURT: All right.

1 BY MR. WHIPPLE:

2 Q Jayson --

3 A Yes, sir.

4 Q -- have you ever seen, in this courtroom or any other
5 courtroom that you were in, the officer release you and walk you out
6 of the back of the courtroom?

7 A No, sir.

8 Q Have you ever seen any other inmate released from the
9 custody of his officer and walked out through the back of the
10 courtroom?

11 MR. PESCI: Judge, I'm going to object --

12 THE COURT: As to foundation.

13 MR. PESCI: -- in terms of release and to the foundation.

14 THE COURT: Right. That's sustained.

15 MR. PESCI: He wasn't in the custody of the Clark County
16 Detention Center. He was in --

17 THE COURT: Mr. Pesci, I sustained your objection.

18 MR. PESCI: Thank you.

19 BY MR. WHIPPLE:

20 Q Well, I'll ask who -- whose custody were you in? Was
21 there an officer from the Clark County Detention Center with you when
22 you came up here today?

23 A No.

24 Q You don't see Officer Council?

25 A No, sir.

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1 Q Officer Council wasn't with you when you came up
2 today?

3 A I don't know who that is.

4 Q Okay. He's the gray-haired man that was just here a
5 minute ago.

6 A I didn't see him.

7 Q So you didn't come up with an officer?

8 A No.

9 Q So how did you get from the Clark County Detention
10 Center over here?

11 A With the detective.

12 Q Well, which detective is that?

13 A They're not in the courtroom right now.

14 Q Is that detective -- was he over here on this side?

15 A Was he sitting on this side?

16 Q Yeah.

17 A No.

18 Q Was he sitting over here?

19 A Yes, sir.

20 Q And where was he sitting?

21 A Behind -- behind the lady in the jacket.

22 Q And when did he leave?

23 A I don't know.

24 Q So you had another detective that was over here that
25 walked out that's not here any longer?

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1 A Yeah.

2 Q And what about this young lady, is she --

3 A No.

4 Q So how did you get out of your hand -- arms --

5 A Oh, is that what you're asking?

6 Q Yeah.

7 A She uncuffed me.

8 Q Oh, so this young lady did uncuff you. So we're in

9 room two. Now we're going to room three, right?

10 A Yeah.

11 Q Who's in room three with you?

12 A It's me, my lawyer, and the DA, and my dad.

13 Q And which DA is it this time?

14 A Mr. Pesci.

15 Q Mr. Pesci. And how long did you talk back there?

16 A For like -- like 45 minutes.

17 Q About 45 minutes. And how was Mr. Pesci when he

18 walked out?

19 A He was calm.

20 Q Just the same, calm, collective?

21 A Mm-hmm.

22 Q Not upset?

23 A Nope.

24 Q Okay. You're getting quite a deal here today, aren't

25 you, Jayson?

1 A Yes, sir.

2 Q I mean, you were facing the death penalty at one time,
3 weren't you?

4 MR. DIGIACOMO: Objection. That's not --

5 THE COURT: Yeah. Sustained.

6 MR. DIGIACOMO: He was not.

7 BY MR. WHIPPLE:

8 Q Okay. You were facing murder charges?

9 A Yes.

10 Q Were you facing life in prison?

11 A I can't rightly say.

12 Q Well, you don't know how much time a murder charge
13 carries?

14 A Because I know how much a conspiracy to murder charge
15 carry.

16 Q Okay. How about a murder charge?

17 A No. I don't know what it carries.

18 Q Your attorney never informed you that you could get
19 anywhere from 40 years to life in prison?

20 A He indicated that once.

21 Q Let's talk about what it's like living in the Clark
22 County Detention Center, Jayson. This lady, she uncuffed you just
23 before these folks came in this morning, didn't she?

24 A Yes, sir.

25 Q If she wouldn't have uncuffed you, how would you --

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1 what if you had an itch on your nose, Jayson, how would you -- how
2 would you itch your nose?

3 A I would itch it with the cuffs on.

4 Q So you can lift that up high enough to itch your nose?

5 A Yes, sir.

6 Q When you wake up in the morning, do you wake up
7 because you want to wake up, or do you wake up because if you don't
8 get up and get out, you don't -- you miss your meal within a few
9 minutes?

10 A I always wake up at 4:00 in the morning.

11 Q You wake up at 4:00. What time's breakfast, sir?

12 A 4:00.

13 Q And do you have a roommate?

14 A Yes, sir.

15 Q What's the size of that cell?

16 A Like --

17 MR. PESCI: Judge, at this point I'm going to object as to
18 relevance.

19 MR. WHIPPLE: It's relevant, 100 percent.

20 THE COURT: I'll see counsel at the bench.

21 (Off-record bench conference)

22 THE COURT: Move along, Mr. Whipple.

23 MR. WHIPPLE: Sure.

24 BY MR. WHIPPLE:

25 Q Jayson, you wake up at 4:00 a.m., right?

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1 A Yes, sir.

2 Q There's two of you in a room?

3 A Yes, sir.

4 Q Or is there more?

5 A No, just two.

6 Q That room's about the size of this area right here,

7 isn't it?

8 A No.

9 Q A little bit bigger?

10 A Yeah.

11 Q How much bigger?

12 A It's probably like an 8x10.

13 Q 8x10. How many hours a day do you live in that 8x10?

14 A 24.

15 Q 24 hours a day?

16 A Yes, sir.

17 Q 24 hours a day. Do they let you out of that 8x10?

18 A Yes, sir.

19 Q How often do you get out of the 8x10?

20 A Eight hours a day.

21 Q Eight hours a day out? Do you go out on a tier?

22 A Except on the weekends.

23 Q Do you go out on a tier with some of the other poor

24 folks just like you?

25 A Yes, sir.

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1 Q And you have food -- what time's breakfast come?
2 A 4:00.
3 Q 4:00. What time's lunch come?
4 A 10:00.
5 Q 10:00. And what time's supper come?
6 A 4:00.
7 Q And that's the -- and you go down and have something
8 to eat, right?
9 A Yes, sir.
10 Q Other than that, do you have reading material?
11 A Yes, sir.
12 Q You don't have family there, do you?
13 A Do I have family there?
14 Q Correct.
15 A No, sir.
16 Q You don't have any friends in there, do you?
17 A No.
18 Q You don't have any loved ones in there, do you?
19 A No.
20 Q You don't like people telling you what to do, do you?
21 A No.
22 Q People tell you all day long what to do, don't they?
23 A Nope.
24 Q They don't?
25 A Nope.

1 Q You just come and go as you choose?

2 A Yeah.

3 Q You can walk out the front door and say, I just like

4 living here because you like the accommodations?

5 A That's the only thing that'll keep me away from the

6 outs.

7 Q What's that?

8 A That's the only thing that'll keep me away from the

9 outs is the guards.

10 Q You have guards?

11 A Yeah.

12 Q Do they tell you what to do?

13 A Sometimes.

14 Q They tell you where you can go and where you can't go?

15 A Some.

16 Q You don't like that, do you?

17 A No, not that much.

18 Q You'd rather not be there?

19 A Nope.

20 Q In fact, prison's not a pleasant place to live, is it?

21 A I can't tell you that. I ain't never been there.

22 Q How about Clark County Detention Center?

23 A No, it's not a good place to live.

24 Q Okay. Now -- now, you've tried several times to tell

25 the truth in this case, haven't you?

1 A Yes, sir.

2 Q In fact, you know Ms. Wildeveld here, don't you?

3 MR. WHIPPLE: Ms. Wildeveld, will you please stand up.

4 THE WITNESS: How you doing, ma'am?

5 BY MR. WHIPPLE:

6 Q There's been several times when you've been in court,
7 correct?

8 A Yes.

9 Q You saw Ms. Wildeveld?

10 A Yes, sir.

11 Q You asked her to come over to you?

12 A One time. I didn't ask her, though.

13 Q She came over to you?

14 A She didn't come over to me.

15 MR. PESCI: Judge, can we approach for a minute?

16 THE COURT: Sure, please.

17 (Off-record bench conference)

18 BY MR. WHIPPLE:

19 Q Jayson, you know who I am now, right, Bret Whipple?

20 A Yes, sir.

21 Q You've called my office on several occasions?

22 A Once.

23 Q You called my office, asked me to speak to you?

24 A Yes, sir.

25 Q Because you wanted to tell me the truth?

() (,

1 A Yes, sir.

2 Q You talked to Ms. Wildeveld?

3 A Yes, sir.

4 Q You asked her to go speak with your father?

5 A Yes, sir.

6 Q Because you wanted to tell her the truth?

7 A Yes, sir.

8 Q And you knew, didn't you, that -- well, I'll just ask.

9 You know that we represent Mr. Counts?

10 A Yes, sir.

11 Q You know that we're here to help Mr. Counts?

12 A Yes, sir.

13 Q And you wanted us to help Mr. Counts?

14 A Yes, sir.

15 Q Unfortunately, you've asked your attorney if we could

16 speak with you?

17 A No, I didn't ask.

18 Q We've never spoke with you personally, have we?

19 A No, sir, except right now.

20 Q Do you know why we've never spoke with you personally?

21 MR. PESCI: Objection. Relevance.

22 THE COURT: Overruled.

23 BY MR. WHIPPLE:

24 Q Sir?

25 A Because my attorney kept me away from you,

1 confidential.

2 Q I'm sorry. I don't think they can hear you, sir.

3 A My attorney kept me away. It's confidential.

4 Q You would have spoken with us if you could have?

5 A Only if my attorney said yes.

6 Q You wanted us to help Mr. Counts?

7 A Yes, sir.

8 Q You wanted to tell us the truth?

9 A Yes, sir.

10 Q You don't want other people who are innocent to be
11 stuck in the same situation you are, do you?

12 A No, sir.

13 Q So is it fair to have people who are innocent to be
14 stuck in jail?

15 A Unless they did something wrong.

16 Q Sorry?

17 A Unless they did something wrong.

18 Q In fact, you wrote a letter, right?

19 A Yes, sir.

20 Q You wrote a letter because you were trying to help?

21 A Yes, sir.

22 Q I'm sorry, I have a hard time reading it.

23 A Yeah, and I write too light.

24 Q You write light.

25 MR. WHIPPLE: Can I approach, Your Honor?

1 THE COURT: That's fine.

2 BY MR. WHIPPLE:

3 Q First of all, sir, this is Public Defense Exhibit K.
4 I believe Mr. Pesci asked you if you wrote that letter. Did you
5 write that letter?

6 A Yes, sir.

7 MR. WHIPPLE: I'll move to admit Defense Exhibit K.

8 THE COURT: Any objection?

9 MR. PESCI: No objection.

10 THE COURT: All right. K's admitted.

11 (Defendant's Exhibit K admitted.)

12 BY MR. WHIPPLE:

13 Q Sir, I'm going to climb up here so --

14 A Go ahead.

15 Q Can you read that first paragraph, that first part of
16 it for me, sir. I can't read it. Go ahead and reach for it.

17 A Where do you want me to stop?

18 Q Just start right at the top, please.

19 A "What's with it" --

20 Q Sir, speak up if you can. I don't think anybody can
21 hear you.

22 A "What's with it, man? Me, same old shit. Let me get
23 straight to the point. I know I went back on what I said, but right
24 now I just -- I'm just saying fuck it and ride till the wheels fall
25 off. Hey, believe me when I say this, it was hell or hard taking

1 that damn deal and now I see that was a death sentence" -- now I
2 can't even read my own thing -- "death sentence. Man, I wish he
3 would have just offed me."

4 Q Stop right there. "Man, I wish he would have just
5 offed me."

6 A Yeah.

7 Q You meant Deangelo Carroll, right?

8 A Yes, sir.

9 Q Jayson, you remember speaking to the detectives?

10 A Yep.

11 Q You told us today that you lied to the detectives.

12 A In some parts.

13 Q You lied on several things to the detectives?

14 A Yes, sir.

15 Q And Jayson, did you ever -- did they ever do any
16 testing of your hands to see if you'd fired a handgun?

17 A No, sir.

18 Q You told them information --

19 A Yes, sir.

20 Q -- and then you fled to California?

21 A Just to help a friend out.

22 Q You spoke to detectives and then you traveled to
23 California?

24 A Yes, sir.

25 Q Did you tell anybody you went to California?

1 A No, sir.
2 Q And you didn't tell either of these individuals?
3 A Nope.
4 Q You didn't tell any of the investigators?
5 A Nope.
6 Q Did you tell your own attorney?
7 A He wasn't my attorney at the time.
8 Q Where did you go in California?
9 A I don't know. We got lost.
10 Q Who did you go with?
11 A A friend.
12 Q Do you know where you ended up in California?
13 A Probably in LA.
14 Q Probably?
15 A Yeah.
16 Q Or you don't know?
17 A We were going that route so I assume it was LA.
18 Q So what friend were you going to go help?
19 A A friend since -- I knew since elementary school.
20 Q Where did that friend live?
21 A I don't know.
22 Q Did you ever make it to your friend's house?
23 A Nope.
24 Q What did he need help with?
25 A She was going to get raped by somebody.

1 Q She was going to get raped by somebody?
2 A Yeah. She was just coming from a party.
3 Q How long were you in California?
4 A To say free, I was only there for a couple of hours.
5 Q California?
6 A Yeah.
7 Q Weren't you gone for six months?
8 A I was in juvenile.
9 Q Where's that?
10 A Sent to --
11 Q I'm sorry?
12 A Sent to juvenile hall.
13 Q Where at?
14 A In Cali.
15 Q California?
16 A Yeah.
17 Q So you went to California to help somebody that was
18 going to be raped?
19 A Yes, sir.
20 Q You went with a friend?
21 A No. She was out here.
22 Q You went to California with a friend?
23 A Yes, sir.
24 Q To go help a friend who was going to be raped in
25 California?

1 A No. She was the one.
2 Q Oh, she was the person that was going to be raped here
3 in --
4 A I was trying to take her to her aunty's house.
5 Q Well, you never made it to her house, did you?
6 A Nope.
7 Q Where did your friend do?
8 A She went to the same place I went, juvenile.
9 Q So how long were you in California before you went to
10 juvenile?
11 A I told you, a couple of hours.
12 Q You got picked up within a couple of hours of being in
13 California?
14 A Yes, sir.
15 Q You know there was a warrant out for your arrest here?
16 A No, I didn't know.
17 Q Do you remember you told the detectives a description
18 of the person that -- that alleged fourth person who got in the car
19 with you?
20 A I only told them that he was dressed in all black.
21 Q Do you remember the size of that person you gave to
22 them?
23 A I said 6'3", 6'4".
24 Q 6'3" or 6'4"?
25 A Yeah.

1 Q How tall are you?
2 A Like 5'11", 6-foot.
3 Q 6'3", 6'4". Did you give his height, his weight?
4 A Huh?
5 Q Did you give his weight?
6 A Do I give his what?
7 Q Did you give the weight? You said 6'3", 6'4".
8 A No, I didn't give a weight. I don't think so.
9 Q Did you go pick up some marijuana that day?
10 A Yes, sir.
11 Q Where was that at?
12 A It was on the west side.
13 Q Which house was that at?
14 A I don't rightly know.
15 Q Can you give us an idea?
16 A No. Just Deangelo went and picked it up and me and
17 Rontae were in the car.
18 Q How many trips did you make to the west side?
19 A Just one to pick up some weed. Just one.
20 Q That was it? No other trips to the west side?
21 A Later on that day, two more.
22 Q Two more. Jayson, what time did you start promoting
23 that day?
24 A Like 12:00, 1:00.
25 Q You started promoting at noon?

1 A Yeah.

2 Q Where did you go promoting?

3 A We didn't even go.

4 Q Sorry?

5 A We didn't even go. We just went to the Palomino Club.

6 Q So you didn't go promoting?

7 A No.

8 Q You went to the Palomino Club?

9 A Yeah.

10 Q Then you went back to Deangelo Carroll's house?

11 A Yes, sir.

12 Q Mr. Pesci asked you who was in Deangelo's house. Do

13 you remember that?

14 A Yes, sir.

15 Q Do you remember what you told him?

16 A Yeah.

17 Q What did you tell him?

18 A It was me, Deangelo, Rontae, and his girl.

19 Q I'm sorry?

20 A Me, Deangelo, Rontae, and his girl.

21 Q And a couple of children as well, right?

22 A No. She -- she let her mom have them.

23 Q I'm sorry?

24 A She let her mom hold them.

25 Q Her mom hold the child?

1 A Yeah.

2 Q So there was no child there?

3 A No.

4 Q You saw the mother come over and pick the child up?

5 A No. She told me that her mom hold her --

6 Q I can't hear you.

7 A -- she told me that her mom is hold -- watching the

8 kids.

9 Q So there was no child?

10 A No.

11 Q So you wake up that morning. You're living over there

12 with Deangelo and with Rontae, right?

13 A No. I don't live over there with them.

14 Q Okay. Rontae's your friend?

15 A Yeah.

16 Q In fact, Rontae testified at your preliminary hearing,

17 didn't he?

18 A Yes, sir.

19 Q And he tried to protect you?

20 A Yes, sir.

21 Q Did you try to protect him?

22 A Yes, sir.

23 Q Because you're friends?

24 A Yeah.

25 Q He tried to protect you by -- he tried to cover for

1 you, right?

2 A Yep.

3 Q Tried to cover by saying lies?

4 A Nope.

5 Q Well, by saying information that would help you,
6 right?

7 A Tell the truth.

8 Q Correct. Tried to protect you, right?

9 A Yes, sir.

10 Q In fact, he tried to protect you by -- he kept saying,
11 Well, he just did the same thing I did, right?

12 A Yes, sir.

13 Q Because you know Rontae's never even been arrested,
14 never been charged, right?

15 A Yes, sir.

16 Q And he didn't say it just once?

17 A He didn't say it just once?

18 Q He didn't say it just once. He said it a number of
19 times. Oh, he just did the same thing I did, right?

20 A Yes, sir.

21 Q He said that under oath?

22 A Yeah.

23 Q Because he knew he was out of custody, right?

24 A Yes.

25 MR. PESCI: Judge, I'm going to object as to what it is

1 that Rontae knew. He can't possibly testify --

2 THE COURT: It's sustained.

3 BY MR. WHIPPLE:

4 Q Well, you knew Rontae was out of custody, right?

5 A Yes, sir.

6 Q Rontae did the same thing you did, right?

7 A Yes, sir.

8 MR. PESCI: Judge, I'm going to object and ask for
9 foundation as to when he's talking about and what specifically he's
10 talking about, them doing the same thing.

11 THE COURT: All right.

12 MR. WHIPPLE: It was the same thing.

13 BY MR. WHIPPLE:

14 Q Jayson, I'm going to take you back on May 19th.

15 A Yes, sir.

16 Q You were with Rontae?

17 A Yes, sir.

18 Q You went out promoting and you went out in his car a
19 couple of times?

20 A Yes, sir.

21 Q You knew that Deangelo wanted somebody killed?

22 A Yes, sir.

23 Q You knew that when you were with him in the car the
24 first time?

25 A No, sir.

1 Q You knew that -- well, when did you know?

2 A When we came -- when we came back from picking up
3 flyers.

4 Q So you were in your apartment and you knew that he
5 wanted a person killed, right?

6 A Yes, sir.

7 Q Did you call the police?

8 A No, sir.

9 Q Did Rontae call the police?

10 A No, sir.

11 Q In fact, you saw Deangelo call the person that he
12 wanted to kill?

13 A No, I didn't. I seen him in the car phone.

14 Q A phone, right?

15 A I don't know if he called him at the house, though.

16 Q But you knew he was on the phone?

17 A Yes, sir.

18 Q You just testified to that, about what you knew,
19 right?

20 A Yes, sir.

21 Q And that was you and Jayson together?

22 A Rontae.

23 Q You and Rontae together?

24 A Yes, sir.

25 Q And then you went back to the Palomino Club a second

1 time?

2 A Say it again.

3 Q You went to the Palomino Club a second time?

4 A Yes, sir.

5 Q Did you know where you were going?

6 A Did I know where I was going?

7 Q Sure.

8 A No.

9 Q Once you got to the Palomino Club -- right there on
10 Las Vegas Boulevard, correct?

11 A Yeah.

12 Q And there's a taxi cab -- or a taxi place just a few
13 feet away?

14 A Yes, sir.

15 Q You could've walked over to main street boulevard --
16 or you could have walked over to Las Vegas Boulevard and hitched a
17 ride or walked away?

18 A No. He was in the same parking lot with us.

19 Q But you didn't do that, right?

20 A No, sir.

21 Q Rontae, he didn't do that?

22 A No, sir.

23 Q So then you went back to your house another time?

24 A Yes, sir.

25 Q And you knew what you were going to do that day,

1 right?

2 A Yeah.

3 Q What was that?

4 A Kill Timmy Hadland.

5 Q And Deangelo made that very clear?

6 A Yeah.

7 Q Made it very clear to you?

8 A Yes, sir.

9 Q Made it very clear to Rontae?

10 A Yes, sir.

11 Q And what happened next?

12 A We just got back in the car.

13 Q Where did you think you were going?

14 A Going to go pick up another person.

15 Q So you knew the same thing that Rontae knew?

16 A Yes, sir.

17 Q Now, out there on North Shore Road, out at Lake Mead,

18 was it dark?

19 A Yes, sir.

20 Q Very dark?

21 A Yes, sir.

22 Q You saw TJ coming at you?

23 A Yes, sir.

24 Q TJ, in fact, pulled up right next to you?

25 A For a sec.

1 Q He had a conversation with Deangelo?
2 A Yes, sir.
3 Q He said, Hey, what's going on?
4 A Yeah.
5 Q What's up? They spoke.
6 A Yes, sir.
7 Q He called you his little brother?
8 A Yes, sir.
9 Q You're the little brother of Deangelo?
10 A Yes, sir.
11 Q You said, Hi?
12 A Yes, sir.
13 Q Rontae hid?
14 A Yes, sir.
15 Q He hid by getting on the floor?
16 A Yes, sir.
17 Q Because you knew TJ would be worried if he saw more
18 than two?
19 A I don't know if he was going to be worried or not.
20 Q You came back, washed the car, right?
21 A Yes, sir.
22 Q Did Rontae wash the car with you?
23 A Yes, sir.
24 Q You washed the car?
25 A Yes, sir.

1 Q You did that because you didn't want to get caught --
2 A Yes, sir.
3 Q -- covering for Rontae --
4 A Yes, sir.
5 Q -- covering for Deangelo?
6 A Yes, sir.
7 Q And you devised another plan to pop the tires, right?
8 A Yes, sir.
9 Q Another plan. You helped pop the tires?
10 A Nope.
11 Q Did Rontae help pop the tires?
12 A No, sir.
13 Q Deangelo popped the tires?
14 A Yes, sir.
15 Q You stood there and watched him?
16 A Yeah.
17 Q You didn't go call the cops, Hey, somebody just got
18 shot at Lake Mead?
19 A No, sir.
20 Q Rontae, he didn't call the cops, Hey, somebody just
21 got shot at Lake Mead?
22 A No, sir.
23 Q In fact, what you did is you went out to breakfast?
24 A No, sir.
25 Q You didn't go to I-Hop?

1 A No, sir.

2 Q When did you go to I-Hop?

3 A Never.

4 Q Huh?

5 A I ain't never been there in my whole life.

6 Q So if we had a person come in here and testify that
7 you went to I-Hop after you flattened the tires, they would be lying?

8 A Yes, sir.

9 Q If a person came in here and said that when those two
10 cars passed no words were spoken, would they be lying?

11 A I don't know.

12 Q Well, you were there. Were words spoken?

13 A Yes, sir.

14 Q They said no words were spoken. Would they be lying?

15 MR. PESCI: Judge, at this point I'm going to object,
16 Dorian Dane (phonetic) is on point with this issue.

17 THE COURT: Yeah, sustained.

18 BY MR. WHIPPLE:

19 Q So you washed the car, watched Deangelo pop the tires,
20 right?

21 A Yes, sir.

22 Q You were right there?

23 A Yes, sir.

24 Q Tell me, why was he popping those tires?

25 MR. PESCI: Judge, objection as to him testifying as to why

1 Deangelo was doing something.

2 THE COURT: Well, unless they discussed it.

3 BY MR. WHIPPLE:

4 Q Yeah. You tell me. Why do you think he was popping
5 the tires?

6 A To change them.

7 Q For what?

8 A Because he ran over the body.

9 Q Oh, it wasn't because he had bad tread, right?

10 A No, sir.

11 Q Because you don't want to get caught?

12 A Yes, sir.

13 Q Because Deangelo was covering for you?

14 A No, he wasn't really covering for me.

15 Q Covering for Rontae?

16 MR. PESCI: Judge, I'd ask for him to be able to answer the
17 question.

18 THE COURT: All right.

19 BY MR. WHIPPLE:

20 Q You didn't want to get caught?

21 A No, sir.

22 Q You never called the cops, right?

23 A No, sir.

24 Q Never called as a secret witness?

25 A No, sir.

1 Q Saw a man killed?
2 A Yes, sir.
3 Q Helped him get away?
4 A Yes, sir.
5 Q You're not charged with accessory after the fact?
6 A No, sir.
7 Q Rontae, he was never charged with accessory after the
8 fact, was he?
9 MR. PESCI: Judge, I'm going to object as to his knowledge
10 to what Rontae was or was not --
11 MR. WHIPPLE: I'll ask him.
12 MR. PESCI: -- charged with.
13 BY MR. WHIPPLE:
14 Q Okay. Was Rontae charged with anything?
15 A No, sir.
16 Q Jayson, did you ever meet this man?
17 A Just in here.
18 Q You still have a sentencing hanging over your head,
19 don't you?
20 A Yes, sir.
21 Q You pled way back last Summer, didn't you?
22 A I don't know. Not to my knowledge.
23 Q When did you walk in and plead guilty? Do you
24 remember?
25 A No, not that much.

1 MR. WHIPPLE: If I may approach, Your Honor.
2 THE COURT: Yes, that's fine.
3 BY MR. WHIPPLE:
4 Q Do you see that date?
5 A Yes, sir.
6 Q What's that say?
7 A June '06.
8 Q What year?
9 A June '06, '07.
10 Q Do you remember being in front of a judge back on that
11 date?
12 A Yes, sir.
13 Q You pled guilty?
14 A Yes, sir.
15 Q You pled guilty to manslaughter, right?
16 A Yes, sir.
17 Q You pled guilty to taking the life of TJ Hadland?
18 A Yes, sir.
19 Q Without intent, without deliberation?
20 A Could you rephrase that?
21 Q This is page 2, line 11. Read that to yourself.
22 A (Complying.)
23 Q You pled guilty to taking the life of a man?
24 A Yes, sir.
25 Q Not intending to do it?

1 A Yes, sir.

2 Q Tell me, Jayson, what were you driving to Lake Mead
3 for?

4 A To kill Timothy Hadland.

5 Q How did you plead guilty to that? That's lying.

6 MR. PESCI: Judge, objection. It misstates the law.

7 THE COURT: Yeah. Sustained.

8 BY MR. WHIPPLE:

9 Q (Indiscernible)

10 MR. WHIPPLE: If I may approach.

11 MR. PESCI: Judge, for the record, can we have that marked
12 as an exhibit so the record is clear as to what's being referred to?

13 THE COURT: I'm assuming no objection to that.

14 MR. WHIPPLE: No, Judge. No reason to bring it into
15 evidence at this point. I'm going to refer to it, Your Honor.

16 MR. PESCI: Well, it's been referred to numerous times so
17 we need a record as to what's being referred to.

18 THE COURT: All right. For the record, what are you
19 showing him? Is it the guilty plea agreement --

20 MR. WHIPPLE: Sure.

21 THE COURT: -- or the amended that he actually pled to?

22 MR. WHIPPLE: Actually, Your Honor -- it's actually the
23 information attached to it.

24 THE COURT: All right.

25 MR. PESCI: I believe, though, the testimony earlier was

1 referring to the actual guilty plea agreement, so it's not just the
2 information. So --

3 THE COURT: Right. He's referring to both.

4 MR. PESCI: -- he has to have it marked as an exhibit.

5 THE COURT: I don't see a problem with it being admitted as
6 an exhibit.

7 MR. WHIPPLE: Well, I'm just at this point, for the
8 record --

9 THE COURT: That's fine. You can ask him about it.

10 MR. WHIPPLE: Sure. Sure.

11 BY MR. WHIPPLE:

12 Q Jayson, can you read that?

13 A Which one?

14 Q Right here, lines 10 and 11.

15 A "Defendant Jayson Taoipu" --

16 Q No, no. Just read it to yourself?

17 THE COURT: While Mr. Taoipu reads that, I'll see counsel
18 up here at the bench.

19 (Off-record bench conference)

20 THE COURT: Mr. Whipple, I'll let you go a little bit
21 longer and then we'll take our lunch break.

22 Mr. Taoipu, did you have an opportunity to read that or did
23 Mr. Whipple, anticipating a break, take it away from you?

24 BY MR. WHIPPLE:

25 Q Read it to yourself, please.

1 A Yes, sir.

2 Q All right. Mr. Jayson, so how long did it take for

3 you to drive from here in Las Vegas over to Lake Mead?

4 A Probably like 45 minutes, an hour.

5 Q And --

6 A Maybe longer.

7 Q And you already had discussions with Rontae?

8 A Before this happened, yes.

9 Q Right. You knew why you were going there?

10 A Yes, sir.

11 Q You had discussions with Deangelo?

12 A Yes, sir.

13 Q You went over there, a 45-minute ride, with the intent

14 to take somebody's life?

15 A Yes, sir.

16 Q Now, we have this guilty plea agreement, right?

17 A Yes, sir.

18 Q Do you remember when you pled guilty?

19 A The same day it says on there, sir.

20 Q Okay. And it talks about pleading guilty to

21 conspiracy to commit murder, right?

22 A Yes, sir.

23 Q Voluntary manslaughter?

24 A Yes, sir.

25 Q And the elements of the voluntary manslaughter, that's

1 what you were reading just now?

2 A Yes, sir.

3 Q And, in fact, it says --

4 MR. PESCI: Judge, if he's going to read from it, it should
5 be admitted.

6 THE COURT: Well, Mr. Pesci, the State can admit it in
7 their redirect. It will be admitted one way or the other. But since
8 the State wants to admit it, I'll let you guys mark it and do it.

9 MR. WHIPPLE: Thank you, Your Honor.

10 BY MR. WHIPPLE:

11 Q "Defendant Jayson Taoipu did then and there, without
12 lawful -- without the authority of law, wilfully and lawfully and
13 feloniously, without malice and without deliberation, kill Timothy J.
14 Hadland."

15 Is that what it said?

16 A Yes, sir.

17 Q And that's what you pled guilty to?

18 A Yes, sir.

19 Q You just told me that you deliberated for 45 minutes
20 on the way over to Lake Mead to take a life of another man?

21 A Yeah.

22 Q So when the judge asked you if, in fact, you did those
23 things, what did you tell him?

24 A I was there for help.

25 Q But what did you tell him? He asked you of these

1 elements. Did you plead guilty to those elements? It's either a yes
2 or no.

3 MR. PESCI: Judge, I'm going to object at this point.
4 First of all, it was not a he. It was a her.

5 THE COURT: It was me.

6 MR. PESCI: Second of all, they're asking -- the transcript
7 of months ago, I think, is a little outside the scope of one direct
8 examination and his ability to remember at this point.

9 THE COURT: I mean, if he doesn't remember -- if the
10 witness doesn't remember, the witness can say that he doesn't
11 remember. And it was probably taken as a fictional plea.

12 BY MR. WHIPPLE:

13 Q Okay. Well, let's ask -- let's go back. It was here
14 in this courtroom?

15 A Yes, sir.

16 Q And it was this judge right here?

17 A Yes, sir.

18 Q And you remember -- where were you sitting?

19 A Right where he's sitting.

20 Q Okay. And the judge asked you a lot of questions?

21 A Not really.

22 Q Didn't ask you questions?

23 A She was telling me my rights.

24 Q Okay. Did she ask you if you'd read this?

25 A Yes, sir.

1 Q Did she ask you if you signed that knowingly and
2 intentionally?
3 A Yes, sir.
4 Q Did she ask you if the elements there were true, the
5 things that you were pleading guilty to?
6 A Yes, sir.
7 Q So you told her that you took the life of T.J. Hadland
8 without deliberation?
9 A Yes.
10 Q Huh?
11 A Yes, sir.
12 Q Yet, you've already told us you spent 45 minutes
13 deliberating his death.
14 A Yes, sir.
15 Q Now, did your attorney tell you what kind of a
16 sweetheart bill this was?
17 MR. PESCI: Judge, objection as to conversation --
18 THE COURT: It's sustained. That's sustained.
19 MR. WHIPPLE: You're right. I'm sorry.
20 BY MR. WHIPPLE:
21 Q Let's go into the deal that you got, okay?
22 A Yes, sir.
23 Q Now, you know with murder it could be life in prison,
24 right?
25 A Ten to life.

1 Q And again, you didn't have a death penalty because you
2 were a juvenile at the time, right?

3 A I didn't know I was charged with them charges.

4 Q What's that?

5 A I ain't never been charged with them -- I didn't know
6 I was charged with them charges.

7 Q You didn't know what your charges were?

8 A Just conspiracy.

9 THE COURT: Maybe we should take our lunch break now.

10 Ladies and gentlemen, we're going to go ahead and take a
11 lunch break until 1:15. Once again, during this lunch break, you're
12 admonished that you're not to discuss this case, any person or
13 subject matter connected with this case with each other or with
14 anyone else.

15 You're not to read, watch, listen to any reports or
16 commentaries on this case, any person or subject matter relating to
17 this case by any medium of information.

18 Please do not do any independent research on any subject
19 connected with this trial. Don't visit any of the locations at
20 issue.

21 And once again, please don't form or express an opinion on
22 the trial until you begin your deliberations with one another.

23 If everyone will please leave their note pads in their
24 chairs, we'll see everyone back here at 1:15.

25 (Jury recessed at 11:55 a.m.)

1 THE COURT: We're going to secure the courtroom for lunch
2 so if all the people in the audience could please exit through the
3 court -- the rear of the courtroom except for the investigators and
4 the attorneys.

5 All right. And the DA investigators can take custody of
6 Mr. Zone for the lunch break -- I'm sorry -- Mr. Taoipu for the lunch
7 break.

8 MR. DIGIACOMO: I don't know where we're going to put him
9 unless we put him in the jury room.

10 THE COURT: That's fine. Or you can take him to the DA's
11 office or whatever you want to do.

12 MR. DIGIACOMO: They don't like to take them out of the
13 building, so I guess we can --

14 THE COURT: I meant the officer here.

15 MR. DIGIACOMO: Yeah.

16 (Court recessed at 11:58 a.m. until 1:18 p.m.)

17 (Jury is not present)

18 MR. WHIPPLE: Your Honor, I just wanted to ask this
19 Court -- put the Court on notice that I intend to call Officer
20 Council as a witness during the cross-examination of Mr. Taoipu.

21 MR. PESCI: Call me as a witness?

22 THE COURT: No.

23 MR. WHIPPLE: Council.

24 MR. PESCI: I thought you said counsel.

25 MR. WHIPPLE: Officer Council.

1 THE COURT: I think that's his sirname.

2 MR. PESCI: My mistake. I was going to say, you don't want
3 to call me as a witness.

4 MR. WHIPPLE: Officer Council was the individual that, from
5 my understanding, was the person who monitored -- he was the person
6 who had custodial status over Mr. Taoipu. Again, representations
7 were made by the Court and by Mr. Taoipu -- not by the Court, by the
8 district attorney and by Mr. Taoipu that, in fact, he was not in
9 their custody.

10 MR. DIGIACOMO: He wasn't.

11 MR. WHIPPLE: Well, then I'll ask -- then I can make an
12 offer of proof with Officer Council then. But, in fact, I believe he
13 was and --

14 THE COURT: Well, technically he's in the jail's custody
15 but was released to the custody of the investigators. But he's
16 still --

17 MR. DIGIACOMO: It was investigators --

18 THE COURT: -- but he's still an inmate of the correction's
19 center.

20 MR. DIGIACOMO: That's correct. Two investigators picked
21 Mr. Taoipu up this morning, brought him up here, and have had custody
22 of him. And now there are two different investigators because those
23 investigators had other things to do.

24 THE COURT: Right. But they have to return him back to the
25 detention center --

1 MR. DIGIACOMO: Correct.

2 THE COURT: -- at the end of when he's done -- I mean, it's
3 just like if the DAs want to interview a witness that's in custody,
4 they get their investigator to pick him up at the jail, bring him to
5 the DA's office and bring him back. So it's kind of like a joint
6 custody situation at that point in time, but he's -- he's -- I mean,
7 technically he's still an inmate.

8 MR. DIGIACOMO: There was no misrepresentation by
9 Mr. Taoipu. There was no Officer Council -- there was no CO that
10 brought him up here this morning.

11 MR. WHIPPLE: Well, here's the thing --

12 THE COURT: Well, let's ask the --

13 MR. WHIPPLE: -- I need to preserve the record.

14 THE COURT: That's fine. We can ask the officer out of the
15 presence of the jury.

16 MR. WHIPPLE: Correct.

17 THE COURT: But I don't see any reason to make him a
18 witness because that --

19 MR. DIGIACOMO: (Inaudible). I think he was just confused
20 by your question. He knows he was charged with a crime.

21 MR. WHIPPLE: Okay.

22 THE COURT: All right. Mr. Whipple, anything else that you
23 need to put on the record before --

24 MR. WHIPPLE: No. I'll just -- whenever Officer Council --

25 THE COURT: -- I bring the jury back?

1 MR. WHIPPLE: I don't know. Do you want me to subpoena him
2 or should we just take advantage of the next time he's in court? I'm
3 not sure what his status is.

4 THE COURT: Officer.

5 CORRECTIONS OFFICER: Your Honor, that officer was on
6 overtime and has since been relieved. He's gone home.

7 THE COURT: Will he be here tomorrow?

8 CORRECTIONS OFFICER: He will.

9 THE COURT: All right. Anything else?

10 MR. WHIPPLE: Nothing, Your Honor. Thank you.

11 THE COURT: Can we bring the jury in?

12 MR. WHIPPLE: Please.

13 THE COURT: Did you get seen, Ms. Wildeveld?

14 MS. WILDEVELD: I did, Your Honor.

15 MR. DIGIACOMO: Judge, we had some --

16 THE COURT: Were we on Mr. Whipple's cross when we took our
17 break?

18 MR. WHIPPLE: Yes, Your Honor.

19 MR. DIGIACOMO: We were at Mr. Whipple's cross. And just
20 so the Court's aware, so I'm not running out the door, at some point
21 I have to leave. I have a witness who is kind of stuck trying to get
22 through -- he's handicapped. He's trying to get through the --

23 THE COURT: Metal detectors.

24 MR. DIGIACOMO: Yeah, downstairs. And my investigators are
25 a little tied up.

1 THE COURT: All right. That's fine.

2 MR. DIGIACOMO: I'm going to wait until the jury comes in.

3 (Off-record colloquy)

4 (Jury entering at 1:22 p.m.)

5 THE COURT: All right. Court is now back in session. The
6 record will reflect the presence of the State, through the deputy
7 district attorneys; the presence of the defendant and his attorneys;
8 the officers of the Court; and the members of the jury.

9 Everyone can be seated.

10 Mr. Taoipu, you are still under oath. Do you understand
11 that?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: All right. Mr. Whipple, you may resume your
14 cross-examination of the witness.

15 MR. WHIPPLE: Thank you, Your Honor.

16 CROSS-EXAMINATION (continued)

17 BY MR. WHIPPLE:

18 Q Jayson, you know that you were once charged with
19 murder with use of a deadly weapon?

20 A Yes.

21 Q You know that when you were charged with murder that
22 it carries a minimum of 40 years in custody?

23 A Yes, sir.

24 Q All the way to life in prison, correct?

25 A Yes, sir.

1 Q And you're also aware that this past June you pled
2 guilty to conspiracy?

3 A Yes, sir.

4 Q What's the potential term on a conspiracy charge case?

5 A What does it carry?

6 Q Yeah.

7 A Two to ten.

8 Q Two to ten. And then the -- and that's probationable,
9 right?

10 A Yeah.

11 Q And then the manslaughter, do you know what's the
12 potential charge -- or what's that carry, Jayson?

13 A Probably like four to 15.

14 Q It is two to ten as well. Would that make sense to
15 you?

16 MR. WHIPPLE: With the Court's admission, I'll approach,
17 Your Honor.

18 THE COURT: All right.

19 BY MR. WHIPPLE:

20 Q It's that top paragraph. After you've digested that,
21 I'll ask you some questions.

22 A (Complying)

23 Q So you can see from reading that that the
24 manslaughter -- voluntary manslaughter is a one to ten?

25 A Correct.

1 Q And if it's use of a deadly weapon, that's another one
2 to ten tacked onto that?

3 A Yes, sir.

4 Q So essentially conspiracy is two to ten and then the
5 voluntary manslaughter is a two to ten as well?

6 A Yes, sir.

7 Q And again, the prosecutor that you've been working
8 with had agreed to recommend that those be run together?

9 A Yes, sir.

10 Q So, in other words, you don't have to do two and then
11 another two or whatever they say. He's recommending that they run
12 together, right?

13 A Yes, sir.

14 Q As long as you work with them?

15 A Yes, sir.

16 Q Now, that's -- that date when that's supposed to all
17 happen is called a sentencing date, right?

18 A Yes, sir.

19 Q And do you know that when you pled guilty they gave
20 you an original sentencing date of about six weeks out from -- I
21 guess it would be last June or July, right?

22 A Yes, sir.

23 Q So, in fact, today we're -- gosh, Jayson, how many
24 days are we -- or how many months are we beyond when you actually
25 pled guilty?

1 A A couple -- I can't -- I don't know how long it was.

2 Q Well, take a look at that real quick, okay. That was
3 back in June, right? So we've got the full month of June, July,
4 August, September, October, November, December, January. That would
5 be eight months since you were -- pled guilty, right?

6 A Yes, sir.

7 Q Of course, any -- of course, all that comes down to
8 the sentencing date when he determines whether you get probation,
9 right?

10 A Yes, sir.

11 Q And whether --

12 MR. PESCI: I'm going to object. It's not determined by me
13 whether he gets probation. It's determined by Your Honor.

14 THE COURT: Right. What was the question, Mr. Whipple?

15 MR. WHIPPLE: I said when it gets determined whether you
16 get probation -- whether you get probation. I said it's -- I'll
17 clarify it.

18 BY MR. WHIPPLE:

19 Q The sentencing date is when the Court determines
20 whether you get probation or time, right?

21 A Yes, sir.

22 Q And how much time you get, if you get time?

23 A Yes, sir.

24 Q You know that the prosecution's very important, what
25 they say to the Court, right?

1 A Yes, sir.

2 Q So you pled back in June, eight months ago. Your
3 sentencing date was set probably in July or August, right --

4 A Yes, sir.

5 Q -- the first time?

6 How many times has it been continued? Jayson, how many
7 times have they continued your sentencing date?

8 MR. PESCI: Judge, may we approach?

9 THE COURT: Sure.

10 (Off-record bench conference)

11 THE COURT: All right. Mr. Whipple, go on.

12 MR. WHIPPLE: Sure.

13 BY MR. WHIPPLE:

14 Q So, Jayson, you know as part of that agreement you
15 can't even get sentenced until you testify, right?

16 A Yes, sir.

17 Q So, in other words, you don't get any benefit from all
18 this hard work you've done until the sentencing date?

19 A Yes, sir.

20 Q And this is the hard work that you've got to do in
21 order to get that deal in front of you?

22 A Yes, sir.

23 Q Now, when's your next sentencing date?

24 A Next week, Tuesday.

25 Q What was that?

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A. HIDALGO, III

Appellant,

v.

STATE OF NEVADA,

Respondent.

Electronically Filed
Feb 04 2011 08:43 a.m.
Tracie K. Lindeman
Docket No. 54272

Direct Appeal from a Judgment of Conviction
Eighth Judicial District Court
The Honorable Valerie Adair, District Judge
District Court Case No. C212667/C241394

APPELLANT LUIS A. HIDALGO, III'S APPENDIX

VOLUME XI

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DISTRICT COURT
CLARK COUNTY, NEVADA

COPY

FILED IN OPEN COURT

THE STATE OF NEVADA,

Plaintiff,

vs.

KENNETH COUNTS,

Defendant.

)
)
) CASE NO. C212667
) DEPT. XXI BY

FEB 05 2008 20
J. SHORT
CLERK OF THE COURT
DENISE HUSTED
DEPUTY

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

Monday, February 4, 2008

RECORDER'S TRANSCRIPT OF HEARING RE:
JURY TRIAL - DAY FIVE
Portions of Proceedings
Jayson Taoipu's Testimony

APPEARANCES:

FOR THE STATE:

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District Attorney
GIANCARLO PESCI, ESQ.
District Attorney

FOR THE DEFENDANT:

BRET WHIPPLE, ESQ.
KRISTINA WILDEVELD, ESQ.

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JAYSON TAOIPU

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1 LAS VEGAS, NEVADA, MONDAY, FEBRUARY 4, 2008, 9:10 A.M.

2 (Portion of proceedings started at 10:28 p.m.)

3 JAYSON TAOIPU, STATE'S WITNESS, SWORN

4 THE CLERK: Thank you. Please be seated and please state
5 and spell your name.

6 THE WITNESS: Jayson --

7 MR. WHIPPLE: May we approach? May we approach real quick?

8 THE COURT: Sure.

9 Well, state your name, sir.

10 THE WITNESS: Jayson Taoipu, J-a-y-s-o-n, Taoipu,
11 T-a-o-i-p-u.

12 THE COURT: All right. Thank you.

13 Counsel, approach.

14 (Off-record bench conference)

15 MR. PESCI: May I proceed, Your Honor?

16 THE COURT: Yes, Mr. Pesci.

17 DIRECT EXAMINATION

18 BY MR. PESCI:

19 Q Jayson, this microphone's taking everything down. If
20 you could move in just a little bit closer to it and that way we can
21 hear your answers very clearly.

22 Sir, I want to direct your attention back to May 19th of
23 2005. At that time did you know someone by the name of Deangelo
24 Carroll?

25 A Yes, sir.

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1 Q Did you also know someone by the name of Rontae Zone?
2 A Yes, sir.
3 Q How did you know Rontae?
4 A Met him -- met him at a home girl named Shelley's
5 house.
6 Q Back around May 19th of 2005, were you spending time
7 with or hanging out with Rontae?
8 A (No audible answer.)
9 Q I apologize. Sometimes there's coughing, so just so
10 it's really clear for the audio recording, what was your answer?
11 A Yes, sir.
12 Q And around that time, did Rontae ever talk to you
13 about some employment opportunities that he knew of?
14 A Not at that time, sir.
15 Q Okay. Did he ever talk to you about possibly working
16 where he was working at the Palomino Club?
17 A Yes, sir.
18 Q Taking you to the day of May the 19th, 2005, did you
19 spend that day or a large part of the day with Rontae?
20 A Yes, sir.
21 Q Did you also spend some time with Deangelo Carroll?
22 A Yes, sir.
23 Q And the -- when did you first discuss the concept of
24 possibly promoting?
25 A Excuse me.

1 Q All right. Have you heard the term "promoting" or "to
2 promote"?

3 A Yeah.

4 Q Can you let the ladies and gentlemen of the jury know,
5 what does it mean to promote?

6 A To like hire or to hire for a job.

7 Q Okay. Were you ever approached about possibly
8 promoting for the Palomino Club with Rontae?

9 A Yes, sir.

10 Q And did that involve handing out flyers?

11 A Yes, sir.

12 Q Was there a time in the day -- well, before May 19th,
13 2005, did you ever meet Deangelo Carroll before that day?

14 A Yes, sir.

15 Q Had you spent time with him?

16 MR. WHIPPLE: Judge, objection as to leading at this point.

17 THE WITNESS: Off and on.

18 THE COURT: Well, it's a little bit foundational. I mean,
19 try to be a little less leading.

20 You can answer the question. It's overruled.

21 THE WITNESS: Off and on.

22 BY MR. PESCI:

23 Q On the 19th, tell us about the time you spent with
24 Deangelo and Rontae.

25 A We just -- I don't know. I can't think straight right

1 now. You've got to ask me questions.

2 Q Sure. Let me ask you this: At any point, did

3 Deangelo Carroll, if you know, leave his house and go to the Palomino

4 Club?

5 A Yes, sir.

6 Q When was that? How did that come about?

7 A Like in the morning. He was going to work at the

8 time.

9 Q And were you at Deangelo's house that morning of the

10 19th?

11 A Yes, sir.

12 Q Who else was there?

13 A Rontae Zone and Deangelo's girl.

14 Q And how did you know Deangelo was going to the

15 Palomino Club?

16 A He told me he'd be back.

17 Q Did Deangelo leave?

18 A Yeah.

19 Q Did he ever come back?

20 A Yeah.

21 Q When he came back, was Rontae still there?

22 A Yes, sir.

23 Q Okay. Was there a conversation had between you,

24 Deangelo and Rontae when Deangelo came back?

25 A Yes, sir.

1 Q Tell us about that.

2 A He was just telling us about passing out flyers and
3 we'd get like \$20 for it or whatever.

4 Q When you say "he," are you referring to Deangelo?

5 A Deangelo.

6 Q And when you say "we," are you referring to you and
7 Rontae?

8 A Deangelo -- yeah. Deangelo, me and Rontae.

9 Q Okay. Was there a conversation after the conversation
10 about promoting at some point in this day?

11 A After that, yeah.

12 Q All right. Tell us about that conversation.

13 A He said that his boss put him up on a job and he
14 came -- he came to us and asked if we wanted to do it.

15 Q When you say "he came to us" --

16 A Deangelo. Sorry.

17 Q No, no problem. Deangelo came to who, you?

18 A Me and Rontae.

19 Q And what did he tell you about this job?

20 A He just said that his boss told him that we needed to
21 do a job for somebody and that we needed to go make a hit.

22 Q Okay. Make a hit. Now, what did you understand "make
23 a hit" to mean?

24 A Kill.

25 Q Now, when you had this -- when this conversation

1 occurred, did Rontae, in your presence, indicate whether he was okay
2 with the hit or not?

3 A From his -- like from his movements, he wasn't into
4 it.

5 Q Describe his movements. What is it that made you come
6 to that conclusion?

7 A He tensed up.

8 Q What did you say when Deangelo talked about doing the
9 hit?

10 A I didn't really say anything.

11 Q Did there come a point in time when you saw a gun
12 later that day?

13 A Yes, sir.

14 Q Tell us about that, how it came about.

15 A Deangelo went into his closet and grabbed a .22
16 revolver and gave it to me.

17 Q What did you do when he gave you the gun?

18 A I put it in my pocket.

19 Q Did you say, Hey, no, I don't want anything to do with
20 this, I'm not down with it?

21 A No, sir.

22 Q Did you indicate whether you were okay with it or not?

23 A Yes, sir.

24 Q What did you say?

25 A I just said -- I just asked him, You want me to hold

1 it? He was like, Yeah. And I just said, Okay.

2 Q Okay. Did you ever see any bullets during this time

3 period?

4 A Yes, sir.

5 Q Tell us about that.

6 A He had a bag of bullets in a grocery bag. He tossed

7 it to Rontae.

8 Q Was that in your presence?

9 A Yes, sir.

10 Q What did you see Rontae do with the bullets?

11 A Threw them on the ground.

12 Q When Rontae threw them on the ground, what did you do?

13 A Picked them up.

14 Q After you picked them up, what did you do with them?

15 A Put them in my pocket.

16 Q Did you ever load that gun?

17 A No, sir.

18 Q Did you then, at that point, have the gun and the

19 bullets on your person?

20 A Yes, sir.

21 Q Was there more conversations or discussions about this

22 hit?

23 A No, sir.

24 Q Was there any promoting that went on or any other

25 driving around that evening or afternoon?

1 A Not really.

2 Q All right. Tell us what happens after you grab the
3 gun and the bullets.

4 A Deangelo went to the back room and made a phone call.

5 Q Were you able to hear that phone call?

6 A No, sir.

7 Q After the phone call, what did Deangelo do?

8 A Just -- he came back into the front and then told me
9 and Rontae to, Come on.

10 Q When he said, Come on, did he say, Come on, we're
11 going to do the hit, or did he just say, Come on?

12 A He just said, Come on.

13 Q And what did you and Rontae do at that point?

14 A We left with him.

15 Q What did you leave in? What were you driving or what
16 was being driven?

17 A In a white van.

18 Q Had you seen that van before?

19 A No, sir.

20 Q Who was driving?

21 A Dean.

22 Q Who?

23 A Deangelo.

24 Q Who else was in the car?

25 A Me and Rontae.

1 Q What did the three of you do when you got into that
2 Astro van?
3 A We drove to the Palomino Club.
4 Q Had you been to the Palomino before?
5 A I had seen it around, but I ain't never been there.
6 Q What happened when you got to the Palomino?
7 A Deangelo put it -- pulled into the parking lot and
8 went inside. Me and Rontae was sitting in the car.
9 Q You stayed in the van?
10 A Yeah.
11 Q How come you didn't go inside?
12 A I don't know.
13 Q Did Deangelo say anything to you?
14 A Naw, he just told us to stay in the car. I'll be
15 back.
16 Q Did Deangelo eventually came back?
17 A Yeah.
18 Q What happened when he came back?
19 A He had flyers in his arm.
20 Q Are those flyers associated with the Palomino?
21 A Yes, sir.
22 Q What did the three of you do after you had got the
23 flyers?
24 A Went back to his -- to Deangelo's house.
25 Q When you went back to Deangelo's house, what happened

1 then?

2 A Just really nothing. Just sit down -- sit around.

3 Q During the course of this day when you're hanging out

4 and sitting around, were any of you smoking marijuana?

5 A Yes, sir.

6 Q And when I say any, which ones of the three, if you

7 know?

8 A It's just me and Deangelo and Rontae.

9 Q When you came back from the Palomino, was there

10 anything else done in regards to bullets or the gun?

11 A No, sir.

12 Q What happened after that? Did you eventually leave

13 the house again?

14 A Yes, sir.

15 Q Tell us where you went and what happened.

16 A We went back to the Palomino Club.

17 Q Is it the same three of you?

18 A Yea.

19 Q And did you get back in the van?

20 A Yes, sir.

21 Q What happened when you got to the club that time?

22 A Nothing. He just told us stay in the car again.

23 Q That's Deangelo that told you that?

24 A Deangelo.

25 Q Did Deangelo come back out after being in there?

1 A Yeah.

2 Q And where did you go after he came out that time?

3 A We went back to his house.

4 Q Was there any more discussion during this time period

5 about the plan to do a hit?

6 A He said -- he made a comment and he said that, like,

7 My boss wants us to do a hit, but I don't want to do it. I'm going

8 to get somebody else.

9 Q This is Deangelo that said that?

10 A Yes.

11 Q Okay. After that comment by Deangelo, did you

12 eventually meet up with somebody else that night?

13 A Yes.

14 Q Tell us how you met that person.

15 A Deangelo -- right when we got back to Deangelo's

16 house, he went in the back and made a phone call and then he came

17 back.

18 Q When that phone call was made, were you able to hear

19 the phone call or was it in a different room?

20 A No, it was in a different room.

21 Q After that phone call, what happened?

22 A We went to go pick up another person.

23 Q Did you drive in the Astro van again?

24 A Yes, sir.

25 Q Had you been to this other person's house before?

1 A No, sir.

2 Q Did you know that area very well?

3 A No, sir.

4 Q When you got to that other person's house, what did
5 you see?

6 A Just really nothing. There was a lot of activity
7 going around.

8 Q Well, let me ask you this: Did anybody get out of the
9 car at that person's house?

10 A Just Deangelo.

11 Q Where did Deangelo go?

12 A He went inside -- into the house.

13 Q Was he in there for some time?

14 A Yeah, like 30 minutes.

15 Q Did he eventually come back out?

16 MR. WHIPPLE: Leading, Judge.

17 THE WITNESS: Yeah.

18 THE COURT: Overruled.

19 BY MR. PESCI:

20 Q Did you see Deangelo again?

21 A Yes, sir.

22 Q Where did you see him?

23 A Coming out, back out of the house.

24 Q When he came out, what happened?

25 A He just got in the van and we drove back to Deangelo's

1 house.

2 Q Did -- were you ever in that area or back at that
3 house again later that evening?

4 A Yes, sir.

5 Q Tell us about that.

6 A After he made a phone call -- I didn't hear it. He
7 was in another room. But after he made a phone call, we went back to
8 the same house.

9 Q Did you see anybody come out of the house then?

10 A Yes, sir.

11 Q Describe that person.

12 A He was wearing all black. I don't know what clothes
13 he had on, but he had a long sleeve and a hoody.

14 Q A long-sleeve hoody?

15 A Yeah.

16 Q What color was that?

17 A All black.

18 Q Was anything else on him? Did you see any other
19 clothes?

20 A Just pant -- black pants and black...

21 Q The clothes were black as well?

22 A Yes, sir.

23 Q What did that person do?

24 A He got inside the car.

25 Q Now, describe this car just a little bit for the

1 ladies and gentlemen of the jury so we understand what kind of car it
2 is and where you were seated.

3 A It was an Astro van, all white, and I was sitting in
4 the passenger side.

5 Q When you say the passenger, is that in the front or
6 the back?

7 A Front.

8 Q So were you in the front right seat --

9 A Yes, sir.

10 Q -- when this person all dressed in black came in?

11 A Yes, sir.

12 Q Where was Deangelo?

13 A On the driver's side.

14 Q And where was Rontae?

15 A Behind the driver's side seat.

16 Q And where did the person all dressed in black go?

17 A Behind me.

18 Q Now, so we understand, are there front doors to this
19 van?

20 A Yes, sir.

21 Q So those doors go right to the front seats?

22 A Yes, sir.

23 Q Is there another door on the side of the van?

24 A Sliding door.

25 Q Which side is the slider on?

1 A On the right.

2 Q Would that be behind where you were seated?

3 A Yes, sir.

4 Q On Rontae's side, he was on the left-hand side behind

5 the driver?

6 A Yes, sir.

7 Q Is there a door on that side?

8 A No, sir.

9 Q Okay. Where did the person in black go inside the

10 van?

11 A He went right -- right -- he seated himself right

12 beside -- right behind me.

13 Q What happened when that person got in?

14 A Nothing. We just acquainted ourselves.

15 Q Did Deangelo acquaint you to this individual?

16 A Yes, sir.

17 Q And what did Deangelo say?

18 A He said, Deangelo -- or JJ, this is KC. KC, this is

19 JJ.

20 Q Was there any introduction of Rontae?

21 A Yes, sir.

22 Q What did he say?

23 A He said the same thing, but Rontae name.

24 Q Okay. Did the person KC introduce himself?

25 A He didn't introduce himself by name.

1 Q Can you describe that person generally?
2 A Generally, not that much, because it was dark.
3 Q Was he black? Was he white? Was he Hispanic?
4 A At night he looked Hispanic or black.
5 Q Okay. After the introductions, what happened?
6 A We just went and started driving towards some guy
7 named TJ or whatever his name is.
8 Q Okay. Where did you hear of the name TJ on this day?
9 A From Deangelo.
10 Q Tell us how you heard about it and what Deangelo told
11 you.
12 A When we were in the car, he was telling us about what
13 person he was supposed to hit and so forth from there.
14 Q And so we're real clear, at this point in the van, do
15 you have the gun?
16 A Yes, sir.
17 Q Was it on your -- in your pocket?
18 A No, sir.
19 Q Where was it?
20 A It was under the seat.
21 Q How did it get there?
22 A I put it under there when we got in -- when all three
23 of us got in the car.
24 Q When was that? What point in time did you put it
25 under the seat?

1 A The last time we left to go pick up KC.
2 Q The second time you went to pick him up?
3 A Yes, sir.
4 Q Okay. And where were the bullets?
5 A They were still in my pocket.
6 Q Did -- to your knowledge, did Rontae have a gun?
7 A No, sir.
8 Q Did he have any bullets?
9 A No, sir.
10 Q All right. What more did you know about this TJ and
11 what was supposed to happen?
12 A The farthest thing he told me was that he was talking
13 too much about the Palomino club and that's about it.
14 Q When you say "he" told you --
15 A Deangelo.
16 Q Deangelo told you about TJ?
17 A Yes, sir.
18 Q Okay. Did you witness any phone calls that Deangelo
19 had after you picked up the individual introduced to you as KC?
20 A No. He just made a phone call to TJ.
21 Q Deangelo did?
22 A Yes, sir.
23 Q Okay. And how do you know he made a call to TJ?
24 A Because he -- that's what he told me and Rontae when
25 he was on the phone.

1 Q Could you hear Deangelo's side of the conversation?
2 A A little bit. I wasn't really paying attention.
3 Q Okay. Could you hear TJ's side of the conversation?
4 A Not at that time.
5 Q After Deangelo had this conversation, where did the
6 four of you go?
7 A We started driving, I assumed, towards TJ's house.
8 Q Okay. When you say you assumed, what were you basing
9 that assumption on? Why did you think you were going to his house?
10 A To kill him.
11 Q Right. And I apologize. Where did you get the idea
12 that you were going to his house?
13 A Because at first Deangelo told me we was supposed
14 to -- if he was at his house and he was alone, then we'd kill him
15 himself -- all by himself but --
16 Q Was there any discussion of what would happen if he
17 was not alone?
18 A No, sir.
19 Q Okay. When you thought you were going to his house,
20 eventually where did you end up going?
21 A He got another call from -- or he called TJ and asked
22 him if he was at his house. TJ said no, he's at --
23 Q He -- we need this really specific for the record.
24 When you say "he" made another call, who was he?
25 A Deangelo.

1 Q And how do you know it was to TJ?
2 A Because he told me he was going to call him.
3 Q And based on that conversation, did you find out a
4 different location?
5 A Yes, sir.
6 Q What did you find out?
7 A That he was at Lake Mead with his wife or with his
8 girlfriend and dog.
9 Q And after that phone conversation, what happened?
10 A We just started driving towards the lake.
11 Q Did you eventually make it out to the lake?
12 A Yeah.
13 Q And kind of walk us through how that worked out. When
14 you got to the lake, what happened?
15 A We just started driving back and forth because TJ told
16 us to meet us -- meet him past the booth that you pass going towards
17 the lake.
18 Q Did you come across a booth out there?
19 A Yes, sir.
20 Q Did you see anybody at the booth?
21 A No, sir.
22 Q All right. After you got to the booth, where did you
23 go?
24 A We went past the stop sign and turned -- turned left
25 and we just kept on driving up and down that street.

1 Q Why were you driving up and down the street?
2 A Because he couldn't find -- or Deangelo couldn't find
3 TJ and on his cell phone the signal was faded.
4 Q Was the signal better towards the booth?
5 A Yes, sir.
6 Q Eventually after going back and forth, was Deangelo
7 able to make contact with TJ?
8 A Yes, sir.
9 Q What did you hear or see?
10 A He just asked him where was he at.
11 Q Deangelo asked?
12 A Yeah.
13 Q Okay. And then did you hear anything?
14 A TJ said that he was making his way to his car.
15 Q All right. Now, let me ask you this: Earlier you
16 talked about some phone conversations where you were not able to hear
17 the person on the phone with Deangelo. Are you saying now that you
18 were able to hear the person on the phone with Deangelo?
19 A Yes, sir.
20 Q Explain how.
21 A When he -- he put him on speaker, on chirp.
22 Q A chirp?
23 A Yeah.
24 Q Okay. When you say "he," Deangelo put --
25 A Yeah, Deangelo put him on the chirp.

1 Q Put who?
2 A TJ.
3 Q Okay. How did you know it was TJ? Did you hear TJ
4 when it was on the chirp?
5 A Yeah. Deangelo said his name.
6 Q Okay. But could you actually hear some of what TJ was
7 saying?
8 A Yes, sir.
9 Q What did you hear TJ say to Deangelo?
10 A He just -- he just said that, I'll meet you halfway
11 because I'm making my way to the car. And Deangelo said, All right.
12 I got -- I got a blunt for you so we could smoke.
13 Q Okay. And that's what I was trying to figure out.
14 Was there some sort of conversation as to why everyone was going to
15 meet?
16 A Yeah.
17 Q And what was that, as far as you understood?
18 A That we -- say that one more time, please.
19 Q Did you know why TJ was coming to meet Deangelo, based
20 on what you heard and what TJ and Deangelo said to each other?
21 A Yes, sir.
22 Q What was that?
23 A To kill him.
24 Q You said something earlier about a blunt.
25 A Yeah, to smoke.

1 Q What is a blunt?

2 A Weed.

3 Q Okay. Who said something about a blunt?

4 A Deangelo.

5 Q Did he say that with TJ?

6 A He was saying that to TJ.

7 Q Did TJ talk at all about where he was and what he was

8 doing at the time?

9 A He was -- he just said he was making his way to the

10 car.

11 Q Did he say -- did you hear whether or not TJ said he

12 was with someone or what he could see around him?

13 A He said that you should see this view. It's willing

14 to die for.

15 Q Who said that?

16 A TJ.

17 Q And what did Deangelo say?

18 A He didn't press the button back to him, but he said, I

19 bet it is.

20 Q So Deangelo said, I bet it is?

21 A Yeah.

22 Q When you say he didn't push the button, does that mean

23 the chirp button?

24 A Yeah.

25 Q So that's not something that could be heard at the

1 other end?

2 A Yes, sir.

3 Q After that, did you make actual contact with this
4 person named TJ?

5 A Yes, sir.

6 Q Tell us about that.

7 A We ran into him going halfway towards the lake and he
8 just -- we honked our horn and flashed our lights so he'd know it was
9 us.

10 Q Did TJ stop?

11 A Yes, sir.

12 Q Tell us how that happened.

13 A He stopped and then he reversed. TJ reversed and
14 stopped next to me and Deangelo and said, How you doing, like saying
15 a little hi, you know.

16 Q Okay. Now, when you say a little hi, is everyone
17 still in their cars?

18 A Yes, sir.

19 Q Do you remember what TJ was driving?

20 A He was driving a Kia.

21 Q So are you -- describe how the cars are facing when
22 this little conversation occurs.

23 A Just like one was facing west, the other one was
24 facing east.

25 Q So you're in opposite directions?

1 A Yes.

2 Q And is everyone still in the same position that you

3 hold us about earlier?

4 A Yes, sir.

5 Q And after this brief exchange, what does TJ do?

6 A He takes off -- he tells us that he was going to turn

7 around and so he takes off and our car stopped him and that's what

8 had made him a little more time to turn around.

9 Q So TJ went -- he went off in a different direction?

10 A Yes, sir.

11 Q Okay. What, if anything, was said in the car after TJ

12 drove off?

13 A He said that -- Deangelo told me that I was going to

14 go -- get out and go toward the back and told KC that he was going to

15 get out and go towards the front.

16 Q Did you say anything back?

17 A No, sir.

18 Q Did KC say anything back?

19 A No, sir.

20 Q After that statement, what happened?

21 A KC got out -- out of -- no. Before he got out,

22 Deangelo said he was going to get out, open the -- open this side

23 door so it would quiet the noise from the sliding door.

24 Q So Deangelo opened up his door?

25 A Yes, sir.

1 Q And to quiet the noise about what?
2 A About the sliding door. When you open the sliding
3 door.
4 Q Was the sliding door open at that point?
5 A Yes, sir.
6 Q Okay. Then what did Deangelo do?
7 A He went past the front of the car to relieve himself.
8 Q To go to the bathroom?
9 A Yes, sir.
10 Q All right. And at this time, had TJ made it up to
11 your car yet?
12 A No.
13 Q What did Deangelo do after he went to the bathroom on
14 the street?
15 A He got back in the car.
16 Q Where in the car?
17 A Back on the driver's side.
18 Q Was the slider still open?
19 A Yeah.
20 Q After Deangelo got back, did Mr. -- TJ get to your
21 van?
22 A Yes, sir.
23 Q Tell us what happened.
24 A He stopped and just said, I'm going to pull up a
25 little ways in front of you. And that's all he said.

1 Q Who said that?
2 A TJ.
3 Q Okay. And then after he did that, did TJ ever come up
4 to your van?
5 A Yes, sir.
6 Q Tell us what happened when he came up to the van.
7 A He came up to the van and asked -- like he just asked
8 us how we were doing.
9 Q Did he approach -- which side of the van did TJ
10 approach?
11 A Driver's side.
12 Q And where, particularly, on the van did he go to?
13 A To Deangelo's door.
14 Q So was TJ outside Deangelo's window?
15 A Yes, sir.
16 Q Was Deangelo's window down?
17 A Yes, sir.
18 Q What happened next?
19 A We were just talking and he said, How you doing, bro?
20 Q Is that TJ that says that?
21 A Yes, sir. And TJ said, How you doing, bro, and then
22 Deangelo didn't even say -- he just said, How you doing, and he
23 didn't say nothing after that.
24 Q Okay. And what, if anything, did KC do?
25 A He went to my driver's side -- or my passenger's side

1 window.

2 Q And what, if anything, did he do at your window?

3 A He just asked me, What's up?

4 Q And what was your response?

5 A I just shook my head.

6 Q After you shook your head, what did KC do?

7 A He just shook his head and went around the front of
8 the car.

9 Q Okay. Now, let's say for the sake of explaining to
10 the jury that this here is the white Astro van. This is the front
11 end, that's the back end. Were you seated on the driver's side?

12 A Passenger side.

13 Q Sorry, passenger side. Deangelo's on this side?

14 A Yes, sir.

15 Q And is TJ on the driver's side?

16 A Yes, sir.

17 Q When you just told us about KC approaching you, was it
18 at the window, your window?

19 A Yes, sir.

20 Q And did KC go around the front of the --

21 A Yes, sir.

22 Q -- van?

23 When he did, what happened?

24 A He stopped midway and he extended his arm.

25 Q And when he extended his arm, what did KC do?

1 A I can't tell you that. I just heard shots.
2 Q Okay. Did you see anything?
3 A No. The only thing I seen from the corner of my eye
4 is just TJ dropped.
5 Q Okay. How many shots did you hear?
6 A Two.
7 Q I'm sorry?
8 A Two.
9 Q And you said that out of the corner of your eye you
10 saw TJ drop?
11 A Yes, sir.
12 Q What happened after those two shots?
13 A KC just went back around the front and got back in the
14 car.
15 Q Back on the slider side?
16 A Yes, sir.
17 Q Okay. And what did KC say or do when he got in?
18 A He just said -- he just told Deangelo, Hurry up and
19 go.
20 Q What did Deangelo do?
21 A He sped off and he had to turn around first.
22 Q When he turned around, did anything happen that made
23 you wonder what was going on?
24 A No. He just ran over TJ's body though.
25 Q Did you feel something that was run over?

1 A Yes, sir.

2 Q Okay. After that, where did you go?

3 A We just went towards -- I think towards Henderson. I

4 don't know where we were at.

5 Q Did KC talk to you after he got back in?

6 A Yes, sir.

7 Q What was said?

8 A He just asked me what happened.

9 Q What'd you say?

10 A I didn't really say nothing. I just said -- nothing.

11 Q Did you get out of the car?

12 A No, sir.

13 Q Eventually did you go back to the Palomino?

14 A Yes, sir.

15 Q What happened at the Palomino?

16 A KC and Deangelo got out of the car.

17 Q What did you and Rontae do?

18 A Stayed in the car.

19 Q Did you see where KC and Deangelo went?

20 A Into the Palomino.

21 Q And then what happened?

22 A After that, we were just -- we were in the car for

23 like 20 minutes.

24 Q When you say "we," you mean --

25 A Me and Rontae. And we were just talking back and

1 forth.

2 Q And eventually did you see either Deangelo or KC
3 again?

4 A I only seen KC come out first.

5 Q What did you see KC do?

6 A He was coming towards the van but changed his mind and
7 went to a taxi.

8 Q Did you see what KC did at the taxi?

9 A No. He probably told the taxi driver --

10 Q Well, not probably, just what you saw or what you
11 could actually hear.

12 A Just get in -- he got in the car and left.

13 Q What -- in the taxi?

14 A Yes.

15 Q Did you see Deangelo again?

16 A Yes, sir.

17 Q Tell us about that.

18 A He came back -- Deangelo came out and he got in the
19 driver's seat and asked us where KC was.

20 Q Did you tell him?

21 A We just told him that he left in a taxi cab.

22 Q Based on your experience with Deangelo, did Deangelo
23 appear upset or angry?

24 A Yeah.

25 Q Describe how he appeared that way to you.

1 A He was mad because he didn't get paid and he only got
2 paid a hundred dollars to go clean the car out.

3 Q Okay. What did you three do after he came back with
4 the hundred dollars?

5 A We just went to some -- some carwash place.

6 Q What happened then? What happened at the carwash?

7 A We washed the car and cleaned -- cleaned the inside.

8 Q You cleaned the inside?

9 A Yeah.

10 Q Well, what happened after you cleaned the inside?

11 A Nothing. We just got back in the car and went to --
12 back to Deangelo's house.

13 Q Now, back at the Palomino when Deangelo talked about
14 getting paid, did he indicate why anybody else got paid or didn't get
15 paid?

16 A No. He didn't indicate that.

17 Q Did he explain whether or not KC was paid?

18 A Yeah.

19 Q What did Deangelo say?

20 A He just said, Yeah. In his words -- excuse my
21 French -- but he said, Yeah, that nigger got paid.

22 Q Okay. Did he ever say an amount?

23 A Just six -- 6,000.

24 Q Was there a discussion about why you and Rontae
25 weren't paid or were paid?

1 A Because we didn't do nothing.
2 Q Were you paid?
3 A No.
4 Q Did you see Rontae get paid?
5 A No.
6 Q After the cleaning -- you said you cleaned the inside
7 of the van?
8 A Yes, sir.
9 Q What about the outside?
10 A Yes, sir.
11 Q Was anything else done to the van?
12 A Just the next day, we went to somebody's -- I forgot
13 whose house he said it was, but he went to go grab a knife and stab
14 all the tires.
15 Q When you say "he," who do you mean?
16 A Deangelo.
17 Q Which tires? Which car?
18 A On the Astro van.
19 Q Did you see Deangelo do this?
20 A Yes, sir.
21 Q And after Deangelo did this, what happened?
22 A He got in his car -- I don't know what kind of car it
23 was -- and he told me to drive the Astro van.
24 Q Was the Astro van driven to a body shop of some point?
25 A To a tire -- tire place.

1 Q Some sort of garage?

2 A Yeah.

3 Q Was something done with the tires?

4 A Yes, sir.

5 Q What was done?

6 A They were changed.

7 Q What happened to the tires that were slashed?

8 A Deangelo told the person that was changing the tires

9 to put them inside the car.

10 Q Okay. And were they put in the car?

11 A Yep.

12 Q And what happened to the tires after that?

13 A We went to go discard them at a 7-11.

14 Q Were the tires thrown away?

15 A Yes, sir.

16 Q Did you help Deangelo with that?

17 A Yes, sir.

18 Q And after the tires were thrown away, where did the

19 three of you go?

20 A We went back to Deangelo's house.

21 Q Do you know -- or did you see any more phone calls or

22 conversations back at Deangelo's?

23 A No, sir.

24 Q Did you and Rontae talk about what had happened?

25 A No. We were just -- he was just telling me, I knew

1 this wasn't right. I knew we should've never went.

2 Q Eventually on that date, did you leave Deangelo's
3 house or did you stay there?

4 A I left.

5 Q Did you make contact with Deangelo again after that?

6 A Yes, sir.

7 Q Did he approach you -- Deangelo approach you about
8 talking to the police?

9 A Yes, sir.

10 Q Tell us what happened and how that came about.

11 A I came back the same night and I seen him leaving in
12 a -- I don't know what kind of car it was. He was leaving and the
13 detectives asked him -- asked Deangelo if I was in the situation.
14 Deangelo said, No. Like two or three hours later, they came back and
15 I just pulled up too in -- on a bike.

16 Q When you say "they," who do you mean?

17 A Deangelo and Rontae.

18 Q Okay. Sorry I interrupted you. When you made contact
19 with Deangelo and Rontae, then what happened?

20 A Then we all went upstairs and they just told me to
21 tell them everything.

22 Q You say, "They told me to tell them."

23 A Yeah.

24 Q Who's "they"?

25 A Deangelo and Rontae.

1 Q And tell "they." Who's they?
2 A The detectives.
3 Q Okay. Did they tell you what to say?
4 A No, sir.
5 Q Did you eventually talk to the police?
6 A Yes, sir.
7 Q Did you give them a statement?
8 A Yes, sir.
9 Q Did you talk about what happened that day?
10 A Yes, sir.
11 Q Okay. When you gave that statement to the police,
12 were you arrested right then?
13 A No, sir.
14 Q Did you go home --
15 A Yes, sir.
16 Q -- or did you leave the police station?
17 A Yes, sir.
18 Q Later on were you, in fact, arrested?
19 A Yes.
20 Q And after being arrested, did you enter into a
21 negotiation with the State?
22 A Yes, sir.
23 Q Did you specifically plea to two charges?
24 A Yes, sir.
25 Q Did you plead to a conspiracy to commit murder?

1 A Yes, sir.

2 Q And to a voluntary manslaughter with use of a deadly
3 weapon?

4 A Yes, sir.

5 Q And as a part of that deal, was there a deal made
6 between you and the State as far as what the State would argue to the
7 judge?

8 A Say that one more time.

9 Q Was there a negotiation as to what the State would
10 argue as far as your sentence based on that deal?

11 A Yes, sir.

12 Q Did the State agree to have the two counts run
13 concurrent?

14 A Yes, sir.

15 Q Okay. Have you seen that guilty plea agreement?

16 A Yes, sir.

17 Q Is that the paperwork that represents that deal?

18 A Yes.

19 Q And that's the deal that you have between the State
20 and yourself?

21 A Yes, sir.

22 Q You've come here today to testify. Are you very
23 comfortable about being here today?

24 A No, sir.

25 Q Could you briefly explain why it is that you're

1 uncomfortable about being here today?

2 A I don't like this position.

3 Q Is it an uncomfortable position?

4 A Yes, sir.

5 Q As you sit here today, you're in CCDC blues. You're
6 in the detention center?

7 A Yes, sir.

8 Q Is that some of the reason why you're concerned?

9 A No, not really.

10 Q Okay. But you will admit that you are uncomfortable?

11 A Yes, sir.

12 Q All right. Going back, just kind of backtracking a
13 little bit, did you ever hear any conversations about baseball bats
14 or garbage bags?

15 A Yes, sir.

16 Q Tell us what you heard, when you heard it, and who you
17 heard it from.

18 A We heard it before we went to go pick up KC. Deangelo
19 told us that he called Anabel and Anabel was talking about baseball
20 bats and trash bags.

21 Q Okay. Was that information passed on to you?

22 A Yes, sir.

23 Q I'm showing you -- I believe it's Defense Proposed
24 Exhibit K. Jayson, do you recognize what that is?

25 A Yes, sir.

1 Q And what is that?
2 A A letter I wrote to a codefendant.
3 Q And who is it that you wrote it to?
4 A KC.
5 Q Do you see KC here in court today?
6 A Yes, sir.
7 Q Could you point to him and describe something he's
8 wearing.
9 A He's wearing -- he's wearing a blue or black -- a
10 suit, glasses.
11 MR. PESCI: Will the record reflect the identification of
12 Mr. Counts, Your Honor.
13 THE COURT: It will.
14 MR. PESCI: Thank you.
15 BY MR. PESCI:
16 Q Now, when you wrote this letter to Mr. Counts, what
17 was the purpose of writing that letter?
18 A Really just -- I didn't want to have problems with
19 him.
20 Q I'm sorry?
21 A Really I just didn't want no problems with him.
22 Q And coming to testify, that can make a problem?
23 A Yes, sir.
24 Q Okay. Now, going back to your statement to the
25 police, you said that you talked to Deangelo and Rontae before you

1 went to talk to the police. Do you remember that?

2 A Yes, sir.

3 Q All right. Now, was each and every single thing you

4 told the police completely accurate?

5 A No, sir.

6 Q All right. Specifically, did the police ask you about

7 the weapon that you had on your person that night?

8 A Yes, sir.

9 Q And what was your response to the police when you gave

10 the statement when you talked to them?

11 A That I bought it off the street.

12 Q Why did you say that?

13 A Because Deangelo told me to.

14 Q And there was a -- or there's something in there about

15 a .357. Do you remember talking to the police about a .357?

16 A Yes, sir.

17 Q Did you see a .357?

18 A No, sir.

19 Q What did you hear about the .357?

20 A Deangelo told me about it.

21 Q Okay. Did he tell you to say it was a .357 or was he

22 talking about it being a .357?

23 A He was talking about it being a .357.

24 Q All right. In your statement to the police, in parts

25 of it, are you telling the police that your intent was only to beat

1 Mr. Hadland?

2 A Yes, sir.

3 Q Okay. But in other parts did you describe what you

4 were going in to do as a hit?

5 A Yes, sir.

6 Q Did you understand the hit meaning more than to beat?

7 A Yes, sir.

8 Q Why were you telling the police at that time -- and I

9 believe that was back on May 21, 2005 -- that it was just a beat?

10 A Just to cover -- to cover that supposedly friends.

11 Q To cover friends?

12 A Yes, sir.

13 Q Were you trying to cover yourself?

14 A Yes, sir.

15 Q Were you concerned about you being arrested?

16 A Yes, sir.

17 Q Were you concerned with what would happen to you if

18 you explained what the hit was?

19 A Yes, sir.

20 Q Did Deangelo Carroll tell you how to testify?

21 A No, sir.

22 Q Did Deangelo Carroll ever tell you, Let's make up a

23 fourth person to save all of our skins?

24 A No, sir.

25 Q Did Deangelo Carroll tell you --

1 MR. WHIPPLE: Judge, leading at this point. Your Honor,
2 leading.

3 THE COURT: Well, it's a little bit leading, but...

4 BY MR. PESCI:

5 Q Were you ever asked to specifically implicate
6 Mr. Counts --

7 MR. WHIPPLE: Judge, again, leading.

8 THE COURT: Well, overruled. I mean, he has to ask it some
9 way.

10 Go on.

11 BY MR. PESCI:

12 Q Did Deangelo tell you to say anything about
13 Mr. Counts?

14 A No, sir.

15 Q Did you guys ever hatch a plan to cover yourselves and
16 implicate Mr. Counts?

17 MR. WHIPPLE: Again, leading, Your Honor. The same.

18 THE COURT: Overruled.

19 You can answer the question.

20 THE WITNESS: No, sir.

21 BY MR. PESCI:

22 Q Now, you talked to the police also a little bit about
23 the people that worked at the Palomino. Do you remember that?

24 A Yes, sir.

25 Q What did you understand as far as who Deangelo's boss

1 was?

2 A He just told me names about his boss.

3 Q What are some of the names that you heard?

4 A Luis and Anabel.

5 Q I'm sorry?

6 A Luis and Anabel.

7 Q Luis and Anabel?

8 A Yes, sir.

9 Q Did you ever meet Luis or Anabel?

10 A No. I only ran into Luis after the -- after this
11 situation.

12 Q Did you have a long conversation with him?

13 A No, sir.

14 Q Was it just a brief interaction?

15 A Yeah. It was just a greeting.

16 MR. PESCI: Pass the witness, Your Honor.

17 THE COURT: All right. Thank you, Mr. Pesci.

18 Mr. Whipple, cross.

19 MR. WHIPPLE: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. WHIPPLE:

22 Q Jayson, my name's Bret Whipple.

23 A How you doing?

24 Q I'm going to talk a little bit about your day today.

25 You woke up about 5:00 o'clock this morning?

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1 A 4:00.
2 Q I'm sorry?
3 A At 3:34.
4 Q Woke up at 3:30 this morning. You reside at the Clark
5 County Detention Center?
6 A Yes, sir.
7 Q You knew you were going to be testifying today?
8 A Yes, sir.
9 Q You spoke with these individuals?
10 A Yes, sir.
11 Q Spoke with them several times?
12 A Yes, sir.
13 Q Spoke with your attorney here in the back?
14 A Yes, sir.
15 Q Spoke with this investigator?
16 A Yes, sir.
17 Q Spoke with others -- spoke with their investigators?
18 A Who is that?
19 Q How many investigators did you speak with?
20 A Just one.
21 Q So you woke up at 3:30 and knew you were going to
22 testify; is that correct?
23 A Yes, sir.
24 Q And they transported you down here about 8:30,
25 correct?

1 A Yes, sir.
2 Q You've been sitting over there about 8:30 since this
3 morning?
4 A Yes, sir.
5 Q And you chose -- decided not to testify, correct?
6 MR. PESCI: Objection. Assumes facts not in evidence.
7 THE COURT: Overruled.
8 BY MR. WHIPPLE:
9 Q You chose not to testify, didn't you?
10 A I chose not to?
11 Q You chose not to --
12 THE COURT: Rephrase your question, Mr. Whipple. I think
13 it's kind of confusing.
14 BY MR. WHIPPLE:
15 Q Yeah. You were here at 8:30 this morning, correct?
16 A Yes, sir.
17 Q And you said you didn't want to testify?
18 A I made that assumption.
19 Q Correct. You didn't want to lie, right?
20 A What?
21 Q You didn't want to lie?
22 A Yes, sir.
23 Q Okay. And then you had some folks that came and
24 talked to you in there, right?
25 A Yes, sir.

1 Q And, in fact, some of those folks that came and talked
2 to you -- one's your father right here, right?

3 A Yes, sir.

4 Q This gentleman right here.

5 MR. WHIPPLE: Could you stand up for the record. Sir,
6 could you please stand up?

7 MR. PESCI: Judge, I'm going to object to --

8 THE COURT: Yeah. Your father is in the courtroom now and
9 he spoke with you this morning; is that right?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: All right. Go on, Mr. Whipple.

12 Sir, you can sit down.

13 BY MR. WHIPPLE:

14 Q Sure. In fact, you were back here locked in a little
15 room, right?

16 A Yes, sir.

17 Q And they had all these people that came and talked to
18 you, right, about 8:30, 9:00? There was a bunch of them, right?

19 A At 9:00.

20 Q Okay. At 9:00. In fact, there was this person here,
21 right?

22 A Yes.

23 Q There was this person here, right?

24 A Yes, sir.

25 Q And there was this person here, right here, right?

1 A No, sir.

2 Q This person here?

3 A Yes, sir.

4 Q What about this person?

5 A No. No, sir.

6 Q Okay. And then you're sitting there and you still
7 don't want to testify, right?

8

9 A It's possible.

10 Q You still didn't want to testify, so then they brought
11 you out again, right? Do you remember that? They brought you out
12 again, right?

13 A Yes, sir.

14 Q Okay. And it was because your father couldn't go
15 testify -- the officer here wouldn't let your father back there with
16 you, would he?

17 A No, sir.

18 Q And so they made special arrangements for you,
19 Mr. Taoipu, at 9:00 o'clock this morning, didn't they?

20 A Yes, sir.

21 Q Have you ever, in your entire time that you've been
22 here at the Clark County Detention Center, ever seen a father come
23 talk to a person that's been in the Clark County Detention Center?

24 A Not to my knowledge.

25 Q Have you ever heard -- ever heard of the father being