1	IN THE SUPREME COURT ()F THE STATE ()F NFVA DA	
2				
3	EVARISTO JONATHAN GARCIA,	Supreme Court C	Case No.: 64221 Electronically Filed	
4 5	Appellant,		Jun 16 2014 10:21 a.m.	
6	VS.		Tracie K. Lindeman Clerk of Supreme Court	
7	THE STATE OF NEVADA,			
8	Respondent.			
9				
10				
11		- /		
12	APPELLANT'	S APPENDIX		
13	VOLUMI	E 1 of 11		
14 15	(BATES	1-182)		
16				
17				
18				
19	Ross C. Goodman, Esq. GOODMAN LAW GROUP			
20	A PROFESSIONAL CORPORATION 520 SOUTH FOURTH STREET, 2^{ND} FL.			
21	Las Vegas, Nevada 89101			
22	Telephone: 702-383-5088 Facsimile: 702-385-5088			
23	Емац: <u>ross@goodmanlawgroup.com</u>	:		
24 25	ATTORNEY FOR APPELLANT, EVARISTO JONATHAN GARCIA			
26				
27				
28				
DUP ition Fl.				
FL 101		Docket 64221	Document 2014-19691	
I				

GOODMAN LAW GROUP A Professional Corporation 520 S. Fourth St., 2nd Fl. Las Vegas, Nevada 89101 (702) 383-5088

-

•

IN	THE SUPREME COURT	OF THE SI	TATE OF NE	VADA
		Supreme (Court Case No	o.: 64221
	Appellant,			
vs.		APPELLA	ANT'S APPI	ENDIX
THE ST.	ATE OF NEVADA,			
	Respondent.			
VOLUME	PLEADING		PAGE NO.	<u>Date</u>
1	Amended Indictment		43-44	03-17-2011
11	Case Appeal Statement		2092-2094	10-11-2013
1	Court Minutes (Calendar C	all)	45-46	03-17-2011
1	Court Minutes (Calendar C	all)	47-48	04-26-2012
1	Court Minutes (Calendar C	all)	49-50	09-13-2012
2	Court Minutes (Calendar C	all)	292-293	06-27-2013
10	Fourth Amended Indictmen	nt	1850-1852	07-12-2013
1	Indictment		1-6	03-19-2010
10	Instructions to Jury		1858-1893	07-16-2013
11	Judgment of Conviction	······································	2088-2089	09-11-2013
2, 3, 4	Jury Trial Transcript		297-700	07-08-2013
4, 5	Jury Trial Transcript		701-972	07-09-2013
5, 6, 7	Jury Trial Transcript		976-1267	07-10-2013
7,8	Jury Trial Transcript		1268-1515	07-11-2013
8, 9, 10	Jury Trial Transcript		1516-1849	07-12-2013
10, 11	Jury Trial Transcript		1894-2016	07-15-2013
	EVARIS GARCIA vs. THE ST. VOLUME 1 1 1 1 1 2 10 1 1 2 10 1 1 2 3,4 4,5 5,6,7 7,8 8,9,10	EVARISTO JONATHAN GARCIA, Appellant, vs. THE STATE OF NEVADA, Respondent. VOLUME PLEADING 1 Amended Indictment 11 Case Appeal Statement 1 Court Minutes (Calendar C 1 Indictment 10 Fourth Amended Indictmer 1 Indictment 10 Instructions to Jury 11 Judgment of Conviction 2, 3, 4 Jury Trial Transcript 4, 5 Jury Trial Transcript 5, 6, 7 Jury Trial Transcript 7, 8 Jury Trial Transcript 8, 9, 10 Jury Trial Transcript	EVARISTO JONATHAN GARCIA,Supreme CAppellant,Appellant,vs.APPELLATHE STATE OF NEVADA, Respondent.APPELLAVOLUMEPLEADING1Amended Indictment11Case Appeal Statement1Court Minutes (Calendar Call)1Court Minutes (Calendar Call)1Court Minutes (Calendar Call)1Court Minutes (Calendar Call)1Court Minutes (Calendar Call)1Indictment1Indictment1Indictment1Judgment of Conviction2, 3, 4Jury Trial Transcript4, 5Jury Trial Transcript5, 6, 7Jury Trial Transcript7, 8Jury Trial Transcript8, 9, 10Jury Trial Transcript	GARCIA,Supreme Court Case Not Appellant,Vs.APPELLANT'S APPHTHE STATE OF NEVADA, Respondent.PAGE NO.1Amended Indictment43-4411Case Appeal Statement2092-20941Court Minutes (Calendar Call)45-461Court Minutes (Calendar Call)47-481Court Minutes (Calendar Call)49-502Court Minutes (Calendar Call)49-502Court Minutes (Calendar Call)292-29310Fourth Amended Indictment1850-18521Indictment1-610Instructions to Jury1858-189311Judgment of Conviction2088-20892, 3, 4Jury Trial Transcript297-7004, 5Jury Trial Transcript976-12677, 8Jury Trial Transcript1268-15158, 9, 10Jury Trial Transcript1516-1849

i

11	Motion for Acquittal or in the Alternative, Motion for New Trial	2019-2033	07-22-2013
1	Motion for Evidentiary Hearing to Determine Competency of State's Primary Witness and Order Compelling Production of Medical Records and Psychological Examination and Testing to Determine Extent of Memory Loss	68-154	09-27-2012
1	Motion to Suppress In-Court Identification Pursuant to NRS 174- 125(1)	51-67	09-25-2012
11	Notice of Appeal	2090-2091	10-11-2013
1	Reply in Support of Motion to Suppress In-Court Identification Pursuant to NRS 174.125(1)	180-182	10-08-2012
1	Reporter's Transcript of Proceedings	7-42	09-21-2010
11	(All Pending Motions – Motion to Sever, Motion in Limine to Preclude Admission of Photographs, Defendant's Motion for Discovery, Motion to Compel Disclosure of Existence and Substance of Expectations, or Actual Receipt of Benefits or Preferential Treatment for Cooperation with Prosecution, Motion to Federalize All Motions, Objections, Requests and Other Applications, Motion to Exclude Other Bad Acts, Character Evidence and Irrelevant Prior Criminal Activity, Motion to Allow Jury Questionnaire, Motion to Bar Improper Prosecutorial Argument, Motion to Allow Defendant's IQ Assessment to be Utilized at the Time of Trial and Notice of Motion and Motion for Reciprocal Discovery)	2024 2059	09 01 2012
11	Reporter's Transcript of Proceedings (Motion for Acquittal or in the Alterative, Motion for New Trial	2034-2058	08-01-2013
		[Ī

1	2	Reporter's Transcript of Proceedings	244-291	10-30-2012
2 3		(Motion for Evidentiary Hearing to Determine Competency of State's Primary Witness and Order Compelling Production of Medical Records and Psychological Examination and Testing to Determine Extent of Memory Loss and Motion to Suppress In-Court		
4	2	Primary Witness and Order		
5		Records and Psychological Examination and Testing to		
6		Determine Extent of Memory Loss and Motion to Suppress In-Court		
7		and Motion to Suppress In-Court Identification Pursuant to NRS 174.125(a))		
8	11	Reporter's Transcript of Sentencing	2065-2087	08-29-2013
9	2	Second Amended Indictment	294-296	07-08-2013
10	11	Sentencing Memo	2059-2064	08-14-2013
11	10	State's Opposition and Written Record in Response to Defendant's Oral Motion for Mistrial	1853-1857	07-15-2013
12		Oral Motion for Mistrial		
13 14	2	State's Opposition to Defendant's Motion for Evidentiary Hearing to	183-243	10-23-2012
15 16 17		Determine Competency of State's Primary Witness and Order Compelling Medical Records and Psychological Examination and Testing to Determine Extent of Memory Loss		
18 19	1	State's Opposition to Defendant's Motion to Suppress In-Court Identification Pursuant to NRS 174.215(1)	155-179	10-04-2012
20	5	Third Amended Indictment	973-975	07-09-2013
21	11	Verdict	2017-2018	07-15-2013
22				
23				
24				
25				
26				
27				
28				
		iii		

-	ORIGINAL O
1 2 3 4 5 6	IND DAVID ROGER Clark County District Attorney Nevada Bar #002781 SONIA V. JIMENEZ Chief Deputy District Attorney Nevada Bar #008818 200 Lewis Avenue Las Vegas, Nevada 89155-2212 (702) 671-2500 Attorney for Plaintiff
7 8	DISTRICT COURT
9	CLARK COUNTY, NEVADA
10	THE STATE OF NEVADA,)
11	Plaintiff,
12	-vs- -vs- Case No. C262966 Dept. No. XV
13	EVARISTO JONATHAN GARCIA.
14	#2685822, MANUEL ANTHONY LOPEZ, #1994518
15	$\langle \cdot \rangle$
16	Defendant(s).
17	
18	STATE OF NEVADA ss. COUNTY OF CLARK
19 20	The Defendant(s) above named, EVARISTO JONATHAN GARCIA and MANUEL
20	ANTHONY LOPEZ, accused by the Clark County Grand Jury of the crimes of
22	CONSPIRACY TO COMMIT MURDER WITH THE INTENT TO PROMOTE,
23	FURTHER OR ASSIST A CRIMINAL GANG (Category B Felony - NRS 200.010,
24	200.030, 199.480, 193.168, 193.169) and MURDER WITH USE OF A DEADLY
25	WEAPON WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL
26	GANG (Category A Felony - NRS 193.168, 193.169, 200.010, 200.030, 200.450 193.165),
27	committed at and within the County of Clark, State of Nevada, on or about the 6th day of
28	February, 2006, as follows:

APP 000001

<u>COUNT 1</u> – CONSPIRACY TO COMMIT MURDER WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG

Defendants did then and there wilfully, unlawfully, feloniously, and knowingly, for the benefit of, at the direction of, or in affiliation with a criminal gang, to wit: PUROS LOCOS, which has as one of its common activities engaging in felonious criminal activities other than the conduct which constitutes the primary offense, and the defendants with specific intent to promote, further, or assist the activities of the above said gang, did then and there meet with each other and/or GIOVANNY GARCIA aka Yobani Borradas and between themselves, and each of them with the other, willfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit: murder, and in furtherance of said conspiracy, defendants did commit the acts as set forth in Count 2, said acts being incorporated by this reference as though fully set forth herein.

13 14

ł

2

3

4

5

6

7

8

9

10

11

12

<u>COUNT 2</u> – MURDER WITH USE OF A DEADLY WEAPON WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG

15 Defendants did then and there wilfully, unlawfully, feloniously, and knowingly, for 16 the benefit of, at the direction of, or in affiliation with a criminal gang, to wit: PUROS 17 LOCOS, which has as one of its common activities, engaging in felonious criminal activities. 18 other than the conduct which constitutes the primary offense, and the defendant with specific 19 intent to promote, further, or assist the activities of the above said gang, did then and there 20 wilfully, feloniously, without authority of law, and with malice aforethought, kill VICTOR 21 GAMBOA, a human being, by shooting at and into the body of the said VICTOR 22 GAMBOA, with a deadly weapon, to-wit: a firearm; said killing having been (1) willful, 23 deliberate, and premeditated; and/or (2) said death ensuing following Defendants giving 24 and/or sending and/or accepting a challenge to fight and/or said death ensuing during a fight 25 that occurred upon previous concert and agreement; and/or (3) said killing resulting by 26 Defendants committing an unlawful act which, in its consequences, naturally tends to 27 destroy the life of a human being and/or is committed in the prosecution of a felonious 28 intent, to-wit: discharging firearm where person endangered and/or battery with use of a

P:\WPDOCS\IND\611\61137801.doc

APP 000002

deadly weapon and/or assault with use of a deadly weapon; said Defendants being 1 2 responsible under one or more of the following principles of criminal liability, to-wit: (1) by 3 directly committing the act and/or (2) by conspiring with each other and/or with 4 GIOVANNY GARCIA aka Yobani Borradas to commit murder whereby each is vicariously liable for the acts of the other which are the object of the conspiracy and/or (3) by conspiring 5 6 with each other and/or with GIOVANNY GARCIA aka Yobani Borradas to commit the 7 crimes of battery and/or assault whereby each is vicariously liable for the foreseeable acts of 8 the others made in furtherance of the conspiracy and/or (4) by Defendants aiding or abetting 9 in the commission of the crime by entering into a course of conduct whereby GIOVANNY 10 GARCIA aka Yobani Borradas while at Morris East Sunset High School contacted one or 11 both of the Defendants via cellular telephone to inform them of the fight to take place after 12 school, where both Defendants accompanied each other to the school in the vehicle of 13 Defendant MANUEL ANTHONY LOPEZ, Defendants bringing with them a firearm, 14 whereafter Defendants and GIOVANNY GARCIA aka Yobani Borradas engaged in a fist fight with others, including VICTOR GAMOBA, at the school, Defendants therafter chasing 15 16 VICTOR GAMBOA and GIOVANNY GARCIA aka Yobani Borradas telling Defendant 17 EVARISTO JONATHAN GARCIA to give him the handgun, Defendant EVARISTO 18 JONATHAN GARCIA neglecting to do so, whereupon Defendant GIOVANNY GARCIA 19 aka Yobanni Borradas told Defendant EVARISTO JONATHAN GARCIA "shoot him, shoot him fucker" or words to that affect, at which time Defendant EVARISTO JONATHAN 20 GARCIA fired said firearm numerous times at VICTOR GAMBOA, striking him one time, 21 22 thereafter Defendant EVARISTO JONATHAN GARCIA fleeing from the scene on foot 23 with the firearm, and one or both of Defendants disposing of the firearm in a nearby 24 abandoned toilet, thereafter fleeing the scene together in Defendant MANUEL ANTHONY 25 111

- 26 ///
- 27 ///
- 28 ///

P:\WPDOCS\IND\611\61137801.doc

LOPEZ's vehicle, Defendants acting in concert throughout, each supporting, counseling and encouraging the others in the commission fo the crime by their presence, words and actions. DATED this _/ the day of March, 2010. DAVID ROGER DISTRICT ATTORNEY Nevada Bar #002781 б BY Chief Deputy District Attorney Nevada Bar #008818 ENDORSEMENT: A True Bill Foreperson, Clark County Frand Jury P:\WPDOCS\IND\611\61137801.doc APP 000004

-		
1	Names of witnesses testifying before the Gran	nd Jury:
2	TELGENHOFF, GARY	MD - PATHOLOGIST
3	SPEAS, WILLIAM	LVMPD – CSI
4	SPOOR, MONTE	LVMPD – CSI
5	SZUKIEWICZ, JOSEPH	LVMPD – CSI
6	GAMBOA, Melissa	217 N. 20 th St., LV, NV
7	MARQUEZ, GENA	
8	HARPER, Jonathan	C/O LVMPD #5096
9	MORALES, ANDREA	
10	SOUDER, MICHAEL	LVMPD
11	HARPER, JONATHAN	
12	MECEO, ALICE	
13	ROBINSON, Jonathan	4660 Cliff Breeze Dr., LV, NV
14	PEREZ, CRYSTAL	
15	MOGG, C. H.	LVMPD #5096
16	Additional witnesses known to the District At	torney at time of filing the Indictment:
17	BORRADAS, Yobani	6307 Elvido Ave., LV, NV
18	CAVILLO, Edshel	4325 S. Bruce, #19, LV, NV
19	CUSTODIAN OF RECORDS or Designee	Clark County Detention Center
20	CUSTODIAN OF RECORDS or Designee	CORONER'S OFFICE
21	CUSTODIAN OF RECORDS or Designee	LVMPD Communications
22	CUSTODIAN OF RECORDS or Designee	LVMPD Records
23	CUSTODIAN OF RECORDS or Designee	UMC RECORDS
24	EICHELBERGER, Dan	3801 E. Washington Av., LV, NV
25	GARCIA, Oscar	2225 McCarren St, #B, LV, NV
26	GRAVES, Betty	2540 Tuskegue, LV, NV
27	HARDY, K. W.	LVMPD #3031
28	LOPEZ, Manuel A.	6247 Elvido Ave., LV, NV
		5

; ·

P:\WPDOCS\IND\611\61137801.doc

APP 000005

....

5

. . ..

, 		
1	MARQUEZ, Bryan	200 Cervantes St., LV, NV
2	PARENT or GUARDIAN of Edshel Cavillo	4325 S. Bruce, #19, LV, NV
3	PARENT or GUARDIAN of Melissa Gamboa	
4	SIMMS, Larry	Clark County Coroner's Office
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26	00D C 1047 A D /06E 1 278 A /10E03640Y/mi/CI	
27	09BGJ047A-B/06F11378A/10F03640X/mj/GJ LVMPD EV#0602062820; 0602090797 (TK5)	
28	(TK5)	
	6	P:\WPDQCS\IND\611\61137801.doc
		APP 000006
I	U Contraction of the second seco	

1 CASE NO. C262966-1 and C26986-2 FILED1 2 DEPT NO. XV DISTRICT COURT DISTRICT COURT 3 DISTRICT COURT CLARK COUNTY, NEVADULEM OF THE COURT 4 CLARK COUNTY, NEVADULEM OF THE COURT 5 THE STATE OF NEVADA,) 7 Plaintiff, 8 VS. 9 EVARISTO GARCIA, 10 Defendant. 11 Defendant. 12 BEFORE THE HON. ABBI SILVER, DISTRICT COURT JUDGE 13 SEPTEMBER 21, 2010 14 SEPTEMBER 21, 2010 15 SEPTEMBER 21, 2010 16 Plaintiff: 17 APPEARANCES: 18 For the Plaintiff: 19 Deputy District Attorney 10 Defendant: 12 Scott Bindrup, Esg. 13 John Monot, Esg. 14 Lance Maningo, Esg. 15 John Melendez, CCE No. 370 16 John Melendez, CCE No. 370		
3 DISTRICT COURT Jun Hilling 4 CLARK COUNTY, NEVADDLLERK OF THE COURT 5 THE STATE OF NEVADA,) 7 Plaintiff, REPORTER'S TRANSCRIPT 8 vs. OF 9 EVARISTO GARCIA, REPORTER'S TRANSCRIPT 10 Defendant. Intervent 11 Intervent Intervent 12 BEFORE THE HON. ABBI SILVER, DISTRICT COURT JUDGE 13 SEPTEMBER 21, 2010 14 9:00 A.M. 15 Deputy District Attorney 16 John Momot, Esq. 17 APPEARANCES: 18 For the Defendant: Scott Bindrup, Esq. 19 For the Defendant: Scott Bindrup, Esq. 20 For the Defendant: Scott Bindrup, Esq. 21 Lance Maningo, Esq. 22 Reported by: JoAnn Melendez, CCR No. 370	1	
4 CLARK COUNTY, NEVADALEAK OF THE COURT 5 6 THE STATE OF NEVADA,) 7 Plaintiff, 8 vs. 6 EVARISTO GARCIA, 10 Defendant. 11 12 12 BEFORE THE HON. ABBI SILVER, DISTRICT COURT JUDGE 13 14 15 16 17 APPEARANCES: 18 For the Plaintiff: Sonia Jiminez, Esg. 19 10 10 10 11 12 12 13 14 15 16 17 APPEARANCES: 18 For the Plaintiff: Sonia Jiminez, Esg. 19 19 10 10 10 10 10 10 10 10 10 10	2	DEPT NO. XV UNICINVAL OCT 18 3 59 PH '10
5 6 7 7 7 7 8 7 9 8 7 9 9 9 9 9 9 9 9 9 9 9 9 9	3	DISTRICT COURT
<pre>6 THE STATE OF NEVADA,) 7 Plaintiff, 8 vs. 0F 9 EVARISTO GARCIA, 10 Defendant. 11 12 12 13 14 15 15 15 16 17 APPEARANCES: 16 For the Plaintiff: Sonia Jiminez, Esq. 16 17 APPEARANCES: 18 For the Defendant: Scott Bindrup, Esq. 19 John Monot, Esq. 10 John Monot, Esq. 11 John Monot, Esq. 12 John Monot, Esq. 13 John Monot, Esq. 14 John Monot, Esq. 15 John Monot, Esq. 16 Reported by: Johnn Melendez, CCR No. 370 25 CEVED</pre>	4	CLARK COUNTY, NEVADACLERK OF THE COURT
<pre>7 Plaintiff, 8 vs. 9 EVARISTO GARCIA, MANUEL A. LOPEZ, 10 10 Defendant. 11 12 13 14 15 16 17 APPEARANCES: 18 19 10 10 10 10 10 10 10 10 10 10</pre>	5	
8 vs. OF 9 EVARISTO GARCIA, MANUEL A. LOPEZ, PROCEEDINGS 10 Defendant. Interview insusful Reporter insusful Defendant. Interview insusful Reporter insusful SEPTEMBER 21, 2010 11 0 9:00 A.M. 12 BEFORE THE HON. ABBI SILVER, DISTRICT COURT JUDGE 13 SEPTEMBER 21, 2010 14 9:00 A.M. 15 Deputy District Attorney 16 Deputy District Attorney 17 APPEARANCES: 18 For the Defendant: 20 For the Defendant: 21 Lance Maningo, Esg. 22 Lance Maningo, Esg. 23 Reported by: 24 Reported by: 25 ToAnn Melendez, CCR No. 370	6	THE STATE OF NEVADA,)
<pre>8 vs.) OF 9 EVARISTO GARCIA,) MANUEL A. LOPEZ,) 10 11 12 13 14 15 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 APPEARANCES: 16 17 10 10 10 10 10 10 10 10 10 10</pre>	7	
<pre>9 EVARISTO GARCIA,) MANUEL A. LOPEZ,) 10 11 12 12 13 14 15 15 16 16 17 18 16 17 19 19 10 19 10 10 10 10 10 10 10 10 11 10 11 10 11 10 11 12 12 13 14 15 16 16 17 14 15 16 17 14 15 16 17 14 15 16 17 14 15 16 17 14 15 16 17 14 15 16 17 14 15 16 17 14 15 16 17 14 15 16 17 14 15 16 17 14 15 16 17 14 15 16 17 17 18 19 10 19 10 10 10 10 10 10 10 10 10 10 10 10 10</pre>	8	vs.) OF
10 Defendant. 11 Image: Transector transector toggsst toggst	9	EVARISTO GARCIA,) MANUEL A LOPEZ) 10C262966-1
11	10) Reporters Transcript
BEFORE THE HON. ABBI SILVER, DISTRICT COURT JUDGE SEPTEMBER 21, 2010 9:00 A.M. APPEARANCES: For the Plaintiff: Sonia Jiminez, Esg. Deputy District Attorney For the Defendant: Scott Bindrup, Esg. John Momot, Esg. Lance Maningo, Esg. Reported by: JoAnn Melendez, CCR No. 370 ECEIVED	11	
<pre>13 14 14 15 16 17 APPEARANCES: 18 For the Plaintiff: Sonia Jiminez, Esq. 19 20 For the Defendant: Scott Bindrup, Esq. 20 20 For the Defendant: Scott Bindrup, Esq. 21 20 21 22 23 24 Reported by: JoAnn Melendez, CCR No. 370 25 CENCED</pre>	12	
<pre>14 9:00 A.M. 15 16 17 APPEARANCES: 18 For the Plaintiff: Sonia Jiminez, Esq. Deputy District Attorney 19 20 For the Defendant: Scott Bindrup, Esq. 21 John Momot, Esq. 21 Lance Maningo, Esq. 22 23 24 Reported by: JoAnn Melendez, CCR No. 370 25 ECEIVED</pre>	13	
<pre>15 16 17 APPEARANCES: 18 For the Plaintiff: Sonia Jiminez, Esq. 19 20 For the Defendant: Scott Bindrup, Esq. 21 John Momot, Esq. 21 Lance Maningo, Esq. 22 23 24 Reported by: JoAnn Melendez, CCR No. 370 25 CENVED</pre>	14	
<pre>17 APPEARANCES: 18 For the Plaintiff: Sonia Jiminez, Esq. Deputy District Attorney 19 20 For the Defendant: Scott Bindrup, Esq. John Momot, Esq. Lance Maningo, Esq. 22 23 24 Reported by: JoAnn Melendez, CCR No. 370 25 CEIVED</pre>	15	9:00 A.M.
<pre>18 For the Plaintiff: Sonia Jiminez, Esq. Deputy District Attorney 19 20 For the Defendant: Scott Bindrup, Esq. John Momot, Esq. Lance Maningo, Esq. 22 23 24 24 25 Reported by: JoAnn Melendez, CCR No. 370 25 CEIVED</pre>	16	
Deputy District Attorney Peputy District Attorney Por the Defendant: Scott Bindrup, Esq. John Momot, Esq. Lance Maningo, Esq. Reported by: JoAnn Melendez, CCR No. 370 CEIVED	17	APPEARANCES:
<pre>19 20 For the Defendant: Scott Bindrup, Esq. 21 John Momot, Esq. 22 23 24 24 25 Reported by; JoAnn Melendez, CCR No. 370 25 ECEIVED</pre>	18	
John Momot, Esq. Lance Maningo, Esq. 22 23 24 Reported by: JoAnn Melendez, CCR No. 370 25 CEIVED	19	Deputy District Attorney
21 Lance Maningo, Esq. 22 23 24 Reported by: JoAnn Melendez, CCR No. 370 ECEIVED	20	
23 24 25 ECEIVED	21	
24 Reported by: JoAnn Melendez, CCR No. 370 CEIVED	22	
25 Reported by: JoAnn Melendez, CCR No. 370 ECEIVED	23	
25 ECEIVED	24	
Υ΄.	25	Reported by: JoAnn Melendez, CCR No. 370
T 1 B 2010 JO ANN MELENDEZ (702) 283-2151		
	ICT 182	2010 JO ANN MELENDEZ (702) 283-2151

CLERK OF THE COURT

APP 000007

LAS VEGAS, CLARK COUNTY, NV, SEP. 21, 2010 1 2 9:00 A.M. 3 -000-4 PROCEEDINGS 5 6 THE COURT: All right. Let's start 7 with -- we're on State versus Evaristo Garcia, 8 Manuel Lopez. C262966-1 and 2. 9 Let the record reflect that they're 10 both present in custody with their counsels. Mr. 11 Garcia has Mr. Schieck's office, Mr. Bindrup; and 12 also Mr. Maningo is representing Mr. Lopez. And 13 you're -- and Mr. Momot is --14MR. BINDRUP: Mr. Momot is co-counsel on 15Garcia. 16 THE COURT: Okay. Mr. Momot's also 17 present. So these are on for several motions. And 18 I guess I'll start with what's on calendar, motion 19 to sever trials. 20 MR. BINDRUP: Yes, Your Honor, I think 21 that's clear enough. All I would add to the extra 22 point, if Your Honor remembers, the first time these 23 two appeared in court, there were some problems. 24 And I have two pages --25 THE COURT: Well, there were two

JO ANN MELENDEZ (702) 283-2151

APP 000008

different grand jury's on that, right? There was --1 $\mathbf{2}$ I'm sorry. There was a superseding indictment on 3 it. MR. BINDRUP: Yes. And when they went to 4 5 court, I have two pages of photographs with injuries that were incurred by my client, Mr. Garcia, from 6 "7 that particular day just because of the animosity I 8 quess that was brought up. This is while they were 9 being brought to court and I believe Your Honor had 10 them both separated for that date. 11 That is just an additional factor 12 that I would like to bring to the court's attention 13 that was not in my motion, but I believe that 14 clearly this is a case that should be severed and 15 they're not similarly situated and I believe that a severance is warranted under these circumstances. 16 17 THE COURT: State? MS. JIMINEZ: Judge, they haven't given a 1.8 19 single legal basis to grant the motion for a 20 severance. I mean they claim that negative defenses are sufficient. There hasn't been an allegation of 21 22 a specific trial right that has been violated. 23 The defendants had been transported together since that first date a couple of occasions 24 25 with no problems. And that's certainly their choice

JO ANN MELENDEZ (702) 283-2151

APP 000009

how they behave with each other or how they should 1 2 behave around a jury is something that's their 3 choice, but I don't think that that's a basis 4 whatsoever to grant a severance in this case. 5 The law supports and recommends 6 joint trials and I don't think they've given a basis 7 to grant a severance here. THE COURT: All right. The defendants' 8 Ĝ motion to sever the trial is denied. Pursuant to 1.0Richardson versus March, the conversation clause is 11 not violated. There has to -- when there has been sufficient redaction of a co-defendant's confession. 12 13 And additionally, according to 14 Rolling versus State, the defenses must be 15 antagonistic to the point that they're mutually 16 exclusive. And they have not alleged that to the 17 level where the Court feels it's necessary to sever 18 the trial in regards to conspiracy to commit murder 19 and murder. 20 And at this point, I've read the 21 writs of habeas corpus on this, I don't find that 22 severance is necessary in this particular case. So that motion's denied. 23 24 All right. The motion, the defense 25 motion in limine to preclude admission of

JO ANN MELENDEZ (702) 283-2151

APP 000010

1 photographs.

2	MR. BINDRUP: I just would like to point
3	out that the victim in this case died and as a
4	result of receiving a single gunshot to the back of
5	the head.
6	Okay. As such, the State normally
7	likes to put in a large number but because of this
8	particular wound, a limited amount of photographs
9	only should be allowed. And we'd ask the State to
10	disclose that once trial starts to us, so we can
11	look at what they're planning on introducing.
12	THE COURT: State?
13	MS. JIMINEZ: Well, I'd just say it's
14	premature at this date at this point, Your Honor.
15	I mean, we're gonna get the photos together, we'll
16	show them to the defense, the court's gonna make a
17	ruling on it.
18	Generally we just, for autopsy
19	purposes, we only admit the photos necessary to show
20	the wounds. And we'll have to make a record at that
21	time, but it's premature at this point to ask the
22	court to rule on something that's not even before
23	you.
24	THE COURT: I would agree it's denied at
25	this point without prejudice. I mean, you can

JO ANN MELENDEZ (702) 283-2151

APP 000011

certainly renew if it gets to be cumulative or 1 2 repetitive or -- obviously autopsy photographs, there's a long line of cases that it's proper in 3 murder cases. 4 At this point, it's premature. 5 I'11 deny it. And we'll see what they do at trial, but 6 7 you can renew it at trial if it becomes necessary. MR. BINDRUP: Thank you. 8 THE COURT: All right. Defense motion 9 10 for discovery. 11 MR. BINDRUP: This is just to make sure 12 that issues --THE COURT: I have --1.3 14 MR. BINDRUP: -- are preserved. I would ask the State -- this was brought up before for a 15 16 time certain to go to the evidence vault. And so I'd ask the State to please accommodate us if 17 18 possible --1.9 THE COURT: Sure. MR. BINDRUP: -- within the next 20 two-to-three weeks, so that we can review those 21 22 items. And additionally, although I've 23 reviewed their file, I believe that it was like last 24 25 year or awhile back.

JO ANN MELENDEZ (702) 283-2151

APP 000012

THE COURT:Yeah, you probably need tore-review that.

3 MR. BINDRUP: I'd ask that probably a few 4 weeks before trial that they also accommodate us and 5 set a time that we can go and make sure that we do 6 have any discovery that has straggled in since that 7 point.

8 MS. JIMINEZ: And that's fine, judge. 9 Both counsel are always fine to make an appointment 10 with me to come in and see the file. I know Mr. 11 Maningo's a little late on the case so I'm sure he 12 wants to come and review it. I don't think we've 13 done one before. I'd be happy to facilitate another 14 view as necessary.

THE COURT: All right. Defense motion 15 to -- for discovery is granted. It appears at this 16 point State's complied with all the discovery rules 17in Brady and states she has no opposition to you 18 reviewing her file in her office by appointment as 19 well as the evidence vault which is routine in these 20 types of case. If it becomes a problem, please put 21 22 it on calendar.

All right. Defense motion to compel
disclosure of existence and substance of
expectations or actual receipt of benefits or

JO ANN MELENDEZ (702) 283-2151

APP 000013

preferential treatment for cooperation with 1 2 prosecution. MR. BINDRUP: I have nothing to add to 3 4 that, Your Honor. 5 THE COURT: I can go through each one. б Well, at least some of the items that I saw. On 7 item number one, all written or recorded statements, confession or admissions made by defendant to any 8 9 person or copies thereof, including comments at the time of his arrest, et cetera, and transportation to 10 11 CCDC, I'm gonna grant that. It looks like the State 12 has complied with that. Item two, défense request 13 substantive statements made by defendant which they 14 15 intend to use as evidence, including jailhouse 16 conversations, I'm gonna grant that. It appears 17 that the State's complied with that. 18 There's another item, item six, 19 copies of statements given by the State witnesses. 20 Just State's witnesses in the case, I'm gonna grant that because I think that complies with the statute. 21 In any case whatsoever in the 22 23 universe, I don't think that -- I think that's well outside that. I mean unless they, it's, it's within 24 25 their control, that part's gonna be denied.

JO ANN MELENDEZ (702) 283-2151

APP 000014

Item 7(b) which is criminal records 1 of the State's witnesses, what I'm gonna do is deny 2 it in part and grant it in part. It's granted 3 pursuant to NRS 50.095. They certainly have a duty 4 5 to provide you with that type of impeachment 6 evidence. 7 As far as the NCIC and handing you 8 over and disseminating the NCIC, it's not proper for 9 them to do that. I'm gonna deny the motion in that 10 respect. 11 On item 7(c), motion to compel disclosure of existence and substance of 12 expectation, I'm gonna grant that. It looks like 13 14 they have in fact complied with that and they've 15 given you all the promises and benefits and 16 cooperation of benefits. So I think that the moving papers reflect that the State has complied with 17 18 that. Is there anything further for the 19 record on that? So it's basically granted in part, 20 21 denied in part. 22 MR. MOMOT: Your Honor, just one point as -23 to the scope or the NCIC. Could I make application 24 to the court, if the court just reviewed in camera 25 the NCIC because I think if there are acts of

JO ANN MELENDEZ (702) 283-2151

APP 000015

1 dishonesty, we will be --

2 THE COURT: Here's the thing: NCIC is 3 brutal. Especially you got somebody named Garcia, 4 are you kidding me, you would never even know who they're talking about. It may or may not be the S 6 Garcia. I mean, NCIC is just hard. It's so problematic. I just don't know if that would even 7 be the right one. 8

9 MR. MOMOT: I'll just try to --10 THE COURT: I couldn't tell, okay. Ι 11 read them for years and I couldn't tell, you know. 12 I mean, arguably I looked at NCICs for 15 years and 13 to say that this is the same Garcia or the same 14 Lopez, I mean that's like saying Smith. You know, it's just forget it. It's just not gonna be 15 beneficial. 16

And even if it says that there was a crime of dishonesty, how do you know it's the same one unless you get fingerprinted and a pen pack. I mean, it's problematic in NCIC.

I've got to believe that witnesses have been run by the investigators using NCIC and using tools. And if in fact they have priors, they have to comply with NRS because then it is at their disposal.

JO ANN MELENDEZ (702) 283-2151

APP 000016 .

I can't give -- I can't order them 1 to give you NCIC, but they are ordered to give any 2 kind of impeachment evidence pursuant to NRS under 3 4 that impeachment statute. 5 So if, if their investigators have 6 run somebody and they know this person has a felony 7 out of Florida because their investigators do use NCIC and do make confirmation and do make hits and 8 9 they don't turn that over, it's on record that I've 10 granted it. So I think you're covered. 11 MR. MOMOT: I mean, not necessarily have 12 to have a felony conviction. 13 THE COURT: Correct. Different. I'm 14 sorry, under the NRS for impeachment purposes. 15 MS. JIMINEZ: And I'll just say that, 16 that I don't necessarily run NCIC on my witnesses. 17 If my investigators have for whatever reason, I'll 18 just get over to those and provide you information 19 that's relevant to what the court has ordered. 20 THE COURT: You need to run your NCIC on 21 the witnesses. 22 MS. JIMINEZ: Well --23 THE COURT: I mean, you need to check and 24 make sure that they don't have priors. Because 25 they're requesting it and I think that they're

JO ANN MELENDEZ (702) 283-2151

APP 000017

entitled to that. 1 2 MS. JIMINEZ: They are requesting that 3 information if I have access to it. And if I have that information, I would provide it. 4 5 Most of the witnesses, most of them are in fact are juveniles. They may at this point 6 have turned 18, but if they're -- you know, most of 7 them have lived here their entire lives. 8 9 THE COURT: So it shouldn't be 10 problematic. 11 MS. JIMINEZ: Exactly. THE COURT: It doesn't sound like it's 12 13 gonna be a problem in this case so and it sounds 14 like she's complied to date. 15Okay. The defense motion to 16 federalize all motions, objections, requests and 17 other applications. Is there any further arguments on 18 19 this? 20 MR. BINDRUP: No, Your Honor. MR. MANINGO: (Negative nod of the head.) 21 22 MS. JIMINEZ: No. 23 THE COURT: I appreciate the defense, you know, making this motion, but it's really premature. 24 25 I'm gonna deny that.

JO ANN MELENDEZ (702) 283-2151

APP 000018

I think that you have to have a 1 proper objection each and every time for the 2 appellate court. Under Lord versus State, and also 3 even under -- I can't believe -- hold on. Leochay 4 (phonetic) which is a civil case, but I mean, you 5 have to make the proper objections at the time that 6 7 you believe you need to make the objections. So that's gonna be denied without 8 9 prejudice. Motion to exclude other -- defense 10 motion to exclude other bad acts, character evidence 11 12 and irrelevant prior criminal activity. I've read both sides. I'd be happy to rule right now, but if 13 anybody has anything further. 14 15MR. MANINGO: I have nothing further, Your Honor. 16 MR. JIMINEZ: Judge, except for the few 17 18 things that we brought up, I kind of took the 19 opportunity to discuss the shooting of one of the 20 witnesses that took place. I don't -- that's not 21 really a prior bad act, but I thought it would make sense to bring it up pretrial, put the information 22 23 before the court. THE COURT: That would make sense to talk 24 25 about.

JO ANN MELENDEZ (702) 283-2151

APP 000019

MS. JIMINEZ: And I think I've laid it 1 Unless there's a specific question, I will 2 out. 3 submit as to on our opposition in the information 4 that was provided. 5 THE COURT: All right. First of all, the evidence of defendant Garcia's flight to Mexico is б 7 gonna be relevant and admissible evidence. It's really not a bad act. It's really part of the crime 8 and they may be entitled to a flight instruction 9 depending on the evidence. So I don't find that 10 11 that's a prior bad act at all. 12 The criminal gang enhancement is 13 also element of the charges. So it's not a prior or 14 subsequent bad act under the statute for which I 15need to hold a hearing. They're either gonna prove 16 it or they're not, and it's part of the elements of this case for the gang enhancement. 17 18 Finally, with the shooting of 19 witness Jonathan Harper, here's how I'm gonna rule: 20 I'm gonna rule that you can, he can testify that he got shot in the head and the timing two weeks later. 21 22 Regarding his demeanor, his memory, that might be 23 relevant. 24 You know, the circumstances behind 25 it are confusing and also I think that they are

JO ANN MELENDEZ (702) 283-2151

APP 000020

1	prejudicial to these two defendants. I don't think
2	that all the circumstances behind this other
3	shooting, I mean, yeah, they're cousins but that's
4	it. I mean, so what. It's so prejudicial to
5	it's under 48.035, I just think it's overly
6	prejudicial, the circumstances behind the shooting.
7	So, yeah, you can talk, yeah, I got
8	shot in the head, I can't remember things. Yeah, it
9	was two weeks later. I mean, that's, that's fine.
10	But to just go into that whole other ball of wax is
11	prejudicial to these defendants so I'm not gonna
12	allow that part of it.
13	MS. JIMINEZ: And can I ask, judge, if
14	there comes a point as we're in trial as the
15	evidence is coming out, can I ask that that be
16	without prejudice if something comes up that we can
17	bring it up obviously outside the presence of the
18	jury and ask you to reconsider if something
19	different happens?
20	THE COURT: If either side has something,
21	I would always consider that, but just looking at it
22	right now, I think it's looking into other areas and
23	it's just because they're cousins. I mean, I don't
24	think I want to get started on family members, okay?
25	Everybody's got family members. It's overly

JO ANN MELENDEZ (702) 283-2151

APP 000021

1 prejudicial to --

2 MS. JIMINEZ: I understand. I'm just 3 kind of --

4 THE COURT: Unless you can show me some 5 connection, you know. I just, it goes off into a 6 tangent and it starts really becoming like well, I 7 just don't know how to say it. It's just more 8 prejudicial to these two, a whole nother shooting 9 and all the stuff that go with it and he got shot in 10 the head. You know, it doesn't hurt and explains 11 why his demeanor, his memory, all these things, it's 12 fine, he can say he got shot in the head. 13 MS. JIMINEZ: Okay. THE COURT: You know, and he can say when 14 15 he got shot, okay? 16 MR. BINDRUP: Just before you move to the next one, just point of clarification. 17 1.8 THE COURT: Sure. 19 MR. BINDRUP: So my client's alleged flight to Mexico, it's your order that perhaps at 20 21 time of, you know, conclusion of the case you might 22 allow that as an instruction, but you will --23 THE COURT: Well --24 MR. BINDRUP: -- allow that during the 25 case-in-chief, correct?

JO ANN MELENDEZ (702) 283-2151

APP 000022

THE COURT: I'm going to allow the 1 evidence in case-in-chief, his flight to Mexico, as 2 3 long as it stays within not overly prejudicial. And I'm hoping that obviously the 4 State is and they've been very professional because 5 you tiptoe around anything that would cause a 6 7 mistrial because I don't know all the facts, you know. 8 9 Did he -- I don't know. I mean, if he just got picked up in Mexico, I mean that's not 10 gonna be, that's part and parcel of, of this crime. 11 12 It's not my position or the court's ruling that that's another bad act. That's part of this. You 13 know, if he got -- I don't know all the facts. 14 Ιf 15 he got picked up, 'cause he's wanted on a sexual assault down there, you know, I don't think we 16 should get into that. 17 I'm gonna have to leave it up to the 1.8 State to make sure that they only put in the 19 relevant just the flight. 20 21 MS, JIMINEZ: Right. And just so you know that it was through an international 22 23 extradition he was arrested on the warrant to this 24 case. THE COURT: 25 Sure.

JO ANN MELENDEZ (702) 283-2151

APP 000023

MS. JIMINEZ: To my knowledge, there's no 1 2 other bad behavior that got him arrested. THE COURT: Yeah, I just, I mean -- yeah, 3 4 I think we've hashed it out, but that's relevant 5 evidence and I think it's admissible. 6 And then you guys are obviously 7 gonna later fight about a jury instruction on that 8 and I'll listen to the evidence and see whether or 9 not it's one which should be given. 10 MR. BINDRUP: Thank you. MR. MOMOT: Well, it's an implication 11 12 that he left this country to flee the jurisdiction 13 in and of itself. 14 THE COURT: Right. 15 MR. MOMOT: And that's where the 16 prejudicial affect is gonna outweigh the probative value. 17 18 THE COURT: Well, you can get somebody on 19 the stand and say, you know, that he was sending 20 himself there. I don't know. They can make it. It 21 is evidence. MR. MOMOT: Is it relevant ---22 23 THE COURT: It's still evidence. Well, it's still evidence in the case. I don't think it's 24 25 another bad act. It's evidence of flight shows

JO ANN MELENDEZ (702) 283-2151

APP 000024

consciousness of quilt. I mean, it's in the law, 1 it's a fact. 2 And you can certainly argue З 4 something different from that evidence. You know, 5 he's visiting family members. I don't know. MR. BINDRUP: Well, we'll renew the 6 7 objection prior to --THE COURT: That's fine. 8 9 MR. BINDRUP: -- to the time. We just hope that we're given a little advance warning 10 11 before the State just jumps into that area. 12 We still believe that it's very prejudicial and should not come in at all. 13 MR. MOMOT: And it seems like the 14 15 shifting of the burden to the defense that we have 16 to prove that I went down to a country for some other reason as opposed to the State's burden to 17 show that it wasn't a flight to avoid prosecution. 18 THE COURT: Well, I heard the evidence, 19 20 but as I recall in the writ, the guy's from here, 21 went to school here and then suddenly is in Mexico, gets picked up in Mexico. 22 23 I don't think that the inference is just throwing it out there. It isn't a law. 24 Consciousness of guilt is proper evidence to be . 25

JO ANN MELENDEZ (702) 283-2151

APP 000025

1 shown. And I don't know where under 48.045(2) I've 2 got to do a Petrocelli hearing on that. 3 So I'm deeming it to be relevant. I 4 don't think I need to meet clear and convincing and I don't think it's overly prejudicial. 5 6 MR. MOMOT: You know, I agree with the court if, if his name was O'Brien, but he's a 7 8 Hispanic male. 9 THE COURT: I can't change the facts. 10 Your objection though is noted for the record. 11 MR. BINDRUP: Thanks. 12 THE COURT: Thank you. All right. 13 Defense motion to allow jury questionnaire, sounds 14. like both sides don't have a problem. This isn't a 15 death case, is it? MS. JIMINEZ: No, it's not. 16 17 MR. BINDRUP: May I suggest then that if 18 we, if we have --19 THE COURT: Well, if it's not a death, 20 why are we doing it? 21 MR. BINDRUP: Well, one of the problems, 22 we got two defendants with two different kinds of 23 defenses. You've already denied our motion to 24 sever. THE COURT: All right, I'll grant it. 25

JO ANN MELENDEZ (702) 283-2151

APP 000026

All right, all right. That's fine. 1 MR. BINDRUP: All right. I would ask if 2 3 we have two weeks, within two weeks. And once both parties agree to what we want to propose, send it to 4 5 the State, they can review it. I would suggest 6 perhaps --7 THE COURT: Why don't we do it in a week? We need to have you guys agree on this in a week 8 9 because you've got to get that out like --10 MR. BINDRUP: Okay. THE COURT: What 11-1? Yeah, 11-1's the 11 12 trial. 13 MR. BINDRUP: I've got a case starting next week. The jury questionnaire's being filled 14 15 out tomorrow so. THE COURT: Okay. I don't know. 16 I was 17 told like months, like a month in advance. MR. BINDRUP: Well, the jury commissioner 18 19 hates doing stuff at the last minute. I don't blame 20 them. 21 But can we get some sort of setting then perhaps the week of October 11th, if we have 22 23 any questions that remain, bring it in front of Your 24 Honor? 25 THE COURT: Okay.

JO ANN MELENDEZ (702) 283-2151

APP 000027

MR. BINDRUP: Here's the five that we 1 2 disagree and then you can make your ruling. 3 · THE COURT: Okay. 4 MS. JIMINEZ: That's fine. THE COURT: That's fine. Status check 5 jury questionnaire. It's granted though. 6 7 THE CLERK: When do you want that? MR. BINDRUP: Any time at the court's 8 9 convenience during the week of October 11th. ₩e 10 should be able to get everything worked out by then. THE CLERK: How about October 12th at 11 12 9:00? MR. BINDRUP: That's great. Thank you. 13 THE COURT: All right. Defense motion to 14 15 bar improper prosecutorial argument. 16 Is there anything further? No, Your Honor. 17 MR. BINDRUP: 18 THE COURT: Okay. This is also premature. I'm gonna deny it right now. I think it 19 20 has to be raised during the argument. I think, I 21 just think it's premature. So we'll note your objection and we're just gonna have to see what 22 23 happens at trial and hopefully that won't be the 24 case. All right. So that's gonna be 25

JO ANN MELENDEZ (702) 283-2151

APP 000028

denied without prejudice. 1 Defense motion to allow 2 All right. 3 defendant's IO assessment to be utilized at time of I've read it, I've really looked at this 4 trial. 5 one. MR. BINDRUP: May I just make a few 6 7 comments? THE COURT: Sure. It appeared originally 8 9 you had him for a penalty phase notice kind of 10 thing. Dr. Paglini is 11 MR. BINDRUP: Yes. 12 prepared to indicate that our client is mentally impaired and is in the lower percentile levels as to 13 14 intelligence. 15 And it's our position that such information is admissible if it is limited to those 16 assessments alone and the expert is precluded into 17 18 getting into other areas. I would note that, I know personally 19 20 of two courts in this jurisdiction that based upon the recent case of Dumas v. Nevada have indicated 21 and have allowed this to be utilized in during the 22 23 State's case-in-chief even when the defendant doesn't take the stand and testify. 24 THE COURT: You mean in the defense case? 25

JO ANN MELENDEZ (702) 283-2151

APP 000029

MR. BINDRUP: In the defense case. 1 But 2 even if the defendant does not testify, they're still allowing that. 3 State v. Perez, that's a Judge Glass 4 case that I did personally, my client did not 5 testify, Dr. Paglini though was able to take the 6 stand and very limited focus on his mental levels 7 8 and his IO. Also, District Court 8 has granted 9 10said motions as well in Grass. I think Grass 11 actually went to trial and that was allowed. And 12 also I have a case, Lawson, that is pending in that 13 department for next year. The judge has already ordered that that be allowed in that case. 14 I don't know if any other judges in 15 this jurisdiction --16 THE COURT: And I appreciate your 17 comments, but, you know, let me tell you, the 18 19 endoscopy cases, we have hundreds of them. And you've got 25 district courts, you've got rulings 20 coming out of everybody. And we'll check with 2122 somebody else, they do something completely 23 different. 24 So I appreciate that Judge Glass and Judge Gates, I don't know the facts of the case, and 25

JO ANN MELENDEZ (702) 283-2151

APP 000030

those cases I can't really be swayed by them because 1 I just don't know their facts. And the supreme's 2 haven't, haven't ruled on what they're doing in 3 So I am looking at just the supreme those cases. Δ court cases. And what you're gonna do with that at 5 argument, that's really the bigger question. Okay. 6 7 MS. JIMINEZ: And I guess that's the 8 point that we've been trying to make in our opposition, judge, is that if he's going to call 9 this expert, it's really limited and specific to the 10 11 type of information that he can testify to. They can't argue diminished 12 That's clearly not available defense in 13 capacity. 14 Nevada. You know, he can't get up there and say, look, the defendant cannot talk to me informed 15 16 premeditation and deliberation. And in fact did not 17 form premeditation and deliberation. That's not something that he can do. It can't be used to argue 18 diminished capacity type defense. 19 20 Also, I'm not necessarily saying that the expert cannot testify unless the defendant 21 does. What I am saying is that if Dr. Paglini gets 22 up there and starts talking about the defendant's 23 version of the crime or, you know, statements that 24 he made, obviously they can't admit the defendant's 25

JO ANN MELENDEZ (702) 283-2151

APP 000031

statements to him through Dr. Paglini without 1 2 subjecting him to cross-examination. 3 So I'm not necessarily saying he 4 can't get up there, but I do think that obviously 5 the Court's aware, that he needs to be really 6 closely watched when he's testifying. Because often 7 times when they get up there and start kind of creeping over the line and suddenly they're saying 8 9 all sorts of things that she shouldn't be saying. 10 THE COURT: Well, that's my concern to be 11 I mean, you know, if you have a doctor, if honest. 12 Dr. Paglini testifies that his IQ and, you know, he 13 did a IQ test and this gentleman has a low IQ and 14 mentally impaired and stuff and then calls it a day, 1.5 then it doesn't sound like the State has an 16 objection and even pursuant to Crawford, you know, 17 arguably it could be used for another purpose. 18 Once you start going into closing 19 though, I'm more -- I want to throw this out there. 20 Because here's what I'm gonna end up getting is you 21 guys using that improperly during argument and 22 then -- I mean, I'll just throw it out there. Ιf 23 that's what you guys want to do, you want Paglini to 24 start getting into intent, then I'm just gonna throw 25 it out there because I'm gonna make a record, then

JO ANN MELENDEZ (702) 283-2151

APP 000032
the State could technically ask for an independent 1 2 mental evaluation and get their expert and Paglini 3 and State's expert can hash out whether it's a first or second-degree murder case or something less. 4 5 I just don't want to go into this yes, yes, we're gonna do the limited IQ and that's б it, and then clearly, you know, we can't have Dr. 7 Paglini testify as to the events of the crime and 8 what happened without defendant obviously 9 10 testifying. You can't boot strap it on there. However, you know, my concern what 11 12 are you gonna do it with it? And you don't have to 13 tell me, but I'm gonna tell you that if you're 14 thinking of pushing that envelope into argument with 1.5 intent to kill and premeditation and some diminished 16 capacity, then let's just cut to the chase and, you know, that's fair, you can switch. 17 It appeared on 18 the notice it's a penalty witness. And when I look 19 at that, it looks like a penalty witness. 20 If you're saying, you know what, I made a, I made an absolute decision as the attorney 21 22 I want Paglini in the case-in-chief, fair enough, 23 but you've got to be fair and allow them -- what I'm 24 gonna do is say alright, that's fair, argue it until 25 the cows come home. But let's just before we get in

JO ANN MELENDEZ (702) 283-2151

APP 000033

on mistrial, because I can see it coming, for me not 1 2 allowing you to argue something -- I'm putting it 3 right out there now. Is that something you want to get into because then I think that out of fairness I 4 5 would rather say this is not going to trial, let 6 them have an independent -- I'm just throwing out 7 there. Because I know what's gonna happen. I can see it happening. 8 9 MR. BINDRUP: Okay. I understand and I 10 am willing the restraints that Your Honor is gonna 11 put on Paglini for good cause and he should be 12 restrained to a specific. 13 THE COURT: Okay. MR. BINDRUP: It should be the same 14 15 restraint that I will be put under or Mr. Momot will 16 be put under for closing argument to not take that 17 and make something out of it that is not permissible 18 such as diminished capacity. There is no such area and it would be improper argument to get into that 19 20 area. 21So we're fully prepared to follow 22 the same restraints that we expect Dr. Paglini to 23 follow when he testifies. 24 THE COURT: Fair enough. Make a copy of 25 this transcript because I know it's coming back at

JO ANN MELENDEZ (702) 283-2151

APP 000034

some point. Make a copy of this, JoAnn. I want it. 1 2 The Court wants it. Okay, fair enough. Court will grant 3 it under the limited understanding that the defense 4 5 agrees that it will only be used as far as the, just bring it out for whatever purposes that he's 6 7 mentally impaired, has a lower IQ. For that limited 8 purpose. 9 MR. BINDRUP: Thank you. 1.0THE CLERK: I need to ask if this is related to both defendants. 11 12 MR. MANINGO: We join in every motion to 13 save this one. THE COURT: Except this one. 14 1.5 MR. MANINGO: Exactly. THE CLERK: Except this one. Thank you. 16 THE COURT: Except this one. 17 And that 18 the defense has now put on the record there's no 19 need for the State to get their own expert 20 independent evaluation. MR. BINDRUP: Well, they're free to if 21 they want to, but, yeah, I'm not going to take 22 23 that --THE COURT: You're not going to push the 24 argument into the fact that there's a diminished 25

JO ANN MELENDEZ (702) 283-2151

APP 000035

1 capacity or --MR. BINDRUP: Correct. 2 3 MS. JIMINEZ: Right. THE COURT: You're not gonna take that 4 and argue that there's a, you know -- okay, fair 5 6 enough. MS. JIMINEZ: And I'll say this, I mean, 7 I think I -- I haven't brought the motion because I 8 haven't -- I'm waiting to get all the discovery 9 which is kind of our next motion. I think we'd be 10 entitled to it, but I haven't asked for one yet. 11 I'm not necessarily going to ask for one, but I need 12 all the discovery which I don't have which is the 13 14 next motion. 15 THE COURT: If you're gonna decide to do that are you talking about? Because I thought 16 Paglini's report was attached. I've read Paglini's 17 report at the back which looks to like mitigating 18 factors -- well, we'll get into that. 19 State's motion for reciprocal 20 21 discovery. 22 MS. JIMINEZ: Okay. We do have his report, judge, but we are entitled to all the actual 23 underlying data from his test, we're entitled to his 24 notes, we're entitled to the actual raw data that he 25

JO ANN MELENDEZ (702) 283-2151

APP 000036

relied on in forming his opinion and making his 1 report. 2 What I've had in the past when this 3 issue has come up is that the doctors usually do ask 4 for a written order obviously with the facts before 5 are provided to Mr. Bindrup or the doctors. б 7 But we are -- that's something that he relied on in forming his decision, and we're 8 clearly entitled to have that information and to 9 review it for cross-examination. 10 THE COURT: What case says that? 11 MS. JIMINEZ: It is in, by statute, 12 judge, by NRS 174.245 and 174.234. Also --13 THE COURT: That's a new one because I 14 never heard of that, but -- I mean, I've not heard 15 of them giving over their notes and their consult 16 stuff and things like that. I mean, it's a --17 18 MS. JIMINEZ: I've had it granted in every case, which I'm not saying that you should 19 just because somebody else granted it, but. 20 THE COURT: Well, I don't know. I 21 haven't been, you know, in district court in eight 22 That's why I was wondering if something was 23 years. 24 new, but apparently it is. MS. JIMINEZ: And, judge, in Floyd v. 25

JO ANN MELENDEZ (702) 283-2151

APP 000037

State as well, they discussed the, you know, the 1 notices and information that we're entitled to. And 2 I think I also addressed it in our opposition to --3 let me quote -- if you give me just a moment, let me 4 5 quote --MR. BINDRUP: May I just --6 MS. JIMINEZ: -- the statute for you. 7 MR. BINDRUP: Because we're really not in 8 9 opposition. THE COURT: Okay. 10 MR. BINDRUP: And I will direct Dr. 11 Paglini to -- now there's a difference between we're 12 talking about the underlying data and charts and --13 THE COURT: Right. 14 15 MR. BINDRUP: -- information pertaining 16 to the IQ assessments. THE COURT: Correct. 17 MR. BINDRUP: And his IQ. 18 THE COURT: And he may have had a consult 19 20 to talk about other things where there might be 21 conversations. MR. BINDRUP: His notes --22 THE COURT: Regarding --23 His personal notes on, MR, BINDRUP: 24 interviews with him are not information, but I think 25

JO ANN MELENDEZ (702) 283-2151

APP 000038

the State's just asking that they have supporting 1 documentation for his scientific conclusions that --2 THE COURT: On the IO. 3 MR. BINDRUP: On his mental --4 THE COURT: I'll grant that. 5 MR. BINDRUP: Okay. 6 MS. JIMINEZ: And in fact, I just stated 7 the wrong statute and I want to make sure the record 8 9 has the right statute. It's NRS 50. -- we have 305, 10 but I think it's 035. The expert may testify in 11 terms of opinion; however, the expert may be 12 required to disclose the underlying facts or data 13 made on cross-examination. THE COURT: Sure. 14 MS, JIMINEZ: So we're entitled to --15 16 THE COURT: That's what I'm saying, on 17 cross-examination. But we're -- I 18 MS. JIMINEZ: Right. mean, look, judge, I don't think they're in 19 20 opposition to it --THE COURT: I'm not ---21MS. JIMINEZ: Because it takes time for 22 us to be able to re-view it ahead of time rather 23 24 than saying, okay, you've testified to it, now give 25 us the 300 pages of underlying data, we're gonna

JO ANN MELENDEZ (702) 283-2151

APP 000039

1 need a two-day break to review it, et cetera, et 2 cetera. THE COURT: You wouldn't get a two-day 3 4 break. But I, as I recall that statute, it's on cross-examination, it's not in the discovery. 5 MS. JIMINEZ: Unless the court orders 6 7 otherwise. You have the discretion to order. 8 THE COURT: So I'll -- wow, wow. Dang, 9 things are different now. Wow. I never got 10 anything. Wow. 11 MS. JIMINE2: Well, all I can say is 12 I've --THE COURT: Wow. Things are good. 13 14 Things are good for the State if you guys are 15 getting all that from the experts. Woo. 16 All right. Well, if they have no 17 opposition, I'm gonna grant it. I'll grant just as 18 far as that. 19 My concern was I could see in his 20 report where he was talking about he had had 21 discussions with him and I didn't know how far it went as far as consulting you for perhaps other 22 23 mental purposes or issues which was not part of this 24 motion. 25 Right. I mean, the MS. JIMINEZ:

JO ANN MELENDEZ (702) 283-2151

APP 000040

distinction, if it's something he relied on in 1 forming his opinions that he's gonna testify, we're 2 3 entitled to it. If it's something unrelated to that, 4 he didn't rely on it, then we're not entitled to it. 5 6 THE COURT: I don't know if you're entitled to it in discovery, I would beg to differ, ~7 unless there's a case that says that. So I beg to 8 9 differ with you on that. 10 I'm just gonna make a ruling that 11 the defense, counsel has no opposition to providing 12 that, because I don't think that is -- I don't think 13 that you guys --MR. BINDRUP: I think you're right. 14 15THE COURT: Thanks. MR. BINDRUP: You're dead on right. 16 But, you know, quite frankly, the State representatives 17 are, generally speaking, these two are so 18 19 accommodating. 20 THE COURT: They are. They're very professional. 21 MR. BINDRUP: I don't care giving them 22 the raw data instead of waiting the last minute and 23 24causing any delay. So I'm okay with it. THE COURT: Okay. See, it pays off. 25

JO ANN MELENDEZ (702) 283-2151

APP 000041

1 MR. BINDRUP: It does. THE COURT: Apparently it never paid off 2 for me. All right. Then that's gonna be granted as 3 4 unopposed. Is there any other motions or we'll 5 just see everybody back on October 11th? 6 MS. JIMINEZ: I believe so. Thank you, 7 judge. 8 MR. BINDRUP: The 12th. 9 THE COURT: I'm sorry. The 12th. 10 11 MR. MANINGO: Thank you, Your Honor. 12 FULL, TRUE AND ACCURATE TRANSCRIPT OF THE 13 ATTEST: PROCEEDINGS. 14 Joann Milendez 15JO ANN MELEN 16 CCR NO. 370 17 18 19 20 21 22 23 24 25

JO ANN MELENDEZ (702) 283-2151

APP 000042

page 16



.

1	and into the body of
2	the said VICTOR GAMBOA, with a deadly weapon, to-wit: a firearm
3	DATED this 321 day of February, 2011.
4	
5	DISTRICT ATTORNEY
6	
7	BY Stall
8 9	SONIA V. JIMENEZ
9 10	
11	
12	
13	
14	
15	
16	
17	
18	
19 20	
20 21	
21 22	
22	
24	
25	
26	
27	09BGJ047A/06F11378A/10F03640X:abf LVMPD EV#0602062820; 0602090797
28	(TK5)
	2 PAWPDOCSUND(6) 1)51 (37804, doc
ł	APP 000044
	ſ

Skip to Main Search Close	Content Logout My Account My Cases Search Menu New	District Criminal Search Refine	Location : District Cou	t Criminal <u>Images</u> <u>He</u>
	Regis	TER OF ACTIONS		
	CASE	<u>No. 10C262966-1</u>		
he State of I	Nevada vs Evaristo J Garcia	§ Defenda § Lower Cour § Sup § Sup	Case Type: Felony/Gro Date Filed: 03/19/2010 Location: Departmer e Case Number: C262966 ant's Scope ID #: 2685822 1994518 09GJ00047 oreme Court No.: 64221	nt 15
elated Case		TED CASE INFORMATION		
10C262966-	2 (Muiti-Defendant Case)			
	P	ARTY INFORMATION	heal	Attorneys
efendant	Garcia, Evaristo J Other Agency Numbers 2685822 Scope ID Subject Identifier		Ross Reta	C. Goodman hined 345563(W)
aterial itness	Calvillo, Edshel			
ther	Lopez, Manuel A Other Agency Numbers 1994518 Scope ID Subject identifier		Reta	e A. Maningo <i>iined</i> 34-0400(W)
aintiff	State of Nevada			n B Wolfson 71-2700(W)
harmos: Gar	cia, Evaristo J	ARGE INFORMATION		Defi
	CY TO COMMIT A CRIME	Statute 199.480	Level Felony	Date 01/01/1900
	OF MURDER	200.030	Felony	01/01/1900
FELONY C	OMMITTED TO PROMOTE ACTIVITIES OF	193.168	Felony	01/01/1900
CRIMINAL				
	OR ASSIST A CRIMINAL GANG	193.169	Felony	01/01/1900
MURDER.	CY TO COMMIT MURDER	200.010	Felony	01/01/1900
	OF MURDER	200.010 200.030	Felony Felony	01/01/1900 01/01/1900
	OR ASSIST A CRIMINAL GANG	193.169	Felony	01/01/1900
USE OF A	DEADLY WEAPON OR TEAR GAS IN COMMISSION	193.165	Felony	01/01/1900
OF A CRIM				
FELONY C CRIMINAL	OMMITTED TO PROMOTE ACTIVITIES OF	193.168	Felony	01/01/1900
CHALLENC	ES TO FIGHT;FIGHTING OR ACTING AS SECOND	200.450	Felony	01/01/1900
	ATH ENSUES. DEGREE MURDER WITH US OF A DEADLY	200.030,2	Felony	02/02/2006
WEAPON				
17/2011 0	Events & alendar Call (9:00 AM) (Judicial Officer Silver, Abbi)	ORDERS OF THE COURT		
17/2011 0				
M	 inutes 03/17/2011 9:00 AM State announced being ready for trial. Mr. Momot reacontinuance for further investigation to be done, and negotiations. COURT ORDERED, Deft's oral motion DENIED. Court stated findings including that this maproceed forward for trial, there was additional time, p forward with the case, and questionnaires have alreadury Services. Colloquy regarding history of case, in dates of preliminary hearing and arraignment. COUF 	for pending to continue trial itter needs to previously, to go ady been sent to cluding original		

APP 000045

......

÷

÷

ORDERED, trial to begin March 21, 2011 at 1:00 p.m. Further colloquy as to trial schedule for next week, availability, and current prospective jury panel. Statements by Ms. Jimenez and by the Court. Mr. Momot requested this matter be trailed to speak further with Deft. regarding negotiations. COURT ORDERED, matter TRAILED. RECALLED at 11:21 a.m. CONFERENCE AT BENCH. Court TRAILED matter for further discussions between Deft. and counsel. RECALLED AT 1:00 p.m., with all parties present from before. Statements by Mr. Momot and Deft. Matter resolved. Amended Indictment FILED IN OPEN COURT. NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT, DEFT, GARCIA ARRA/GNED AND PLED GUILTY PURSUANT TO THE ALFORD DECISION TO SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F). State made offer of proof. Court ACCEPTED plea, and ORDERED, matter referred to the Division of Parole and Probation (P&P) and SET for sentencing; trial date VACATED. CUSTODY 5/12/11 9:00 AM SENTENCING

03/17/2011 9:00 AM

Parties Present Return to Register of Actions

APP 000046

Skip to Main Search Clos	<u>i Content Logout My Account My Cases Search Men</u> e	u New District Criminal	Search <u>Refine</u>	Location : Distric	t Court Criminal <u>Images He</u>
		EGISTER OF ACT	TONS		
		CASE No. 10C262960	<u>i-1</u>		
he State of	Nevada vs Evaristo J Garcia	ବ୍ର ବ୍ର ବ୍ ବ୍ ବ୍ୟ ବ୍ୟ ବ୍ୟ ବ୍ୟ ବ୍ୟ ବ୍ୟ ବ୍ୟ ବ୍ୟ ବ	Defendant's Lower Court Ca	Date Filed: 03/19 Location: Depa ase Number: C262 Scope ID #: 2685 1994	2966 822 518 100047
		S Related Case Informati	ON		
elated Case		·	· · · •		
10C262966	i-2 (Multi-Defendant Case)	PARTY INFORMATION			
)efendant	Garcia, Evaristo J Other Agency Numbers 2685822 Scope ID Subject Identifier				Lead Attorneys Ross C. Goodman Retained 7023845563(W)
laterial Vitness	Calvilio, Edshel				
Other	Lopez, Manuel A Other Agency Numbers 1994518 Scope ID Subject Identifier				Lance A. Maningo Retained 702-734-0400(W)
laintiff	State of Nevada				Steven B Wolfson 702-671-2700(W)
		CHARGE INFORMATION			
	rcia, Evaristo J		Statute	Level	Date
	LACY TO COMMIT A CRIME S OF MURDER		199.480 200.030	Felony Felony	01/01/1900 01/01/1900
	COMMITTED TO PROMOTE ACTIVITIES OF		193.168		01/01/1900
CRIMINA			193.100	Felony	01/01/1900
	R OR ASSIST A CRIMINAL GANG		193.169	Felony	01/01/1900
	ACY TO COMMIT MURDER		200.010	Felony	01/01/1900
MURDER			200.010	Felony	01/01/1900
	S OF MURDER		200.030	Felony	01/01/1900
	R OR ASSIST A CRIMINAL GANG		193.169	Felony	01/01/1900
	A DEADLY WEAPON OR TEAR GAS IN COMMISSIO	ON	193.165	Felony	01/01/1900
OF A CRI FELONY CRIMINAI	COMMITTED TO PROMOTE ACTIVITIES OF		193.168	Felony	01/01/1900
. CHALLEN	IGES TO FIGHT; FIGHTING OR ACTING AS SECON EATH ENSUES.	1D	200.450	Felony	01/01/1900
. SECOND WEAPON	DEGREE MURDER WITH US OF A DEADLY		200.030.2	Felony	02/02/2006
		EVENTS & ORDERS OF THE C	OURT		
4/26/2012	Calendar Call (9:00 AM) (Judicial Officer Silver, Abb	oi)			
1	Minutes 02/23/2012 9:00 AM				
	04/26/2012 9:00 AM - Mr. Goodman moved for Trial to be reset as leave to retain a specialist who needs to con COURT noted, counsel anticipate this matter weeks for trial. State announced ready and ir continued. COURT SO NOTED. COURT OR available as it is presently in trial and at the I	duct his investigation. taking about 1 to 1 & 1 opposition to trial bein DERED, the Court's is r	l/2 g not		

APP 000047

and Trial dates are RESET. CUSTODY 9/13/12 9:00 A.M. CALENDAR CALL 9/17/12 1:00 P.M. JURY TRIAL

05/03/2012 9:00 AM

05/03/2012 9:00 AM

Parties Present Return to Register of Actions

APP 000048

.

.

<u>Search Clos</u>	Register	OF ACTIONS 10C262966-1	ocation : District Court	
The State of	Nevada vs Evaristo J Garcia	 S Date S Cross-Reference Case S Defendant's Scot S Lower Court Case 	ate Filed: 03/19/2010 Location: Departmen Number: C262966	
Related Case		ASE INFORMATION		
	მ-2 (Multi-Defendant Case)			
	Party I	NFORMATION	head	Attaxmaxa
Defendant	Garcia, Evaristo J Other Agency Numbers 2685822 Scope ID Subject Identifier		Ross Reta	Attorneys C. Goodman Ined 45563(W)
Material Witness	Calvillo, Edshel			
Other	Lopez, Manuel A Other Agency Numbers 1994518 Scope ID Subject Identifier		Reta	a A. Maningo ined 34-0400(W)
^o laintiff	State of Nevada			n B Wolfson 71-2700(W)
		INFORMATION		D-t-
	ricia, Evaristo J RACY TO COMMIT A CRIME	Statute 199.480	Leve ľ Felony	Date 01/01/1900
	S OF MURDER	200.030	Felony	01/01/1900
	COMMITTED TO PROMOTE ACTIVITIES OF	193,168	Felony	01/01/1900
CRIMINA		100,100	1 0.0117	01/01/1000
	R OR ASSIST A CRIMINAL GANG	193.169	Felony	01/01/1900
	RACY TO COMMIT MURDER	200.010	Felony	01/01/1900
. MURDER	а.	200.010	Felony	01/01/1900
	S OF MURDER	200.030	Felony	01/01/1900
	R OR ASSIST A CRIMINAL GANG	193.169	Felony	01/01/1900
	A DEADLY WEAPON OR TEAR GAS IN COMMISSION	193.165	Felony	01/01/1900
OF A CRI 2. FELONY	COMMITTED TO PROMOTE ACTIVITIES OF	193.168	Felony	01/01/1900
CRIMINA		200.450	Felony	01/01/1900
WHEN D	EATH ENSUES. DEGREE MURDER WITH US OF A DEADLY	200.030.2	Felony	02/02/2006
WEAPON				
0/10/00101		DERS OF THE COURT		
	 All Pending Motions (9:00 AM) (Judicial Officer Silver, Abbi) Defendant's Motion to Continue Trial on Order Shortening Time 09/13/2012 9:00 AM DEFENDANT'S MOTION TO CONTINUE TRIAL ON OR SHORTENING TIMECALENDAR CALL Mr. Jeff Rogan present on behalf of the State of Nevada. State announc trial having 5 - 20 witnesses and needing 7 days for trial noted, the trial will last two (2) weeks, for both sides. Add State intends to file Motions in Limine. Mr. Goodman adv received the ballistics report and will need to retain a bal 	DER , Esq. also ed ready for . COURT ditionally the /ised he just		
	received are ballaged report and will need to retail a bal			
				00040

APP 000049

!

.

:

COURT ORDERED, Deft's Motion to Continue the Trial on an Order Shortening Time is GRANTED and Calendar Call and Jury Trial are RESET. CUSTODY 6/27/13 9:00 A.M. CALENDAR CALL 7/8/13 1:00 P.M. JURY TRIAL

Parties Present Return to Register of Actions

APP 000050

,

.

		Electronically Filed 09/25/2012 04:40:48 PM
1	MSPR Ross C. Goodman, Esq.	Alun J. Elim
2	Nevada Bar No. 7722 GOODMAN LAW GROUP P.C.	
3	520 S. Fourth Street, Second Floor	CLERK OF THE COURT
4	Las Vegas, Nevada 89101 Telephone: (702) 383-5088 Facsimile: (702) 385-5088	
5	Attorneys for Defendant	
6	Evaristo Jonathan Garcia	
7	DISTRICI	f COURT
8	CLARK COUN	TY, NEVADA
9		
10	THE STATE OF NEVADA,	Case No: C262966
11	Plaintiff,	Dept. No.: XV
12	VS.	MOTION TO SUPPRESS IN-COURT
13	EVARISTO JONATHAN GARCIA,	IDENTIFICATION PURSUANT TO NRS
14	Defendant.	174.125(1)
15		
16	COMES NOW, the Defendant EVARIST	TO JONATHAN GARCIA, by and through his
17	counsel of record, ROSS C. GOODMAN, Esq.,	of the Goodman Law Group P.C., and hereby
18 19	files this Motion to Suppress In-Court Identificati	on Pursuant to NRS 174.125(1).
20	This Motion is made and based upon	the pleadings and papers on file herein, the
21	following Memorandum of Points & Authoritie	es, the pleadings and papers on file with this
22	Court, and any oral argument to be made at the tir	ne of the hearing of this Motion.
23	Dated this 25 th day of September, 2012.	
24		GOODMAN LAW GROUP
25		<u>/s/_Ross C. Goodman, Esq.</u>
26		Ross C. Goodman, Esq. 520 South Fourth St.
27		Las Vegas, Nevada 89101
28	1	Attorney for Defendant
4		

GOODMAN LAW GROUP A Professional Corporation 520 S. Fourth Street, 2nd Fluor Las Vegas, Nevada 89101 (702) 383-5088

.

. 1

÷

GOODMAN LAW GROUP

A Professional Corporation 520 S. Fourth Street, 2nd Floor Las Vegas, Nevada **\$9101** (702) 383-5088 1

2

NOTICE OF MOTION

TO: PLAINTIFF, STATE OF NEVADA

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned

will bring the above and foregoing Motion on for hearing before the Court at the courtroom of 9 AMthe above-entitled Court on the 9 day of 0 ctober, 2012, at the hour of _____ o'clock .m. of said day, in Department XV of said Court.

ľ.

FACTUAL STATEMENT

The State's proposed eyewitness, Melissa Gamboa ("Melissa"), is the deceased's 14 year old sister, who testified that she was running behind her brother on the night of the fatal shooting. On the night of the shooting, Melissa described the shooter as "wearing a *hoodie that night*, and he was – it was *covered his face.*" While admitting that her previous description of the shooter did not match Garcia, the Justice of the Peace allowed Melissa to make an in-court identification of Garcia.

II.

LEGAL ARGUMENT

It is well-settled law that before the prosecution can offer identification evidence from an eyewitness fundamental fairness requires that that identification testimony be reliable. *Bias v. State*, 105 Nev. 869, 871 (1989). Courts follow a two-part inquiry to determine the reliability of eyewitness identification testimony: (1) whether the pre-trial identification procedure was unduly and unnecessarily suggestive that the defendant was the perpetrator; and (2) whether the identification was nonetheless independently reliable. *Id*.

26 || ///

- 27 || ///
- 28

19

20

21

22

23

24

 $\mathbf{2}$

1. Suggestiveness of the Identification Procedure

The in-court identification of Garcia was unduly suggestive. Under the first step of this analysis, an identification procedure may be deemed unduly and unnecessarily suggestive if it is based on police procedures that create "a very substantial likelihood of irreparable misidentification." *Bolin v. State, 114 Nev. 503, 522, (1998) (quoting Simmons v. United States,* 390 U.S. 377, 384, 88 S.Ct. 967, 19 L.Ed.2d 1247 (1968)).

The Supreme Court has long recognized "[t]he vagaries of eyewitness identification" where "the annals of criminal law are rife with instances of mistaken identification." United States v. Wade, 388 U.S. 218, 228 (1967). The Court added that "a major factor contributing to the high incidence of miscarriage of justice from mistaken identification has been the degree of suggestion inherent in the manner in which the prosecution presents the suspect to witnesses for pretrial identification." Id. In Stovall v. Denno, the Court examined a showup procedure in which the suspect was taken to the hospital where a victim was recovering, was presented to the victim alone, and handcuffed to police officers. Stovall v. Denno, 388 U.S. 293, 302 (1967) Though noting a showup is inherently suggestive, and for that reason the procedure has been "widely condemned," the Court acknowledged that showups may sometimes be necessary in exigent circumstances. However, the Court then held that an "unnecessarily suggestive" procedure that is "conducive to irreparable mistaken identification" denies due process of law and results in exclusion of the identification from the jury.

Courts have consistently held that a single photograph as a suggestive practice, and where no extenuating circumstances justify the procedure, as an unnecessarily suggestive one. *Wiggins v. Greiner*, 132 F. App'x 861, 865 (2d Cir.2005) (noting that "a 'showup' procedure is inherently suggestive because it involves the presentation of a single suspect to a witness by the police (as

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

opposed to a lineup, in which several individuals are presented to the police, only one of whom
is the suspect), and has accordingly been 'widely condemned' ").

A courtroom identification is not a "reliable" test of the eyewitness's memory, and a courtroom identification is inherently suggestive. It is all too obvious who the defendant is, sitting at counsel's table. In this case, there can be no real dispute that the in-court identification, just the same as a single-photo display, was unreasonably suggestive.

2. Independent Basis for Reliability

Although, an earlier courtroom identification was improperly suggestive, an eyewitness may nonetheless be allowed to make an in-court identification if the eyewitness has an independently reliable basis upon which to make the identification. *Bias*, 105 Nev. at 871. To determine whether a witness has, in fact, an independently reliable basis for making such an incourt identification, courts consider the five factors identified by the Supreme Court in *Neil v. Biggers*, 409 U.S. 188, 93 S.Ct. 375, 34 L.Ed.2d 401 (1972). Those factors include:

[1] the opportunity of the witness to view the criminal at the time of the crime, [2] the witness' degree of attention, [3] the accuracy of the witness' prior description of the criminal, [4] the level of certainty demonstrated by the witness at the confrontation, and [5] the length of time between the crime and the confrontation.

21 Id. at 199–200.

The description provided by Melissa of the shooter does not match Garcia. Melissa in
 her earlier statement described the shooter as having light colored hair and looked clean. See
 Preliminary Hearing Transcript (88:7-10)¹. This generic description contradicts her later
 testimony which established Gamboa could not identify the shooter. Specifically, Melissa

²⁷

¹ The Preliminary Hearing Transcript, pertaining to Melissa Gamboa's testimony on December 18, 2008, (68-99) is attached hereto as Exhibit "A."

1	testified that the shooter was "wearing a <i>hoodie that night</i> , and he was – it was covered his face.	
2	And he was like 5-3, 5-3. He was wearing, I believe, shorts that night." See Preliminary Hearing	
3	Transcript (81:19-23). The State confirmed this misidentification:	
4		
5	Q. You described the gentlemen that was the shooter as having light hair, correct?	
6	A. Correct	
7	See Preliminary Hearing Transcript (89:22-24).	
8	Q. He doesn't have light hair though, does he?	
9	A. No	
10	See Preliminary Hearing Transcript (90:4-6).	
11	Indeed, Melissa testified to that her description of the shooter does not match Garcia:	
12	Q. Were you ever shown a photo spread of any individuals that the police believed were involved in the shooting?	
13	A. No.	
14 15	Q. So this is the first time that you're identifying my client as being the individual that was shooting?	
16	A. Yes	
17	See Preliminary Hearing Transcript (94:1-8).	
18	Q. Would you acknowledge he does not meet the description that you gave to the police that same day it occurred, yes or no?	
19	A. Yes	
20	See Preliminary Hearing Transcript (93:18-21).	
21	In addition, Melissa was assisted before and during the preliminary hearing by Dawn	
22 23	Barlow Criminal Investigator with the District Attorney's Office. See Preliminary Hearing	
23	Transcript (92-93). Further, Melissa testified that she was sitting in the court room before she	
25	was called as a witness. See Preliminary Hearing Transcript (91:2-4).	
26		
20	There is nothing independent about the courtroom identification. There is no evidence to	
28	suggest Melissa had an independently reliable basis for making an in-court identification 5	
1		

GOODMAN LAW GROUP A Professional Corporation 529 S. Fourth Street, 2²⁴ Floor Las Vegas, Nevada 89101 (702) 383-5088 :

.....

ż

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

especially after the passage of nearly 3 years. Melissa confirmed that her description of the shooter on the same date of the crime - when her memory was most fresh, reliable and accurate - did not match Garcia. Moreover, the only factor that has been clearly established - the length of time between the crime and the identification - weighs *against* concluding that the eyewitness had an independently reliable basis for making the identification.

Ш.

CONCLUSION

The thirty-four month span between the crime and the courtroom identification, when combined with the lack of evidence surrounding the other *Biggers* factors, compels the conclusion that the State has failed to establish that Melissa had an independently reliable basis for making the identification.

Accordingly, all evidence derived from the identification of Melissa made from the incourt identification must be suppressed.

Dated this 25th day of September, 2012.

GOODMAN LAW GROUP P.C.

<u>/s/ Ross C. Goodman, Esq.</u> Ross C. Goodman, Esq. Nevada Bar No: 7722 520 South Fourth St. Las Vegas, Nevada 89101 Attorney for Defendant

EXHIBIT "A"

.

(q				Ö	X
^{ال} م 1	CAUSE (6. C33631) - CO 1 - O 1 - O 0 0 0	1.	1	LAE VEGAS, NEVADA, UNUNSDAY, DECEMBER 18, 2008	3
2	ORIGINAL		3	the the state	
3			з	<u>a</u> ." •••• "	
4	IN THE JUSTICE COURT OF THE LAS VERAS TOMISHIP	1	4	THE COURCE NOW, Mr. Garoia, this is the	
5	COINTY OF CLARR, STRIN OF NEVALA		ŧ	time and plane for the preliminary hearing in State	
¢	·····		đ	of Nevada V. Evanisto Jonathan Garcia.	
7	STATE OF NEVADA,	***	7	AN I the record reflect that the	
8	Plaintiff,	·• *	B	celendant is present with his Getorney, Dar. Terry,	
9	VS. Case No. 06F11378	- i	9	and we have Noreor 9-	
10	EVARISTO JONATIAN GARCIA,		10	MS CONTROS / NY STOP.	
11	Dofendant.		11	MA. JUMMANEZ, CAFA FOUR JUMPOZ.	
12 13			13	THE COURT THE AUTOMATIC Representing	
		ſ	13	the State.	
14	reporter's transcript Op Preliminary hearing		16	You daid you have two wiinnesee?	ł
15	FRELIMINARY HEARING		15	MS. JIMEDEN: Thara's a possibility of a	
16	BEFCRE THE HENCRABLE WILLIAK D. JANSEN JUSTICE OF THE DEALE	ľ	15	third, but I think we'll be able to do it in two.	1
17		-84t-	17	THE COURT: All the witnescos possibly	
1B	TRIED ON THURSDAY, DECREMENT 10, 2008 AT 8:30 A.M.	'8' p	18	that are going to testify, they're all outside?	
19			ទេ	M9. JINENEZ: Yea, Judge,	
20	Apperbances:		20	THE COURCE So there's been the Court	
21	For the State: NCRUMN C. NYTROS and SCATA V UNCENES. Deputy District Attent		11	has been informed all the witnesses who will testify	
22		-	12	in the matter are cutside in the hallway. So let the	
23	For the Defendant: WILLIAM B. TERRY	f f	3	record reflect that the exclusionary rule for	:
24	Reported by: Genri De Lucca, C.C.R., #82 Official Court Reportan		4	witnesses has been invoked and the witnesses have	
25	Official Court Reporter	19	5	been excluded from the courtroom,	

1	TNOUX			2
2	NUINESSES FOR JEU SURVE		PAGE	
3	RTTREEDE FALL TOTAL	•		
4	KNATHAN EDANOHIL KARPER			
5	Direct Examination by Ms. Nyikos:		7	
6	Cross-Examination by Mr. Terry:		36	
7	Redirect Romination by Ms. Myikos;		62	
₿	Reacces-Examination by Mr. Terry:		65	
9	Examination by The Court:		66	
10				
11	Direct Examination by Ms. Simensu		69	
17	Cript-Examination by Mr. Terry:		69 87	
11	Reducet Framination by Ms. Jimenez:		••	
14	Records -Bandmation by Mr. Terry:		95 00	
15	Nocional destruction by the starty		SB	
16	CLIFFORD MORE			
17	Direct Examination by Ma. Nyikos:		101	
18	Cross-Remainstics by Mr. Tarry:		101	
19	Redirect Examination by Ns. Nyikos:		108	
20	Recoose-Examination by Mr. Terry:		1.01	
21				
Ž2	JAN 1 2 2009	Marked	Admitt	:ed
23		77	78	
24 Ç	LEAK OF THE COURT			
25				

ŝ

,

.		4
1	Do you have any possible	4
2	witnesses, Mr. Terry?	
3	MR. TERMIN: No, your Honor, but we would	
4	formally for the record ask that all witnesses be	
5	excluded, and I understand the Court's already made	
6	that directive.	
7	THE COURT: Potential witnesses later on	
Ģ.	I don't excuse them,	
9	MR. TERRY: Understood.	
0	THE COURT: Okay. State go absad and	
1	call your first witnase.	
2	MS. NYINOS: Judge, before I call this	
3	witness, his name is Jonathan Marper, Σ just want to	
4	inform the Court he did have a head injury, so he	
5	speaks a little hit slowly and sometimes muchles. So	
5	he's not being disrespectful. T'll try and keep him	
7	andible for you, Madam Court Reporter,	-
0	While we've walking for the	
₽│	witness, Mr. Terry and I do have some stipulations.	
p	THE COURT: Why don't you put those for	
ι	the record.	
2 {	MS. MUROS: Thank you.	
3	Your Homor, we have stipulated	
1	that the cause of death was a single guashet wound to	
3	the back, manuar of death to be a homicide. We did	
L		

١			
2	counsel heard it, I'll withdraw the objection and lat 55	1	(Overlapping speakers) 67
2	him zeatate it.	2	
3	THE COURT: I Scalt recall.	3	Q. You said you were in the back. Mare you
4	M9. NYIMOS: I didn't aithar.	4	in the back in the bod of the truck?
ទ	THE COURT: Go shead and ask it.	5	A. Yeah. I was laying down.
6	BY MS. NYIKOS	Ģ	Q. So you had people who were in the cab
7	Q. About how long	7	sitting, right?
đ i	THE COURT: You may be right. I just 🕤 🥸	а	Д. ⊻ев.
9	çan't recall.	9	Q. And then you were in the back, right?
10	THE WITNESS: Two weaks.	10	А. Хол,
11	MS. NYIKOS: Nothing further.	11	Q. So a lot of things, where you were, you
13		La	could not hear what was going on in the cab, is that
13	RECTICES - EXAMINATION	w ا	correct?
14	by Mr. Terry:	14	А. Үөз.
15	Q. One last series of questions, Mr. Harper.	1.5	Q. That's what I want to clarify, because an
16	A. Okay.	is	El Camino, which I had owned one, which is like a
17	Q. Counsel asked you questions about you	7	fancy truck, you know, car-truck thing, and that a
1.8	were going there to fight	10	when he said in the back, that's what I want to make
19	A. To fight.	19	clear that he was in the back of the bed of the
20	Q correct?	30	truck, not in like in the back seat?
21	That's a future act, right?	21 I	A. Yesh.
22	a. Yos.	22	THIS COURCE NOW, as a result of that do
23	Q. Idke I would say, I'm going to go	3 3	you have any further questions?
24	shopping tonight, right?	84	MS. NYIKOS: None from the state.
25	A. Yes.	25	MR. THERY: NO.

٩.

t

1	المربق ال المربق	"	
ג	Q. But when you got there, there was a fight 66	I.	THE COURT: Then you're estrused. Thank ⁶⁹
2	algendy going on, right?	2	you,
3	А. Уев.	3	(Witness excused)
4	Q. All right. And you participated in that	4	
5	fight, concest?	S	Call your mext witness.
6	A. Yez.	£	MS. JIMENEZ: (TRAILER STREET)
7	MR. TERRY: Notling further.	7	THE COURT: Remain outside. I'm going to
8	THE COURT: Anything else?	Ð	have you remain cutside. You'll be excused by the na
9	MG. NYIKOG: No.	ų,	or the bailing.
10		Lo I	THE CLERK: Flease be seated.
1,1	EXAMERATION	11	Please be seated. State your full
12	BY THE COURT:	1.2	name and spell your name, please.
13	 I want to clear up something I think may 	13	THE WOINESS: My name is Meliosa Maria
14	be important.	3,4	Gamboa. M-m-l-i-s-s-a, G-a-m-b-o-a.
3.5	West kind of a vehicle let me	25	THE COURT: Now, Wellings, if the question
16	go back. Who was all in the car again?	16	is asked of you by either of one of these attoineys
17	A. It was no, Evaristo, Stacy, which is	17	that calls for a yes or no annwar, please state yes
1.8	Boandel's girlfriend, and then Standal.	LÓ	or no. Coult cluske your head and say malmm, because
19	Q. What kind of car was it?	19	the court reporter cannot take that type of response,
20	A. A black pl Cardno,	20	Do you understand that?
21.	Q. Was this a truck-type thing?	h1 .	CHE WITTINGS - Okay, yes.
23	A. It was like one of them, you know, like	23	Thy COURT: Now, Listen to the quastions
23	you can put the top on. It was like - it was like a	23	carefully, and if they call for a yes or no answar,
24	tancic,	84	just state yes or no. Do you understand that?
25		as	THE WIINESS: Yas,

1		THE COURT: Okey. You may proceed.	0 1	A.	No
2		NG. JIMEVER: Thenk you, Judge.	2	ÌQ,	Is that here in Las Veyes, Clark County,
3		, , , , , , , , , , , , , , , , , , ,	13	Nevada?	4
4			4	A.	Yes, it is.
\$	MELIS	SA MARTA GAMBOA, having been	5	Q.	And what hours did you go to school at
6	first dut	y sworn to testify to the truth, the whole $^{n_{\rm c}}$.	6	Morris Aca	demy that days
7.	truth, an	d nothing but the truth, testified as	7	А.	2:30 to 6 schething, I balieve.
9	Eollows:		8	⁻⁷ Ω,	What kind of school is Mouris Academy?
9			9	Ă.	It was adult ad to make up credits.
10		DIRECT EXAMINATION	λo	Q.	Note the classes in the afternoon and
11	BY MS. J11	65162 :	þa.	evening go	cerally?
12	Q.	Miss Camboa, how old ana you?	LA	А,	Xaa 1
13	а.	r'm 19.	իր	Q.	That day what time did you get out of
14	Q,	And, Miss Gamboa, did you have a brother?	4	ສະຫຼາວວຽງ	
15	A.	Yes.	15	А,	Don't remember,
16	Q.	What was your brother's name?	1.6	Q.	Mhat time did school generally get out?
17	А.	Victor Camboa.	17	А.	Like I said, 8 scmething.
16	Q.	And did sensibing happen to your brother,	40	Q.	In the evening?
19	Victor?		19	А,	At night.
20	A,	Yas.	80	Q.	At night.
21	Q.	And what happened to Victor?	21		And did you get out at the regular
22	А.	Ne was mirderad.	22	time school	get out that day?
23	Q.	Do you menendor when that occurred?	23	А,	Yes.
24		MR. TEARY: Just so we're clear, that's a	84	Q,	When you got out of school what did you
25	legal conc	lusion,	25	do after yo	u get out of school?

ւ		THE COURT: It's a legal conclusion.	70 1.	A. I was talking to my frient, waiting for
2	I'll let th	a record reflect blues,	2	my hawther.
3		MS, JIMEMEZ: That's fine.	2	Q. Your brother, Victory
æ		THE COORT: Go shead.	4	A. 708.
6	BY MS. J.IME	NE2:	ឝ	Q. And why wate you waiting for Victor?
6	ą.	When did that occur?	6	A. He was picking me up!
7	А,	The date you mean?	7	Q. Did Victor arrive at the school?
6	ο.	Yea.	8	A. Yep, he did.
9 }	А,	February 6, 2006.	ŋ	Q. About how long after you got out of
0	Q.	And in February 5 of 2005, how old were	10	school did Victor arrive at school?
l	you at that	tine?	11,	A. Dive minutes or so or leas,
5	д.	1 beldeva 17.	13	Q. Bafare Victor, got there did you notice
3	Q.	And how old was your brother, Victor?	13	anybody else doing anything in particular?
1	л.	15.	14	А. Уез.
5	Q,	On February 5 of 2006, What were you	15	Q. What did you see?
5	doing in th	s afternom or evening hours?	μs	A. I saw my sinth pariod student class was
7	A.	I was attending school.	17	talking shows a fight. They were talking shout
B [<u>р</u> ,	Were fid you attend school?	10	MR. TIRRY: Judge, that would be heareay.
פ	й,	Mouris.	1.9	The question was clear, what did you see.
)	g.	To there a full name to Morrie?	26	BY MS. JIMENEZ:
L	А.	Morria Academy,	21	Q. Right. I'm asking not to talk about what
3	Q,	On what streat is Morris Academy located?	23	people were saying, but I want to talk about did you
	А.	r just know it's up by Washington.	23	see screbcdy do schothing after achool before your
•	¢.	Do you know a cross street for	34	brother get there?
5	Waamington?		25	А. Уф.

1			
1	Q. And who was that person? 73	11	dris-dri-me? 75
3	A. Just we ware just waiting for people to	2	A. It was no longer than five minutes. It
3	pick us up, so	3	all happened so quick.
4	Q. What happened after visitar arrived?	4	Q. At some point did something else happen
3	A. My budther surfived. I saw that he came	5	with regard to that fight?
Ş	with a finiend of him.	5	A. Yas.
7	Q. Do you know his intent's happ?	7	Q. What was that?
9	A. I do now. Then I didn't know his name.	8	A. More people started jumping in, girls and
9	Q. What's his name?	9	guys.
10	A. Brien.	ta .	Ω. How wany others junyed into the fight?
11	Q. And what happened after Victor and Brian	11,	A. For deferring Giovanni, I saw a guy, and
32	got there?	13	then after that I saw another guy coming,
13	A. I just heard I don't know if you want	L.	Q. So when you say defending, do you mean on
16	na to say that.	и	the same side?
15	2. I want you to talk eliquit what you saw	15	A. Giovanni's sids, yes.
16	happened after Victor and Brian got there.	µs]	Q. And you said you say a guy and another
17	A. I saw that Brian was talking to my	17	guy, so is that two guys?
18	brother,	18	A. Yes, other two guys,
19		19	C. Where did these two guys come from?
20		20	A. They case out of a par,
21		21	0. Can you describe the car?
22		22	A. It was a I forgot the color. It was
23	A. Cicvatati Garçia.	23	like gray. It was an El Camino, two-door car. I saw
24		24	two four people in that car.
25	A. I have him for sixth period class at the	25	Q. And of the four people that you say in

ц	പ്രംപ് സ	vas arriving at,	74		••
2		-	I I	the series of states	
	Q.,	He goes to echool with your	я	A. There was one female and three walso.	
3	A.	his álá,	3	Q. And shout what age ware these people?	
4.	Q.	Before I want to back up for a second.	4	A. Around by age. I can say, 17, 18,	
5		Before Victor showed up, did you	5	Q. And what race were they?	
G		ad daing something before Victor got there?	ď	A. Hispanic,	
7	A.	Yas, I did.	7	Q. All of them?	
8	Q.	What did you see him do?	8	R, Mashan.	
9	n.	I saw him making a phone call, and as	9	Q. Is that yes?	
10	well he wa	s with girls.	þ.o	7. Хен.	
11	۵.	Wis he cal the pluxie?	իւ	Q. And so you said that the two people who	
13	А.	He was on the phone.	1a		
3	Q.	Was it a callphone?	13		
4	А.	Yes,	14	A, Xnei,	
\$	Q.	You said that after Viotor and Brian	2.5	Q. What papened after these two people	
6	aliowed up	that Brian and Giovanni got into a fight?	1.5		
17	А.	Ma-ham.	17		
.8	Q.	Is that yes?	1.0	Q. What happened after the principal cama	
.9	A .	Yen,	19		
0	Q,	Can you describe what kind of fight it	20	A. Everybody started running.	
ո	Və s?		21	9. This is the principal of the scincel?	
2	А.	It was a cue-on-one fight, the two guys.	22	A. Yos.	
3	Q,	Was it with fists or wapons?	23	Q. Miero was that fight occurring?	
4	А.	With Lings.	24	A. This was right in front of the school by	
5	Q.	How long did the two of thes fight just	25	the parking lot.	

	1		, 1 2
	•		· · _ · · · · · · · · · · · · · ·
1	(State's Proposed Exhibit 1 77]1	2. Can you put a cirole the amp where 79
2	marked for identification.}	3	205 COURT: Wait until coursel gets
þ		12	there. 4
4	MS. JINGNES: Judga, I have State's	4	ey M9. Junenez: , ,
5	Proposed Exhibit 1, which is a purported map, which	5	Q. Can you put a circle on the map where the
£	I'm showing to defense connect. May I approach?	ß	fight that you have just described was occurring.
7	THE CART: Sure, you hay.	7	by A. I believe this is the entrance. There
8	dy MS. JIMENEZ:	9	was two entrance for the school.
9	Q. Miss Canbon, I'm going to abovy ou	9	Q. Take a moment to briant yourself.
10	State's Proposed Eshibit 1. Do you recognize that	10	A. I know there was one for daycare. This
.11	1bem7	11	is the entrance. The fight was right ecross over
12	λ, Yes, Τ đơ.	þ2	bara, the parking lot.
13	Q. What is that?	13	Q. So you've drawn a circle on the map in
14	A. The school I was altending.	14	the parking lot area, correct?
15	Q. Is that a map of that school?	15	A. Correct.
1.6	А, Хен,	16	Q. After the inlividuals - you said two
17	Q. And does that map fairly and accurately	17	other people jumped in the fight on the side of
1.8	show the school and the nearby streets at the time	19	Giovanni. What happened after that?
19	that this happened on February 6 of 2006?	1 9	A. Can you explain that again?
20	А. Уся.	٩¢	0. After you said two people jumped into
21	MS. JIMENRY: Apd, Judge, I'm going to	21	the fight on the side of Gidvanni, correct?
22	pove to admit State's Proposed 1.	22	A. Mu-hum,
23	MR. 'NERRY: I have to ask for what	23	Q. In that yes?
24	pupose?	24	A. Yes.
25	THE CLURF: Mat's the purpose for 127	25	Q. What bappened after that?

10 St. 10

1	MR. TERRY: We don't have an adequate 78	1	A. Tray started running because the 50
2	foundation really to eduit it.	2	principal, came.
Э	MS. JIMENEZ: We do. I laid a fourpation	3	9. And did your brother, Vistor, nm?
4	that it's a fair and accurate map, that this is the	4	A. Yes, t
Ş	location of har school, that it's the location at the	5	Q, And did you min?
5	time and the date that this happened.	6	А. Уев.
7	THE COURT: Max what is the purpose?	7	Q. Anžiwim else ran?
8	MS. JIMENEZ: I'm going to have her	R	A. Everybody
9	describe where people were, what they were doing.	4	Q. While the running was happening, what did
1.0	THE COURT: I'll allow it in for that,	1.0	you see happen?
11	Go ahead.	11	A. I was running towards my brother and
12		12	Q. It's skay. Take a tissue if you need it.
13	(State's Exhibit 1	13	MR. TERRY: Judge, if counsel's not going
14	edmitted intro ovidence.)	14	to mark on that anymore, I'll return to my seat.
3.6		ឆ	MS. JIMENEZ: I'm soiry, we are. I
16	BY MS, JIMERRY:	16	thought we were getting to it a littly faster.
17	9. You said that the fight was occurring in	17	MR. IBRRY: No publem.
18	the parking lot, correct?	18	MS. JIMENSE: It will be just a moment,
1.9	A. Correct.	19	THE WINNESS: While crossing the street I
20	MS. JIMIMEZ: I'm going to ask her to	20	was ruming baling my brother, and then I see
21	wark on the map, if counsel wants to watch where	21	semectedy just I running towards my brother, and I
22	abe's nurking.	22	seen excepted else running towards my brother and
23	MR. TERRY: May I approach?	23	shoosing him.
24	· THE COURT: Absolutely.	84	EY MS. JIMANEZ:
28	ev MS. Jimenez:	86	Q. Can you put a V on the map where your
		1 1	
			u r

ķ				,
1	brother was when he was gotting shot et. 81	11	saw him again?	83
2	Cour you put an M for the	2	A. Yes,	
3	record, Judge, she's mark a V on the strest area of	3	C. Do you say that person have in court	ļ
4	Mashington. It's towards the upper half, left-hard	4	today?	
ភ	side of the drawing.	9	A. Yes,	
6	And can you put an je for whare you	6	Q. Could you please point to that person and	1
7	were standing when your brother was being shot at.	7	tell the ducies what color shirt he's meaning?	
E	And can you put an s for shooter,	18	A. He's in custody, wearing blue.	
9	where the person doing the phooting was standing.	\$	MS. JIMENEZ: May the record reflect the	
10	Okey. I'm done marking on the map	10	witness has identified the defendant,	
11	at this time.	11	THE COURT: So reflect.	
12	so from where you were shanding,	12	SY MS. JIMBBE:	
13	could you see the person who was shooting your	h۵	Q. Now many shots were fired at your	
14	brother?	14	hrother?	
15	A. Yes	29	A. It was couple of rounds.	
16	Q. Can you describe that parson?	1.6	Q. When you say couple, is that two or is	ł
117	A. Yes.	1.7	that H-	
18	Q. Describe him, pleass.	13	A. Mona than two.	
19	A. He was wearing a hoodie that night, and	29	Q. And did you actually see the gun that the	į
20		20	delandant you identified was holding?	
21	•	21	A. 198.	
22	night.	22	Q. Can you describe that gun?	ļ
33		23	A. Holding it tight hand. I believe it was	1
24	A. Hispanic.	24	a 380.	
25	Q. And, I'm scurzy, you may have sold this	25	Q. Do you know do you have a particular	

				And a second sec	La Martin Contractor (1977) and a fair a fair a fair a f	
1	and I didn.	t catch it. Did you say about what age he 62	1	baceground	in guns, Mias Ganica?	84
2	wrei?		R	A.	Amt a little.	
3	А.	No, I điản't.	з	Q.	It's not your job to do	
4	Q.	Abaut what age was bu?	4	A.	No, it's not.	
5	А.	17 or 18.	5	o.	When I say describe it, can you describe	
6	Q.	And do you remember what he was weeking?	6	what color	the gun was?	
7	A.	Yes. I just	7	A.	I don't remember what color. I know it's	
Đ		MR. THRRY: 'Asked and answered.	6	either blee	k or gray. I can gunzantee you it was,	
9		DIE COURT: She just said that.	9		MS. JIMENEZ: Court's indulgence a	
10		MS, JIMENES: Judge, I think she just	20	memant,	-	
21	describsi t	he shorts. I'm asking about the rest of	11	BY MD. JIMP	NEZ 1	
13	the clothin	g.	12	Q.	What happened when your brother was shot	
1.3		THE COURT: She said he was wearing a	13	at?	-	
14	hoodie. Di	dn't say what color.	14	л.	J 1921 bowends him.	
15	sx Ms. Jime	hez:	î.S	Q.	At the time that your brother was being	
26	Q .	What color was the hoodie?	1.6	shot at was	he facing the shoopery	
17	А.	Gray.	27	А.	He was at he wasn't facing directly at	•
16	Q.	Can you describe his hair or his face?	La I	the shooter	He was running. Then when he kept	
19	А.	He didn't have famial.	19		at, he did look back towards me, I	
20	Q,	And you said this is the person you sew	20		see if I was the one getting shot.	
21.	shooting at	your brother, correct?	ar.		So initially he was running away from the	
22	А.	Ma-lama.	22	micotar, you		
23	Q.	Is that yes?	23	A.,	Ma-lumi.	
24	А,	Yom.	24	Q.	Is that yes?	
25	Q,	Nonld you recognize that person if you	25	Α.	Yen.	

1 2				
2	Q,	And then you said you turned back and he As	Π.	MS. JIMENES: Court's inchigence, 87
	Looksd in	your direction?	2	
3	д.	Xea,	3	guestions,
4	ġ,	What happened after he was shot?	4	Till COURT: Mr. Terry.
븳	А.	I saw the shooter manning.	5	-
6	Q.	Where which direction did you see the	6	
7	anoster ru	a i n?	7	1
Ø	А.	That would be the left.	8	
9	Q.	Could you show it on the map?	9	
. 0	A.	Yes, I çan.	0.0	
1		MS. JIMENIZ: If I can approach egain	11	A. Xed.
2	with the m		12	Q as the individual that you described
.3		THE COURT: You may.	13	
.4		You want Mr. Warry there?	14	as the shooter, right?
5		MS. JIMENEZ: Sure.		A. Yest.
5	ay Ma. Jim		15	Q. What is his name?
7			1.6	A. I know his name, but I'didn't know
/ 6	Ç. 	Would you be able to draw an arrow	17	Q. You did not know him as of February of
9	snowing win	ch direction the shooter ran?	10	'06, gorrect?
		Ckay. And did you see where he	٩Ļ	A. Correct.
0	went after		80	Q. And isn't it true that you're identifying
L	Α.	I saw him there.	21,	him because have seated to my right?
2	Q.	And you've drawn a second arrow where you	22	A. No.
3		cu. saw him turn; is that correct?	23	Q. Do you remember giving a description to
4	Å.	Yes.	24	the polace?
5	Q.	What did you do after your brother was	25	A. Yes.
		, , , , , , , , , , , , , , , , , , ,	_^~	
. [shoc?	őő		
1	shoc?		1	Q. Do you remember that description being as ⁰⁸
2	А.	I was asking him if he was clay, and he	1 2	9. Do you remember that description being as ⁰⁸ follows:
3	A. was not: res	I was asking him if he was cksy, and he panding.	1 2 3	9. Do you remember that description being as ⁰⁸ follows: Me was wearing a gray sweater, had a hoodie
2	A. was not nes Q-	I was asking him if he was cksy, and he pending. Could you see any injuries on him?	1 2 3 4	9. Do you remember that description being as ⁰⁸ follows: No was wearing a gray sweater, had a hoodle on, dark shorts, the gun I'm soury, counsel, page 5.
2	A. was not res Q. A.	I was asking him if he was cksy, and he pending. Could you see any injuries on him? I just saw him holding his stonach.	1 2 3 4 5	9. Do you remember that description being as ⁰⁰ follows: Në was wearing a gray sweater, had a hoodie n, datk shorts, the gun I'm soury, counsel, page 6. W9. JIMENE2: Thank you.
2	A. was not res Q. A. Q.	I was asking him if he was oksy, and he could not see any injuries on him? I just asy him holding his stomach. And was he at that point was he	1 2 3 4 5 6	9. Do you remember that description being as ⁸⁸ follows: Me was wearing a gray sweater, had a hoodie m, datk shorts, the gun I'm soury, counsel, page 6. WS. JIMENEZ: Thank you. EY MR. THREX:
2	A. was not res Q. A. Q. standing up	I was asking him if he was oksy, and he pouling. Could you see any injuries on him? I just saw him holding his stonach. And was he at that point was he or what position	1 2 3 4 5 6 7	 Q. Do you remember that description being as ⁰⁸ follows: Me was wearing a gray sweater, had a hoodie Me was wearing a gray sweater, had a hoodie the shorts, the gun - I'm soury, counsel, page 6. WS. JIMENES: Thank you. BY NR. THREE: The Jun - I ballovio, a 180. It was
	A. was not res Q. A. Q. standing up A.	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just saw him holding his stomach. And was he at that point was he or what position He was sitting down against the wall.	1 2 3 4 5 6 7 8	 Q. Do you remember that description being as ⁰⁸ follows: Ne was wearing a gray sweater, had a hoodie an, dark shorts, the gun - I'm soury, counsel, page 6. WS. JIMENES: Thank you. BY MR. THREE: Q. The gun was, I boliovo, a 180. It was dark. I think it was black. and light hair, a face.
2	A. was not res Q. A. Q. standing up A. Q.	I was asking him if he was oksy, and he pouling. Could you see any injuries on him? I just saw him holding his stonach. And was he at that point was he or what position	1 2 3 4 5 6 7 8 9	 Q. Do you remember that description being as ⁰⁸ follows: Me was wearing a gray sweater, had a hoodie Me was wearing a gray sweater, had a hoodie dark shorts, the gun I'm soury, counsel, page 6. WR. THREE: Thank you. BY MR. THREE: The gun was, I bolieve, a 190. It was dark. I think it was black. We light hair, a fuce. He ka I don't think he had hairs on his face.
	A. was not res Q. A. Q. standing up A. Q. that?	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just saw him holding his stomach. And was he at that point was to or what position He was sitting down against the wall. And what happened with your brother after	1 2 3 4 5 6 7 8 9	 9. De you remember that description being as ⁰⁸ follows: Ne was wearing a gray sweater, had a hoodie n, dark shorts, the gun I'm soury, counsel, page 6. NS. JIMENES: Mank you. BY MR. THREX: 0. The gun was, I believe, a 190. It was dark. I think it was black. He is a face. He he I don't think he had hairs on his face. He locked clean. I don't think he had a mustache.
	A. was not res Q. A. Q. standing up A. Q. thut? A.	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just saw him holding his stomach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after form students from achool brought their	1 2 3 4 5 6 7 8 9 10	 Q. Do you remember that description being as ^{0\$} follows: Ne was wearing a gray sweater, had a hoodle in, dark shorts, the gun I'm soury, counsel, page 5. NS. JIMENES: Mank you. BY MR. THREK: Q. The gun was, I bolistic, a 190. It was dark. I think it was black. Mai heir, a fuce. He he I don't think he had hairs on his face. Ne looked clean. I don't think he had a mustache. Is that the description you gave?
	A. was not res Q. A. Q. standing up A. Car over to	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just saw him holding his stomach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after	1 2 3 4 5 6 7 8 9 10 11	 Q. Do you remember that description being as ^{0\$} follows: Në was wearing a gray sweater, had a hoodie in, dark shorts, the gun I'm soury, counsel, page 6. NS. JIMENS2: Mank you. BY M2. THREXY: Q. The gun was, I bolievo, a 190. It was dark. I think it was black. Each light hair, a fuce. He ka I don't think he had hairs on his face. He looked clean. I don't think he had a mustache. If that the description you gave? A. I don't remember.
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police erry.	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just asw him holding his stonach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after forms students from school hrought their try to take him to the hospital, and the red and they just laid him down.	1 2 3 4 5 6 7 8 9 10 11 12	 9. Do you remember that description being as ^{0\$} follows: Ne was wearing a gray sweater, had a hoodie in, dark shorts, the gun I'm soury, counsel, page 6. WS. JIMENES: inank you. BY ht. THREX: 9. The gun was, I believe, a 190. It was dark. I think it was black. and helve a face. He ha I don't think he had hairs on his face. He locked clean. I don't think he had a mustache. Is that the description you gave? A. I don't remember. NR. TERRY: May I approach?
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police arriv Q.	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just saw him holding his stonach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after forms students from school hrought their bry to take him to the hospital, and the red and they just laid him down. How such time passed between when you got	1 2 3 4 5 6 7 8 9 10 11 12 12	 9. Do you remember that description being as ⁸⁸ follows: Ne was wearing a gray sweater, had a hoodie in, dark shorts, the gun I'm soury, counsel, page 6. WS. JIMENES: inank you. EY Mt. THREX: 9. The gun was, I boliovo, a 190. It was dark. I think it was black. Each Light hair, a fuce. He he I don't think he had hairs on his face. He looked clean. I don't think he had a mustache. In that the description you gave? A. I don't remember. MR. TERKY: May I approach? THE COURT: Sura.
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police arriv Q. cut of the s	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just asw him holding his stonach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after forms students from school hrought their try to take him to the hospital, and the red and they just laid him down.	1 2 3 4 5 6 7 8 9 10 11 12 12 13	 9. Do you remember that description being as ⁰⁵ follows: Me was wearing a gray sweater, had a hoodie in, datk shorts, the gun I'm soury, counsel, page 6. NS. JIMENES: Thank you. EY MR. THREX: 9. The gun was, I bolieve, a 190. It was Gark. I think it was black. Each Light bair, a fuce. He ha I don't think he had a mustache. If that the description you gave? A. I don't remember. MR. TERRY: May I approach? THE CONKT: Sura. MR. TERRY: I baliave I read it verberin.
	A. Was not res Q. A. Q. standing up A. Q. that? A. car over to police arriv Q. cut of the s happened?	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just asw him holding his stomach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after farms students from achool hrought their try to take him to the hospital, and the red and they just laid him down. How such time passed between when you got school and the time that this shooting	1 2 3 4 5 6 7 8 9 10 1.1 12 1.2 1.2 1.4 1.5 1.6	 9. Do you remember that description being as ⁸⁸ follows: Ne was wearing a gray sweater, had a hoodie in, dark shorts, the gun I'm soury, counsel, page 6. WS. JIMENES: inank you. EY Mt. THREX: 9. The gun was, I boliovo, a 190. It was dark. I think it was black. Each Light hair, a fuce. He he I don't think he had hairs on his face. He looked clean. I don't think he had a mustache. In that the description you gave? A. I don't remember. MR. TERKY: May I approach? THE COURT: Sura.
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police arriv Q. cub of the s happened? A.	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just asw him holding his stomach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after farms students from achool hrought their try to take him to the hospital, and the sed and they just laid him down. How much time passed between when you got school and the time that this shooting It was so fast, I don't remember.	1 2 3 4 5 6 7 8 9 10 11 12 12 13	 9. Do you remember that description being as ⁰⁵ follows: Me was wearing a gray sweater, had a hoodie in, datk shorts, the gun I'm soury, counsel, page 6. NS. JIMENES: Thank you. EY MR. THREX: 9. The gun was, I bolieve, a 190. It was Gark. I think it was black. Each Light bair, a fuce. He ha I don't think he had a mustache. If that the description you gave? A. I don't remember. MR. TERRY: May I approach? THE CONKT: Sura. MR. TERRY: I baliave I read it verberin.
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police arriv Q. cub of the s happened? A. Q.	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just asw him holding his stomach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after firms students from achool hrought their try to take him to the hospital, and the red and they just laid him down. How much time passed between when you got achool and the time that this shooting It was so fast, I don't remember. Did you ever hear the person who shot the	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 9. Do you remember that description being as ⁰⁸ follows: Ne was wearing a gray sweater, had a hoodie an, dark shorts, the gun - I'm soury, counsel, page 6. WS. JIMENES: Thank you. BY MR. THREE: W. THREE: Thank you. BY MR. THREE: W. THREE: Thank you. BY MR. THREE: M. I think it was black. End light hair, a fuce. He he I don't think he had a mustache. He looked clean. I don't think he had a mustache. I don't remember. MR. TERRY: May I approach? THE CONFT: Sura. MR. TERRY: I believe I read it verberim. THE CONFT: Councel. is this another reported statement? MR. TERRY: Quarent, Judge.
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police arriv Q. cut of the s happened? A. Q. defendant w	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just saw him holding his stomach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after first students from achool brought their try to take him to the hospital, and the red and they just laid him down. How such time passed between when you got school and the time that this shooting It was so fast, I don't remember. Did you ever hear the person who shot the ne you identified say anything?	1 2 3 4 5 6 7 8 9 1.0 1.1 2 1.4 1.5 1.4 1.5 1.4 1.5 1.9 1.9	 9. Do you remember that description being as ⁰⁸ follows: Ne was wearing a gray sweater, had a hoodie an, dark shorts, the gun - I'm soury, counsel, page 6. WS. JIMENES: Thank you. BY MR. THREE: S. The gun was, I believe, a 190. It was dark. I think it was black. End light hair, a fuce. He looked clean. I don't think he had a mustache. I don't remember. MR. TERRY: May I approach? THE CORF. Councel. is this another recorded statement? WR. TERRY: Correct, Judge. THE COURT: Maybe ask her if she receiled
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police arriv Q. cut of the s happened? A. Q. defendant wh A.	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just saw him holding his stomach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after first students from achool brought their try to take him to the hospital, and the red and they just laid him down. How such time passed between when you got school and the time that this shooting It was so fast, I don't remember. Did you ever hear the person who shot the he you ifentified say anything? No.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 9. Do you remember that description being as ⁰⁸ follows: Ne was wearing a gray sweater, had a hoodie an, dark shorts, the gun - I'm soury, counsel, page 6. NS. JIMENES: Thank you. BY MR. THREE: 9. The gun was, I believe, a 190. It was dark. I think it was black. End light hair, a fuce. He he I don't think he had hairs on his face. He looked clean. I don't think he had a mustache. I don't remember. MR. TERRY: May I approach? THE CORFT: Sura. THE CORT: Sura. THE CORT: Coursel, is this another reported statement? MR. TERRY: Coursel, Judgs.
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police arriv Q. cut of the s happened? A. Q. defendant wi A.	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just asw him holding his stonach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after forms students from school hrought their try to take him to the hospital, and the red and they just haid him down. How such time passed between when you got school and the time that this shooting It was so fast, I don't remember, Did you ever hear the person who shot the No. Did you hear snybody else say anything	1 2 3 4 5 6 7 8 9 1.0 1.1 2 1.4 1.5 1.4 1.5 1.4 1.5 1.9 1.9	 9. Do you remember that description being as ⁰⁸ follows: Ma was wearing a gray sweater, had a hoodie m. dark shorts, the gun I'm soury, counsel, page 6. MS. JIMENES: Thank you. BY MR. THREX: The gun was, I believe, a 190. It was think it was black. End Light hair, a fuce. He he I don't think he had a mustache. I don't remember. M. I don't remember. MR. TERRY: May I approach? THE COURT: Sura. THE COURT: Councel, is this another THE COURT: Councel, Judge. THE COURT: Maybe ask har if she receiled
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police errly Q. cut of the s happened? A. Q. defendant wi A. Q. leading up t	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just saw him holding his stomach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after first students from achool brought their try to take him to the hospital, and the red and they just laid him down. How such time passed between when you got school and the time that this shooting It was so fast, I don't remember. Did you ever hear the person who shot the no you identified say anything? No.	1 2 3 4 5 6 7 8 9 1.0 1.1 12 13 1.4 15 1.6 17 1.8 19 10	 De you remember that description being as ⁰⁸ follows: Ma was wearing a gray sweater, had a hoodie n, dark shorts, the gun - I'm soury, counsel, page 6. WS. JIMENES: Thank you. BY MA. THREE: D. The gun was, I bolieve, a 190. It was dark. I think it was black. Each light hair, a fuce. He ka I don't think he had hairs on his face. He locked clean. I don't think he had a mustache. Is that the description you gave? A. I don't remember. MR. TERRY: May I approach? THE CONKT: Sure. MR. TERRY: I balieve I read it varbatim. THE CONKT: Coursel, is this another PRODUCT: Coursel, is this another PRODUCT: Maybe ask her if she receiled giving a recorded statement.
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police arriv Q. cut of the s happened? A. Q. defendant wi A.	I was asking him if he was eksy, and he pending. Could you see any injuries on him? I just asw him holding his stonach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after from students from achool hrought their Ery to take him to the hespital, and the set and they just laid him down. How much time passed between when you got school and the time that this shooting It was so fast, I don't remember. Did you ever hear the person who shot the to you identified say anything? No. Did you hear anybody else say anything to the shooting?	1 2 3 4 5 6 7 8 9 1.0 1.1 12 13 1.4 1.5 1.6 1.7 1.8 1.9 2.0 11	 9. Do you remember that description being as ⁰⁸ follows: Në was wearing a gray sweater, had a hoodie in, dark shorts, the gun I'm soury, counsel, page 6. NS. JIMENES: intank you. BY NE. THREK: 9. The gun was, I believe, a 390. It was dark. I think it was black. Ead hight hair, a fuce. He ha I don't think he had hairs on his face. He is that the description you gave? A. I don't remember. MR. TERRY: May I approach? THE COURT: Sura. THE COURT: Sura. THE COURT: Coursel, judge. THE COURT: Maybe ask har if she receiled giving a recorded statement. BY MR. TERRY: Q. Do you mocall giving a recorded
	A. was not res Q. A. Q. standing up A. Q. that? A. car over to police errly Q. cut of the s happened? A. Q. defendant wi A. Q. leading up t	I was asking him if he was oksy, and he pending. Could you see any injuries on him? I just saw him holding his stonach. And was he at that point was he or what position He was sitting down against the wall. And what happened with your brother after firms students from achool hrought their Cry to take him to the hespital, and the ed and they just laid him down. How much time passed between when you got school and the time that this shooting It was so fast, I don't remember. Did you ever hear the person who shot the to you identified say anything? No. Did you hear anybody else say anything to the shooting?	1 2 3 4 5 6 7 8 9 1.0 1.1 1.2 1.4 1.5 1.6 1.7 1.8 1.9 2.0 2.1 2.2 2.2	 9. Do you remember that description being as ⁰⁵ follows: Në was wearing a gray sweater, had a hoodie in, dark shorts, the gun I'm soury, counsel, page 6. NF. JIMENE2: Thank you. BY NE, THREX: 9. The gun was, I believe, a 190. It was dark. I think it was black. Kad light hair, a fuce. He ha I don't think he had hairs on his face. He looked clean. I don't think he had a mustachs. I don't remember. MR. TEREY: May I approach? THE CONET: Sura. NR. TEREY: I believe I read it verberim. THE CONET: Coursel, Judge. THE COURT: Sura. MR. TEREX: Coursel, Judge. THE COURT: Maybe ask har if she recalled giving a recorded statement.

ĩ	·····		_			
1	Ω.	And, certainly, it would have been within 89]1	A.	No.	91
2	a week, co	rract7	2	j <u>o</u> .	Did you can into the courtroom at any	ł
3	R.	At was that some night.	3	time before	you were called as a witness?	
4	g,	The same night. So that was the same	4	A.	Yes.	
5	exact nigh	t that you gave that description, correct?	5	Q.	And isn't it true that you chastved me to	[
6	А,	Yez,	6	be talking	to the defendant at that time?	ĺ
7	Q.	And that would have been to Detective	7	А.	No.	
ß	Magg on Tel	priary 6 at 2326, correct?	8	<u>o</u> ,	Isn't it true you remained in the	
9	A.	Correct,	9	courteroon de	using that period of time?	
10	Q.	All right. Now, the original quastion	ha	А.	What do you mean?	
11	wan, pleas	e look at that and tell we if that's the	13	Q.	stayed in the courtroon.	
12	way you de	scribed the individual?	þa -	А.	Like right new?	
13	А.	Yea.	13	Q.	No, before you were called	
14	Q,	Yo,#7	14	A.	No.	1
15	A,	Mat-Laura.	13	Q.	ee a witness.	
16	Q.	Does the gentleman scated to my laft have	16	2	Mare you with an individual that	
17	light hair:	2	17	the connenty	raferred to as a Victim Witness	
28	А.	Has what?	18	ccondinatori		
19	Q.	Does the gentleman seated to my left have	19	А.	I'm not understanding.	
20	light hair:	•	20	ລ.	Did sousbody help you dans to court this	
21	А,	Ro,	21.	noming?		
22	Ø,	You described the gentleman that was the	22	д.	As a ride or	
23	abcoter as	having light halr, correct?	a3	Q.	No, When you get to the building did	
24	А.	Connect.	24		ng you up here?	
25	Q.	And you indicated that my client's	25		Na.	

1	appearance	today is the same as you recall it on that 90	3.	Q,	There's a young lady sitting in the	9 2
2	day, corre	ntt?	8	courtroon,		
3	А,	Correct.	3	have you ha	d any conversations with her today?	
4	Q.	He doesn't have light hair through, does	4	А.	Yeş,	
9	he,		B	a.	And would you point to that ludy no that	
6	А.	No.	б	we're clear		
7	Q.	You described him in that same police	7		And I'll ask the lady to identify	
8	report as	baing 16 or 19 years old, correct?	8	harself.		1
٩	А.	Correct.	9		MS. JIMENISZ: I object as bo the	
10	ģ.	And do you recall how tall you cald the	1.0	relevance.		
11	individual	waa?	11	1	MR. TERRY: We'll get to the relevance.	1
13	A.	Yee.	12		THE COURT: It may be. I don't know.	
13	Q.	How tall did you tell the pulice he was?	1.3	I'll give h	in leeway.	
14	А.	I don't remamber what I said on my	14		THE WITNESS: I couldn't describe over	
18	statement.		16	the phone.	I did talk to her over the phone.	
16	Q.	Now, you've been sitting outside the	16		MR. TERRY: I'm just asking you to point	ļ
17	001111110000	today, correct?	17	to her.		
18	n.	Correct.	ģ.₩		THE WIGNINGS: I spoke with Lawn.	
1.9	Q.	And you've seen me go back and forth,	19	EY MR. TEXES	Y;	
20	convect?		ao	Q.	The lady is in the courtroom right news	
31	P	Concept.	37	А.	Yoq.	
72	Q,	And you've seen we talking to the	22	φ.	would you point to her. Third time.	ļ
23	defendant	that's sealed to my right, correct?	8 3 .	A.	Over there.	
34	А.	No.	24		MR. TERRY: Would that lady start up and	
29	Q,	You never saw that at all?	25	identify her	rself for the record,	

,

a j		MS. RANLOW: I'm a criminal investigator	93 1	REDIRET EXAMINATION 39
1	with the D	Astrict Atternay's Office, My name is Dawn	2	BY MS. SIMENEZ
2	Barlow.	new wordt sitte and seen the science and inter-	3	Q. Miss Gamboa, do you recall giving a
4		THE CALES: ORAY.	4	written statement to the police at the time that this
5	۲	MR. TERRY: Thank you very much.	9	bappened, one that you wrote in your own head?
6	BY MR. TER			A. Mes.
7	¢.	Now, she's in have while your testifying,	7	1 NS. JUMENNEZI And, Judge, if I can
e	right?	they was a million to have love as a will be	8	approach. I have her handwritten statement.
	а. Д	Xer	9	BY MS. JIMMARA
.0	ò,	She's belging you, right?	10	O Do you recall there's a box on the
i	А.	X68.	h1	statement that asks if you can identify the suspect,
2	o.	And you met with her before you came into	2.2	correct?
3	-	set today, right?	13	A. Yes.
	A,	Inside the court.	14	
.4 .5	А. Q.	Refore you came into the court this	1	
	v. nomina?	weather has many discupance states while	15 16	you?
.0	···· •	Y98.		A. Yes,
8	А. 0.		17	Q. When you came into court earlier today,
5	-	Courtroom, how about that?	18	before you testified, did you recognize the defendant;
	А. Q.	Xee. And did she come in when you, came in?	19	at that time?
1	-	-	80 81	A. 1985. / O Red the militate in the same since their
a	д. О	No. Did she tell you to remain outside?	22	
	Q. እ.	No.	1 1	
3			23	
4	Q. A.	But I you came in? Yes.	24 25	0. Where was he sitting? A. Right there.
				4 I 3 ,
, T	~	Noney, year, start, sharing a sharing and a second second	24	96
	Q.	Were you ever shows a photo spread of any	1	HS. JIMENEZ: And, for the record, Judge, 96
•	inividuals	that the police balieved were involved in	2	she's pointed toward the jury box.
a	individuals the shootin	that the police balieved were involved in g?	2 3	she's pointed toward the jury box. BY MS. JIMENEZ:
a 3 4	individuals the shootin A.	a that the police balieved were involved in 197 No.	2 3 4	she's pointed boward the jury box. BY MS. JIMENTER: Q. In the first of the second row?
a 4 4	individuals the shootin A. Q.	a that the police balieved were involved in 197 No. So this is the first time that you're	2 3 4 5	she's pointed toward the jury box. BY MS. JIMENZZ: Q. In the first of the second row? A. The first we the
a 4 5 6	individuals the shootin A. Q. identifying	that the police believed were involved in 197 No. So this is the first time that you're I my client as being the individual that	2 3 4 6	 a) and and any ter the second row? b) any the first of the second row? c) any the first row. c) any the second seat he was in?
2 3 4 5 6 7	individual: the shootin A. Q. identifying was shootin	that the police balieved were involved in 197 No. 50 this is the first time that you're 1 my client as being the individual that 197	2 3 4 6 7	she's pointed toward the jury box. BY MS. JIMENEZ: Q. In the first of the second row? A. The first row. Q. Can you may which seat he was in? A. Mither first or second.
2 3 4 5 6 7 9	individuals the shootin A. Q. identifying was shootin A.	that the police balieved were involved in (7) No. So this is the first time that you're (my client as being the individual that (67) Yee,	2 3 4 6 7 8	she's pointed toward the jury box. BY MS. JIMENEZ: Q. In the first of the second row? A. The first of the second row? Q. Can you say which seat he was in? A. Bither first or second. Q. And you said that you dicn't see
9 4 5 6 7 9	individuals the shootin A. Q. identifying was shootin A. Q.	a that the police balieved were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yes, Is that because you want to balieve ha's	2 3 4 6 7 8	 a) and any first on the second row? b) MS. JIMENEZ: Q. In the first of the second row? A. The first row. Q. Can you say which seat he was in? A. Bither first or second. Q. And you said that you didn't see Mr. Terry, the defense atterney, talking to him?
1 1 1 1	individuals the shootin A. Q. identifying was shootin A. Q. the indivis	a that the police believed were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yes. Is that because you want to believe he's that hat was doing the shooting?	2 4 6 7 1 9 10	 abe's pointed toward the jury box. BY MS. JIMENEZ: Q. In the first of the second row? A. The first of the second row? Q. Can you say which seat he was in? A. Mither first or second. Q. And you seid that you dicn't see Mr. Terry, the defense attenney, talking to him? A. No, Y dicn't.
9 3 4 5 6 7 8 9 0	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. ,	a that the police believed were involved in 197 No. 50 this is the first time that you're 1 my client as being the individual that 197 Yee. Is that because you want to believe he's tual that was doing the shooting? No.	2 4 6 7 8 10 1.1	 abe's pointed toward the jury hox. BY MS. JIMENEZ: Q. In the first of the second row? A. The first of the second row? Q. Can you may which seat he was in? A. Hither first or second. Q. And you said that you didn't see Mr. Terry, the defense attorney, talking to him? A. No. Y didn't. Q. Did anybody tell you who the defendant
3 4 5 6 7 8 9 0 1 2	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. , Q.	a that the police believed were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yee. Is that because you want to believe he's hual that was doing the shooting? No. Would you acknowledge he foces not meat	2 3 6 7 1 1 1,1 1,2	 abe's pointed toward the jury box. BY MS. JIMENZZ: Q. In the first of the second row? A. The first of second. Q. Can you may which seat he was in? A. Hither first or second. Q. And you said that you didn't see Mr. Terry, the defense attorney, talking to him? A. No. Y didn't. Q. Did enybody tell you who the defendant was?
9 3 4 5 6 7 6 9 0 1 2 3	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. , Q. the indivis	a that the police believed were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yes. Is that kecause you want to believe he's hull that was doing the shooting? No. Would you acknowledge he does not ment bion that you gave the police that same	2 3 4 6 7 10 1.1 1.2 1.2 1.2	 abe's pointed toward the jury box. BY MS. JIMENZZ: Q. In the first of the second row? A. The first or second. Q. Can you may which seat he was in? A. Hither first or second. Q. And you said that you didn't see Mr. Terry, the defense attorney, talking to him? A. No. Y didn't. Q. Did anybody tell you who the defendant was? A. No.
9 3 4 5 6 7 6 9 0 1 2 3	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. , Q.	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yee, 18 that because you want to bolieve he's that that was doing the shooting? No. Would you acknowledge he does not ment otion that you gave the police that same ino?	2 3 4 6 7 8 9 10 1,1, 1,2 1,2 1,3 1,2	 abe's pointed toward the jury box. BY MS. JIMENZZ: Q. In the first of the second row? A. The first of second row? A. The first or second. Q. Can you may which seat he was in? A. Rither first or second. Q. And you seld that yrd didn't see Mr. Terry, the defense acturney, talking to him? A. No. Y didn't. Q. Did anybody tall you to pick that parson?
2 3 4 5 6 6 7 8 9 9 1 2 3 4 5	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. Q. the indivis A. Q. the descrip day; yes on	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yee, Is that because you want to believe he's that that was doing the shooting? No. Would you acknowledge he does not meat bit on that you gave the police that same ino? Xes or no?	2 3 4 6 7 10 11 12 12 12 13 15	 abe's pointed toward the jury box. BY MS. JIMENZZ: Q. In the first of the second row? A. The first of the second row? A. The first or second. Q. Can you may which seat he was in? A. Rither first or second. Q. And you seld that yrd didn't see Mr. Terry, the defense atterney, talking to him? A. No. Y didn't. Q. Did anybody tall you to pick that parson? A. No.
	individuals the shootin A. Q. identiFying was shootin A. Q. the indivis A. , Q. the indivis A. , Q. the descrip day; yes on A.	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yee, Is that because you want to believe he's that hat was doing the shooting? No. Would you acknowledge he foces not ment obtion that you gave the police that same t no? Yee of no? Can you explain that again?	2 3 6 7 10 1.1 1.2 1.3 1.4 1.5	 abe's pointed toward the jury box. BY MS. JIMENZZ: Q. In the first of the second row? A. The first of the second row? A. The first or second. Q. Can you may which seat he was in? A. Rither first or second. Q. And you said that yrd didn't see Mr. Terry, the defense acturney, talking to him? A. No. Y didn't. Q. Did anybody tall you who the defendant was? A. No. Q. Did anybody tall you to pick that parson? A. No. Q. Did anybody tall you to pick that parson? A. No. Q. Do you remember what you who the in your
4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. Q. the indivis A. Q. the descrip day; yes on	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yee, Is that because you want to believe ha's that hat was doing the shooting? No. Would you acknowledge he foces not meat otion that you gave the police that some t no? Yee or no? Can you explain that again? No. I'll ask the goestion.	2 3 6 7 8 10 11 12 13 14 15 16 17	 all of the second row? by MS. JIMENEZ: Q. In the first of the second row? A. The first of the second row? A. The first of second. Q. Can you may which seat he was in? A. Hither first or second. Q. And you said that yrd didn't see Mr. Terry, the defense atterney, talking to him? A. No. Y didn't. Q. Did anybody tall you who the defendant west? A. No. Q. Did anybody tall you to pick that person? A. No. Q. Did anybody tall you whote in your bandwritten statement about how the shooter looked?
9 9 9 9 9 9 9 9 1 8 9 9 1 8 9 9 1 8 9 9 1 8 9 9 1 8 9 9 9 1 8 9 9 1 8 9 9 1 8 1 8	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. , Q. the descrip day; yes on A. Q.	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yee, Is that because you want to believe ha's tual that was doing the shooting? Mo. Would you acknowledge he floce not meat btion that you gave the police that same a no? Yee or no? Can you explain that again? No. T'll ask the goestion. Eo you acknowledge that he does	2 3 4 6 7 8 10 11 12 13 14 15 16 17 18	 abe's pointed toward the jury box. BY MS. JIMENZ: Q. In the first of the second row? A. The first of the second row? A. The first or second. Q. Can you may which seat he was in? A. Hither first or second. Q. And you said that you dich't see Mr. Terry, the defense attorney, talking to him? A. No. Y dich't. Q. Did anybody tall you who the defendant West? A. No. Q. Did anybody tall you to pick that person? A. No. Q. Did anybody tall you whote in your bandwritten statement about how the shooter looked? A. Aittle.
9 9 9 9 9 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. , Q. the indivis A. , Q. the descrip day; yes on A. Q. not meet Q	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my client as being the individual that 197 Yee, Is that because you want to believe ha's tual that was doing the shooting? Mo. Would you acknowledge he floce not meat btion that you gave the police that same a no? Yee or no? Can you explain that again? No. I'll ask the goestion. Eo you acknowledge that he does a description that you gave to the police	2 3 4 6 7 8 9 10 11, 12 13 14 15 16 19 19	 all of the second row? all a pointed toward the jury hox. BY MS. JINENEZ: Q. In the first of the second row? A. The first of the second row? A. The first of second. Q. Can you may which seat he was in? A. Mither first of second. Q. And you said that you dich't see Mr. Terry, the defense attorney, talking to him? A. No. Y dich't. Q. Did anybody tall you who the defendant wes? A. No. Q. Did anybody tall you to pick that parson? A. No. Q. Do you remember what you whote in your bondwritten statement about how the shooter looked? A. A Little. Q. Would it refresh your memory to look at:
44 4 4 7 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. , Q. the descrip day; yes on A. Q. not seet to that sense	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my Client as being the individual that 197 Yee, Is that because you want to balieve he's that because you want to balieve he's to you admoviedge that he does be description that you gave to the police bay it occurred, yee or po?	2 3 4 6 7 8 9 10 11, 12 13 14 15 16 19 20	 abe's pointed toward the jury hox. BY MS. JIMENEZ: Q. In the first of the second row? A. The first of the second row? A. The first or second. Q. Can you may which seat he was in? A. Rither first or second. Q. And you said that you didn't see Mr. Terry, the defense attorney, talking to him? A. No. Y didn't. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant here. Q. Did anybody tell you who the defendant here. A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you to pick that the first person? A. No. Q. Do you remember what you whote in your bandwritten statement about how the shooter looked? A. A Little. Q. Would it refinesh your memory to look at: the handwritten statement?
9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. , Q. the indivis A. , Q. the descrip day; yes on A. Q. not meet Q	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my Client as being the individual that 197 Yee, Is that because you want to balieve he's that he does be description that you gave to the police lay it occurred; yee or po? Yee.	2 3 4 6 7 8 9 10 11, 12 13 14 15 16 19 20 20 21	 abe's pointed toward the jury hox. BY MS. JIMENEZ: Q. In the first of the second row? A. The first or second. Q. Can you may which seat he was in? A. Rither first or second. Q. And you said that you didn't see Mr. Terry, the defense attorney, talking to him? A. No. Y didn't. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant here. Q. Did anybody tell you who the defendant here. A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you who the defendant here. A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you who the shooter looked? A. A little. Q. Would it rational your memory to look at the handwritten statement? A. You, please.
934567690123455789012	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. , Q. the descrip day; yes on A. Q. not seet to that sense	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my Client as being the individual that 197 Yee. Is that because you want to balieve he's that hecause you want to balieve he's that he does not ment by our admowledge that he does as description that you gave to the police lay it cocurred; yee or no? Yee. MR. TERMY: Nothing further.	2 3 4 5 6 7 8 9 10 11, 12 13 14 15 16 19 19 10 20 22	 abe's pointed toward the jury hox. BY MS. JIMENEZ: Q. In the first of the second row? A. The first or second. Q. Can you may which seat he was in? A. Rither first or second. Q. And you said that you dich't see Mr. Terry, the defense attorney, talking to him? A. No. Y dich't. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you who the defendant was? A. No. Q. Did anybody tell you to pick that person? A. No. Q. Did anybody tell you who the defendant hendwritten statement about how the shooter looked? A. A Little. Q. Would it refinesh your memory to look at: the handwritten statement? A. Yee, please. MR. TERXY: I prefer counsel ask a
9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9	individuals the shootin A. Q. identifying was shootin A. Q. the indivis A. , Q. the descrip day; yes on A. Q. not seet to that sense	A that the police balieved were involved in 197 No. So this is the first time that you're 1 my Client as being the individual that 197 Yee, Is that because you want to balieve he's that he does be description that you gave to the police lay it occurred; yee or po? Yee.	2 3 4 6 7 8 9 10 11, 12 13 14 15 16 19 20 20 21	 all of ordered the jury hox. all MS. JIMENEZ: 0. In the first of the second row? A. The first of the second row? A. The first of second. 0. Can you may which seat he was in? A. Rither first of second. 0. And you said that you dich't see Mr. Terry, the defense attorney, talking to him? A. No. Y dich't. Q. Did anybody tall you to plok that person? A. No. Q. Did anybody tall you to plok that person? A. No. Q. Did anybody tall you who the defendant was? A. No. Q. Did anybody tall you to plok that person? A. No. Q. Did anybody tall you who the in your bandwritten statement about how the shooter looked? A. A little. Q. Would it rainesh your memory to look at the handwritten statement? A. Yee, please.

۳ ۲	1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 - 1914 -			
1	asked har	if she culled how she described it. She 97	11	THE COURT: You said a statement. Se did ⁹⁹
2	said no.	I anked if it would reiresh her memory to	3	sey that.
3	look at th	e skatement.	Ę	BY MR. THEREX:
4		IME (XXMT: Go shead,	4	Q. Do you recall telling Detective Mag on
5	BY MS. JTH	ISOLUS:	ឆ	that same date, 2-6-06 at 2050 hours, which would
6	Q.	I want to direct your attention to the	6	have been before the recorded statement, that the
7	first few	lines, and let me know when you're done	7	individual was 5-foot-77
8	reading th	uat, okay?	8	A. Like I said, I don't remember telling
\$	А.	Ckey.	9	that to the detective.
ka	Q.	Are you ddug?	10	Q. You admovisige that tint 's what his
u	А.	Mn-lann.	12	report attributes he you as having said?
2	۵.	In that yes?	12	A. I believe that's his report, but I don't
3	А.	Yea,	13	repender.
LA	Q,	I'm taking the exatement back.	1 4	Q. So you're not disputing that, you're just
5		Did that help you remember how you	15	seying you don't remember, content?
.s	described	the abouter to the police in your	16	A. I don't remember.
7	handwritte	n statewent?	17	MR. TERRY: Nothing further.
.8	А,	¥ев.	18	THE COURT: Okay. Do you have anything
9	Q.	And what was that description you gave?	19	else?
ю	А.	Gray owester and dark aborts.	20	MS. JIMINER, No, Judge.
1	Q.	And do you remember saying what race be	2I	THE COURT: You all done, Mr. Terry?
2	W818?		22	MR. TEARY: Yes, Judge.
13	А.	Rispanic.	23	THE COURT: You're excused. You may
14	Q,	And do you kenember saying what color	a 4	remain in the hallway.
25	hair he he	z1?	25	

1	Ъ.	Black.	98	(Witness excured) 100
2	Q.	The investigator that you indicated that		
3	you spoke	with here in the courtroom, Dawn, did she		Call your next witness.
4	over tell	you who to pick out as the person who		MS. JIMENEZ: Could we have the Court's
5	conditied this?		4	indulgence.
Ę	А.	No.		TSE COURT: Sure.
7	Q.	Why did you point to the desendant and	1	Just remain in the hallway until
6	identify him?			bis bearing is completed, and the bailiff or the DA
9	А.	Because I recognized him.	:	will execute you, okay, maran?
10		MS. dimension: Judge, I have nothing	μ	THE WITCHESS: Okay,
li	further.		ր	. THE CARE: Thank you.
12				MB. JIMMANFZ: Judge, can we approach?
13		NECROSS-EXAMINAL'ION	μ	
14	BY MR. TERRY:		p,	(Side bar discussion)
16	Q,	Counsel asked you about a statement that	4	
16	you wrote.	Do you recall describing the individual,	μ.	(After a recess the following
17	Ns baing as 5-foot-7.		ր	proceedings were had.)
20	А.	Don't remember.	þ	
19	Q.	Yes?	þ.s	MR. TERRY: Dafordant's present, Judga,
20		MR. TERRY: Show commel another	þ	THE COURT: Defense is now present. All
31	statenaut.		a :	parties and attorneys are present.
22		HS. JIMMEZ: That's fine. I thought he	þ:	93 new you go shead and sweer him
83	vaid a stat	waid a statement she wrote, and I think.		in, okay?
24			a e	THE CLERC, Plonge be seated.
25		(Overlapping speakers)	25	state your full rame.

	ri				
		Electronically Filed 09/27/2012 02:06:17 PM			
1	мот	1			
2	Ross C. Goodman, Esq. Nevada Bar No. 7722	Alim J. Ehmin			
3	GOODMAN LAW GROUP P.C. 520 S. Fourth Street, Second Floor	CLERK OF THE COURT			
4	Las Vegas, Nevada 89101 Telephone: (702) 383-5088				
5	Facsimile: (702) 385-5088				
6	Attorneys for Defendant Evaristo Jonathan Garcia				
7	DISTRICT COURT				
8	CLARK COUNTY, NEVADA				
9					
10	THE STATE OF NEVADA,	Case No: C262966			
11	Plaintiff,				
12	Fiamuri,				
13	VS.	MOTION FOR EVIDENTIARY HEARING TO DETERMINE			
14		COMPETENCY OF STATE'S PRIMARY WITNESS AND ORDER COMPELLING			
15	EVARISTO JONATHAN GARCIA,	PRODUCTION OF MEDICAL RECORDS AND PSYCHOLOGICAL			
16	Defendant.	EXAMINATION AND TESTING TO DETERMINE EXTENT OF MEMORY			
		LOSS			
17					
18					
19	COMES NOW the Defendant, Evaristo Garcia ("Garcia"), by and through his				
20	undersigned counsel, and respectfully moves this Honorable Court to set an evidentiary hearing				
21	to determine competency of Jonathan Harper, the State's primary witness, to testify under NRS				
22	175.221 and an order compelling Harper to produce a complete set of medical records relating to				
23					

his gunshot injury to the head and to submit to a medical examination by a psychiatrist selected by the defense.

This Motion is made and based upon the attached Affidavit of Ross C. Goodman, Esq.,
the pleadings and papers on file herein, the following Memorandum of Points & Authorities, the

1

GOODMAN LAW GROUP A Professional Corporation 520 S. Fourth Street, 2nd Floor Las Vegas, Nevada 89101 (702) 383-5088

24
pleadings and papers on file with this Court, and any oral argument to be made at the time of the hearing of this Motion.

NOTICE OF MOTION

TO: PLAINTIFF, STATE OF NEVADA

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing Motion on for hearing before the Court at the courtroom of 9:00the above-entitled Court on the <u>9</u> day of <u>Oct</u>., 2012, at the hour of <u>o'clock</u> <u>a</u>.m. of said day, in Department XV of said Court.

I.

INTRODUCTION

The State's primary witness, Jonathan Harper ("Harper"), has repeatedly denied under oath of having any memory of the February 6, 2006 shooting at issue in this prosecution. As the record demonstrates, the State nonetheless improperly introduced Harper's unsworn statement of April 1, 2006 to refresh his memory. However, weeks before this questionable statement Harper sustained a gunshot injury to the head where the bullet spread to several different areas resulting in bleeds in the brain matter and in layers above it pressing on the brain.

This brief window did not allow the swelling and cell reaction to resolve in terms of tissue heaping and general brain reconstitution. In addition, Harper was under pain medications, a physician's care and still recuperating. Harper stated that the prosecutors put words in his mouth after repeatedly telling them that he had no memory. In fact, well after providing this unsworn statement, the record shows that Harper continued having difficulty processing language, producing words and general comprehension all consistent with this type of acute injury.

GOODMAN LAW GROUPA Professional Corporation520 S. Fourth Street, 2^{ml} FloorLas Vegas, Nevada 89101702) 383-5088L92192192121212224272728

1

2

3

4

5

6

7

8

9

10

11

12

18

19

20

21

22

23

24

25

26

27

28

2

3

4

5

б

7

8

9

10

11

12

18

19

20

21

22

23

24

25

26

27

28

The relief requested is in part based on *Brady* and the State's obligation under NRS 174.235(b) since they produced part of Harper's medical records from his emergency visit to Sunrise Hospital. However, absent the follow-up treatment and prognosis, this Court will not have sufficient information to assess Harper's competency and, if allowed to testify, the defense will be unable under *Brady* to properly impeach Harper.

The State has already acknowledged Harper's memory infimities which has permeated almost *every* part of his testimony. This Court cannot allow the State's primary witness to testify that he has no memory of the events resulting from the gunshot head injury – which would have been a factor before providing the unsworn statement - but allow the State to use the unsworn statement to refresh his memory. In other words, Harper's confirmed memory loss pre-dates the unsworn statement which makes it unreliable and any resulting testimony therefrom.

Π.

FACTS

The allegations against Garcia stem from a February 6, 2006 school shooting over a book throwing incident during fifth period at Motris Academy. A group of 20 or more kids gathered after school and began fighting. The school principal came out to break up the fight and the group of kids scattered where Victor Gamboa ("Gamboa") was fatally shot one time in the back.

On February 18, 2006, Jonathan Harper ("Harper") suffered a gunshot injury to the head in an unrelated incident resulting in a hemorrhage of the left side of the head with brain matter exposed. At the defense request, the State produced the Sunrise Hospital records of Harper's admission indicating "subdural hematoma" with a "subarachnoid hemorrhage over the left parietal and frontal lobe and in the basal cisterns." See Sunrise Hospital Medical Records attached as Exhibit "A." The State failed to produce any subsequent medical records after his discharge from Sunrise Hospital regarding the extent of Harper's memory loss.

2

3

4

5

6

 $\overline{7}$

8

9

10

11

12

18

19

20

21

22

23

24

25

26

27

Harper has repeatedly denied Garcia's involvement in the shooting death of Gamboa yet the State attempts to use his unsworn statement – taken weeks after the head injury – to refresh Harper's memory. However, the memory issues resulting from the gunshot injury to the head would also have been present *before* making the unsworn statement making it unreliable and therefore, improper to use to refresh recollection. The severity of Harper's memory loss permeates the entire record affecting his competency and his ability to be truthful.

The State's disclosure of limited medical records forecloses this Court's ability to properly assess the extent of Harper's memory loss or the defense ability to meaningfully confront Harper during cross examination.

III.

LEGAL ARGUMENT

A. The Court Should Order Complete Medical Records and An Examination To Have Sufficient Evidence to Assess Harper's Competency As a Witness Under NRS 175.221

When competency of any witness has been questioned, it is within discretion of trial court to consider facts relative to qualification and to determine if such person is competent to testify. NRS 175.221(2); *see also Fox v. State*, 87 Nev. 567 (1971). This court is inherently vested with the power to promulgate its own rules of procedure when "necessary or desirable to handle the business of the courts or their judicial functions." *State v. Dist. Ct.*, 116 Nev. 953, 959 (2000) (quoting *Galloway v. Truesdell*, 83 Nev. 13, 23, 20, (1967) (noting that "any power or authority that is inherent or incidental to a judicial function is properly within the realm of judicial power")). Preliminary questions concerning the qualification of a person to be a witness shall be determined by the judge outside the presence of the jury. NRS 47,060 - NRS 47,080,

In addition, the State produced limited medical records but must produce all medical records in its care, custody and control. NRS 174.235(b). "[T]he suppression by the prosecution

28

 $\mathbf{2}$

of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Brady v. State of Maryland*, 373 U.S. 83, 87 (1963); *see also Mazzan v. Warden*, 116 Nev. 48, 66, 993 P.2d 25, 36 (2000) (*Brady* and its progeny require a prosecutor to disclose evidence "if it provides grounds for the defense . . . to impeach the credibility of the state's witnesses.")

B. Harper Advised Prosecutors And Defense He Has No Recollection of Who Fired the Gun

On March 9, 2010, Jonathan Harper explained to defense investigators the following: (1) much of his memory surrounding the event on this case is somewhat muddled; (2) despite being told by police that client was the shooter, he doesn't remember whether that is what occurred nor if that is what he told police when he was initially interviewed; (3) specifically he said "... <u>I</u> don't know who pulled out the gun... or saw who fired it"; and (4) he experiences seizures when under stress. See Memo of Interview with Scott Bindrup and J. Galiano attached as Exhibit "B." In addition, Harper complained that members of the **D.A.**'s office placed a great deal of stress on him in their efforts to obtain additional specifics from him despite his insistence that he does not remember any specifics surrounding who fired the gun. *Id.*

On or about July 26, 2012, the defense attempted to interview Harper again where he confirmed "that he had no idea of who Garcia was or of any shooting that Garcia might have been involved in . . . [and] has no recollection of any fight between Garcia, himself, the victim or other individuals." *See* Memo Robert Lawson Investigations attached as Exhibit "C". Further, Harper noted that he is "sick and tired of people putting words in my mouth" after his head injury. *Id.*

 However, the State seeks to perpetuate the improper introduction of questionable

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

testimony through Harper's unsworn voluntary statement despite Harper's admission that he has no knowledge of the events surrounding the February 6, 2006 Gamboa shooting.¹ The reliability of the unsworn statement is directly at issue because any memory loss testified to by Harper and acknowledged by the State would have affected Harper's ability to provide a statement to police just weeks *after* sustaining a gunshot injury to the head, while under a physician's care and under the influence of pain medications.

C. The Record Establishes The Severity of Harper's Memory Loss

The State used Harper's memory problems as an excuse to introduce substantive portions from his initial *unsworn* statement to police taken shortly after sustaining head injuries:

Q. Okay. Now before you got into the car was there any talk about a gun?

A. No.

Q. Okay. Now Jonathan, you've got this head injury, right?

A. Yes

Q. Does it cause you to have some memory problems sometimes?

А. <u>Yes</u>

Q. Now you met with me in my office earlier, yes?

A. Yes

The issues surrounding Harper's memory, medications and effects on his mental capacity, and 21 therefore his credibility as a witness, further deprives Garcia of a full and fair opportunity to 22 cross examine Harper. Absent a complete production of medical records surrounding his gun shot injury to the head would also render it insufficient for the jury to assess Harper's credibility 23 of the witness. United States v. Beardslee, 197 F.3d 378, 383 (9th Cir, 1999). Specifically, the Ninth Circuit considers three factors in determining whether a defendant's confrontation rights 24 have been violated: "(1) whether the excluded evidence was relevant; (2) whether there were other legitimate interests outweighing the defendant's interest in presenting the evidence; and (3) 25 whether the exclusion of evidence left the jury with insufficient information to assess the 26 credibility of the witness." See Beardslee, 197 F.3d at 383.

- 27
- 28

	1	Q. Okay. Do you remember giving a statement to Detective Mogg and Hardy?
	2	A. Bits and parts.
	3	Q. Okay. So you gave statement to them?
	4	A. Yes
	5	Q. And that was in April of '06?
	6	A. Yes
	7	Q. Okay. And your heard yourself on that statement, right?
	8	A. Yes
	9	Q. Okay. And you also listened to that earlier today, yes?
	10	A. Yes.
	11	Q. Now on page 18 you were asked by Detective Mogg
	12	$(GJT 1, 109:19 - 111:9)^2$
	13	Q. Could you hear what they were arguing about?
a 8910 88	14	A. They were arguing about something.
Nevad: 83-50	15	Q. Do you remember what they were arguing for?
Las Vegas, Nevada 89101 (702) 383-5088	16	A. <u>No</u> ,
Las V	17	Q. Now Jonathan, I want to go back to your statement that you gave the detectives in April. And again your memory was better back then, yeah.
	18	A. Yes.
	19 20	Q. I'm going to page 12 here. Okay? Now at the top of page 12 of your statement you told the detectives
	21	(GJT 1, 117:24 –118:11).
	22	Q. All right. So they're chasing this kid and arguing over the gun. What happens next?
	23	A. Like I just started hearing gunshots.
	24	Q. Do you remember seeing what happened?
	25	A. <u>No</u>
	26	
	27	² Grand Jury Transcript, Volume 1, pertaining to Jonathan Harper's testimony, dated March 4, 2010, is attached hereto as Exhibit "D."
	28	7

GOODMAN LAW GROUP A Professional Corporation 520 S. Fourth Street, 2nd Floor Las Vegas, Nevada 89101 (702) 583-5088

APP 000074

l

;

	ſ	
	1	Q. Okay. And again was your memory better back then?
	2	A. Yes.
	3	Q. Okay. Now again on page 12 in our statement about halfway down the detective asks.
	4	(GJT 1, 118: 5 – 119:9)
	5	Q. Okay. <u>Do you remember where E was?</u>
	6	A. <u>No.</u>
	7	Q. Did you talk to E after the shooting happened?
	8	A. No.
	9	Q. Okay. Let me go back a little ways. Do you remember what E was wearing?
	10	A. <u>No</u>
	11	Q. And again your memory was better back when you talked to detectives in April of 2006?
	12	A. Yes
¢	13 14	Q. Okay. Jonathan, I want to show you your statement again on page 14 about halfway down. Question
702) 383-5088	15	Q. Yes. Okay. Now do you remember where E went after the shooting?
702) 3	16	A. No.
<u> </u>	17	Q. Okay. Now Jonathan, page 15 of your statement. Question
	18	(GJT 1, 120:15- 121:16)
	19	Q. Okay Now I asked you earlier if you remembered talking to E after this. Okay? Now I'm showing you the same page on your statement. Question
	20	····
	21	Q. Okay. Now do you remember what E told you happened to the gun?
	22	A. <u>No</u> .
	23	Q. Okay, Going back to your statement on page 16. Question
	24	(GJT 1, 121:25 –122:15).
	25	Q. Did you see him get it from Puppet?
-	26	A. No.
	27	Q. How do you know he got it from Puppet?
1	28	8
		APP 000075

GOODMAN LAW GROUP A Professional Corporation 520 S. Fourth Street, 2nd Floor Las Vegas, Nevada 89101 67073 383-5088

:

1	A. Because it was black gun and that was Puppet's gun.
2	Q. Do you ever talk to E about how he got the gun?
3	A. No.
4	Mrs. Nyikos: Court's indulgence.
5	Q. Now, Jonathan, do you remember talking to a detective in this case?
б	$(PH \ 20:11-22)^3$
7 8	Q. Do you remember telling Detective Mogg that E told you that Puppet gave him the gun?
9	A. Yes
10	(PH 21: 9-12)
11	Q. Now, on the day of shooting can you tell me what E was wearing; do you remember?
12	A. All black, sleeve, long sleeves, pants.
13	Ms. Nyikos: Page 14, counsel.
13	Q. Do you remember telling Detective Mogg that it was a gray sweatshirt?
15	A. To refresh my mind, yes, it was a gray hoodie.
15	(PH 24:15-23)
10	Q. Page 3. Do you remember that when the police did a taped interview you were asked, who is E, and you stated, I don't know, yes or no?
18	A. <u>Yes</u>
19	(PH 52:7-10)
20	D. Harper's Memory Is At Issue Weeks Before Giving His Unsworn Statement
21	In the weeks following his gunshot injury to the heard, Harper testified had had no
22	memory of the shooting. However, he suddenly identified the shooter on the same day he
23	allegedly identified Garcia as the shooter in this case which raises further concerns regarding the
24	reliability of the unsworn statement:
25	
26	³ Preliminary Hearing Transcript, pertaining to Jonathan Harper's testimony, dated December 18, 2008, is attached hereto as Exhibit "E."
27	
28	9

A Professional Corporation 520 S. Fourth Street, 2nd Floor Las Vegas, Nevada 89101 (702) 383-5088 GOODMAN LAW GROUP

.

ļ

1

;

O. How could you, within that two weeks, see that happen or that change of testimony A. Because see, when I was in the hospital, I was confused because I had a brain injury. (Trial Transcript 103:15-16)⁴

Q. All right. Do you think you're recovered now?

A. Yes

1

2

3

4

5

6

7

8

9

10

11

12

18

19

20

21

22

23

24

25

26

27

28

Q. You're back on -

A. Not -not-not normal.

(Trial Transcript 104:1-4)

Q. Okay. And you think you were screwed up when you made these other statements? A. Yes

(Trial Transcript105:9-1)

IV.

CONCLUSION

The record is replete with compelling reasons to question the competency of the State's primary witness whom has suffered immeasurable memory loss as a result of the gunshot injury he sustained to his head and brain. This traumatic event pre-dates his initial "voluntary" statement which the State has repeatedly and improperly exploited as a substitute for competent reliable evidence consistent with guarantees of due process, a necessary ingredient to the reliability of any outcome of these proceedings. However, such "voluntary" statement is highly suspicious, unreliable and inaccurate and should be excluded based upon Harper's unquestionable memory loss resulting from the brain injury he suffered at the result of being shot in the head.

⁴ Salvadore Garcia Trial Transcript, Volume II, pertaining to Jonathan Harper's testimony, dated August 23, 2006, is attached hereto as Exhibit "F."

GOODMAN LAW GROUP

In light of the severity of Harper's memory loss, constitutional safeguards consonant with due process and the interests of justice requires this Court to order Harper to produce all medical records surrounding his head injury and submit to a physical examination so that an expert can determine the extent of his memory loss and complete necessary testing which serves to reveal the deficiency in Harper's competency to testify and provide accurate and reliable testimony. Dated this 27th day of September, 2012.

GOODMAN LAW GROUP P.C.

<u>/s/ Ross C. Goodman, Esq.</u> Ross C. Goodman, Esq. Nevada Bar No: 7722 520 South Fourth St. Las Vegas, Nevada 89101 Attorney for Defendant

EXHIBIT "A"

060218-0045

he have a second of the second s CORNELLER COPPAG A CRAWN, ANALL BELLING MARKED PL on other open the lass themes that quildre budes.

> The Hon war Dissemication prices n ne zan one on menne eo an in se Remains station protection in the sector of Older ministration of the sector of the metric of

The land of the state of the

D80095

meth 15 1979

TResidencial

Debach & Ann

and the second sec and the second

une confinatione

RELEASE OF INFORMATION SUNRISE HOSPITAL AND MEDICAL CENTER 3186 SOUTH MARYLAND PARKWAY LAS VEGAS, NV 89109 PHONE (702) 731-8663 FAX (702) 892-3686 HOURS MON - FRI 8:00 A.M. - 5:00 P.M.

02/28/06

,

LAS VEGAS METROPOLITAN PD 400 E STEWART AVE ATTN: ED ERICKSON LAS VEGAS, NY 89101

THANKS FOR THE OPPORTUNITY TO ASSIST YOU. IF YOU HAVE ANY QUESTIONS OR CONCERNS WITH THIS REQUEST, DLEASE CALL US AT (702) 731-8663.

D001632485 JONATHAN & HARPER

·- ----

 $\gamma \gamma \gamma \gamma \gamma \gamma$

i

e.

÷

)	; · · · · · · · · · · · · · · · · · · ·	060218-0045
	Chrise Sunn	Author	ization for Use and Disclos Health Information (F Sunrise Hospital and Medica	PHI)
	FATIENT NAME AT TIME OF THEATM		SOCIAL SECURITY NUM	867 }
	Address			102.286-1839
r.			Telephone # Work	
	City LAS VEAS			
	I hereby authorize EUNE	SE HOSPITAL		
	To disclose medical record ini	ormation and/or protected heal	th information of the patient liste	d above to:
	LAS VELAS METRO	POLITAN POLICE N	<u>зрт. єг</u>	and a second
	400 E. STANAD	WE LAN BO	101 303	-2583 rall AM
	Address Purpose: INVESTIGAT			-2583 call dy pkase plady
	For treatment date: 2.18	1		. Miles
	Type of Access Requested:		Selected Portions of PHI:	
	Copies of the record Inspection of the record	 Abstract/Peninent Emergency Room H & P Consult Report Operative Report Rehab Services 	 Lab Imaging/Radiology Cardiac Studies Face Sheet Nursing Notes Medication Record 	Progress Notes Physician Orders Sintire Record Other
۲		ere by consent to such, that the abuse, psychiatric, HIV testing,	released information may HIV results or AIDS Information.	
	EXPIRATION: This authorizati	on shall expire upon this expi	ration date or event: VEA	e.
	 I understand that this authorized in the second seco	rization may be revoked by me e Authorization Form must be o	at any time except to the extent completed and submitted to the	that action has been taken in HM Services Department?
	 The information used or dis longer protected. 	closed pursuant to the authoriz	ation may be subject to rediscla	aura by the recipient and no
	 Fees/charges will comply v continuing care requests) 	vith all laws and regulations app	licable to refease of information	169 per patie Arcept for
	I have read the above and sy	thorize, the disclosure of the p	rotected health information as	stated.
	D2.18.04 Side	Frances Sun ? Quigppe	FATHER Relationship to Paveru MOTHER	
ł	nddrese and telephorie number orrequ	estor (il different irom patjalu information	Territori d'un cher	A State of the second second
;	Sunrise Hospilal and Medical Center 3186 South Maryland Parkway Las Vegas, NV 89109 C	210374100 Anit.	Reynorth , Keekly & Thory . Maria Maria Maria Maria Maria and	A 418 REALISHIY
	-	RIGINAL - Pacifity DOPY - Individ	ival (Patient or Patient fiebs(009	CONT C Caraona (10000)

ż

BRIEF HISTORY AND PHYSICAL AS FOLLOWS:

The patient was seen at approximately 1 a.m. on February 18, 2006. The patient is an approximately 15-year-old teenage boy, who was shot in the left side of the head. There is some question as to whether this was self-inflicted from "ssian roulette. He was noted to be combative at the scene initially. He was tubated subsequently by EMS in the field. He was brought as a Level I Trauma Activation to Sunrise Hospital.

PAST MEDICAL HISTORY/PAST SURGICAL HISTORY: Unknown.

SOCIAL HISTORY; Unknown.

REVIEW OF SYSTEMS; Unknown.

Allergies: Unknown.

MEDICATIONS: Unknown,

PRIMARY SURVEY ON ARRIVAL INDICATED:

As a consequence, the following treatments were initiated: AIRWAY: The patient was intubated in the field, BREATHING: The patient was on bag valve. CIRCULATION: There was hemorrhage from the left side of the head with brain matter exposed. Perfusion was adequate. DISABILITY: Glasgow Coma Scale was 3. POSURE: The patient was completely exposed for examination. PHYSICAL EXAMINATION: HEENT including scalp and face: Head exam revealed a gunshot wound to the left parietal area of the skull and brain matter exposed. Neck: The neck was in C collar. Chest: Revealed was clear to auscultation bilaterally. Abdomen (including FAST EXAM): Soft, nondistanded. Pelvis: Stable. GU Exam: Unremarkable, Rectal Exam: There was no sphincter tone but otherwise unremarkable. Extremity Exams: Revealed distal pulses were intact and there was no gross deformity. Back Exam: Showed no deformity or stepoff. Neurologically: The patient was intubated and again had Glasgew Come Scale of States o 我们不知道不知道我们的你们是我们们的时候我们们们也不知道你们不能了。 on the with the tax Viagas Abarrentheap Coston LABORATORY DATA : CT scan of the head revealed a shifting of the midline with intradianial hemorphage on the left side of the head. There was a skull defect around the paristal area. It appeared that the gunshot went from inferiorly to superiorly along the skull. There was noted to be some metallic fragments on the vertex of a WINCHAR the head. and all and SUNRISE HOSPITAL AND MEDICAL CENTER TRAUMA, IMPERIAL021806 /0001652485 SUNRISE CHILDREN'S HOSPITAL D00612363414 3186 S. Maryland Parkway KIM. KITAE ADMITTED: 02/18/06 ROOM: D.E2A^R GOUNDE DEBCT Faith Statement Filtered a Toparced (source) (secondary Las Vegas, NV 89109 AUMA ACTIVATION REPORT Statement in the state was a second state of the second state of t and could allowed and the DRAFT COPY S Nevada Market + PCI *LIVE* (PCI: OF Database COCSZ) 始建しかもう花り n New Ball and an a filter familie Page 1 of 2000 Run: 02/27/06-13:50 by BARRETT, LAURIE J D8009S CCIDA ويستجمعون وماليك والمتحر والأربان الجار

APP 000082

040218-0045

IMPRESSION: 1° This is a gunshot wound to the head. 2, Glasgow Coma Scale is 3. Class III hemorrhagic shock. Brain matter exposed.

PLAN:

1. Dr. Duke of neurosurgery has been consulted. The patient will be admitted to trauma ICU. 2. З, We will see if the patient will require operative intervention for brain debridement and also for control of bleeding.

ADDENDUM:

The patient will be given 1 unit of packed red blood cells. A triple lumen catheter has been inserted by the Anesthesia service at this time,

KITAE KIM, MD

KK:Spheris14363 CONF #: 186317 D: 02/18/06 01:39 T: 02/18/06 08:48 DOCUMENT: 200602182269579500

> and the second (36411年1月月1日)1月19月2日 · ELECTORIES IN TERMINER MATCH ge itig oth the loss theyas there explicitly holice

060218-0045

10.20107.605 Debrah J. Smith 11:14 wear the Casher-Soli

22/18/06 269-069 1849 Proservatori (Prose

the and an an international statements of the and sould have the DEAPT COPYER

CCOP 1

. . I

/0001652485

ROOM: D, B2413 the Anton of the

 $(Nf)^{(n)} = \{ \cdot, \cdot \}^{(n)} (f^{(n)})$

D8009S

TRAUMA, IMPERIAL031806

D00612363414

KIM, KITAR

ADMITTED;

SUNRISE HOSPITAL AND MEDICAL CENTER SUNRISE CHILDREN'S HOSPITAL 3186 S. Maryland Parkway Las Vegas, NV 89109 AUMA ACTIVATION REPORT

Nevada Market - PCI *LIVE* (PCI: OE Detabase COCSZ)

Run: 02/27/06-13:50 by BARRETT, LAURIE J

APP 000083

060218-0045

- 'Patient Name: HARPER, JONATHAN E Unit No: D001652485

Ixama: REASON FOR EXAM: CPT CODE: 002303223 CT BRAIN W/O CONTRAST XX NOL XX - NOT ON LIST 70450

DATE 02/18/06

CT BRAIN WITHOUT CONTRAST PROCEDURE :

COMPARISON: None provided,

HISTORY: Gunshot wound.

FINDINGS: A noncontrast enhanced study demonstrates multiple small metallic fragments in the interhemispheric fissure in the high convexity region. These are in close proximity to the superior sagittal sinus. Several additional small metallic fragments and multiple bone fragments extend from the interhemispheric fissure to . the left parietal bone where there is a large irregular bony defect consistent with a gunshot injury. The entry wound defect measures about 5 cm in diameter. There is subarachnoid hemorrhage over the left parietal and frontal lobe and also in the basal cisterns. There is a very thin subdural hematoma in the high convexity region of the interhemispheric fissure. There is no hydrocephalus or midline shift. There is marked soft tissue swelling over the skull defect in the high convexity region on the left.

IMPRESSION: GUNSHOT WOUND TO THE HEAD IN THE POSTERIOR FRONTAL REGION ON THE LEFT, SEVERAL METALLIC FRAGMENTS ARE NOTED IN THE INTERHEMISPHERIC FISSURE IN THE HIGH CONVEXITY ARRA. MULTIPLE BONE AND BULLET FRAGMENTS ARE NOTED IN THE BRAIN IN THE POSTERIOR ASPECT OF THE LEFT FRONTAL LOBE. THERE IS A LARGE COMMINUTED FRACTURE AT THE BULLET WOUND ENTRY SITE RESULTING IN A DEFECT MEASURING ABOUT 5 CM IN DIAMETER.

> ** Electronically Signed by Mark R. Laussade M.D. ** on 02/18/2006 at 2003 wie wie

> > PRESERVED AND AN ADDITION OF A DESCRIPTION OF A DESCRIPTI DER SALARIST SARDER MERINE SARAN SHORE SARAN SERVICE on the wife the our Magne Mathematicae Monto. . . eggerti.

Debach J. Smith

PAGE 1

Signed Report Printed From PCI

(Continued)

Name: HARPER, JONATHAN E Phys: KIMKT - KIM KITAE

SUNRISE HOSPITAL ER RADIOLOGY SUNRISE CHILDRENS HOSPITAL DOB: DOB: Sex: M 3186 S MARYLAND PRWY Acct No: D00612363414 Loc: D.E231 0 LAS VEGAS NV 89109 Exam Date: 02/18/2006 Status: ADM IN Ph: 731-8060 Fax: 731-6308 Exam Date: 02/18/2006 Status: ADM IN Ph: 731-8060 Fax: 731-6308 East and the weather and

neal alter a leader of this contract and all alter a and Charles Seats s - a foregraphic and a second second

C.c.bA

L

'Patient Name: HARPER, JONATHAN E Unit No: D001652485

0602180045

Txama i REASON FOR EXAM: 002303223 CT BRAIN W/O CONTRAST XX NOL XX - NOT ON LIST <Continued>

CPT CODE: 70450

Reported and Signed by: Mark R. Laussade M.D.

CC: KITAE KIM

Dictated Date/Time: 02/18/2006 (0553) Technologist: MARILYNN D FINNIE (1)酸红合体人口 经公司的 合正的 等于 Transcribed Date/Time: 02/18/2006 (0553) PASO PARTO DE LA COMPLEXACIÓN COPE : The will the Las Secure Memoriality, 26th a Transcriptionist: PTRN, KAE Electronic Signature Date/Time: 02/18/2006 (2003) community Orig Print D/T: S: 02/18/2006 (2003) lradh Batch No: N/M Reprint D/T: 02/27/2006 (1402) S. Anon Signed Report Printed From PCP" The states PAGE 2 SUNRISE HOSPITAL ER RADIOLOGY Name: HARPER, JONATHAN E Phys: KIMKI - KIM.KITAE SUNRISE CHILDRENS HOSPITAL DOB; Sex: M 3186 S MARYLAND PKWY Acct No: D00612363414 Loc; D.E231 0 Acct No: D00612363414 Loc: D.E231 0 DAB VEGAS NY 5217 Exam Date: 02/18/2006 Status: ADM IN Ph: 731-8060 Fax 5737-8308 Acct Not Date: Doversion of the second status of the second LAS VEGAS NV 89109 and the strategy set of the second second second and Saltenplac . h_{h} and h_{h} CCDAN 080095

والمراجع المستكر

ي الم حمار

2.7

'Patient Name: HARPER, JONATHAN E Unit No: D001652485

0602180045

Exams:REASON FOR EXAM:CPT CODE:002303226 CT CERVICAL SPINE W/O CTRAUMA72125

DATE: 02/18/06

PROCEDURE: CT SCAN OF THE CERVICAL SPINE WITHOUT CONTRAST

COMPARISON: None provided

HISTORY: Gunshot wound.

FINDINGS: Thin-section axial imaging was performed from the level of the foramen magnum through the upper cervical spine. Sagittal and coronal reformatted images were then obtained. There is no acute fracture or destructive bony lesion. There is no canal compromise. No subluxation is seen. No abnormal soft tissue masses or foreign bodies are identified.

IMPRESSION: NO EVIDENCE OF ACUTE TRAUMA TO THE CERVICAL SPINE. PATIENT IS INTUBATED AND A NASOGASTRIC TUBE IS IN PLACE.

** Electronically Signed by Mark R. Laussade M.D. **
 ** on 02/18/2006 at 2003 **
 Reported and Signed by: Mark R. Laussade M.D.

CC: KITAE KIM

Dictated Date/Time: 02/18/2006 (0117) Technologist: MARILYNN D FINNIE Transcribed Date/Time: 02/18/2006 (0554) Transcriptionist: PTRN.MEJ Electronic Signature Date/Time: 02/18/2006 (2003) Orig Print D/T: S: 02/18/2006 (2003) Reprint D/T: 02/27/2006 (1402) Batch No: N/A Martin Martin Martin Construction State (See State) (See State (See State (See State)) (See State (See State) (Se

VERMAN

net Color Scholler Chelmon Scholl V. Heller

PAGE 1

Signed Report Printed From PCI

Name: HARPER, JONATHAN ESUNRISE HOSPITAL ER RADIOLOGYPhys: KIMKI - KIM.KITAESUNRISE CHILDRENS HOSPITALDOB:Sex: MAcct No: D00612363414 Loc: D.E231 0LAS VEGAS NV 99109Exam Date: 02/18/2006 Status: ADM INPh: 731-8060 Fax: 731-8308

 $(\cap C \Omega_{\ell})$

Patient Name: HARPER, JONATHAN E Unit No: D001652485

0602180045

³xams: REASON FOR EXAM: CPT CODE: 002303282 CT BRAIN W/O CONTRAST HEADINJURY ~ 959.01 HEAD I 70450

DATE: 02/18/06

PROCEDURE: NONCONTRAST HEAD CT

COMPARISON: 02/18/06, 0112 HOURS

HISTORY: None provided.

FINDINGS: Again identified is parenchymal hematoma centered within portions of the left frontal and temporal regions. There is subarachnoid blood in place. Patient is status-post craniotomy with removal of multiple previously noted bullet fragments. There is a persistent bone fragment remaining within the left temporal lobe best appreciated on axial image numbered 34. Finally scattered metallic foreign bodies remain adjacent to the cranium and within the scalp best appreciated on images numbered 41 to 44.

There is a fluid/CSF density to the left of the anterior hemispheric fissure best appreciated on image #39. This measures approximately 4.7 cm in AP diameter and approximately 2.3 cm in transverse diameter. The patient is status-post left frontal and temporal craniotomy.

IMPRESSION:

1. COMPARED TO A PRIOR CT PERFORMED BARLIER IN THE DAY. THE PREVIOUSLY NOTED BULLET FRAGMENTS SCATTERED WITHIN PORTIONS OF THE LEFT TEMPORAL LOBE HAVE BEEN REMOVED. A SMALL BONE FRAGMENT REMAINS WITHIN A PORTION OF THE LEFT TEMPORAL LOBE. THERE IS A PARENCHYMAL HEMATOMA PRESENT BEST APPRECIATED ON AXIAL IMAGE NUMBERED 33 WITH SURROUNDING SUBARACHNOID BLOOD AND EDEMA. 2. STATUS-POST LEFT HIGH FRONTAL AND TEMPORAL CRANIOTOMY DEFECT.

> ** Electronically Signed by Joseph W. Ziegler M.D. ** ** on 02/22/2006 at 1410 **

台属银行运动 网络鲁马顿岛征 主张 特别教师 医原因现象不同尿道尿病解释 法保险和消息利润 化加热管理 a rely with the trac Vignis Memorybilling dealers te bronette

Debugh & Annth

PAGE 1

Signed Report Printed From PCI

(Continued)

Name: HARPER, JONATHAN E Phys: KIMKI - KIM, KITAE DÖB: Sex: M Acct No: D00612363414 Loc: D.E231 0

SUNRISE HOSPITAL/MED CTR SUNRISE CHILDRENS HOSPITAL 3186 S MARYLAND CPRWY CONSTRUCTION LAS VEGASENVA 8910 90 and the Second Exam Date: 02/18/2006 Status: ADM IN Ph: 731-8060 Fax: 731-8308 Will Connel applications of a particulation of

nd Svithed.

建物的现在分词使 医小生子的 C.C.MA ر بالمربع و معود ۲۰۰ بر المربع المربع ال و المربع المربع المربع المربع

'Patient Name: HARPER, JONATHAN E Unit No: D001652485

0602180045

Reported and Signed by: Joseph W. Ziegler M.D.

CC: KITAE KIM A REPORT OF THE REPORT OF A DESCRIPTION OF A DESCRIPTIONO 的复数形式的复数形式 Dictated Date/Time: 02/18/2006 (1338) 言語に、たらの原のからの理解が開発などの時代は内部時代での理解で、 ps 35, with the Las Vigas Metropoliton Publics (Demonstrate Technologist: JOHNNY A PEREA Transcribed Date/Time: 02/18/2006 (1338) Transcriptionist: PTRN.MBF/DR.ZIEJO/DRAD.MXA1. Electronic Signature Date/Time: 02/22/2006 (1/19/ Mark) Orig Print D/T: S: 02/22/2006 (1410) Reprint D/T: 02/27/2006 (1402) Batch No: N/A PAGE 2 Signed Report Printed From PCI Name: HARPER, JONATHAN E SUNRISE HOSPITAL/MED CTR Phys: KIMKI - KIM, KITAE SUNRISE CHILDRENS HOSPITAL 3166 S MARYLANDS PKWN Machine (all a stag DOB: Sex: M ente das la que la Constitución de la seconda de la se Nota Ella de la seconda de l Nota de la seconda de la se COA ς.

J.B. SIGMAN, M.D.-DIRECTOR J.B. BEECHAN, M.D. A. ERLING, M.D. J.B. GARRY, M.D. J.B. HUGHRS, M.D., Ph.D J.W. HUSSONG, DDS.M.D. 5.2. KOLKER, M.D.

. . .

*** LABORATORY SUMMARY REPORT *** 02/27/06 1402 D.F. MARMADUIS, M.D. T.C. MURRY, M.D., FL.D S.M. RUHOY, M.D. S.F. SCHMIDT, M.D. R.J. SLAUGHIER, M.D. J.L. UNGER, M.D.

PAGE 5

N.S. YURIACO, N.D.

Time HGB (X)		00 00)50		Reference	Units
(X)		DL 11.8	-	·····	(11.5-15.6)	·
	ACCURATEL RESULTS CO	Y REPEATED	2/18/06 AT 085 BACK TO CALLE N REPEAT ANALY NE C.	IR BY JEFF, BA		
HÇT	24.2(Y)) L }33.2	L I) (42.0-52.0)	¥
(የ)	ACCURATEL RESULTS CO	Y REPEATED	/19/06 AT 085 BACK TO CALLE REPEAT ANALY E C.	ir by Jeff, Bai		
Mev	89	191	1	1	(80-100)	FL
мсн	30.5	32.3	н		(27.0-32.0)	PG
MCHC	34.4	35.5			(32,0~37,0)	G/DL
	13.0	12.3			(11,5-14,5)	\$
RUW .						
RDW PLT (Z)			/18/06 AT 085) {150-450} 9. Result	к/ммз
PLT	results CA Accurately Results CC	, Alled on 02 Y Repeated	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf) {150-450} 9. Result	к/миз
PLT (Z)	results CA Accurately Results CC	Alled on 02 Y Repeated Onftrmed on	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf) {150-450} 9. Result	к/мм3 Fl
PLT (2)	RESULTS CA ACCURATELY RESULTS CO INCUBATE A 7.0 70,4	Alled on 02 Y Repeated Onftrmed on At 37 Degre	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf	{150-450} P. RESULT RER , RN. (7.4-10.4) { (45.0-75.0)	۶. ۲
Plt (Z) 19v Jeut & Lymph &	RESULTS CA ACCURATELY RESULTS CO INCUBATE A 7.0 70,4 17.8	Alled on 02 Y Repeated Onftrmed on At 37 Degre	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf	$\begin{cases} (150-450) \\ 2. \text{ RESULT} \\ 2\text{KER}, \text{ RN}. \\ \\ (1,4-1,0,4) \\ (45,0-75,0) \\ (20,0-44,0) \end{cases}$	ቶ ይገ
Plt (Z) 19V Neut % Lymph % 10N0 %	RESULTS CA ACCURATELY RESULTS CO INCUBATE A 7.0 70.4 17.3 8.0	ALLED ON 02 Y REPEATED ONFIRMED ON AT 37 DEGRE L [7.9	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf	$\begin{cases} (150-450) \\ 2. \text{ RESULT} \\ 2\text{KER}, \text{ RN}. \\ \\ (45.0-75.0) \\ (20.0-44.0) \\ 2.0-5.0 \end{cases}$	ያ ድርጉ ድርጉ
Plt (Z) 19V Neut % Lymph & 10N0 % 20g %	RESULTS CA ACCURATELY RESULTS CO INCUBATE A 7.0 70.4 17.3 8.0 3.3	ALLED ON 02 Y REPEATED ONFIRMED ON AT 37 DEGRE L [7.9	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf	$\left\{\begin{array}{c} \{150-450\}\\ 2, \text{ RESULT}\\ 2\text{KER}, \text{ RN},\\ \{(7,4-1,0,4)\\ (45,0-75,0)\\ (45,0-75,0)\\ (20,0-44,0)\\ \{2,0-5,0\}\\ \{0,0-4,0\}\end{array}\right\}$	я 4 2.Г 2.Г
PLT (Z) Nev Nevt & Lymph & Mono & Eos & Baso &	RESULTS CA ACCURATELY RESULTS CO INCUBATE A 7.0 70.4 17.3 8.0 3.3 0.5	ALLED ON 02 Y REPEATED ONFIRMED ON AT 37 DEGRE L 7.9 L	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf	$\begin{cases} (150-450) \\ 2. \text{ RESULT} \\ 2\text{KER}, \text{ RN}. \\ \\ (45.0-75.0) \\ (20.0-44.0) \\ (2.0-5.0) \\ (0.0-4.0) \\ (0.0-2.0) \end{cases}$	# # # E.T.
Plt (Z) MPV Neut & Lymph & Mono & Eos & Baso & Jaso &	RESULTS CA ACCURATELY RESULTS CO INCUBATE A 7.0 70,4 17.3 8.0 3.3 0.5 8.8	ALLED ON 02 Y REPEATED ONFIRMED ON AT 37 DEGRE L [7.9	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf	$\left\{\begin{array}{c} \{150-450\}\\ 2, \text{ RESULT}\\ 2\text{KER}, \text{ RN},\\ \left(\begin{array}{c} (7,4-1,0,4)\\ (45,0-75,0)\\ (45,0-75,0)\\ (20,0-44,0)\\ (2,0-9,0)\\ (0,0-2,0)\\ (0,0-2,0)\\ (1,6-7,7)\end{array}\right\}$	FL * * * *
Plt (2) MPV NEUT % Lymph % Mono % Eos % Baso % Neut # Lymph #	RESULTS CA ACCURATELY RESULTS CO INCUBATE A 7.0 70,4 17.3 8.0 3.3 0.5 8.8 2.2	ALLED ON 02 Y REPEATED ONFIRMED ON AT 37 DEGRE L 7.9 L	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf	$\left\{\begin{array}{c} \{150-450\}\\ 2. \ RESULT\\ 2KER, RN.\\ \\ \left(\begin{array}{c} (7,4-1,0,4)\\ (45,0-75,0)\\ (45,0-75,0)\\ (20,0-44,0)\\ (2,0-5,0)\\ (0,0-2,0)\\ (1,0-7,7)\\ (1,2-6,0)\end{array}\right.\right\}$	FL * * * * K/MM3 K/MM3
Plt (2) MPV Neut & Lymph & Mono & Bos & Baso & Neut #	RESULTS CA ACCURATELY RESULTS CO INCUBATE A 7.0 70,4 17.3 8.0 3.3 0.5 8.8	ALLED ON 02 Y REPEATED ONFIRMED ON AT 37 DEGRE L 7.9 L	BACK TO CALLE REPEAT ANALY	r by Jefy, Baf	$\left\{\begin{array}{c} \{150-450\}\\ 2, \text{ RESULT}\\ 2\text{KER}, \text{ RN},\\ \left(\begin{array}{c} (7,4-1,0,4)\\ (45,0-75,0)\\ (45,0-75,0)\\ (20,0-44,0)\\ (2,0-9,0)\\ (0,0-2,0)\\ (0,0-2,0)\\ (1,6-7,7)\end{array}\right\}$	FL * * * *

ı

; ; ; ;

÷

ł

J.T. SIGMAN, M.D.-DIRECTOR J.E. DEECEAM, M.D. J. ERLING, M.D. J.K. HUGHES, M.D. J.K. HUGHES, M.D., Ph.D J.W. HUSSONG, DRS.K.D.

B.X. KOLEER, N.D.

;

İ

*** LABORATORY SUMMARY REPORT *** 02/27/06 1402 D.F. MARMADUXE, M.D. T.C. MURRY, M.D., Ph.D. S.H. RUHOY, M.D.

E.F. SCENIDI, M.D.

R.J. SLAUGETER, M.D.

J.L. UNGER, M.D.

N.B. YOKIACO, M.D.

:

Pt Name: 1	HARPER, JONATHAN E		D,E	231-0
COAGULATIO	**** COAGUI	ATION (***		
Date Time	02/18/06 0810		Reference	Units
Protime Inr	18.4 H 1.60(AA) H		(10.0-14.5) (0.80-1.20)	SECONDS
(A)	A) INR VALUES ARE ONLY RECOMMENDED FO PATIENTS ON STABLE DOSES OF ORAL # THE CURRENT RECOMMENDED GUIDELINES	ANTICOAGULANTS		
	CLINECAL INDICATION		RECOMMENDED INR RANGE	
	PROPHYLAXIS OF VENCUS THROMBOSIS (HIGH RISK SURGERY)		2.0-3.0	
~	TREATMENT OF VENOUS THROMBOSIS TREATMENT OF FULMONARY EMBOLISM PREVENTION OF SYSTEMIC EMBOLISM IN	K:LUDING .	2,0-3.0 2,0-3.0 2,0-3.0	
4 '	a) TISSUE HEART VALVES b) AMI (prevention of embolization c) VALVULAR HEART DISEASE d) ATRIAL FILERILLATION	1)		
• .	MECHANICAL PROSTHETIC VALVES (high BILEAFLET MECHANICAL VALVE IN AORT		2.5-3.5 2.0-3.0	
	(REFERENCE: CHEST/114/5/4458-4698)			
PTT	29 (AB)	ſ	(21-36)	SECONDS
(AB) THE ESTIMATED PTT THERAPEUTIC RANG THROMEOEMEOLIC DISEASE IN PATIENTS HEPARIN AT SUNRISE HOSPITAL IS CUR. BASHD ON CORRELATION STUDIES USING MEASURE HEPARIN AND A PRESUMED HEP. RANGE OF 0.3 TO 0.7 UNITS/ML FOR U	RECEIVING UNF RENTLY 56 TO 8 A FACTOR XA A ARIN THERAPEUT NFRACTIONATED)	RACTIONATED 4 SECONDS((), N. 1997 98829 TQ (1998) - 1997 IC: DRUG 1997 (1997) - Viejje HEPARIN	t Henri Landa I. Hek (1519 5 Men metter - Poly 6
		Delve	wh f Ann	the support
Pt Name: Attend Dr: Not#: Mlt#: Adm Date;	HARPER, JONATHAN E KIM, KITAE D00612363414 Age/Sex; D001662488 Status: ADM IN 02/18/D6 Dis Date:	SUNRISE 1 314 Las	OSPITAL & MEDICAL 6 Maryland Phwy egas, Neveds 8910 CORTORY SUMMARY F	CENTER
			nd Love (angula) Sa baharan na tangan Sa baharan na tangan	CITA
		مریک میں بی میں بی میں میں میں میں میں میں میں میں میں می	a later and the second	. (

PAGE 7

J.D. SIGKAN, M.D. -DIRECTOR J.B. BRECHAM, M.D. * A. BRLING, M.D. 2. GARRY, M.D. S.H. MOGENE, M.D., PL.D. J.W. RUSSONG, DDS, M.D.

S.M. ROLERR, M.D.

:

. 1

*** LABORATORY SUMMARY REPORT *** 02/27/06 1402

D.F. HARMADUKE, M.D. T.C. MURRY, M.D., PL.D S.M. RUBOY, N.D. Z.F. SCHMIDT, N.D.

R.J. SLAUGHTER, M.D. J.L. UNSER, M.D.

N.S. YUNIACO, M.D.

	harper, jonathi	AN E		D.	E231-0
60 Y 16 6 18 1 8 18 Y 1 6 6 19 1 6	ON PROFILE	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	TION ****/ (Conti	nued),	
Date Fime	01	1/18/06 0810		Reference	Unita
FIBRINOGEN	345	(AC)		{ (160-550)	MG/DL
(A(POPULATION. PATIENTS NI	lange refers to di Asa recommends c Th fibrinogen les N THIS ARE SUFFIC	ryo transfusion 5 than 100 mg/d	for Bleeding L. As levels	
-DIMER DV	r screen (4748	(AD) H	ļ	ł	NG/MI,
) VERIFIED BY See also (A) REFERENCE R	E)			
		NEGATIVE LOW LEVEL POSITI HIGH LEVEL POSITI 2-3 OR GREATER	/E, Corresponds IVE, Corresponds	TO FITER OF 1-2 TO TITER OF	
OAG INTERP	• PEND	l	I	1	
			Dul	Contract Adams to contract the top of the with the top state operation. MARA J. Array as all maniful states	anderspeliter Feller Margebilter Feller
Pt Name:	HARPER, JONATH	(AN FI		(SE HOSPITAL A. MEDIC)	
Attend Dr: Acet#: .mit#: Adm Date:		Age/Sax; Stetus: ADM IN Dis Date:	1	3186 Maryland, Frwy Las Vogasyn Nevadr, 89 ^{WEI CLURT BELDY} LABORARORY, 80MMARY	REFORM
				· · · · · · · · · · · · · · · · · · ·	

*** LABORATORY SUMMARY REPORT ***

02/27/06 1402

J.D. SIGRAN, N.D. -DIRECTOR J.E. BEECEAM, N.D. - A. BRLING, M.D. J. GARRY, M.D. J.H. HUGERS, M.D., PL.B J.W. HUGERS, DDS, M.D.

S.H. KOLIER, M.D.

Pt Name: HARPER. JONATHAN E D.E231-0 CONGULATION **** (CONCINUED) ROUTINE COAGULATION Date 02/20/06 02/19/06 02/18/08 Time 1027 0226 2000 Veference. Units PROTIME 17,1 17.5 Ħ ff 18.6 Н (10.0 - 14.5)SECONDS INR 1.48 (AH) H 2.50 (AH) Ħ 1.50 (AH) (0,80-1,20) н (AH) INR VALUES ARE ONLY RECOMMENDED FOR USE IN MONITORING PATIENTS ON STABLE DOSES OF ORAL ANTICOAGULANTS. THE CURRENT RECOMMENDED GUIDELINES ARE: RECOMMENDED CLINICAL INDICATION INR RANGE ------PROPHYLAXIS OF VENOUS THROMBOSIS 2.0~3.0 (HIGH RISK SURGERY) TREATMENT OF VENOUS THROMBOSIS 2.0-3.0 TREATMENT OF PULMONARY EMBOLISM 2.0-3.0 PREVENTION OF SYSTEMIC EMBOLISM INCLUDING 2,0-3,0 A) TISSUE REART VALVES b) AML (prevention of embolization) c) VALVULAR HEART DISEASE d) ATRIAL FIIBRILLATION MECHANICAL PROSTRETIC VALVES (high risk) 2,5-3.5 BILEAFLET MECHANICAL VALVE IN AORTIC POSITION 2.0-3.0 (REFERENCE: CHEST/114/5/4458-4698) \mathbf{PTT} 28 (AI) 31 (AI) 27 (AI) (21-36) SECONDS (AI) THE ESTIMATED PTT THERAPEUTIC RANGE FOR TREATMENT OF THROMEOEMBOLIC DISEASE IN PATIENTS RECEIVING UNFRACTIONATED HEPARIN AT SUNRISE BOSPITAL IS CURRENTLY 56 TO 84 SECONDS BASED ON CORRELATION STUDIES USING A FACTOR XA ASSAY TOPRIGRAM. SALE DE W MEASURE HEPARIN AND A PRESUMED HEPARIN THERAPBUTICADRUGACEMPT CREASER AND CONTRACT AND A PRESUMED HEPARIN THERAPBUTICADRUGACEMPT CREASER AND A PRESUMED AND A PRESUMED HEPARIN THERAPBUTICADRUGACEMPT CREASER AND A PRESUMED AND RANGE OF 0.3 TO 0.7 UNITS/ML FOR UNFRACTIONATED REPARTN for (15 Yours desception with) THE DOM: NO. Willrah J. Annich The state of the second s Pt Name: HARPER, JONATHAN E SUNRISE HOSPITAL & MEDICAL CENTER Accord Dr: KIN, KITAE 3165 Maryland Phwy Las Vegas, Veyada 89109 Acct#: D00512353414 Age/Sex: mit to the LABORATORY, SUMMARY REPORT D001682485 Etatua: ADM IN Adm Date: 02/18/06 Dis Date: Filip Entries and the states

PACE 9

D.P. MARNAUKA, N.D. T.C. MURRY, N.D., PA.D S.H. RUNGY, M.D. B.F. SCENIDY, M.D.

R.J. SLADGETER, M.D.

J.L. UNGER. M.D.

N.S. YUNIACO, M.D.

CCD4

ana i NG ANA

D80095

H.R. KOLKER, M.D.

.

*** LABORATORY SUMMARY REPORT *** 02/27/06 1402 PAGE 10

D.F. KARMADUKS, M.D. T.G. KURRY, N.D., Ph.D S.M. RUEDY, M.D. B.F. SCHMIDT, M.D. R.J. SLAUGHTER, M.D. J.L. UNGHR, M.D.

N.S. YUNIACO, M.D.

Pt Name	; H2	RPER, JONATHA	N E			had dan gener their specification of the	anana aya aya aya kata ay	1	D. E231-0
ROUTIN	e (cor	GULATION	****	• COAGULATIC)14. ** 	ಗ ((ಧರಿತರ	nued)		
ate ime			02, 1520	/18/06 0050				Reference	Units
'ROT'IME 'NR		17.9 1.50	н (дл) н		H H			(10.0-14 (0.80-1.2	
	(AJ)	inr values Patients on The current	STABLE I	OSES OF ORA	L AN	FICOAGUL		NĠ	
		CLINICAL IN						Commended NR Range	
	,	PROPHYLAXIS (HIGH RISK		s Thromsos I	S		₩ hy-	2,0-3.0	
•		TREATMENT OF TREATMENT OF PREVENTION	P PULMONA	RY EMBOLISM		UDING	;	2.0~3.0 2.0~3.0 2.0~3.0	
-		a) TISSUE HI b) AMI (pre- c) VALVULAR d) ATRIAL F:	EART VALV Vention o HEART DI	es f embolizat: SEASE					
		MECHANICAL H BILHAFLET MH	Prostheti Ichanical	C VALVES (h) VALVE IN AC	ign r ORTIC	isk) Positic	2011 2	1.5-3.5 1.0-3.0	
		(REFERENCE : (:Hest/114	/5/4455-4699	3)				
TT				33 (AK)		1		(21-36)	SECONDS
	(AR)	HEPARIN AT S BASED ON CON	NC DISEAN NUNRISE HA RELATION RELATION	SE IN PATIEN DSPITAL IS C STUDIES USI A PRESUMED H	(TS R (URRE) NG A (BPAR)	ecetving NTLY 56 FACTOR IN THERA RACTIONA	i Unfract To 84 Se Xa Assam Prutic D Tech Hara	LONATED CONDSCIENT ROQUELES FO ROQUELES FO RIO.	oliosaanaan ah wadan ku soonii galaa Tohaan galadah mudaalii
	,					Ø.il	ranh	J. Arm	ieh Transport 2015
Pt Name Attend 1 Noct#1	Dr: P D	HARPER, JONATH (IM, KITAE 100612363414	Age/Sex:				3186 M		7 91,09:50 - 50 - 665
Jait#: Adm Date		001692405 2/18/06	Status: Dis Date	ADM IN			LABORAT	ory sumar	
					<u>10. let ânnin</u> ,		н.Э., 1.У., 1.т. <u>г</u>		
						,		280095	SCOA

J.D. BUGHAN, M.D.-DIRECTOE J.H. BERCHAN, M.D. MINA. BELING, M.D. 1. GARRY, M.D. J.H. HUGHES, M.D., Ph.B J.W. HUSEONS, DDS.M.D.

8, 3, ROLLER, N.D.

ł

1

HAR, R.D. (NG, R.D. (Y, N.D. (Y, N.D. (Y, N.D.) (Y

0602180045

*** LABORATORY SUMMARY REPORT *** 02/27/05 1402 PAGE 13

D. P. MARNADUKH, N.D. T.C. MURRY, M.D., Ph.D S.N. RUHDY, M.D.

N.F. SCHNIDT, M.D.

R.J. SLAUGHTER, H.D.

J.L. UNGER, M.D. N.S. YUMIACO, M.D.

NA 142 137 135 L 136 (136-145) NMOL/L CL 109 H 108 H 112 H (19-17) NMOL/L CO2 25 24 22 22 (12-31) NMOL/L ANICM GAP 12 9 9 6 L (9-16) NMOL/L ANICM GAP 129 163 H 121 (70-139) MG/DL CREATININE 0.6 L 4 L 7.7 0.8 (16.6-1.3) MG/DL CREATININE 0.6 L 7.7 7.9 L 7.6 L (1.6-2.3) MG/DL CREATININE 0.6 L 1.7 L 1.8 1.4 L (1.6-2.4) MG/DL CREATININE 0.6 L 1.7 L 1.8 1.4 L (1.6-2.4) MG/DL CREATININE 0.6 L 1.7 L 1.8 L (1.6-	Date Time	02/20			9/06 26		02/: >00	16/06		Reference	Units
K 3.7 3.5 3.7 3.6 (3.4-4.9) NMOL/L CL 109 H 108 H 112 H (94-4.9) NMOL/L ANION GAP 12 9 9 6 L (9-18) MMOL/L ANION GAP 12 9 9 6 L (9-18) MMOL/L ANION GAP 12 9 9 6 L (9-18) MMOL/L ANION GAP 12 9 9 6 L (9-18) MMOL/L CREATINING 0.6 L 4 L 7 (7-18) MG/DL CREATINING 0.6 L 7.7 1.3 2.7 (2.5-4.9) MG/DL AGONESTUM 1.6 L 1.7 L 1.6 1.4 L (1.6-1.45) MMOL/L AGONESTUM 1.6 L 1.7 1.8 1.4 L (1.6-2.4) MG/DL AGONESTUM 1.6 L 1.7 1.8 Y 1.8 MG/DL/L (AAN)	**************************************	27 F1 V	بك. 			# ¥				Kereranda	
2L 109 H 108 H 108 H 112 H (98-307) MMOL/L 2D2 22 22 12 12 (22-31) MMOL/L 2D3 12 9 5 6 L (9-18) MMOL/L 2LUCOSE RANDOM 129 163 K 121 (70-139) MG/DL 2DN 4 L 4 L 7 (7-18) MG/DL 2DN 4 L 4 L 7 (7-18) MG/DL 2D1 0.6 L 0.8 (0.6-1.3) MG/DL MG/DL 2ALCTUM 6.0 L 7.7 L 7.6 L (1.6-2.4) MG/DL 1AGNESTUM 1.6 L 1.7 L 1.8 1.4 L (1.6-2.4) MG/DL 1AGNESTUM 1.6 L 1.7 L 1.8 1.4 L (1.6-2.4) MG/DL 1AGNESTUM 1.6 L 1.7 1.3 2.7 L (1.6-2.4) MG/DL 1AGNESTUM 1.6 L 1.7 1.3 1.4 L (1.6-2.4) MG/DL/L 1A 123 (AN) 137							r."	135		(136-145)	MMOL/L
102 25 24 22 22 (22-31) MNOL/L NION GAP 12 9 9 6 (9-18) MMOL/L NUON GAP 129 163 K 121 (70-139) MMOL/L UNN REATINATE 0.6 L 0.8 (0.6-1.3) MG/DL REATINATE 0.6 L 0.8 (0.6-1.3) MG/DL ALCIUM 9.0 L 7.7 L 7.6 L (8.6-1.0) MG/DL ALCIUM 9.0 L 7.7 L 7.6 L (8.6-1.0) MG/DL HOSPHORUS 2.8 2.7 3.3 2.7 (2.5-4.9) MG/DL L 1.6 1.4 L (1.6-2.4) MG/DL L 1.5 L 1.7 L 1.6 L (1.6-2.4) MG/DL L 1.38 (AN) 137 1139 I (136-145) MMOL/L (AW) EMP RESULTS CALLED ON 02/18/06 AT 0901 BY DLAB.VEK, RESULTS ACCURATELY REPEATED BACK TO CALLER BY TERRI MCCORMICK , RN. IMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB.RLE, RESULT ACCURATELY REPEATED BACK TO CALLER BY TERRI MCCORMICK , RN. IMOL/L (AX)	< .	4		3.5		3.7		3.8		(3.4-4.9)	MMOL/L
NION GAP 12 9 6 L (9-18) MMOL/L LUCOSE RANDOM 129 163 H 121 (70-139) MMOL/L REARINTNE 0.6 L 0.8 (12-139) MG/DL REARINTNE 0.6 L 0.8 (10-6-11.0) MG/DL CALCTUM 9.0 L 7.7 L 7.6 U (9-6-11.0) MG/DL CALCTUM 9.0 L 7.7 L 7.8 1.4 L (1.6-2.4) MG/DL CALCTUM 9.10 0500 0050 Reference Units LaGNESTUM 1.6 1.7 L 1.8 1.4 L (1.6-145) MMOL/L CARDENTIS CALLED ON 02/18/05	3L	109	н	108	H	108	н	112	н	(98-107)	MMQL/L
NICO GAP 12 9 9 9 6 L (9-18) MMOL/L LLUCOSE RANDOM 129 163 H 121 (70-139) MG/DL NTON 4 L 4 L 7 (70-139) MG/DL REBATININE 0.6 L 0.8 (3.6-1.0) MG/DL ALCTUM 0.6 L 7.7 L 7.9 L 7.6 [8.6-1.0) MG/DL ALCTUM 0.6 L 7.7 L 7.9 L 7.6 [8.6-1.0) MG/DL ALCTUM 1.6 L 1.7 L 1.6 1.4 L (1.6-2.4) MG/DL AGNESTUM 1.6 L 1.7 L 1.6 1.4 L (1.6-145) MyOL/L LGAMESTUM 133 (AW) 137 139 (136-145) MyOL/L (AW) EMP RESULTS CALLED ON 02/18/06 AT 0901 BY DLAB.VEK. REBULTS ACCURATELY REPEATED BACK TO CALLER BY TERRI MCCORMICK , RN. IMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB.RLE. RESULT ACCORATELY R	:02	25		24		22		22		(22-31)	MMOL/L
LUCOSE RANDOM 129 163 H 121 $(70-139)$ NG/DL UN 4 L 4 L 7 $(7-28)$ NG/DL REATINIME 0.5 L 0.8 $(3.6-2.3)$ NG/DL ALCTUM 9.0 L 7.7 L 7.9 L 7.6 L $(3.6-2.3)$ MG/DL ACTUM 9.0 L 1.7 L 1.8 1.4 L $(3.6-2.4)$ MG/DL ACTUM 1.6 L 1.7 L 1.8 1.4 L $(3.6-2.4)$ MG/DL AGNESTUM 1.6 L 1.7 L 1.6 1.4 L $(1.6-2.4)$ MG/DL AGNESTUM 1.6 L 1.7 L 1.6 I.4 L $(1.6-2.4)$ MG/DL MG/DL NG/DL NG/DL	NION GAP	12		9	•	9		6	L		
UN 4 L 4 L 7 $(7-28)$ MG/DL REATININE 0.6 L 0.8 0.8 $(0.6-2.3)$ MG/DL REATININE 0.6 L 0.7 T 7.6 L $(0.6-2.3)$ MG/DL HOSPHORUS 2.8 2.7 3.3 2.7 $(2.5-4.9)$ MG/DL AONESTUM 1.6 L 1.7 L 1.8 1.4 L $(1.6-2.4)$ MG/DL ADMESTUM 1.6 L 1.7 L 1.8 1.4 L $(1.6-2.4)$ MG/DL Le 1.7 L 1.8 1.4 L $(1.6-2.4)$ MG/DL Le 1.18 1.4 L $(1.6-2.4)$ MG/DL A $(123(AN)$ $[137]$ $[139]$ $(136-145)$ MMOL/L (AW) EMP RESULTS CALLED ON 02/18/06 AT 0901 BY DLAB.VEX. RESULTS ACCURATELY REPEATED BACK TO CALLER BY TERM MCCORMICK , RN. $[4.1] [4.2] [4.0] [2.7(AX) * L] (2.4-4.9) MMOL/L $	LUCOSE RANDOM	129		163	H					()	
REATIVINE 0.6 L 0.8 (0.6-1.3) MG/DL ALCTUM 0.0 L 7.7 L 7.9 L 7.6 L (0.6-1.3) MG/DL ALCTUM 2.8 2.7 3.3 2.7 (2.5-4.9) MG/DL AGNESTUM 1.6 L 1.7 L 1.8 1.4 L (1.6-2.3) MG/DL Le 1.6 L 1.7 L 1.8 1.4 L (1.6-2.4) MG/DL Le 1.6 L 1.7 L 1.8 1.4 L (1.6-2.4) MG/DL Le 1.6 L 1.7 L 1.8 1.4 L (1.6-2.4) MG/DL Le 1.6 L 1.7 L 1.8 NG/DL MG/DL A 133(AM) 137 119 I I.16-145 MG/DL/L (AW) EMP RESULTS CALLED ON 02/18/06 AT 0219 PT ELAB, RLE. RESULTS ACCURATELY REPEATED BACK TO CALLER BY TISHA, RM. I.4.1 I.4.9 MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 P	UN	4	Ľ		-						
ALCTUM $[0.0]$ L 7.7 L 7.9 L 7.6 L $(0.6, 6-11.0)$ MG/DL HOSPHORUS 2.8 2.7 3.3 2.7 $(2.5-4.9)$ MG/DL AGNESTUM 1.6 1.7 L 1.8 1.4 L $(1.6-2.4)$ MG/DL Le 1.7 L 1.8 1.4 L $(1.6-2.4)$ MG/DL Le 0810 0500 0050 Reference Units A $(138(AN)$ 117 1139 I $(136-145)$ MMOL/L (AW) EMP RESULTS CALLED ON 02/18/06 AT 0901 BY DLAB, VRX, RESULTS ACCURATELY REPEATED BACK TO CALLER BY TERRI MCCORMICK , RN. $(4.1 4.0 (2.7(AX) *L) I (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE, RESULT MMOL/L ACCURATELY REPEATED BACK TO CALLER EY TISHA, RN. L 115 116 116 (98-107) MMOL/L DCOGE RANDOM 119 130 17.4 H (7.6139) $	REATININE	0.6		а в	-			,			
HOSPHORUS 2.8 2.7 3.3 2.7 (2.5-4.9) MG/DL AGNESTUM 1.6 1.7 1.8 1.4 1.4 1.6-2.4 MG/DL AGNESTUM 1.6 1.7 1.8 1.4 1.4 1.6-2.4 MG/DL te 0910 0500 0050 Reference Units A 1233(AN) 137 139 (136-145) Mg/DL/L (AW) EMP RESULTS CALLED ON 02/18/06 AT 0901 BY DLAB, VRK. RESULTS ACCURATELY REPEATED PACK TO CALLER BY TERRI MCCORMICK , RN. 14.1 14.0 12.7 (AX) *L (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCURATELY REPEATED BACK TO CALLER BY TISHA, RN. (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCURATELY REPEATED BACK TO CALLER EY TISHA, RN. (3.4-4.9) MMOL/L D2 20 120 123 (22-31) MMOL/L D2 20 120 124 (3.4-4.9) MMOL/L D2 10 1.4 (7-18) MOL/L D2 120 120 124 (3.4-4.2.3)		•			Ť.	7 0	۳.		τ.		
LAGNESTUM L.6 L 1.7 L 1.8 1.4 L (1.6-2.4) MG/DL ime 0910 0500 0050 Reference Units ime 0910 0500 0050 Reference Units A [133 (AN) [137 [139 (136-145) MMOL/L (AW) EMP RESULTS CALLED ON D2/18/06 AT 0901 BY DLAB, VRX, RESULTS ACCURATELY REPEATED BACK TO CALLER BY TERRI MCCORMICK , RN. (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCURATELY REPEATED BACK TO CALLER BY TISHA, RN. (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCURATELY REPEATED BACK TO CALLER BY TISHA, RN. (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCURATELY REPEATED BACK TO CALLER BY TISHA, RN. (3.4-4.9) MMOL/L (DCOSE RANDOM 119 130 174 (3.4-4.9) MMOL/L DIA 20 L 22 (22-31) MMOL/L DICOSE RANDOM 119 130 174 (7-18) MG/DL </td <td></td> <td></td> <td>~~~</td> <td></td> <td></td> <td>, ·</td> <td></td> <td></td> <td>÷1</td> <td></td> <td></td>			~~~			, ·			÷1		
ite O2/18/05			T		t.				-		
ime 0910 0500 0050 Reference Units A 138 (AM) 137 139 (136-145) MMOL/L (AW) EMP RESULTS CALLED ON 02/18/06 AT 0901 BY DLAB, VRK. RESULTS ACCURATELY REPEATED BACK TO CALLER BY TERRI MCCORMICK , RN. (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCURATELY REPEATED BACK TO CALLER BY TISHA, RN. (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCURATELY REPEATED BACK TO CALLER BY TISHA, RN. (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCURATELY REPEATED BACK TO CALLER BY TISHA, RN. (3.4-4.9) MMOL/L (D2 115 H 106 (98-107) MMOL/L D2 20 L 20 L 22 (22-31) MMOL/L D300 17 L 5 L 14 (70-139) MG/DL D300 174 H 106 (10.6-1.3) MG/DL (3.5-4.2) GM/DL MATININE 0.7 L 1.0 (3.5-4.	001120 £ 011	Į	-	} ## # ?	-	17.0		1 + 1 + 4	ų	/ /+·Q-*·G/	MG/D4
ime 0810 0500 0050 Reference Units A [133 (AW) [137 [139] (136-145) MMOL/L (AW) EMP RESULTS CALLED ON 02/18/06 AT 0901 BY DLAB, VRK, RESULTS ACCURATELY REPEATED BACK TO CALLER BY TERRI MCCORMICK , RN.] [3.4-4.9] MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCORATELY REPEATED BACK TO CALLER BY TISHA, RN.] (3.4-4.9) MMOL/L (AX) RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCORATELY REPEATED BACK TO CALLER BY TISHA, RN.] [3.4-4.9] MMOL/L (AX) RESULTY REPEATED BACK TO CALLER BY TISHA, RN.] [3.4-4.9] MMOL/L (AX) RESULTY REPEATED BACK TO CALLER BY TISHA, RN.] [3.4-4.9] MMOL/L (AX) RESULTY REPEATED BACK TO CALLER BY TISHA, RN.] [3.4-4.9] MMOL/L D2 [15 H [106 [3.4-7.0] [3.4-7.0] MMOL/L D2 [119 [130 [174 H [3-2.6] MMOL/L D3.0 [174 [4.4] [7-1.8] [3.5-4.	······································			<u></u>		الهاي سرير ويرد مدر المستخلفة مستعد ال	1979	····	·	<u>ىسى بى مەرىپى بەلى بەرىپ مەرىپ دە مەرىپ بەرىپ بەرىپ مەرىپ بەرىپ بەرىپ بەرىپ بەرىپ بەرىپ بەرىپ بەرىپ بەرىپ بەرى</u>	مربق والمناو المنظم المنظم والمنو المنطق المنطق المنطق المنطقة المنطقة المنطقة المنطقة المنطقة المنطقة المنطقة
A $ 133 (AW) $ $ 137 $ $ 139 $ $(136-145)$ MMOL/L(AW)EMP RESULTS CALLED ON D2/18/06 AT 0901 BY DLAB, VRK. RESULTS ACCURATELY REPEATED BACK TO CALLER BY TERRI MCCORMICK , RN. $ 4.1 $ $ 4.2 $ $ 4.0 $ $ 2.7 (AX) *L $ $ (3.4-4.9) $ MMOL/L(AX)RESULTS CALLED ON 02/18/06 AT 0119 BY ELAB, RLE. RESULT ACCORATELY REPEATED BACK TO CALLER BY TISHA, RN. $ (3.4-4.9) $											
(AW)EMD(AU)(A	ime	0610	0	Q 5	00	009	50			Reference	Units
ACCURATELY REPEATED BACK TO CALLER BY TERRI MCCORMICK , RN. $ 4.1 4.0 2.7 (AX) *L (3.4-4.9) MMOL/L(AX) RESULTS CALLED ON 02/19/06 AT 0119 BY ELAB.RLE. RESULTACCURATELY REPEATED BACK TO CALLER BY TISHA, RN.L 115 H 2.16 H 106 (22.31) MMOL/LD2 20 L 20 L 22 (22.31) MMOL/LVION GAP7 L 5 L 14 (9.26) MMOL/LDUCOSE RANDOM119 130 174 H (70.139) MG/DLIN9 11 14 (7.18) MG/DLREATININE0.7 L 0.7 L 1.0 (0.8-2.3) MG/DLJENTIN1.2 L (1.7-2.2) (3.5-4.2) GM/DLACCUM6.9 L 6.6 L 2.8 (1.7-2.2) (3.6-11.0) MG/DLVORSPHORUS2.8 FROTEIN (2.5-4.9) MG/DLJENTISE HOSPITAL & MKDICAL CENTERVARSI HARPER, JONATHAN ESUNRISE HOSPITAL & MKDICAL CENTERVE NARSI HARPER, JONATHAN E$	A	1138 (AN))	137		139		1		(136-145)	MMOL/L
ACCORATELY REPEATED BACK TO CALLER EY TISHA, RN. L 115 H 216 H 106 (98-107) MMOL/L D2 20 L 20 L 22 (32-31) MMOL/L D2 20 L 20 L 22 (32-31) MMOL/L D2 20 L 20 L 22 (32-31) MMOL/L D2 11 5 L 14 (9+18) MMOL/L LUCOSE RANDOM 119 130 1.74 H (70-139) MG/DL IN 9 11 14 (7-18) MG/DL REATININE 0.7 L 1.0 (0.8-2.3) MG/DL STAL FROTEIN 5.7 L (6.4-8.2) GM/DL ABUMIN 3.1 L (3.5-4.2) GM/DL VCIUM 6.9 L 6.6 1.2 1.2 (1.7-2.2) MLCIUM 6.9 L 6.6 1.7.5 L (3.6-11.0) MG/DL VCSPHORUS 2.8 SUNRISE MO	AC	CURATELY	19 () (RE)	Peated :	N D2/: Back :	ro calle	er by	TERRI M	ICCORM:	ICK , RN.	MMOL/L
D2 20 L 20 L 22 (32-31) MMOL/L NTON GAP 7 L 5 L 14 (9-18) MMOL/L LUCOSE RANDOM 119 130 174 H (70-139) MG/DL UN 9 11 14 (7-18) MG/DL UN 9 11 14 (7-18) MG/DL DTAL FROTEIN 5.7 L (6.4-8.2) GM/DL LBUMIN 3.1 L (3.5-4.2) GM/DL /G RATIO 1.2 L (1.7-2.2) ALCIUM 6.9 L 6.6 1.75 L HOSPHORUS 2.8 SUNRISE HOSPITAL 4 MEDICAL CENTER	AC	CURATELY	(RE)	PEATED : 4.0	элск :	ro calli 2,7(a)	er by X) *L	terri M }	ICCORM)	ICK , RN. (3.4-4.9)	MMOL/L
D2 20 L 20 L 22 (32-31) MMOL/L NION GAP 7 L 5 L 14 (9-18) MMOL/L LUCOSE RANDOM 119 130 174 H (70-139) MG/DL JN 9 11 14 (7-18) MG/DL JAL FROTEIN 5.7 L (6.4-8.2) GM/DL JACIUM 6.9 L 6.6 1.2 L JALCIUM 6.9 L 6.6 7.5 L (1.7-2.2) ALCIUM 6.9 L 6.6 7.5 L (8.6-11.0) MG/DL JOSPHORUS 2.8 VARGE SUNRISE HOSPITAL & MEDICAL CENTER 3186 MEDICAL CENTER	AC (AX) RE	CURATELY 4.1 SULTS CA	(RE) Allei	Peated : 4.0) on 02,	9ACK 1	TO CALLE 2.7(A) 5 AT 011	19 BY ; X) *L X) Y ;	terri M 	iccorm: .e. res	ICK , RN. (3.4-4.9)	MMOL/L
NION GAP 7 L 5 L 14 (H - 5/) (MOL/L) LUCOBE RANDOM 119 130 1.74 H (70-139) MG/DL IN 9 11 14 (10-10) (0.8-2.3) MG/DL Instructure 5.7 L (1.7-2.2) (1.7-2.2) (1.7-2.2) (1.00) (1.6.6-1.1.0) MG/DL IOSPHORUS 2.8 2.8 9 <td>AC (AX) RE AC</td> <td>CURATELY 4.1 SULTS CA CORATELY</td> <td>(RE) Allei (REE</td> <td>Peated : 4.0) on 02, Peated 1</td> <td>9ACK 1 /18/00 3ACK 1</td> <td>fo Calle 2,7 (A) 5 AT 013 FO CALLE</td> <td>19 BY ; X) *L X) Y ;</td> <td>terri M </td> <td>iccorm: .e. res</td> <td>ICK , RN. (3.4-4.9) ULT</td> <td></td>	AC (AX) RE AC	CURATELY 4.1 SULTS CA CORATELY	(RE) Allei (REE	Peated : 4.0) on 02, Peated 1	9ACK 1 /18/00 3ACK 1	fo Calle 2,7 (A) 5 AT 013 FO CALLE	19 BY ; X) *L X) Y ;	terri M 	iccorm: .e. res	ICK , RN. (3.4-4.9) ULT	
LUCOBE RANDOM 119 130 174 H (70-139) MG/DL IN 9 11 14 (7-18) MG/DL REATININE 0.7 L 0.7 L (0.8-2.3) MG/DL OTAL FROTEIN 5.7 L (6.4-8.2) GM/DL LBUMIN 3.1 L (3.5-4.2) GM/DL /G RATIO 1.2 L (1.7-2.2) ALCIUM 6.9 L 6.6 L 7.5 L (8.6-11.0) MG/DL IOSPHORUS 2.8 2.8 SUNRISE NOSPITAL 4 MRDICAL CENTER SUNRISE NOSPITAL 4 MRDICAL CENTER	AC (AX) RE AC L	CURATELY 4.1 SULTS CA CORATELY 115	(RE) Llei (Ree H	PEATED : 4.0) ON 02, PEATED 1 3.16	BACK 1 18/06 BACK 1 H	FO CALLE 2,7(A) 5 AT 011 FO CALLE 106	19 BY ; X) *L X) Y ;	terri M 	iccorm: .e. res	ICK , RN. (3.4-4.9) ULT (98-107)	MMOL/L
IN 9 11 14 (7-18) MG/DL REATININE 0.7 L 1.0 (0.8-1.3) MG/DL DTAL FROTEIN 5.7 L (6.4-8.2) GM/DL _BUMIN 3.1 L (3.5-4.2) GM/DL /G RATIO 1.2 L (1.7-2.2) ALCIUM 6.9 L 6.6 L 7.5 L (8.6-11.0) MG/DL IOSPHORUS 2.8 IONRISE NOSPITAL & MEDICAL CENTER SUNRISE NOSPITAL & MEDICAL CENTER	AC (AX) RE AC L	CURATELY 4.1 SULTS CA CORATELY 115 20	(RE) ALLEI (RE) H L	PEATED : 4.0) ON 02, PEATED 1 116 20	ACK 18/06 BACK 1 H L	FO CALLE 2,7(A) 5 AT 011 5 AT 011 10 CALLE 106 22	19 BY ; X) *L X) Y ;	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) ULT (98-107) (32-31)	MMOL/L MMOL/L
RATININE 0.7 L 0.7 L 1.0 (0.8-1.3) MG/DL DTAL FROTEIN 5.7 L (6.4-8.2) GM/DL ABUMIN 3.1 L (3.5-4.2) GM/DL /G RATIO 1.2 L (1.7-2.2) ALCIUM 6.9 L 6.6 4 7.5 L (8.6-11.0) MG/DL IOSPHORUS 2.8 2.8 SUNRISE NOSPITAL & MEDICAL CENTER 11.4 11.4 11.4	AC (AX) RE AC 22 VION GAP	CURATELY 4.1 SULTS CA CORATELY 115 20 7	(RE) ALLEI (RE) H L	PEATED : 4.0) ON 02, PEATED 1 216 20 5	ACK 18/06 BACK 1 H L	FO CALLE 2.7 (A) 5 AT 011 5 AT 011 10 CALLE 106 22 14	er by : () *L () ey :	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) ULT (98-107) (32-31) (9-16)	MMOL/L MMOL/L MMOL/L
DTAL FROTEIN 5.7 L (6.4-8.2) GM/DL LBUMIN 3.1 L (3.5-4.2) GM/DL /G RATIO 1.2 L (1.7-2.2) ALCIUM 6.9 L 6.6 L 7.5 L (8.6-11.0) MG/DL HOSPHORUS 2.8 2.8 SUNRISE NOSPITAL & MEDICAL CENTER Attand Dr. KIM.KITAE 3186 MARYLAND DE	AC (AX) RE AC L D2 NION GAP LUCOSE RANDOM	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119	(RE) ALLEI (RE) H L	PEATED : 4.0) ON 02, PEATED 1 216 20 5 130	ACK 18/06 BACK 1 H L	FO CALLE 2.7 (A) 5 AT 011 5 AT 011 5 AT 011 106 22 14 174	er by : () *L () ey :	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) ULT (98-107) (32-31) (9-10) (70-139)	MMOL/L MMOL/L MMOL/L MG/DL
LEUMIN 3.1 L (3.5-4.2) GM/DL /G RATIO 1.2 L (1.7-2.2) ALCIUM 6.9 L 6.6 L 7.5 L HOSPHORUS 2.8 7.5 L (3.5-4.2) GM/DL HOSPHORUS 2.8 7.5 L (1.7-2.2) VE NAME: HARPER, JONATHAN E SUNRISE NOSPITAL & MEDICAL CENTER Attand Dr. KIM.KITAE 3186 MARYLAND DENT	AC (AX) RE AC 22 NION GAP LUCOSE RANDOM JN	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9	(RE) ALLEI (REE H L L	PEATED : 4.0) ON 02, PEATED 1 2.16 20 5 130 11	ACK 18/06 BACK 1 H L L	FO CALLE 2.7 (A) 5 AT 011 5 AT 011 5 CALLE 106 22 14 1.74 1.74 1.4	er by : () *L () ey :	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) ULT (98-107) (32-31) (9-10) (70-139) (7-18)	MMOL/L MMOL/L MMOL/I MG/DL MG/DL
/G RATIO 1.2 L (1.7-2.2) ALCIUM 6.9 L 6.6 L 7.5 L (1.7-2.2) HOSPHORUS 2.8 2.8 7.5 L (1.7-2.2) MG/DL HOSPHORUS 2.8 7.5 L (2.5-4.9) MG/DL PE Name: HARPER, JONATHAN E SUNRISE NOSPITAL & MEDICAL CENTER Attand Dr. XIM. KITAE 3186 MARYLAND Dest	AC (AX) RE AC D2 NION GAP LUCOSE RANDOM IN REATININE	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9	(RE) ALLEI (REE H L L	PEATED : 4.0) ON 02, PEATED 1 2.16 20 5 130 11	ACK 18/06 BACK 1 H L L	FO CALLE 2.7 (A) 5 AT 011 5 AT 011 5 AT 011 106 22 14 174 14 1.0	er by K) *L L9 by : SR by '	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) ULT (98-107) (32-31) (9-10) (70-139) (7-18) (0.8-1.3)	MMOL/L MMOL/L MG/DL MG/DL MG/DL MG/DL
ALCIUM 6.9 L 6.6 L 7.5 L (8.6-11.0) MG/DL HOSPHORUS 2.8 (2.5-4.9) MG/DL (2.5-4.9) MG/DL SUNRISE NOSPITAL & MEDICAL CENTER Attand Dr. KIM.KITAE	AC (AX) RE AC D2 NION GAP LUCOSE RANDOM IN REATININE DTAL PROTEIN	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9	(RE) ALLEI (REE H L L	PEATED : 4.0) ON 02, PEATED 1 2.16 20 5 130 11	ACK 18/06 BACK 1 H L L	FO CALLE 2.7 (A) 5 AT 011 5 AT 011 106 22 14 1.74 1.4 1.0 5.7	er by K) *L Up by Sr by ' H	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) ULT (98-107) (32-31) (9-18) (70-139) (7-18) (0.8-1.3) (6.4-8.2)	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL
HOSPHORUS 2.8 (2.5-4.9) MG/DL PE Name: HARPER, JONATHAN E SUNRISE NOSPITAL & MEDICAL CENTER Attand Dr. KIM.KITAE	AC (AX) RE AC D2 NION GAP LUCOSE RANDOM IN REATININE DTAL PROTEIN LBUMIN	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9	(RE) ALLEI (REE H L L	PEATED : 4.0) ON 02, PEATED 1 2.16 20 5 130 11	ACK 18/06 BACK 1 H L L	TO CALLE 2.7 (A) 5 AT 011 TO CALLE 106 22 14 1.74 1.4 1.0 5.7 3.1	r r 19 ey 19 ey 19 ey 19 ey 19 ey 19 ey	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) ULT (98-107) (32-31) (9-16) (7-18) (0.8-1.3) (6.4-8.2) (3.5-4.2)	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL
PE Name: HARPER, JONATHAN E SUNRISE MOSPITAL & MEDICAL CENTER	AC (AX) RE AC 02 NION GAP LUCOSE RANDOM UN REATININE OTAL PROTEIN LBUMIN (G RATIO	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9 0.7	(RE) ALLEI (RE) H L L L	PEATED : 4.0 O ON 02, PEATED 1 2.16 2.16 1.20 1.1 0.7	ACK 18/06 BACK H L L	TO CALLE 2.7 (A) 5 AT 011 TO CALLE 106 22 14 1.74 1.0 5.7 3.1 1.2	ER EY L 19 EY H H L L EY L	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) ULT (98-107) (32-31) (9+16) (70-139) (7-18) (0.8-1.3) (6.4-8.2) (3.5-4.2) (1.7-2.2)	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL GM/DL
thand Dr. KIM, KITAE	AC (AX) RE AC 22 VION GAP SUCOSE RANDOM IN REATININE STAL FROTEIN BUMIN (G RATIO ALCIUM	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9 0.7	(RE) ALLEI (RE) H L L L	PEATED : 4.0 O ON 02, PEATED 1 1.16 20 11 0.7 6.6	ACK 18/06 BACK H L L	TO CALLE 2.7 (A) 5 AT 011 TO CALLE 106 22 14 1.74 1.0 5.7 3.1 1.2	ER EY L 19 EY H H L L EY L	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) ULT (98-107) (32-31) (9+16) (70-139) (7-18) (0.8-1.3) (6.4-8.2) (3.5-4.2) (1.7-2.2)	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL GM/DL GM/DL
thand Dr. XIM KITAR	AC (AX) RE AC 22 (ION GAP JUCOSE RANDOM IN BEATININE STAL FROTEIN BUMIN G RATIO JUCIUM	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9 0.7	(RE) ALLEI (RE) H L L L	PEATED : 4.0 O ON 02, PEATED 1 1.16 20 11 0.7 6.6	ACK 18/06 BACK H L L	TO CALLE 2.7 (A) 5 AT 011 TO CALLE 106 22 14 1.74 1.0 5.7 3.1 1.2	ER EY L 19 EY H H L L EY L	terri M 	iccorm: .e. res	CCK , RN. (3.4-4.9) OULT (98-107) (32-31) (9+16) (70-139) (7-18) (0.8-1.3) (6.4-8.2) (3.5-4.2) (1.7-2.2) (9.6-11.0)	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL GM/DL GM/DL
cct#: D00612363414 Age/Sex: Las Vegas, Neveda S91090 Comp mit#: D001652495 Status: ADM IN the Status Second	AC (AX) RE AC (ION GAP JUCOBE RANDOM IN REATININE STAL FROTEIN BUMIN (G RATIO LCIUM (OSPHORUS	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9 0.7 6.9	(RE)	PEATED : 4.0 O ON 02, PEATED : 20 5 130 11 0.7 6.6 2.8	ACK 18/06 BACK H L L	TO CALLE 2.7 (A) 5 AT 011 TO CALLE 106 22 14 1.74 1.0 5.7 3.1 1.2	ER EY L 19 EY H H L L EY L	TERRI M ELAB.RL TISHA. 	E. RES	CCK , RN. (3.4-4.9) OULT (98-107) (32-31) (9-16) (7-18) (7-18) (0.8-1.3) (6.4-8.2) (3.5-4.2) (1.7-2.2) (9.6-11.0) (2.5-4.9)	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL GM/DL MG/DL MG/DL MG/DL
mit#: D001652485 Status: ADM IN G. Status: Control Status	AC (AX) RE AC (AX) RE (AX) RE (AX	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9 0.7 6.9 PER, JONA:	(REI LLEI : REE H L L L L THAN	PEATED : 4.0 ON 02, PEATED : 2.16 2.16 1.16 1.16 1.10 1.1 0.7 6.6 2.8 7 E	BACK 1 18/06 BACK 1 L L L	TO CALLE 2.7 (A) 5 AT 011 TO CALLE 106 22 14 174 14 1.0 5.7 3.1 1.2 7.5	er by K) *L L by H L L L L L	TERRI M ELAB.RI. TISHA. SUNRI:	E. RES RN.	<pre>(CK , RN. (3.4-4.9) (ULT (98-107) (32-31) (9+16) (70-139) (7-18) (0.8-1.3) (6.4-8.2) (3.5-4.2) (1.7-2.2) (9.6-11.0) (2.5-4.9) PITAL & MEDIC</pre>	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL GM/DL GM/DL MG/DL MG/DL MG/DL
· · · · · · · · · · · · · · · · · · ·	AC (AX) RE AC (AX) RE (AX) RE AC (AX) RE (AX) R	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9 0.7 6.9 PER, JONA: , KITAE	(REI LLEI : REE H L L L L THAN	PEATED : 4.0 ON 02, PEATED : 2.16 2.16 1.16 1.16 1.10 1.1 0.7 6.6 2.8 7 E	BACK 1 18/06 BACK 1 L L L	TO CALLE 2.7 (A) 5 AT 011 TO CALLE 106 22 14 174 14 1.0 5.7 3.1 1.2 7.5	er by K) *L L by H L L L L L	TERRI M ELAB.RI. TISHA. SUNRI:	E. RES RN.	<pre>(CK , RN. (3.4-4.9) (ULT (98-107) (32-31) (9+16) (70-139) (7-18) (0.8-1.3) (6.4-8.2) (3.5-4.2) (1.7-2.2) (9.6-11.0) (2.5-4.9) PITAL & MEDIC</pre>	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL GM/DL GM/DL MG/DL MG/DL MG/DL
dm Date: 02/18/06 Dis Data a construction a construction tanogatory southanty as for the construction of t	AC (AX) RE AC (AX) RE AC AC AC AC AC AC AC AC AC AC	CURATELY 4.1 SULTS CA CORATELY 115 20 7 119 9 0.7 6.9 PER, JONA: KITAE 51236141-	(REI LLEI : REE H L L L L THAN	PEATED : 4.0 ON 02, PEATED : 2.16 2.16 1.16 1.16 1.10 1.1 0.7 6.6 2.8 7 E	BACK 1 18/06 BACK 1 L L L	TO CALLE 2.7 (A) 5 AT 011 TO CALLE 106 22 14 174 14 1.0 5.7 3.1 1.2 7.5	er by K) *L L by H L L L L L	TERRI M ELAB.RI. TISHA. SUNRI:	E. RES RN.	<pre>(CK , RN. (3.4-4.9) (ULT (98-107) (32-31) (9+16) (70-139) (7-18) (0.8-1.3) (6.4-8.2) (3.5-4.2) (1.7-2.2) (9.6-11.0) (2.5-4.9) PITAL & MEDIC</pre>	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL GM/DL GM/DL MG/DL MG/DL MG/DL
and the second	AC (AX) RE AC (AX) RE AC (AX) RE AC (AX) RE AC (AX) RE AC (AX) RE AC (AX) RE AC (AX) RE AC (AX) RE AC (AX) RE AC AC (AX) RE AC AC AC AC (AX) RE AC AC AC AC AC AC AC AC AC AC	CURATELY 4.1 SULTS CA CORATELY 115 20 7 19 9 0.7 6.9 PER, JONA: KITAE 51236341- 1652485	(REI LLEI : REE H L L L L THAN	PEATED : 4.0 ON 02, PEATED : 2.16 2.16 1.16 1.16 1.10 1.1 0.7 6.6 2.8 7 E	BACK 1 18/06 BACK 1 L L L	TO CALLE 2.7 (A) 5 AT 011 TO CALLE 106 22 14 174 14 1.0 5.7 3.1 1.2 7.5	er by K) *L L by H L L L L L	TERRI M ELAB.RI. TISHA. SUNRI:	E. RES RN.	<pre>(CK , RN. (3.4-4.9) (ULT (98-107) (32-31) (9+16) (70-139) (7-18) (0.8-1.3) (6.4-8.2) (3.5-4.2) (1.7-2.2) (9.6-11.0) (2.5-4.9) PITAL & MEDIC</pre>	MMOL/L MMOL/L MG/DL MG/DL MG/DL GM/DL GM/DL GM/DL MG/DL MG/DL MG/DL

ţ

1

L

2

đ.p,	SIUMAN, K.DDIRECTOR
J.S.	BIBCRAM, N.D.
×٠٠٠ ٨.	BRLIND, M.D.
ب ش ب	GARRY, K.D. HUGHES, K.D., Ph.D
₽ .8.	NUGRES, M.D., Ph.D
J.W.	HUSSONG, DOS,M.D.
я, в,	KOLKER, N.D.

0602180045

*** LABORATORY SUMMARY REPORT *** 02/27/06 1402 PAGE 14

D.P. MARNADUKE, N.D. T.C. MURRY, X.D., Ph.D S.M. RUNOY, H.D. R.F. SCHNIDT, N.D. R.J. SLAUGETER, M.D. J.L. UNIER, N.D. N.S. YUMIAUO, M.D.

ί.

1 1

I

ł.

ł

ŧ

1

Pt Name: HARPER, JONATH	IN E).E231-0
ROUTINE CHEMISTRY	a sector and the sector of the	RX litet (Cont	a, ara mane de la solati de la filitación de la companya de la companya de la companya de la companya de la com	
Date Time OSLO	02/18/06 0500	0050	Reference	Units
Total Bilirubin SGOT/AST SGFT/ALT Total Alk Phos Magnesium	0. 29 20 87 1.3 L	Ľ	(0.10-1.00 (15-37) (27-65) (43-267) (1.8-2.4)) MG/DL IV/L IV/L IV/L MG/DL
URINE CHEMISUE SUB-				
Date Time	02/19/0 2000	б 	Reference	Units
UR OSMO RANDOM	355 (AY)	L	(392-1090)	
(AY) RESULTS CON	FIRMED ON REPEAT AN	NALYSIS	and a special system of the state of the last state of the second system of the special system of the	
Date Fime	02/18/06 1310	s	Reference	Units
JR OSMO RANDOM	313	L	(392-1090)	<u>مى مى بىرى بىرى بىرى بىرى بىرى بىرى بىرى</u>
THERAPEUTIC DRUG MONITO		XICOLOGY *14		
Date 02/28/06 Time 0403	· · ·	2/22/06 0035	Referençe	Units
PHENYTOIN. (AZ) (AZ) PENDING RECE	2.73 L 10.	·	0, 98, 99, 10 Market (1997), 100 (1997) Market (1997), 100 (1997) Market (1997), 100 (1997) Market (1997)	zvis, arcaartar (* 1995) 45 - Achora Mary (* 1914) 1
		Du	bush f. Anni	en and and and a second
Pt Name: HARPER, JONATH Attend Dr: XIM, KITAB Acct#: D00612363414 /nit#: D001652435 Adm Date: 02/18/06	AN E Age/Sex: Status: ADM IN Dis Date:	302	RISE KOSPITAL & MEDIC 3186 Märyland: Pkwy Las Vegis: Neveca: 85 States (States) Laboratory: Summary	8044 (1996) (4015) 1 109 (₁₉₉₆) (4015) 2017 (1997)
•			120095	CCDA

J.D. SIGHAN, N.D. BIRECTOR J.E. ERECHAN, M.D. J.E. ERECHAN, M.D. J. GARRY, M.D. J.E. HUGHES, N.D., PD.D J.H. HUGHES, N.D., PD.D J.H. EUSSONG, DDS, M.D. S.R. KOLKER, N.D.

*** LABORATORY SUMMARY REPORT *** 02/27/06 1402 PAGE 15

D.V. MANNADURS, M.D. T.C. MURRY, M.D., Ph.D S.M. RUHOY, M.D. R.F. HCRMIDT, M.D. R.J. SLATGETTER, M.D. J.L. UNGHR, M.D. N.S. YUMIACO, M.D.

.

	Jonathan e			231-0
	en e	MONTINET A BOB WAY		(B), (Masteria), (Masteria)
Date Time		18/06 310	Reference	Units
UA COLOR UA APPEARANCE UA GLUCOSE UA BILIRUBIN ICTOTEST UA KETONES UA SPECIFIC GRAVI UA BROCIFIC GRAVI UA BROTEIN UA PROTEIN UA UROBILINOGEN UA NITRITE UA LEUK ESTERASE "A REC WEC UA REITHELIAL CEL UA REITHELIAL CEL UA CRYSTALS OTHER (BA) EMODI	MODERATE*TRACE6.05.030*4.0*NEGATIVENEGATIVENEGATIVETRACE20-50*NONESEENNONESEEN10000-2TRACE*NONESEEN	IVE IVE tve tve tve tve tve tve tve	(YELLOW) (CLEAR) (NEGATIVE) (NEGATIVE) (NEGATIVE) (1.003-1.03((NEGATIVE) (5-9) (NEGATIVE) (NORMAL) (NEGATIVE) (NEGATIVE) (NEGATIVE) (0-2) (NONE SEEN) (2-5) (NONE SEEN) (NONE SEEN)	MG/DL MG/DL)) MG/DL E.U./DL /HPF /HPF /HPF /HPF
UA CASTS JA OTHER	NONE SEEN NONE S NONE SEEN NONE S		(None Seen) (None Seen)	/1.9F
GENERAL IMMUNOLO		INMENOLOGY ****	indi të shqipta shqipta shqipta Shqipta shqipta shqipta shqipta s	
Date Time	02/27/05 0100	• e • •	Reference	anna a ta Units
prealbumin	14.40 L		h f. Amith	MG / DL
Attend Dr: KIM, KI	363414 Age/Sex: 2485 Status: ADM IN		ISE HOSPITAL & MEDICAL 3186 Maryland Pkwy Las Vegna, Nevida (8910 Detrois Register LASORATORY SUMMARY R	s of Ros N. Commission
			nod (2002, nodily) Diffe Franciscus Paris and Control Decomposition Decomposition	BA P

I.

J.D. SZGMAN, N.D.-DIRECTOR J.R. BERCHAM, M.D. "A. BERLING, N.D. L. GARRY, M.D. J.H. RUGHES, N.D., PL.D J.H. RUSEONG, DDS.M.D. S.S. KOLKER, N.D.

0602180045

*** LABORATORY SUMMARY REPORT *** 02/27/06 1402 PAGE 17

D.P. MARMADUAS, M.D. T.C. NUMERY, M.D., Ph.D Ø.M. RUHOY, M.D. R.F. SCHNIDT, M.D. R.J. SLAUGHTER, M.D. J.L. DNEER, M.D.

N.S. YUNIACO, H.D.

Pt Name: HARPER, JONATHAN E D.E231~0 *****BLOOD BANK **** BLOCD BANK 1. K. C. Mar 1997 COLLECTED: Feb 18, 2006 0:50am Flag Reference Units BLOOD TYPE) o pos ANTIBODY SCREEN NEGATIVE CROSSMATCH PACKED CELLS 7 221730018 PC LR O POS Comp? Y PACKED CELLS 221729714 PC LR AS3 O POS Comp? Y PACKED CELLS 221731939 PC LR O POS Comp7 Y PACKED CELLS 221729205 PC LR O POS Comp? Y <N/A> (CANC) ISSUED and TRANSFUSED PRODUCTS COLLECTED: Feb 21, 2006 4:37am Flag Reference Units FFP DBL, THAWED 221734775 PRAMD TRFSD O POS 02/21/06 COLLECTED: Feb 20, 2006 11:59am Flag Reference Units FFP SGL THANED 221734134 PRSMD TRFSD O NEG 02/20/06 FFF SGL THAWED 221736159 PRSMD TRFSD O POS 02/20/06 COLLECTED: Feb 19, 2006 0:49am Flag Reference Units FFP DBL THAWED 221734762 PRSMD TRFSD O POS 02/19/06 COLLECTED: Feb 18, 2006 D:50am Flag Reference Units PC LR AS3 221729714 PROMD TRESD O POS 11 10 02/18/06 - ---- ----O POS 02/18/06MANA PC LR 221730018 FRSMD TRFSD ** EMERGENCY ISSUED ** 中华于中国大学性心心的理想是特别的动物。我可以认为性权的专用目标。 . PC LR 221731939 PRSMD TRFSD O. POSt with 102/18/QGas Statepullar Pullar Second and Debrah J. Smith Pt Name: HARPER, JONATHAN E SUNRISE HOSPITAL & MEDICAL CENTER 3186 Maryland, Pkwy Las Vegagu, Nevada 59109 Attend Dr: KIM, KITAE loct#; D00612363414 Age/Sex: 236#1 D001652485 Status ADM IN LABORATORY, SUMMARY REPORT Adm Date: 02/18/06 Dis Date: del constructions. DB0095 in second of the second

	6.4	• ^ ^	ाली करक	6 A	4 bw		
Mediowest	Vt	502	18	00	4 5 Patient	i Care	Record
and a second	SE RESP		the second states of the secon		VGIDENT I		,
DA IROL SMTWTES SED C	160		96	یا کھ	<u>16 0</u>	////	<u> হা দাস্য</u>
$\frac{1}{3} = \frac{1}{2} = \frac{1}$	Provide and a	0006 617	2 2	o Ka	THER UNIT	r 1 1	
DESTRUTION	61		÷	4	<u>be 16-1</u>		
DUMC DUMC P/T (3) SUNRISE () VALLEY () DESERT EPRINGS () SY ROSE/SIENA () LAKE MEAD () DISP RESPONSE AT SCENE DER SCENE AT MOSP. MILLES TRANS			IMEALIN	OTHER	<u> </u>	um A	
विवागत विवाह विवाय विवाय विवाय गिम	UT.	5					
PATIENT LAST NAME PATIENT SIRST NAME	ەر لېيپېيرد <u>، م</u> رسې			M	đ	INDER	
HARPER TILLITT JOHNAFHAL						Pernal Mala	4
PATIEN ADDRESS - NUMBER DIRECTION STREET NAME	1					APT.#	<u> </u>
CITY STATE	zie cop	<u> </u>		╺╌╌╴┚╌╌┽┷	aan ahaa ahaa ahaa ahaa ahaa ahaa ahaa	╼┥┶╌╌╴╢╌╼╸	
		IMBER	L			ч	
] [
	MBER		']['				
					rik Related?	[] Yes [<u>)</u> /w
CHIEF COMPLAINT (Nature of the Emergency/Transfer) File Repairments Pt Siles	ed in the	- 15	Sou	rce: 127			
and the second		Mo		n of inju			
PMHx: None Unknown Diabeles Asthma COPD Beizure Cancer of HTN Mx CHP CVAX0ABG Hepatitis TB HIV		Fall MV	·	ft '	•	r Dahaa	incer
Other PMHx:	******		Hes Airbi	trainod; rainod;	Priver o Y N 1 Y N 1	i nasee. Jinkinowi Jokeowi	nger {
Vedicatione: None Unknown	<u> </u>	1	·		_Ejection _Rollover	211112111	
Allen NKDA (Unknown) PON Sulta Codelne Iodine Letex		1.		·····	_DOA Sa _Space Ir	me Vehi trușion	
ixam Welghi		Oth	o vs <u>Pec</u> art (C _c ta)		رم میرک رز مع	nh G	
Alrway C. Patent. Protected Obstructed OPA NPA Intubated	11me	BP 45	P	Hesp	02 sat	EKG	By
Stroulation Strong Weak Pulseiese Carolics Brachlels (, Racials)			20	8	10016		50
GGS I A DITHIT GOTENIE A CARE		/	130	8+134	1100/	57-	2045
Skin Normal Cool Hot Disphoratic Oyanotic Pale	1	98/	140	BUM	1025	<u>-</u> 5 <i>T</i>	2019.7
Are Are		164	·····	····			· <u>†</u>
Puplis (PERL) Simplifit Dilated Fixed Unequal	{	≤ 1	/50		<u></u>	57	373
Very Record of the Angly of the Treehoal Oeviation RL	Treatme	ant .ocation	Glucose Size	and the second value of th	empts	5	
Chest (Normal) Open Wound Concusion Peradoxical Movement	1 2	A Ple					7/2
The sources (Clear? (The point in shed in	2	. 42 t			्रेन्न संसर्वन्त्र		*****
Abdomen (Normal Pulsatile Mass Ofstended Rigid Tender AL/UL)	Intubali Sudoess	Y N	N N	ledie: .be Size	学出	A Data	ч. ^н .
AROPOLY SCIOLAND MERCENCION AMOUNT FUTURING A DOBRING RUE ARLE LUE. LLE	Altempts	/			ی :t Teeth: ر		
	Plaçeme			overnerv		uba Cán	
	an y	bualizat	15n 77	8* *** **	1	Ϋ́Ύ	N
Back Normal Not Visualized C Spine Full Spinal Immobilization		uscultati		ين بي مانه انه ه	nga dikayan da a. 	γ' γ'	N
Jardiac Rhythm SR Unagular A-Fib SVT VT VF Strady Stach Asystole PEA PVC/a>6 Paced	Ē	ಗರಿಂತಿಂದ	3e,	1.0.12 J	بوادر الدري	Y/	N
	Time M	edicatio Iterventi	m/ Do	ae and	Route: A	eaneus	ie i
C i man and a set		ikan yetini Ku		a de la Tarres da		dine. Spini	
TOURS PTA: 20 104 70 10 6 1/2 0. 0	فسيته فستشجب	ليبر الهاشي كالدراء الم					
		Aler qC	2 - 1 ¹ 2	*****			
6. · · · ·	30015. 164		ан (1997) - Чар	<u> </u>	104	AUL	

Incident Report

2006-6035897-000

CCFD - Clark County

0602180045

	Basic	
Alarm Date and Time	00:16:56 Saturday, February 18, 2006	╺╴╸╸╸╸╸╡┓╘╸╝┑╸┙╵╜┙┚╝┿╡╸╍╵┿╍┑┱╴┯╸┓┫ ┑┱┱╖<u>╖</u>╴╘┇╵╺╬╧╕┊╌╶╍╸ ╍
Arrival Time	00:20:24	
Controlled Date and Time		
Last Unit Cleared Date and Time	01:20:59 Saturday, February 18, 2006	
Response Time	0:03:28	
Priority Response	Yes	
Completed	Yes	
Release to Public	Yes	
Fire Department Station	\$27	
Shift	B	
Incident Type	321 - EMS call, excluding vehicle accident with Injury	
Initial Dispatch Code	27D-Stab/Gunshot Wou	
Aid Given or Received	N - None	
Alarms		
Action Taken I	33 - Provide advanced life support (ALS)	
EMS Provided	Yes	
	104	
Apparatus - EMS Personnel - EMS Personnel		
	2	
Property Loss	\$0,00	
Contents Loss	\$0,00	
Property Value	\$0.00	
"Sontents Value	\$0.00	
Aixed Use	40 - Residential use	
Property Use	429 - Multifamily dwellings	
Location Type	Address	
Address	3070 S Nellis BLVD	
City, State Zip	Las Vegas, NV 89122	
Apartment Number	1187	
District	02629+79	
Directions	3070 S Nellis Blvd	
Latitude	36,133812	
Longltude	115.065454	
	Person Involved - Person, JONATHON	
EMS Patlent	Yes	n i ta sana ana ana ana ana ana ana ana ana a
Last Name	Person	anter an a athlite Costin
First Name		Martin Strang Admin Balance
Street Address		
	EMS Scene D In Al In	Enter MIN
Location Type	Home/Residence	an en
Service Type	Stab / Gunshot Wound	
Area Type	Urban	. i'
Mass Casualty incident	Not Applicable	(陽奇で)(2000)(2000)(2000) (11-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1
Paramedic Response		newsch - electro water press. Nectors for the state of the second
'D of First Unli on Scene	827 Files Public	
, sumber of Patients This Incident		the All Constants of the All All
Response Mode to Scene	Emergency and the straight	· ·
		C () Printed: 08/02/2006 3:44:15 ¹)
	Page: 1 D8009:	Printed: 08/02/2006 13:44:15 ¹
		10 m m

1

I

¢

Incident Report 2006-8035897-000

¢

2

I,

CCFD - Clark County

0602180045

	EMS Patient - Person, JON	ATHUN
First Name	JONATHON	
Lest Name	Person	
Street Address		
Gender	l - Male	
Age	16	
Race	0 - Other, includes multi-racial	
Ethnicity	1 - Hispanic	
Provider Impression / Assessment	38 - Trauma	
Cause of Illness/Injury	UU - Unknown	
Highest Level of Care	4 - EMP-P (Paramedic)	
Patient Status	2 - Remained Same	
Disposition	3 - Non-FD transport with FD att	endant
Initial Level of Care	4 - EMT-P (Paramedic)	•
Severity of Injury	Life Threatening	
Allergies	UNKNOWN	
Current Medications	UNKNOWN	
Transporting Unit	SWM	,
Receiving Facility	6 - Columbia Sunrise Hospital	
Receiving Facility Type	Hosp Trauma Ctr	
Hospital Chosen By	Protocol	
Treatment Authorization	Protogol	
Response Mode From Scene	Emergency	
whief Complaint Code	Altered Level of consciousness	
Patient Weight	70	
		in a fair an
	EMS Patient - Person, JONATHO	N Assessment
Assessment - Cardlac	All Relevant Systems Normal	
Assessment - Chesi	Chest Expansion - Symmetrical	
Assessment - Extremities	Moves all extremities normally	
Assessment - GI/GU	All Relevant Systems Normal	
Assessment - HEENT	Pupils -PERLA	
Assessment - Lungs/Respiration	Long Sounds Clear	
Assessment - Neurological	Altered Level of Consciousness	
Assessment - Abdomen/Pelvis	All Relevant Systems Normal	
Assessment - Skin	Capillary Refill > 2 seconds	المركزة المركزة (1994)، ومن يعنيه ومن المركز المركزة المركزة المركزة المركزة المركزة المركزة المركزة المركزة ا
Assessment - Skin	Dıy	为就将,将"专用的定法"的"等"。
Assessment - Skin	Warm	A STATE OF A CONTRACT OF A STATE OF A CONTRACT OF
Assessment - Spine/Back	All Relevant Systems Normal	en die wan die Eds Veilles Mangeblust I nee
	EMS Patient - Person, JONATHON	Symptoms of Samuella 2007
Symptom }	Traumatio Injury	O a mark the state of the s
Symptom 2	Unresponsive / Unconscious	W Winner P
	,	na an ann an an an an ann an an ann an a
Dennicate VI-territ	EMS Patient - Person, JONATHO	N History
Previous History I	Unknown	in the second
	EMS Patient - Person, JONATHON	Flow Charry Statistics of any table is straighted at a
00:21:00 - GCS	Eye = 4; Verbal = 1; Motor = 4;	GCS ~ 9; AVPU TU and
		The efficiency of second ser CCDA or
	Page: 2	

ł

Incident Report

..

2006-6036897-000

CCFD - Clark County

0602180045

	EMS Patient - Person, JONATHON Flow Chart
Provider	· · · · · · · · · · · · · · · · · · ·
Charge	\$0,00
00:22:00 - Bleeding Control	Attempts = ; Quantity = ; Size = ; MULTI TRAUMA TO OCCIPITAL PART OF HEAD.
Provider	· · · · · ·
Charge	\$0,00
00:23:00 - Oxygen	Attempts = ; Quantity = ; Size = ; IS L
Provider	" 9
Charge	\$0.00
00:24:00 - IV - Peripheral	Solution = Normal Saline; Site = RAC; Size = 16 ; Rate = WO
Prøvider	
Charge	
00:25:00 - Spinal Immobilization	Attempts = ; Quantity = ; Size = ; PACKAGED
Provider Charge	
00:26:00 - Meds - Administered /	Btomidate (Amidate), IV; Dose ≠ 40 MG
Provider	
Charge '	\$0.00
00:27:00 - Intubation - Oral	Attempts = 1; Quantily =; Size =; 7.0 TUBE 21 AT TEETH
Provider	-»
Charge	\$0.00
90:28:00 - Meds - Administered /	Versed (Midazolam), IV; Dose = 5 MG'S
, rovider	ب ت
Charge	\$0.00
	EMS Patient - Person, JONATHON Narrative
Narrative Namo	New Narrative
Narrative Type	EMS
Narrative Date	18:37:19 Sunday, February 19, 2006
Author Author Bark	A9364D - Davis, Aaron L FF
Author Rank Author Assignment	F1 1
Narrative Text	S- ON ARRIVAL METRO STS PT 16 YOM WHO WAS SHOT IN HEAD WITH 357.
	O- ON ARRIVAL PT WAS GCS OF 8, PT LOOKED AT US BUT WOULD NOT
	RESPOND. PT HAD A LARGE OPEN HEAD INJURY WITH SKULL FRAGMENTS
	AND BRAIN MATTER LEAKING OUT. PT WAS SLIGHTLY COMBATIVE WHEN
	WE APPLIED O2 AND PACKAGED HIM, PT HAD NO OTHER INJURIES NOTED.
	A- GSW TO HEAD.
	P- ASSESSED AND MONITORED, HX AND VITALS WERE TAKEN, BLEEDING
	CONTROLLED, AND PLACED ON BACKBOARD. PT WAS SEDATED AND
	INTUBATED ENROUTE TO SUNRISE TRAUMA, PT HAD EQUAL BREATH
	SOUNDS AND HAD POSITIVE CHANGE ON END TIDAL CO2 DETECTOR.PT
	RECIEVED 19, PT WAS TRANSPORTED TO SUNRISE WHERE PT WAS TURNED
	OVER TO TRAUMA STAFF.
	· · · · · · · · · · · · · · · · · · ·
	,如果我们的你,你们们还能够了你,你们就能够了,你们就是这些你的,你们就是这些你的,你们就是你们的你。""你们,你们们不是你的,你们,你们不能能能。"
	a man child the same trade a construction and child Patalles.
	1 harrist harrist and a state of the second se
Δ	Printed: 08/02/2006 13:4 12 8
21	What general DB0095

Incident Report 2006-6035897-000

CCFD - Clark County

$0\,6\,0\,2\,1\,8\,0\,0\,4\,5$

	Apparatus - R27
Apparatus ID	R27
Response Time	0:01:20
Apparatus Dispatch Date and Time	00:17:33 Saturday, February 18, 2006
En route to scene date and time	00:19:04 Saturday, February 18, 2006
Apparatus Arrivel Date and Time	00:20:24 Saturday, February 18, 2006
En route to facility date and time	00:34:23 Saturday, February 18, 2006
Arrive facility date and time	00:43:44 Saturday, February 18, 2006
Apparatus Clear Date and Time	01:20:59 Saturday, February 18, 2006
Apparatus priority response	Yes
Number of People	2
Apparatus Use	2
Apparatus Type	71 - Rescue unit
Personnel 1	D6656D - Dillingham, Daniel
	Position: ENG
Personnel 2	A9364D - Davis, Aaron L
	Position: FF
annan an fean fean ann ann an ann an ann ann ann ann an	Authority
Reported By	A9364D - Davis, Aaron L
	19:04:05 Sunday, February 19, 2006
Officer in Charge	-,
	*,
	Narratives
Natrative Name	CAD Narretive
Narrative Type	CAD Narrative
Author	* 1
Narrative Text	CAD Master Incident Number: 02182006-6035897 Jurisdiction Incident #; CC 20066035897 Primary Jurisdiction Inc.#; CC 20066035897
	End of Report
	(1) State of the second sec

Debuch & Smith ~ (5,494 de.

The live and these sharps of the American Record is Regulated by Late, American Programmed and the state of the source of and more field of the source of the source of the contract of the source of the Printed: 08/02/2006 34/21

D80095

1.1.1

Page: 4

APP 000102

INN (34)	VICTIM # 2. Abbress: DOB: SSN#: RACE: SEX: HT: WT: HAIR: EYFS RES PHONE: BUS PHONE:	I TATI MARKANANA TATI MARKANANA A MARKANANA ANA MARKANANA MARKANANANA MARKANANANANA MARKANANANANANANANANA MARKANANA MARKANANA MARKANANA MARKANANA MARKANANANA MARKANANANANANA MARKANANANA MARKANANANANANANANANANANANANANANANANANANA
EVENT NUMBER: 040218-045 INCIDENT: BUDM	VICTIMENT: LARPER ZONATUAN ADDRESS: THE CALLER ADDRESS: THE SONE ADDRESS: THE SONE RACE LU SEX. M HT. 5 WT. 1440 HAR. 64 EVES. 61 RES PHONE: BUS PHONE:	

APP 000103

I

EGAS METROPOLITAN POLICE DEPARTMENT INCIDENT REPORT - PAGE C のんのみ 8-0045	MEDICAL INFORMATION FOR VICTIM # 2	HOSPITAL:	AMBULANCE UNIT: ARRIVAL TIME:	NAME/IDM:	ATTENDING DOCTOR:	MEDICAL RELEASE FORM OBTAINED: YES NO NO RECOVERED EVIDENCE FROM VICTIM # 3		TRANSPORTED BY MEANS OTHER THAN AMBULANCE: NAME: DOB: DOB: ADDRESS:	VEAK: MAKE: MODEL. COLOR: LICH: STATE:	HOW MANY.		
1.AS VEGAS METROPOLITAN POLICE DE INCIDENT REPORT - PAGE C	MEDICAL INFORMATION FOR VICTIMU	HOSPITAL: BUN PISE	AMBULANCE UNIT: 592 ARRIVAL TIME: 0042	(AntBr	ATTENDING DOCTOR: KITAE KIM		RECOVEREDIMPOUNDED BY: P54455	TRANSPORTED BY MEANS OTHER THAN AMBULANCE: NAME: DOB: DOB: DOB: DOB: DOB: DOB: DOB: DOB	STATE	CANCAMERS PRESENT OUTSIDE HOSPITALE YES WO CONCAMERS PRESENT OUTSIDE HOSPITALE YES WO	SUBMITTED BY, DETERTIVENES, S. C.S. M. M.C.275	

1

1

_....
:

EXHIBIT "B"

OFFICE OF THE SPECIAL PUBLIC DEFENDER



Memo

To:	Scott Bindrup		
CC:	GARCIA File		
From:	J. Galiano	1	
Date:	03/10/10		
Re:	03/09/10 Interview with Jonathan Emmanuel Harper, DOB:		·

On March 3, 2010 Scott and I visited 7057 Pacific Coast St Las Vegas, NV 89120 to speak with Harper. A young female exited the home to advise that Harper was currently not available. She did provide me with the following cell phone for Harper: (702) 286-7835. Hater received a call from Daina Chiappe who is Harper's mother from cell number: (702) 234-3976. Daina informed that Harper lived with his father, Charles at 4855 Joplin Circle Las Vegas, NV 89121. Following this conversation, I called Harper's cell and provided him with our contact information, as well as, the reason why we wanted to speak with him.

On March 4, 2010, Harper returned one of my calls from a private number and advised he was in the lobby of our office building. I repeated our business address to him in hopes of confirming he was at the correct location, which he indicated he was. I then went down to the lobby to look for Harper, but was unable to find him. I called the only number I have for Harper and left him a message to call me back. On this particular occasion, Harper had used a private number therefore I was unable to call him back. March 4, 2010 was the last time I received any contact from Harper.

On Tuesday, March 09, 2010, Scott and I visited 4855 Joplin Circle Las Vegas, NV 89121 in an attempt to speak with Harper. It took us some time to receive a response at the door after several minutes lapsed, one of Harper's friends exited through the garage to inquire who we were. I identified myself as a member of this office before he advised he would notify Harper of our presence. Shortly thereafter, Harper came out through the garage and I identified myself again. He did remember speaking with me over the phone. Harper agreed to speak with us and asked us to following him back inside to his home. I provided Harper with a business card as I explained we were getting ready for trial and were in the process of conducting interviews.

Harper wanted to let us know that he didn't mind speaking with us; however, after having been shot in the head by Salvador Garcia aka "Chable" much of his memory surrounding the event on this case is somewhat muddled. According to Harper, about a week or two after the shooting at Morris High School, Salvador shot him in the head with a ,38 caliber handgun regarding some disagreement. Harper explained that Salvador was pressuring him (Harper) to do "... some of his dirt for him..." We asked Harper exactly what he meant by Salvador's "dirt". He would only say that Salvador was pressuring him to go out and commit crimes for him.

Harper explained that simply refused to follow Salvador's instructions, which created a some resentment. Later on the same given date, Harper was with Salvador when he (Salvador) offered him a beer. Salvador then got up went to the kitchen and when he retruned he approached Harper with the gun drawn. At this point, Salvador discharged the gun into his (Harper) head. Harper claimed there was at least seven other people present when this occurred. Some of the same people implicated in our case, such as, Yovanni Borradas, Cavillo Edsheli, and Manuel Lopez. Harper claimed that these individuals did nothing to get help for him after he was shot, claiming they didn't request medical personnel for more than an hour as they tried to convince him to teil police that he

had unintentionally shot himself in the head. We asked Harper if our client was present during this incident and he replied that he (client) was not present when he was shot. *Note: Harper claimed that Salvador is Yovanni's brother.*

Harper informed that following his injuries he now suffers through seizures when he is under stress. He also complained that members of the D.A.'s office have placed a great deal of stress on him in their efforts to obtain additional specifics from him despite his insistence that it is hard for him to remember. We responded that we understood and asked him to go over what he recalled as best as he could.

On the date of the incident (Feb. 6, 2006), Harper decided to visit with "Puppet" aka Manuel Lopez at his house. Harper was uncertain who else was at Lopez' home when he arrived *(provided further specifics in his two statements)*. After the decision was made to go down to Morris High School following a call from Yovanni Borradas. A group of the gang members including Lopez (driver), Stacey DeCarolis, Evaristo Garcia and himself drove to the school in Lopez' El Camino. While inside of the vehicle Harper claimed, "…Puppet first had the gun, but then he gave it to E (client)…"

When he arrived at the school, he remembered everyone was fighting. Harper separated himself from the large group to avoid getting "jumped". By his estimate there appeared to be a huge group fighting seven people who were in his group in the gang he referred to as "Puros Locos". According to Harper he was standing approximately "fifty yards away" on the school field, which would be southeast from where Gamboa was shot at the intersection of Washington Ave and Virgil St. He does recall "E" (which he confirmed was client and Yovanni running after Gamboa across Washington Ave. Though he recalled Yovanni and client were "…arguin over the gun," He also remembered Yovanni stated, "…give me that fuckin gun!" to client. He now

doesn't remember which one of them ended up drawing the gun. Harper stated, "...I don't know who pulled out the gun...," neither did he see who discharged the gun into Gamboa. Harper mentioned that while being interviewed by the D.A.'s and being informed of his earlier statements, he presently doesn't remember any further specifics surrounding who had the gun last or who fired the gun. Harper does recall that when he heard the sound of gunshots he immediately began running.

With regard to client, Harper commented that he met him while he (Harper) was involved with the gang, but he didn't have a personal relationship with him. Harper told us he (client) was a "cool" guy. Harper explained that despite being told by police that client was the shooter, he presently doesn't remember whether that is what occurred nor if that is what he told police when he was initially interviewed. He explained that the leader of the "Puros Locos" was Chabie (Salvador Garcia). He told us that Yovanni was a "bitch" and the whole incident at the school occurred because of Yovanni. He was initially introduced into this gang (Puros Locos) through Edshell ("Danger") who he has known since the sixth grade. *Note: I currently have two transcribed statements for Jonathan Harper one is dated 04/01/06 & 06/21/06. Metro's event number off of Salvador 's Scope file - #060218-0045 (Feb 18, 2006) suggests Harper sustained his injuries prior to being interviewed by police.*

EXHIBIT "C"

÷

Robert D. Lawson Investigations, LLC

1148 So. Maryland Pwky. Las Vegas, NV 89104 Telephone: 702-474-4102

Ross Goodman, Esq. 520 South Fourth Street Las Vegas NV.89101

DATE: July 26, 2012 RE: Garcia, Evaristo

EVARISTO GARICA INVESTIGATION

During the course of an investigation I contacted Jonathan Harper's mother at her residence located at 6940 Pacific Coast ST. LVN 89148. Telephone 702-234-3976.

During the interview Ms. Chiappe (Jonathan Harper's mother) stated that approximately 2 or 3 days after Jonathan was shot she was contacted by Metro and informed of the shooting.

After Jonathan was released from the hospital he stayed with his mother at her residence while he was rehabilitating. She remembers talking to detectives who told her that the reason Jonathan was shot, by Salvador Garcia, was that Salvador wanted Jonathan to shoot Giovanny Garcia's ex-girlfriends new boyfriend and Jonathan refused.

I contacted Jonathan by telephone and identified myself and the purpose of my call. When speaking to him he indicated that he had no idea of who Evaristo Garcia was or of any shooting that our Evaristo might have been involved in. He further stated that he has no recollection of any fight between Evaristo, himself, the victim or other individuals. When pressed he was adamant that he had no idea of what I was talking about.

He further stated that he has no plans to testify against Evaristo as he has no memory or recollection of ever talking to anyone about the shooting that Evaristo was involved in. He further stated that sense being shot by Salvador Garcia he is sick and tired of people

putting words in his mouth and telling him that this is what he had said regarding things that occurred in his past that he has no recollection of.

i

EXHIBIT "D"

, ¹.

1	BY A JUNOR:
ş 2	Q. Who is Crystal? One of your friends? This
\$	is how the original altercation started between har and
4	Giovanny?
5	A. Yas,
6	Q. Over a book? -
7	Λ, Υαθ,
8	Q. Nould you know why she would then ask
9	Meliasa's boyfriend Jesus that's his name, cotract?
10	A. You,
11	9. Why does she ask him to intervene into that
12	situation? Ana they related or
13	А, Мо,
14	THE FOREFERSCH: Any further questions?
15	Yee .
16	BY A DURCE:
17	Q. So you laft fifth pariod and then what made
18	you decide to care back brunk you left?
19	A. We were weiting for Melissa. We went to
20	school together,
21	Q. Yeah, but you went back on campus after you
22	leit? With the two boys.
83	А. Үев.
24	Q. And you didn't think anything was going to
25	happen?

	to the second	99
1	A. Yes.	
2	THE KOREPERSON. Any other questions?	
3	By law, these proceedings are search axi	
4	you are prohibited from disclosing to anyone anything	
5	that has transplusd before us, including evidence and	
Ģ	Statements presented to the Grand Jury, any avent	
7	comuncing or statement made in the presence of the Grand	
8	Jury, and information obtained by the Grand Jury.	
9	Failure to couply with this admonition is a	
10	90059 minchemeanor punishable by a year in the Clark	
11	County Detention Center and a 92,000 fine. In Addition,	
12	you may be held in contempt of court punishable by an	
13	additional \$200 fine and 25 days in the Clark County	ĺ
14	Detention Genter.	ļ
15	Do you understand this admonition?	
16	THE WITNESS: Yes, malon.	
17	THE FOREPENSION Okay. Thank you. You can	
19	ba axcused now,	
19	Please raise your right hand and remain	
20	standing, sic.	
21	Please raise your right hand.	
22	You do solegnly ewear the testinony you are	
23	about to give upon the investigation now pending before	
24	this Grand Jury shall be the truth, the whole truth, and	
זי	nothing but the truth, so help you God?	

1 2 3 4 5 5 7 \$	 A. I know schething was going to happen. He was upset with trystal, This FUREPERSON: Any further questions? Yes. BY A JUROR: Q. So Victor was known, you said he exited the tar with you and your brother? A. Yes. 	
3 1 5 5 7	Was ppset: with Grystel, Tizi FOREFERSON: Any Muther questions? Yes. BY A JUPOR: Q. So Victor was known, you said he exited the car with you and your brother?	
1 5 5 7	Yes. By A JUROR: Q. So Victor was known, you said he exited the car with you and your brother?	
5 6 7	BY A JUROR: Q. So Victor was known, you said he exited the car with you and your brother?	
6 7	Q. So Victor was known, you said he exited the car with you and your brother?	
7	car with you and your brother?	
· [
\$	A. Xes.	
		[
9	Q. And wolked towards the fight?	
10	A, Yes,	
11	Q. And ware you all three walking towards the	- {
12	Eight to get involved in the fight or just as	
13	epectators?	i
14	A. No, the fight had only broke out we were	
15	all already there. The fight wasn't going on when we	- (
15 1	walked up there.	
17	Q. Oksy. Thank you.	
19	THE FOREPERSON: Any further questions?	
1	BY & JUROR:	
20	Q. And you were walking up to go back and get	
- r	valissa?	
22	A. Yes,	
23	Q. And her boyfiniend was with you?	
24	A. No, har boyfriend arrived	
25	Q. He arrived separately?	

		100
1	THE WOINESS: Yes.	
2	THE FOREPERSON: You may be seated.	
3	You are advised that you are here today to	
4	give testimony in the investigation pertaining to the	
ĸ	offenses of conspiracy to commit munder with the intent	
¢	to promote, further or assist a criminal gang, murker	
1	with use of a daadly waapon with the intent to promote,	
8	further or assist a oriminal gany, involving Evaristo	
9	Jonathan Garcie and Manual Lopez.	
1,0	Do you understand this advisement?	
11	THE WITNESS: Yas,	
12	The FOREPERSON: Please state your first	
13	and last names spelling both for the record,	
14	THE WITNESS: I don't now how to spall my	
15	michile nema. If you want	
i6	THE FOREFERSON JUST First and Last; would	
17	ba fine.	
10	THE WIINESS: Okay. Jonathan Harper.	
19	J-O-N-A-T-il-Ann, Haxpar, K-A-R-P-2-R.	
20 [The foresenson: Thank you.	
23		
32	MARATIAN EARDER,	
13	having bass first duly anom by the forspotson of the	
и	Grand Jury to testily to the truth, the whole truth,	1
85	and nothing but the truth, testified as follows:	

4	14		102
1	EXAMINATION	1 Q. What's the Aill cense?	
• *	RY MS, NYIKOSI	2 A. Funos Locos,	ł
ر ار	0. Konstihan we	 Q. Okay. And which did you joi. 	1 that gang?
۰ ۶	A. Yes.	4 A. Like a month before.	}
6		5 Q. A month before the third at	the high
7	9 I want to take you back to about four	6 school?	
ŝ	years ago. Did you have an injury that happened to you?	7 A. Yes.	1
-	A. Yes	3 Q. Was a fulend of yours in the	gang?
9	Q. Okay. Specifically to your head?	9 A. Pratty much all of them ware	
10	A. Yegiş	20 Q, Qkay. Let's talk about who	was in this
11	Q. And closs that cause you to have problems	1.1 gang. Do you know somebody named Glovanny	n
12	with your speech?	12 A. Yas.	
13	А. Үең.	13 Q. Giovanny Garcia?	
14	Q. And does it cause you to have problems with	. 14 A. Yes.	
15	your motor skills?	15 Q. Was he in the gang?	
1,6	А. Усл.	16 A, Yes.	
L7	Q. Okay. Now balloce you had your head injury,	17 Q. Okay. Showing you Grand Jury	shiste
1¢	about two weeks before that, were you involved in a	L8 Mumber 8 and it's up there on the screen.	
19	fight at a high school?	19 Giovanny?	
20	А. ұюд,	20 A. Yee,	
21	Q. Okay. Now back four years ago were you in	21 Q. Did he have a nickname?	
22	# gang?	22 A. Yes.	
23	А. Үая,	23 Q. What was his highware?	
24	Q. What was the name of that gang?	24 A. Lithe One.	
25	А. PL.	25 Q. Do you know a parson by the ne	ne of
(

•			103
1	Salvador (a	rcia7	
2	[А.	xe\$,	
3	Q.	And is Salvedor related to Giovanny?	ľ
4	A.	Yea,	
5	Q,	And was Salvador in a gang?	
6	Ą.	Yes.	
7	Q,	What was Salvador's nlokname?	
8	A.	Boxer.	
9	Q.	Oksy. Did he have another one that you	
10	quya would a	call him too?	
77	Л.,	Sal.,	
12	Q.	Okay. Did you guys scretines refer to him	
13	also sa Opav	7y, G-H-N-V-Y?	
14	А.	X.	ĺ
15	Q.	C-K-A-V-I. Okay.	
16		Do you know a person by the name of Edshel	
17	Calv11107		
18	А.	Yes,	
19		Showing you Grand Jury Eshibit 16, is that	
20	Dtinhal 7		
21	д.	Xes.	
22	Q,	Okey. Old he have a nickname?	ł
23	А.	Yes.	Ì
24 (Q.	Muat was his nickname?	Í
ן פי	л.	Before Dangar he way Boxer and then when he	

	P		104
1	daized the	gang they switched it.	
2	-	Okny. So before he joined the next his	
3		a Boxer but when you guys joined it got	
4	changed?	in rover one mien for grya joniec in got.	
5	-	Yes.	Í
6	-	Bo it's Canger?	
7	А.	Yes.	
8	٥,	Okay. Lo you know a parson by the name of	
9	Manuel Lope	· · · · ·	
10	А,	 No.	
11	o.	Bimanuel Labaz?	
12	A.		
73	Ω.	Okay. Was Puppet in the gang?	
14	A.	Yeu,	Ì
15	ο.	Okay. Do you know a person by the name of	Į
16	Evaristo Ger	· · · ·	ł
17	А.	Yeu.	
10	Q.	Way syscieto in the gangi	
19	А.	Yes.	
20	Q.	And did he have a nickname?	
21	Α.	Xea '	{
22	Q.	Mhat was that?	
23	А.	£.	Í
24	Q,	Showing you Grand Jury Exhibit Musiber 19,	
25	is that by		ļ
1			
			1

...

	105	5	105
1	A, Yez,		A. Weil, I was not in the gang yet.
, ²	Q. Okay. Now we talked a second ago about	1	Q. Gkey. Who this you were coing this with
3	Emmanual. Was Emmanuel in the gang?		Ecishel 7
4	Α. Υφο.		A. Yes.
5	Q. Okay, showing you Grand Jury Exhibit	2	Q. And you ware doing this with other members
6	Number 12. Did he have a nickmane?		
7	A. Yes.	1.1. 5	A. Yes.
\$	Q. Who is chair?	ja	Q. And then you said tagging. What's tagging?
9	A. Puppet.	s	
£0	Q. Fuppet. Okay, Now besides the people we	10	peint.
11	alteredy talked about ware there any other members of	11	Q. What would you weite?
12	this gang?	12	A. 171.
13	A. I think there was one more and that was	13	Q. Okay, And so you did some fights and some
14	Stranger.	10	tagging?
15	Q. Stranger7	13	λ. Υεз.
16	A. Yes.	16	0. And then eventually did you become a member
17	Q. Do you know his real name?	27	of the gang?
18	A. No,	19	A, Yes,
19	Q. Okay, Now how did you get into this gang?	1 29	Q. Okay. And once you became a namber did you
20	A. I was buddles with Edshel and then he	20	co other fighte?
21	introduced me to Sal and then from that he showed mp	21	А. Үзэ.
22	that he was in this gong and then it started with fights	22	Q. And did you also do some more taggino?
23	and then started tagging.	2,3	A. No.
24	Q. Now let's talk about fights, You	24	Q. No more tagging?
25	participated in fights as a member of the gang?	25	A, No.

		107
1	0. Okay. So let's talk about Ethniary fith of	
2		
	2006. Now you already testified that you were involved	
3	in a fight at a high school. But do you remember where	
4	you were before you went to the high adjool?	
\$	A. I was at my house.	
6	Q. Okay. And eventually did you go to screene	
7	else's house?	
₿	A. I went to, after my house I went to Sal's	
9	200011° ຢ.	
10	Q. Now who was with you at Sal's min's?	ļ
11	A. It was ma, Sal, Edshel and then Stranger.	Í
12	Q. Oksy. Now while you ware there with these	
13	becole were how poly the weeked to do now where effect	1
14	А. Үсэ,	1
15	Q. Okay. Whate ware you supposed to go?	
16	A. I just heard that there was going to be a	
٢7	fight.	ł
1.8	Q. Do you remember who told you there was	
19	going to be a fight?	
20	A. It was either Sel or Erishel,	
21	Q. Do you know who you were expressed to Kight?	1
53	А, Но,	
23	0. Mid you find out Latar who you wave	
24	supposed to flight?	
ż	۸, Yeah.	

	Α.	No.	
			108
	Q,	Who were you supposed to fight?	
	A,	It was another, like a gang.	
	Q.	Do you remember the name of this gang?	
	Α.	PL or Brown Pride.	
	Q,	Now how did you get to the school?	
	А.	I rode with Puppet.	
	Q.	Did Puppet drive?	
	λ.	Yes,	
	Q.	What kind of car did Puppet have?	
	A.	It was a black El Camino.	
	Q.	Okay. Was it black or just a dark color?	1
	Ä,	Dark color.	
	Q.	Okay. Showing you Grand dary Exhibit 15,	
ilo you	i reco;	nize that?	
	А.	Yèn	
	Q,	Mat to it?	1
	Λ,	An El Canino.	
	Ω.	Is that Puppet's El Camino?	
	Д,	Xas,	
	Q.	Now who was in the EL Cardino with you?	
	А.	It was not, Ruppet, his girl and E and	
	Q,	You sold his girl. You mean Puppet's girl?	
	አ.	Yea.	ļ

- Q. Do you namendar her namer
- A. No.

.

		109
) . 2	. For any other and a set a set of the local	
. 3		
4	Q. May do you recognize her?	
5		
6	Q. Is that heppet's girl?	
7		
ą	Q. So, I'm sprry, it was where in this Bi	
9	Camino ware you riding?	
10	A. I was in the back,	
11	Q. Who was driving?	
12	A. Pupper,	
13	Q. Okay, And was his girl with him or in the]
14	baok with you?	ļ
15	A. She was in the gront,	
16	Q. So it was you, Puppet, Puppet's girl. Nas	
17	anybody else in the car?	
18	A. E and Edonel.	ļ
19	Q. Okey. Now bafore you got into the car was	
20	there any talk about a gun?	
21	A, NO,	
23	Q. Okay. Now Jonathan, you've got this head	ł
23	injury, yealty	
24	A. Yes.	
25	Q. Does it cause you to have some memory	}

	i	problems sometimes?
	2	λ. χεε.
	3	Q. Now you met with me is my office earlier,
	4	yes?
	5	А, Үез,
	6	Q. Okay. Do you consider giving a statement
. Ъ.	7	to Dateotive Mogg and Hardy?
1	8	A. Bits and parts.
	\$	Q. Okay. So you gave a statement to them?
	10	А. Хез.
	11	Q. And that was in April of '06?
	12	A. Yes.
	13	Q. Okay. And you heard yourself on that
	14	statement, yey?
	15	A. Yes.
	16	Q. Now was your memory back then better then
	17	if is right now?
	18	A. Yes.
	19	 Now showing you your statement on page 18.
	20	Okay. This is your statement?
	21	A. Yag,
	22	Q_1 Okay, And you also Listened to that
	1	¢årlier today, yes?
	26	r., Xeş.
	25	Now on page 18 you were asked by Detective

		111
1	Moggi Bafora you left thans did you know who had a gun?	
2	Answer: Auppoint, Question; Did you see it? Answer:	
Э	Yeah. Question: Where? Answer - it was a little bit	
¢	unintelligible. A nine. Question: Where did you see	
5	the gun? Annwar: Here. Question: In his waistback?	
6	Answer: Yesh. And then the detective goes on, says:	
7	Okay. And then your answer is: Told N to hold it. And	
8	then detective asked you: Se told E to hold it?	
9	Аланахі Үера.	
10	So that was your statement back then,	
11	connect?	
12	A. Yes.	
13	Q. So then you guys get in the car and where	
14	όο γου φο κα?	
15	A. We wont to the fight,	
16	Q. To the fight?	
17	A. Yeah.	
18	Q. Do you zenember where the fight was?	
19	A. At a night school.	
20	Q. Okay. Do you remember what street it was	
21	on?	
22	A, On Paços.	-
23	0. Okay. Now showing you Grand Jury Exhibit	
24	Number 2, and you can actually get up from your chair if	
5	you need to, do you kee where the flight wan?	

	,		112
J 2		Okay. And you're pointing toward a school,	
3	λ.	Yeah, this is the school.	
4	Q.	This is Mashington Stoget.	
5	А.	okay.	
6	Q.	And then here's Sanchill Street. So	
7	λ.	It was gight have. You just had the paper	
8	flipped dow	· · · · · · · · · · · · · · · · · · ·	
Û	Q.	Sorry about that Jonathan,	
10		SO in the parking lot of the school?	
11	A.	Yee,	
12	Q.	Do you remember where you guys parked that	
13	EL Camino?		
11	л.	It was in the corner right there.	
15	а. С.	And that would be the corner of the parking	
16	lot7		
17	A.	'Zes,	
10	¢ Ω,	Okay. You can sit back down Jonathan.	
19		Okay, Now when you pulled up in that El	
20	Camino did y	ou see people outside the school?	
21	λ.	Yea.	
22	Q.	Bid you macgnize unybody outside the	1
23	school?		
24	A,	No.	
25	Q,	Dkay, Now many people dbd you see?]
I			

	and the same same is the same		113		
1	٨.	At least like 15 to 20 people.		1	
. 2	Q,	What were they doing?		2	
3	A,	All fighting.		Э	
. 4	Q.	Okay, Did you then get out of the car?		4	
5	Α.	Yeo.		5	France - Bas susces Beneric cost and a set a set board water
· 6	Q.	Who else got out of the car?		6	my fall and then got up and then like it got more
7	A.	Ali of us.	1.5	7	hectic,
6	Q.	so you diki?		8	Q. Now before it got more heeling do you know a
9	A.	I did, Puppet, E, Stacy, Edshel and ma.		9	nicknems of anybody in particular that you were
10	Q.	And whate did you go when you got out of		10	fighting?
11	the car?			11	A. One guy that I was fighting, it was
12	A.	We ran to the circle.	1	12	supposed to be Diablo.
13	Q.	You're talking, you eaid, now you just asid		33	Q. And who is Disbio?
14	the circle.	Was that where everyizedy was fighting?		14	A. I was told that he was the leader of Brown
15	, A,	Yes.		15	Price.
26	Q,	So were the people making a circle?		16	Ø. Who told you that?
17	A,	Yes,		17	A. Little One,
18	Q,	Now once you ran into the circle did you		18	Q. Blovanny?
19	and mytoxia	that you recognized inside there?		19	A. Yes.
20	Α.	I new little One fighting like a bigger guy		20	Q. So you're fighting Olablo Inside this
21	then him.			Z1	circle and it gets more beckic?
22	Q.	Now Little One is Giovanny?		22	A, Yea.
23	λ.	Yes.		23	Q. What do you mean by more heatic?
24	Q.	And he was fighting a big guy?		24	A. Just got moze crazier, like more people
25	А,	Un-truit.		25	started fighting.

			115
1	Q.	And at this point it's about more than 20	
2	people figh	• • • • • • • • • •	
3	A.	- Yeah, Cause by then, you know, the other	
4	onas cana.		
5	Q.	Now what other ones are you talking about?	
6	Λ.	Arlan,	
7	Q.	Is that Anto-I-A-N?	
8	λ.	Yeah.	
g	Q.	And who is Arian?	
10	А.	Edshel's brother, older brother.	
11	Q,	And was ha aleo in the gang?	
12	А,	Yes,	
13	۵.	Now did he have a mickmane?	
14	Α,	No.	
ឯដ	<u>ò</u> ,	So Arian starts fighting. Who else?	
16	Α,	Then there was Stranger and thun there was	
17	Chavi.		
16	Q.	And Qnavi's Salvador?	
19 :	А.	Υен,	:
20	Q.	As those people come in and start fighting	
21	міас happene	next?	
22	ሉ.	They got there and we started fighting and	
23	then like as	scon as that happaned it kind of like broke	
21	up and then	like scheone can cut of the cimile.	
' 5	Ω .	Okay. Now lot na stop you thoru. Can you	ĺ

116 1 describe for me the person that can out of the circle? A. At the time you know he was probably like 2 3 the same age as me. 4 g, And you were how old back them? 5 Like 15. ٨. 6 α. Ard was he white, black or Hispanic? 7 He was like light colored, like light Д, B skinned, so like Mexican, 5 Q. Can you describe anything else about hin? 10 A. No. 11 Q, That's okay. So he can plit of the circle, 12 yeah? 13 Yee, Α. 14 Q. I'm going to form in a little closer on 15 this map. If you want to get up again for ma. 16 So can you point: again where everybody was 17 £igh±ing7 18 All right. So which direction does this 19 kid sun? 20 And you pointed Loward Waehington Street? 21 λ. Yeeh. 22 Q, Ard notually at an angle boward Washington 23 and Virgil, yes7 24 Yas. Х, 25 g, And when he zons does anybody zon after

		11*	1	hall the			118
΄.				. [
1	h4m?			1	А.	No.	
· 2	A,	E and Little One ran this way.		2	Q,	Now Jonathan, I want to go back to your	
Э	Q.	ADQ		3 otal	temant :	that you gave the detectives in April. And	
4	А,	Nucl then so soon as I saw that I two this		é aga	in yeur	memory was batter back them, yeah?	
5	way, you lat	ow, towards the fleid.		8	д,	γes,	
ß	₫,	And you're talking about these baseball		5	Q.	T'm going to page 12 hare. Okay?	
7	fields hera	?	1.1	7		Now at the top of page 12 of your statement	
8) A.	Yeah, the corner of that. Like right here,		9 you	told th	e detectives: And then Mittle Cne acreane	
9	where that	white car is. That's pretty much where I		9 <u>1</u> 11	t tilm.	Well kind of. Told him first, when, give me	
10	พมธ.		1) the	gun, cz	use E, uhm, hed a gun, right. So tell,	
11	Q.	And you said E and Little One followed him.	1	(sers	amed cu	t loud shoot him, shoot him fucker.	
12	Did you pot	t) in the same direction he was running?	1:			so that was your statement back then, yes?	
13	А.	វង្ស	1	1	А,	Yee,	
14	<u>ς</u> ,	And they also ran at a diagonal toward	14		Q,	So chay were arguing about a gun1	i
15	Washington :	ind Virgil?	16		Α,	Yes.	
1\$	A.	Yes,	16		Q.	Okay, Now you haard yoursalf on that take	- 1
17	Q,	You can sit back down Jonathan.	17	totia	y#		
10		Now as they ware running what were they	28		А.	Yas.	
19	doing?		19		Q.	And the language is a little broken up,	Í
20	А,	They were, like where I was at they were,	20	Naa 1	your spa	ech really bad back then?	[
21	it sounded]	ike they were arguing.	21		Α.	Yes,	
22	Q.	Could you hear what they were arguing	23] ·	Q,	Recause this is right after you had been	Í
23	ຊ່ວວນຊີ?		23	shot	or you	lad your head injury?	
24	А.	They were acquing for scrething,	24		A.	Үея,	
25	Q.	Do you remember what they were arguing for?	25		Ω.	All right. So they're chasing this kid and	

L 2

3

4

5

5

7

Ő.

9

20

11

12 there?

13

24 15

16

17

1.0

19

20

21

22

23

24

2₽

picked up.

Q.

Α.

Q.

A. No.

Q.

Q.

٨.

Q,

٨.

Q,

A. No.

Q,

Q,

A, No,

ρ.

happened?

A, Yes.

Edshel and his older brother.

A. NO.

you remained what 8 was weating?

A. No.

this shooting happened?

	119	_
l.	arguing over the gun. What happens next?	
2	A. Like I just started hearing gunshots.	
3	Q. Do you retarties sealing what happened?	L
4	A, NO.	ł
5	Q. Okay. And again waa your memory better	ł
6	back then?	ł
7	A. Yes.	İ.
ą	Q. Okay, Now again on page 12 in your	
9	statement about halfway down the detective asks: Okay.	
10	And then what happoned? Answer: And then, ulm, E runs	
11	right middle street, then duops clips, then, then I seen	
12	kid falls floor. Question: Okay, How many times did S	
13	shoot? Answer: Done with the clip. Question: He shot	
14	all the tulletar Answar, Yesh.	
15	So you told the detectives back then that E	ļ
16	had run into the middle of the street and emplied the	
74	gun shooting at the kid?	l
18	А. Хел.	i
19	Ω . And then the kid fell down?	
20	A. Yes.	Ì
21	Q. Now after the shooting whome did you go?	
22	A. After I heard the gunshous I jumped the	
23	fance and started running through the field and by then,	
24	you know there was already a belicopter and bleze was	
? 5	slavedy copy entroughing the place and then I got to the	

APP 000119

120

and of the field and then jurped the wall and then I got

A girl and bhis guy in a truck.

Did they wind up taking you somewhere?

Okay. When you got back to 961'4 who was

It was me, Chavi, Little One, Stranger, and

Okay. Do you remember where E waa?

Did you talk to E after this shooting

Do you temember Af you talked to $\mathbb R$ after

Okay. Let me go back a little ways. Do

Who picked you up?

Did you know them?

Share did they take you?

They took ma back to gal s

· ¹.

And again was your memory better back when 1 ο, you talked to detectives in April of 2006? . 2 З Α, Yee. Okay, Jonathan, I want to show you your 4 Q. scatement sgain on page 14, about halfway down. ŝ Question: Okay, Do you remember what 2 was wearing? 6 Answer: Uhm, uhm, gray sweetshirt. Question: Okay. 7 Do you know if it had a head on it? Answer: Yes. я 9 So you cold them E was wearing a gray 10 housed emeatahist? 11 A. Yes. Yes. Okay. Now do you remander where G 12 Q, want after the shooting? 13 NO. 14 д. Okay, Now Jona∖ha∩, page 13 of your 13 Q, statement, Question: Okay. That night after he shot 18 the little boy did you see where he went, where he ran 17 to? And there's not an audible response but the 18 cuestion is; So you're indicating that he can this 19 would be wast on Washington? Your enswer: Yeah, this 20 way, Quescion) And then he ran down a side street? 27 Answer: Yes. And this is the side stragt right there 22by the school? Answer: Yeah, told we that. Question: 23 He told you that? Yes, cause, uhm, Chavi picked him up. 24 Okay. Now I asked you earlier if you 28

123

1

2

3

7

8

g

10

11 12

24

26

1	Q.	Ckay, pid you know that schoolody was going
2	to get shot?	
Э	\mathbf{A}_{t}	No.
4	Q.	bid you go there to shoot anybody?
5	Α.	No.
ũ	Q.	Jonathan, I'm sorry, I just missed a couple
7	or quaatilona	ι.
8		What was your nickname in the gang?
9	А.	Silant.
10	Q.	Silent. Okay. And when you joined the
11	david qrq Aco	have to get jumped in?
13	۲,	Yes,
13	Q ,	And what is jumping io?
14	A,	Like six chkles jump you.
15	Q,	They beat you?
16	і А.	Yeah, they best yell in.
17	Q,	for how long did you have to do their?
18	Α.	It was like 25 seconds, 30.
29		Ms. MYINDS: I have no further questions
20	for this wit	nese.
21		THE FORCERSON: Axo there any questions?
22		By Law, these proceedings are scored and
23	you are proh	ibited from disclosing to anyone anything
24	that has tre	nontized before us, including evidence and
85	atalemente p	resented to the Grand Jury, any svent

remembered talking to B after this. Okay? Now I'm 1 showing you the same page on your statement. Question: 9 What else did E tell you? Answer: Upp, scured. 3 4 Question: Did he tell you why he shot the boy? Anewar: 5 Cause, uhm, Little One. Question: Little One told him to? Answer: No, provoked him. Question: Provoked 6 himi Anawar: Yeah. 2 8 And then you said preasure. so that was your statement back than, yas? 9 10 Yea. Α. Okay. Now do you remember what E told you 11 0, happened to the gun? 12 13 А. No. pkay. Going back to your statement on page 14 Ľů. 15 16. Question: All right. Mast else did E tell you about the gun? Did he tell you where he put it? 16 17 Answer: Toilet. Question: In a toilet? Answer: Yes. 18 Question: Did he - and then your answer is: Toileta 19 on the street. okey. So S told you that he put a gun 20 21 inside a toilst that was on the street? 22 Yes. A. Okay. Now when you want to the school you 23 Q, knew you were using there to fight? 24 25 А. Yes,

124

122

constraint or statement made in the presence of the Grand Jury, and information obtained by the Grand Jury. Failure to comply with this admonition is a

gross miscemeanor punishable by a year in the Clark 5 County Detention Center and a \$2,000 fine. In edition, 6 you may be held in contempt of court punishable by an additional \$900 fine and 35 days in the Clark County Debantion Center.

Do you understand buis admonstion?

THE WITNESS: Yes.

THE FOREPERSON: TRank you, You can be excused now.

MS. JIMENEZY At this time we're going to 13 14 stop with witnesses for this case. There is another 15 matter, I quass another case that you're going to take 16 juncian consideration. Depending on new long that takas I may or may not put on one more witness. At least we'll 17 see what the time is. So we're going to pause for now 18 and do not deliberate on this case at this time. Ne'll 1.9 continue the presentation either later today or at 20 21 another data depending on the time. And I will go gat 22 the other attorney handling the other matter. 23 (Recess)

MS. JIMENEZ: We're back on our case with another witness.

- · ·

:

EXHIBIT "E"

18.+* 18.+*	· · · · · · · · · · · · · · · · · · ·			8
2 2 3	CRIGINAL 1	1 2 3	LAS VEXAS, NEVADA, THURSDay, December 19, 2008	3
4	IN THE JUSTICE COURT OF THE LAS VERRS TOWNSHIP COUNTY OF CLARK, STRIE OF NEWRON	4	THE COURT: Now Mr. Gardia, this is the time and place for the preliminary hearing in State of Neveda V. Everisto Jonathan Gardia.	
7 8 9	SINTE OF NEVADA, Plaintiff,	7 0	datendant is present sith his determine ().	
9 10 11	ve. Case No. 06711378A Evariero Jorganan Garcia, Defendant.	9 10 11	and we have Norego	
12 13		12	Thu court in altority representing	
14 15 16	REFORTER 5 TEAMSCRIPT OF PRESIMINARY HERRING	1.4 35 16	Kou said you have two witnesses? MS. JCHINNES: There's a possibility of a third, but I think we'll be able to do it in two.	
17 13	HEDORIN THIN HONORADELIN UTILIZAM D. JANSTEN JUSTICE OF THE FURCE TRIGEN CN THURSDAY, DECEMBER 18, 2008 AU D:30 A.N.	17 18	THE COURT: All the witnesses possibly that are going to testify, they're all cutside?	
19 20 21	APPERANCES:	19 20	M9. JIMENEE: Xes, Judge. THE COURT: So there's been the Court	
22	For the State: For the State: Deputy District Attorneys For the Defendent: WILLIAM S. TERRY	21 12 23	has been informed all the witnesses who will testify in the matter are cutside in the ballway. So let the record reflect that the exclusionary rule for	
24 25	Reported by: Garri, De Lunce, C.C.R. #82 Official Court Reporter	34 25	witnesses has been invoked and the witnesses have been excluded from the contineon.	

ŝ

	INDEX	2	11	Do you have any possible
	winnesses for the state	PAGE	2	witnesses, Mr. Terry?
			3	MR. TERRY: No, your Honor, but we would
	formation brandes hander o		1	formally for the record ask that all witnesses be
ļ	Distort Examination by Ma. Nylhos:	7	5	excluded, and I understand the Court's alreedy made
ĺ	Cross-Examination by Mr. Terry:	36	6	that directive.
	Redirect Examination by Ms. Nyikos:	62	7	THE COURT: Potential witnesses later on
	Remucss-Bosmination by Mr. Terry:	65	₿	I dent't axeusa blent.
	Exemination by The Court:	65	3	MR. TEURY: Understood.
	Mellissa marta campoa		10	THE COURT: Okay. State go aboad and
	birect Executation by Ma. Junears:		11	cwll your first witness.
	FA.	69	នេ	M9. NYIKOS: Judge, before I call this
ł	Cress-Examination by Mr. Terry	87	13	witness, his name is Jonethan Marper, I just want to
ļ	Reddftwort Examination by Ms. Jimenez:	95	24	inform the Court he did have a head injury, so he
	Scandss-Examination by Mr. Terry:	58	1.5	speaks a little bit slowly and screetings mumbles. So
	CLIFFED MOSS		15	hats not being disrespectful. 1411 try and keep him
	Direct Examination by Ms. Nyikos:	101	17	audibla for you, Madam Court Reporter.
	Cross-Examination by Mr. Terry:	103	10	While we're waiting Eco the
	Redirect Examination by Ms. Myikos:	108	19	witness, Mr. Terry and I do have some stimulations.
	Recupes-Requination by Mr. Terry:	108	20	THE COURT: May don't you put those for
	RECEIVED		21	the record.
		- 1 (22	MS. NYTEOS: Thank you,
	JAN 12 2009 Marked	Admitted	23	Your Honor, we have atipulated
ł	EAR OF THE COURT ??	78	24	that the cause of death was a single guishot wound to
1	STREPT FOR A CONTRACT OF A CON		as	the back, manner of death to be a humicide. We did

				ę
1	go ahead and mark a copy of the autopay report for		A LAST STRADES" THEADY you, your lienson, 7	
2	**			ļ
3	Also, Mr. Terry was kind enough to	3		-
4	allow us to just use the viotim's name as a purpose	4	ANTERATION OF A STORE BALLED BE REPARATION	
5	for ID rather than having to show a photograph to the	5	been first duly sworn to teatify to the truth, the	ļ
៩	victim's sister in this case. 7 " """	d	whole truth, and nothing but the truth, testified as	
7	MR. TERRY That's all accurate with the	7	follows:	
8	exception of, if counsel's marking the autopay	8	4	
9	report, we don't have a problem with that. They're	9	Direct Examination	
10	not moving to admit it, howaver. We did not agree to	þo	BY MS. NYIKASI	
11	that,	มา	Q. Jonathan, I want to direct your attention	
13	MS. NYIKOS: That's fine. Just for a	12	to a couple of years ago in 2005. In 2006 were you a	ſ
13	court edulbit, your Konor.	2.3	nember of a particular geng?	
14	THE COURT: Just for a court exhibit to	14	A. Xes. ;	
15	show here, but it's not an it won't be admitted.	15	Q. Must was the mane of that gaug?	
1.6	MR. TERRY: That's fine. As an exhibit	ħ€	A. (Unintelligible).	
17	is fins. Admitted is different.	17	THE COURT REFORMER: I didn't even get	
19	THE COURT: Right. Th other words,	1.0	that.	
19	they'll get it returned. It won't be admitted. It	1.9	ey My, Nyikosi	
30	will be returned to them.	aø	Q. Is that Duros Locos?	
21	MS. XXIKCS: That's fine, Jidge.	21,	h. 289.	
22 23	(THE CCURT: Back to the State. MR. TERRY: That's fine, Judge. And not	92 83	THE COURT MERCHARTS, Gan you spell that	
24	considered by the Court.	84 84		
25	INE CONT: No. I won't even look at it.	22	MR. TERRY: Gbjectical That wasn't directed to the DR. That was directed to the	
1	· · · · · · · · · · · · · · · · · · ·			
-	NS, NYINOS; Thenk you, Judge. 6	1	wirnes;	
2	THE CLARK: please be seated,	1	kritun∉∌, E	
2 3	THE CLARK: please be stated, State your full name put spall		kitness, (Cverlepping speakers)	
2 1 4	THE CLORK: Please be seated. State your full name and spell Your name, please.	9 3 4	(Cvex.lepping ppeakers)	
2 1 4 5	THE CLARK: Please be seated. State your full name and spell your name, please. THE COURD: I want you to spell your	2 3 4 5	(Cverlapping peakers)	
រ ។ ។ ភ្	THE CLERK: please be seated, State your full name and spell your name, please, THE COURT: I want you to spell your first name and last name. State your tokal memo	9 3 4 5 6	(Cverlapping speakers) (Cverlapping speakers) (COURT: Do you know how to spell 10? (THE MITNES: No.	
2 2 4 5 7	THE CLARK: please be seated, State your full name and spall your name, please, THE COURT: I want you to spall your first name and last name. State your tokal name first,	2 3 4 5 6 7	(Cvarlepping ppeakers) (Cvarlepping ppeakers) (REW COURT: Do you know to spall it? (THE WITNESS: No. THE COURT: Stis in the Griminal	
2 4 5 7 8	THE CLARK: please be seated, State your full name and spall your name, please, THE COURD: I want you to spall your first name and last name. State your total name first, THE WINNESS: Jonathan Enamuel Sarper.	9 3 4 5 6 7 8	(CvexRepping speakers) 1888 COURT: Do you know how to spell it? 1888 WITNESS: No. THE WITNESS: No. THE COURT: 20's in the Criminal. Complaint.	
2 4 5 7 8 9	THE CLERK: Please be seated, State your full name and spell your name, please, THE COURT: I want you to spell your first name and last name. State your total name first, THE WINESE: Jonathan Enamel Harper. THE WINESE: Jonathan Enamel Harper. THE COURT: Spall your first name.	9 3 4 5 6 7 8 9	(Cvex.Repping speakers) INN COURT: Do you know how to spell it? 'THE WITNESS: No. THE COURT: It's in the Criminal. Complaint. EY MS. MYIROS:	
2 4 5 7 8 9 10	THE CLERK: please be seated, State your full name professel, your name, please, THE COURT: I want you to spell your first name and last name. State your tokal name first, THE WILWESS: Jonathan Snamel Marper, THE WILWESS: Jonathan Snamel Marper, THE WILWESS: Jon-n-a-t-h-a-n.	9 3 4 5 6 7 8 9 10	(Cvarkepping speakers) THE COURT: Do you know how to spell it? THE WITNESS: No. THE COURT: It's in the Criminal Complaint. BY MS. NYIKOS:	
2 4 5 7 8 9 10	THE CLERK: please be seated, State your full mane professel, your name, please, THE COURT: I want you to spell your first name and last name. State your tobal, name first, IHE WIINESS: Jonathan Ename! Harper, IHE WIINESS: Jonathan Ename! Harper, IHE WIINESS: Jonathan Ename! THE WIINESS: Jonathan Ename. THE WIINESS: Jon-n-a-t-h-a-n. THE WIINESS: Your last name?	9 3 4 5 6 7 8 9 10 11	(Cvarkapping speakers) THE COURT: Do you know how to spell it? THE WITNES: NO. THE WITNES: NO. THE COURT: Stis in the Criminal Complaint. BY MS. NYIKOS: Q. Now, when did you become a member of Purce Loces?	
2 4 5 7 8 9 10	THE CLERK: please be seated, State your full mane professel, your name, please, THE COURT: I want you to spell your first name and last name. State your total, name first, THE WILNESS: Jonathan Ename! Harper, THE WILNESS: Jonathan Ename! Harper, THE WILNESS: Jonathan Ename! THE WILNESS: Jon-n-a-t-h-a-n, THE WILNESS: Jon-n-a-t-h-a-n, THE WILNESS: H-a-r-p-a-r,	9 3 4 5 6 7 8 9 10 11 12	(Cvex.Repping speakers) THE COURT: Do you know how to spell 10? THE WITNESS: No. THE COURT: Style in the Criminal Complaint. BY MS. NYIKOS: Q. Now, when did you become a member of Putos Locos? A. A Lew years ago.	
2 4 5 7 8 9 10 11 12	THE CLERK: please be seated, State your full mane professel, your name, please, THE COURT: I want you to spell your first name and last name. State your total mane first, THE WINNESS: Jonathan Ename! Marper. THE WINNESS: Jonathan Ename! Marper. THE WINNESS: Jonathan Ename! THE WINNESS: Jon-n-a-t-h-a-n. THE WINNESS: Jon-n-a-t-h-a-n. THE WINNESS: M-a-r-p-a-r. THE WINNESS: M-a-r-p-a-r. THE COURT: New, Jonathan, new, listen to	9 3 4 5 6 7 8 9 10 11 12 11	(Cvex.Repping speakers) (Cvex.Repping speakers) IEW COURT: Do you know how to spell it? IEW MINNESS: No. THE GOURT: St's in the Criminal Complaint, EV MS. NYIKOS: Q. Now, when did you become a member of Putos Locos? A. A few years ago, Q. Do you recompar around what your that	
2 4 5 7 8 9 10 11 12 23	THE CLERK: please be seated, State your full mane professel, your name, please, THE COURT: I want you to spell your first name and last name. State your total, name first, THE WILNESS: Jonathan Ename! Harper, THE WILNESS: Jonathan Ename! Harper, THE WILNESS: Jonathan Ename! THE WILNESS: Jon-n-a-t-h-a-n, THE WILNESS: Jon-n-a-t-h-a-n, THE WILNESS: H-a-r-p-a-r,	9 3 4 5 6 7 8 9 10 11 12	(Cvex.Repping speakers) IRM CCURT: Do you know how to spell it? IRM CCURT: Do you know how to spell it? IRM WITNESS: No. THE WITNESS: No. THE CCURT: It's in the Criminal. Complaint. BY MS. NYIROS: Q. Now, when did you become a member of Putor Locce? A. A Lew years ago. Q. Do you rescalar accurd what your that was?	
2 4 5 7 8 9 10 11 12 23 14	THE CLERK: please be seated. State your full mame and spell your name, please. THE COURT: I want you to spell your first name and last name. State your tobal name first. THE WILNESS: Jonathan Ename! Harper. THE WILNESS: Jonathan Ename! Harper. THE WILNESS: Jonathan Ename! THE WILNESS: Jonathan Ename? THE WILNESS: H-a-r-p-a-r. THE COURT: New, Jonathan, now, listen to We manefully. If the question that is asked of	2 3 4 5 6 7 8 9 10 11 12 14 14	(Cvarkepping speakers) THE COURT: Do you know how to spall it? THE WITNESS: No. THE COURT: It's in the Criminal Complaint. BY MS. NYIKOS: Q. Now, when did you become a member of Putos Locos? A. A Lew years ago. Q. Do you recomber around what year that was? A. 2005.	
2 4 5 7 8 9 10 11 12 13 14 15	 THE CLARK: please be seated. State your full name and spell YOUT name, please. THE COURD: I want you to spell your first name and last name. State your total name first. THE WILNESS: Jonathan Ename! Sarper. THE WILNESS: Jonathan Ename! State COURT: Your last name? WHE WILNESS: H-a-r-p-e-r. THE COURT: New, Jonathan, new, listen to me carefully. If the question that is asked of you ara you listening to ae? 	2 3 4 5 6 7 8 9 10 11 12 11 12 13 14 15	(Cvex.Repping speakers) (Cvex.Repping speakers) (EVEX.Repping speakers) (File COURT: Do you know how to spell it? (File WITNESS: No. THE COURT: Stris in the Criminal Complaint, BY MS. NYIKOS: Q. Now, when did you become a member of Purce Locces? A. A few years ago, Q. Do you resonder around what your that was? A. 2005. Q. Now, before you become a member of Purce	
2 4 5 7 8 9 10 11 12 12 14 15	 THE CLERK: please be seated. State your full name and spell. YOUT name, please. THE COURT: I want you to spell your first name and last name. State your tokal name first. THE WILNESS: Jonathan Spanuel Marper. THE WILNESS: H-a-r-p-a-r. THE COURT: New, Jonathan, now, Listen to me marefully. If the question that is asked of YOU aim you listening to me? THE WILNESS: Yes. 	9 3 4 5 6 7 8 9 10 11 12 13 10 15 15	(Cvarkepping speakers) THE COURT: Do you know how to spall it? THE WITNESS: No. THE COURT: It's in the Criminal Complaint. BY MS. NYIKOS: Q. Now, when did you become a member of Putos Locos? A. A Lew years ago. Q. Do you recomber around what year that was? A. 2005.	
2 4 5 7 8 9 10 11 12 23 14 15 16	 THE CLERK: please be seated. State your full name and spell. YOUT name, please. THE COURT: I want you to spell your first name and last name. State your tokal name first. THE WILNESS: Jonathan Spanuel Marper. THE WILNESS: Heart-pre-r. THE COURT: Now, Jonathan, now, Listen to me carefully. If the question that is asked of YOU and you listening to me? THE WILNESS: Yes. THE COURT: by sither one of these 	9 3 4 5 6 7 8 9 10 11 12 13 14 15 15	(Cvarkepping speakers) THE COURT: Do you know how to spell it? THE WITNESS: No. THE WITNESS: No. THE COURT: It's in the Criminal. Complaint. BY MS. NYIKOS: Q. Now, when did you become a member of Purce Locus? A. A few years ago. Q. Do you recomber around what your that was? A. 2005. Q. Now, bafore you became a member of Purce Locus, that gang had already been in extintence.	
2 4 5 7 8 9 10 11 12 12 14 15 16 17 10	 THE CLERK: please be seated. State your full name professel. YOUT name, please. THE COURT: I want you to spell your first name and last name. State your tokal name first. THE WILNESS: Jonathan Spanuel Marper. THE WILNESS: Jon-n-a-t-h-a-n. THE WILNESS: H-a-r-p-a-r. THE COURT: Now, Jonathan, now, listan to me marefully. If the question that is asked of you are you listening to me? THE WILNESS: Yes. THE WILNESS: Yes. THE WILNESS: Yes or no answar, state yes or 	9 3 4 5 6 7 8 9 10 11 12 13 14 15 15 15 16	(Cvarkapping speakers) THE COURT: Do you know how to spell it? THE WITNES: No. THE WITNES: No. THE GOURT: Stis in the Criminal Complaint. BY MS. NYIKOS: Q. Now, when did you become a member of Purce Locce? A. A few years ago. Q. Do you recompar around what your that was? A. 2005. Q. Now, before you became a member of Purce Locce, that gamy had already been in extintence, right?	
2 3 4 5 7 8 9 10 11 22 23 14 15 17 20 21	 THE CLERK: please be seated. State your full name prot spell. YOUT name, please. THE COURT: I want you to spell your first name and last name. State your tokal name first. THE WINNESS: Jonathan Shamuel Marper. THE WINNESS: Jonathan, name. THE WINNESS: M-a-r-p-a-r. THE COURT: Now, Jonathan, now, listen to ne carefully. If the question that is asked of you are you listening to ae? THE WINNESS: Yes. THE WINSS: Yes. 	9 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 (Cvarkspping speakers) TEN COURT: Do you know how to spell it? THE WITNES: No. THE WITNES: No. THE WITNES: No. THE COURT: It's in the Criminal Complaint. BY MS. NYIKOS: Q. Now, when did you become a member of Puros Locos? A. A Lew years ago. Q. Do you resonder accurd what your that was? A. 2005. Q. Now, before you became a weater of Puros Locos, that gang had already been in existence, right? A. Yee. Q. Do you know where that gang started? NR. TERRY: Wide, objection, it would 	, colum
2 4 5 7 8 9 10 11 23 14 15 17 10 20 21 22	 THE CLERK: please be seated. State your full mane and spell. your name, please. THE COURT: I want you to spell your first name and last name. State your tobal name first. THE WINNESS: Jonathan Ename! Marper. THE WINNESS: M-a-r-p-e-r. THE COURT: Your last name? THE WINNESS: H-a-r-p-e-r. THE COURT! Now, Jonathan, now, listen to ne carefully. If the question that is asked of You are you listening to me? THE WINNESS: Yes. THE WINNESS: Yes. THE WINNESS: Yes. THE WINNESS: Yes. THE WINNESS: Yes or no answer, state yes or no. Don't shake your head or say un-hum THE WINNES; Okay. THE WINNES; Okay. THE WINNES; Wes of response. Do you 	9 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 (Cvarlapping speakers) THE COURT: Do you know how to spell it? THE WITNESS: No. THE WITNESS: No. THE COURT: It's in the Criminal. Complaint. EY MS. NYIROS: Q. Now, when did you become a member of Putor Locos? A. A Lew years ago. Q. Do you resonant around what year that was? A. 2005. Q. Now, before you became a member of Puros Locos, that gany had already been in extintence, right? A. Yes. C. Do you know where their gang started? NR. TERRY: 'Judge, objection, it would call for hearbay. He can explain what he did. 	
2 3 4 5 7 8 9 10 11 22 23 14 15 17 20 21	 THE CLERK: please be seated. State your full name prot spell. YOUT name, please. THE COURT: I want you to spell your first name and last name. State your tokal name first. THE WINNESS: Jonathan Shamuel Marper. THE WINNESS: Jonathan, name. THE WINNESS: M-a-r-p-a-r. THE COURT: Now, Jonathan, now, listen to ne carefully. If the question that is asked of you are you listening to ae? THE WINNESS: Yes. THE WINSS: Yes. 	9 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 31	 (Cvarkspping speakers) TEN COURT: Do you know how to spell it? THE WITNES: No. THE WITNES: No. THE WITNES: No. THE COURT: It's in the Criminal Complaint. BY MS. NYIKOS: Q. Now, when did you become a member of Puros Locos? A. A Lew years ago. Q. Do you resonder accurd what your that was? A. 2005. Q. Now, before you became a weater of Puros Locos, that gang had already been in existence, right? A. Yee. Q. Do you know where that gang started? NR. TERRY: Wide, objection, it would 	

24 213

said have a member. What's the difference when it ç

.

25

THE CANT: Okay, You may proceed.

APP 000124

lt.

started. What's his participation in it, and I agree 9	1	BY MS. NYTROS: 11	
with counsel, I don't soe we used all that.	. 3	Q. The night of February 6, 2006, did you go	ł
BY MS. NYTHOS:	3	schevhere that night?	ļ
Q. Qkay. Now, how did you become a member	4	A. Was that the night of the shooting?	
of this gapg?	5	MR. TERRY: Counsel cannot respond,	ł
A. From a friend, Well, I started - I	6	Judge,	
was I started hanging out with him, and than Jike	7	THIS COURT: That's brue.	
one day we just went and sharted bagging, and after $\frac{\pi_{y}}{2}$	þ	ev MS. Nytrop:	i
that, you know, like probably like a month passes,	9	Q. You said the night of the shooting. Talk	
and, you know, just got I just got into the thing	ho	to me about the night of the shooting.	ĺ
mora with them,	5.2	A. Well, I just, you know, it started in the	[
MR, TERRY: Judge, this would all be)	12	day. I was at Salvador's, I'm pretty sure, and then	l
hearsay. It's all based on out of court testimony,	13	lika, you know, it started because I guess like	ł
THE COURT: Ha can say what has a doing.	ļ٩	mother gaug	
MR, TERRY: He cannot testify as to what	15	G. Don't tell we about anything anybody told	
scholody else said. The original question was a very	þ.a	ytai.	
broad question, how did you become a gang member.	17	A. This is what I know. I'm getting to the	
He's going to testify because somebody else asked	18	point, you know, I don't have to like beak around it.	
him. That would be bearsay. Unless it's my client.	19	You know, I'm trying to get to the point so we can	
MS. NXIROS: That's fine.	þ0	get this finished, you know, but it was a day, and	
ey ms. nyikûş:	þ1	Little One called his brother and said	
Q. Jonathan, did you have to do something in	22	MR. TERRY: Objection, Judge.	
order to sobually formally be a manher of Puros .	23	THE COURT: You can't testify what	
Locosi	84	happened that night? What did you observe or see?	
A. Get in fights.	25	That's what they're talking about.	
	<pre>with coursel, I don't see we used all that. BY MS. NYTHOS: Q. Okey. Now, how did you become a member of this gate? A. From a friend. Well, I started ~~ I was -~ I started hanging out with him, and then jike one day we just went and started bagging, and after that, you know, like probably like a month passes, and, you know, just got ~~ I just got into the thing more with them. MR. TERRY: Judge, this would all be ; hearsay. It's all based on out of court testimony. THB COURT: He cannot testify as to what scuebody else said. The original question was a very broad question, how did you become a gaug member. He's going to testify because somebody else asked him. That would be hearsay. Unless it's my client. MS. NYINOS: Q. Jonathan, did you have to do something in order to sotually formally be a member of Pures Locos?</pre>	 with coursel, I don't see we need all that. BY MS. NYTHOS: Q. Okey. NGW, how did you become a member of this gate? A. From a friend, Nell, I started - I G. Started hanging out with him, and than like 7 one day we just went and started bagging, and after- that, you know, like probably like a month passes, mod, you know, just got I just got into the thing more with them. MR. TERRY: Judge, this would all be i hearsay. It's all based on out of court testimony. THE COURT: He can say what he's doing. MR. TERRY: He cannot testify as to what its scambody else said. The original question was a very if broad question, how did you become a gang member. HS. NYINOS: That's fine. Q. Jonathan, did you have to do something in order to actually formally be a member of Pures . 23 	 started. Must's his participation in it, and I agree ² bit MG. MYINGS: ¹¹ with counsel, I don't see we need all that. P. MS. MYINGS: ²¹ Q. Gray. Now, how did you become a member ²¹ G. Gray. Now, how did you become a member ²¹ G. Gray. Now, how did you become a member ²¹ A. From a friand. Well, I started ²¹ A. From a friand. ²¹ M. Was that the night of Yebruary 6, 2006, did you go screwhere that might of the abooting? A. From a friand. ²¹ A. From a friand. ²¹ M. Was that the night of the abooting? A. From a friand, well, I started ²⁴ T M. Mas that the night of the abooting? J. Was that the night of the shooting. Talk ²⁵ C. You said the night of the shooting. Talk ²⁶ The COURT: That's thue. M. WERN: Charge, this would all be ²¹ J. Was at Salvador's. I'm pretty sure. and then ²⁶ M. WERN: Charge, this would all be ²¹ J. Was at Salvador's. I'm pretty sure. and then ²⁶ M. WERN: Charge, this would all be ²¹ J. Was at Salvador's. I'm pretty sure. and then ²⁶ J. Was at Salvador's. I'm pretty sure. and then ²⁶ M. WERN: Was a very ²⁶ J. Was at Salvador's. I'm pretty sure. and then ²⁶ J. Was at Salvador's. I'm pretty sure. and then ²⁶ J. Was you know. I'm getting to the ²⁶ J. Somebody else said. The continuant set ²⁶ J. Somebody else said. The continuant set ²⁶ J. Somebody else said. The continuant set ²⁶ J. Somebody else said. The continuant set ²⁶ J. Kow Know, I'm trying anybody told you. J. Somebody else said. The continuant set ²⁶ J. Kow Know, I'm trying to the basi around it. ²⁷ M. WitkOS: That's fine. ²⁷ J. Somebody is seen enders of Punce ²⁷ J. Somebody formally be a member of Punce ²⁷ J. Somebody

í de la compañía de la

'. F

1	Q.	Do you remember when you got into a	; 10	1	BY MS. NYIKOS:	12
2	£ight?		,	2	G. Did yna wind up	
3		MR. TERRY: Judge, this is incolevant.		3	MR. WERRY: Objection, leading.	
4	don'é hean	to belabor it.	ł	4	THE WITHES, I got in a fight, way, I	
9		THE COURT: What are you trying to drive		5	got in a fight, a big ass brawl, and ended up, you	l
6	at? I agro	a. Let's just get to the point.		e	know, the kid ran out of the circle, and then little	1
7	BY MS. NYII	QÊI		7	Cne was like, thate he is, so like	
9	Q.	You know what, Jonathan, I want to direct	1	8	MR. TERRY: Objection to Little One,	
9	your accent	ion to February 5 of 2005. Were you in		9	ារជំរាន .	
10	RIFOS LOCOS	at that time?		10	THE COURT: I know 10.	
22	Λ.	Хея,	L	11	What did you do, if anything, what	1
12	Q.	Around 9:00 that night		12	did you observe?	
13		MR. TERRY: Objection; leading.	r	13	THE WITNESS: I was in the fight and knew	
14		THE COURCE I know it's leading, I'm		14	I now the shooting, man.	
19	going to gt	ve her a little leeway because of the		15	THE COURT: That's what we're driving at.	
15	position ha	's in. I'll give you a little leeway. Go		16	Oltay,	
17	abaad. Dub	lat's try to cut down		17	BY MS, NYIKOS)	
1.0		MR. TERRY: Respectfully, for the record,	,	LØ	Q. Where was this fight you were in?	
19	the only po	ition he's in is based upon counsel's		19	A. Ab the school,	
20	statements,	and I object to that.	:	20	Q. Do you know the name of the school?	
21		THE COURT: Wall, I can observe it also.		21	A. Desert Pends (phonetic). I know it was	
22		Go shead. I'll give you some	i	22	cm Washington and Pecos. I never went there. It was	
23	leeway.		i ł	23	my first time.	
24		MS. NYIKOS: Thenk you.	1	24	Q. So at Washington and Peops,	
29				15	Now, is that here in Clark County,	[

			@ : }
ï	Nevada?	1.3	THE COURT: What color? 35
2	A. Yes,	12	The Witness: Blus,
;	Q, You're in this fight	12	MS, NYTROS: Let the record reflect
4	MR. TIRRY: Objection; loading. She's	4	identification of the defendant.
5	leading,		THE COURT: So reflect,
6	THE COURT: He said he was in a fight;	 5	BY ME, NYTERDE:
7	MR. TERRY: I understand, but, now,	7	A What happened when E got out of the car?
Ĕ.	you're in this fight, that's a leading introduction.		
9	NS. JIMINNES: She hasn't even asked a	9	him, and then we sharted fighting, and then the fight
0	question, Judge. That's foundational to lead up to	10	
ı.	har guestion.	12	
2	THE COURT: Go aband,	12	
3	BY MS. NYIKUSI	23	THE COURT: Just say that you now a kid
4	Q. Who was fighting?	L4	running out of the circle.
		15	
3	A. At first it was Little One.		
G	Q. Do you know iduite Ons's news?	16	THE COURT: Chay, go ahead.
7	A. Giovanni.	17	BY MS, NYINOS:
3	Q. Do you know his last ham?	1.9	Q. What happared whan the kid ran cut of the
۱ [•]	A. Garcia.	19	aircle?
۱ ۱	Q. So who plag?	20	A, That's when E - I mean Giovanni was
-	A. It was me, Giovanni, Emanuel, and	ងរ	like, that's the kid that started all the shit, and
	Enamel's girl, Stacy. I don't know if they're still	1 22	then he was like, all right, so I dion't hear than.
	together, but that's who was there at the time. And	23	Q. Who is he? You, said he was like all
	then Salvador, Echo, Erian, and I'm protty sure	24	right? ,
1	Adrian. They were on the way, and they got there as	25	A. Avarieto.
			4
г	•		
. [500m ds	14 1	0. Then what happened?
	5000 as MR. TERRY: That would be hearsay. Judge.		A. He started running at him, and then
			i Q. Then where napperserver
	MR. TERRY: That would be hearsay, Jurga.	2	A. He started running at him, and then
	MR. TERRY: That would be hearsay. Judge. The question was who were you with.	2	A. Ha started running at him, and then Glovenni followed him. And then I ran out of the
	MR. TERRY: That would be hearsay, Judge. The question was who were you with. THE COURT: He said he observed than to	2 3 4	A. Ha started running at him, and then Giovanni followed him. And then I ran out of the dirole, and then I was prohably like 50 fast from
	NR. TERRY: That would be hearsay, Judga. The question was who wate you with. THE COURT: He said he observed than to get there.' He can testify to that.	2 3 4 5	A. He started running at him, and then Giovanni followed him. And then I ran out of the dirole, and then I was probably like 50 feet from him, and then I was probably like 50 feet from
	NR. TERRY: That would be hearsny. Judge. The question was who ware you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I	1 3 4 5 6	 A. He started running at him, and then Giovanni followed him. And then I ran out of the dirole, and then I was probably like 50 feet from him, and then they started arguing and Q. Who started arguing?
	NR. TERRY: That would be hearsay. Jurge. The question was who ware you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I observed them. Jurge.	2 3 4 5 6 7	A. He started running at him, and then Giovanni followed him. And then I ran out of the dirole, and then I was probably like 50 feat from him, and then they started arguing and Q. Who started arguing? A. Giovanni and S.
	NR. TERRY: That would be hearsay. Judge. The question was who were you with. THE COURT: He said he observed than to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I observed than, Judge. THE COURT: He said did you observe	2 3 4 5 6 7 8	 A. He started running at him, and then A. He started running at him, and then Giovanni followed him. And then i ran out of the dirole, and then I was probably like 50 feat from him, and then they started arguing and Q. Who started arguing? A. Giovanni and E. Q. And what were they arguing about?
	NR. TERRY: That would be hearsay. Sudge. The question was who were you with. THE COURT: He said he observed than to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I observed them, Judge. THE COURT: He said did you observe them get there?	3 4 5 7 8 9	 A. He started running at him, and then Giovanni followed him. And then i ran out of the dirole, and then I was probably like 50 feat from him, and then they shorted arguing and Q. Who started arguing? A. Giovanni and E. Q. And what were they arguing about? A. About the gun.)
	NR. TERRY: That would be hearsay, Judge. The question was who wate you with. THE COURT: He said he observed than to get there.' He can testify to that. NR. TERRY: I didn't hear him say, I observed them, Judge. THE COURT: He said did you observe them get there? THE WITNERS: Yesh, I was talking ebout	3 4 5 6 7 8 9 1.0	 A. He started running at him, and then Giovanni followed him. And then i ran out of the dirole, and then I was probably like 50 fast from him, and then they sborted(arguing and Q. Who started arguing? A. Giovanni and S. Q. And what were they arguing about? A. Most the gun.); Q. Specifically, what did you hear N may?
	NR. TERRY: That would be hearsay. Judga. The question was who wate you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I observed them, Judge. THE (COURT: He said did you observe them get there? THE WITNESS: Yesh, I was talking about before.	2 3 4 5 6 7 8 9 10	 A. Ha started running at him, and then Giovanni followed him. And then I ran out of the dirole, and then I was probably like 50 fast from him, and then they started arguing and Q. Who started arguing? A. Glovanni and E. Q. And what were they arguing about? A. Mosut the gun.) Q. Specifically, what did you hear E may? A. It was not E at first, it was Giovanni.
	NR. TERRY: That would be hearsay, Judga. The question was who wate you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I observed them, Judge. THE COURT: He said did you observe them get there? THE MITTINESS: Yesh, I was talking about before. THE COURT: Let's nove co.	2 3 5 6 7 8 9 10 12	 A. Ha started running at him, and then Giovanni followed him. And then I ran out of the dirole, and then I was probably like 50 fast from him, and then they sbarted arguing and Q. Who started arguing? A. Giovanni and E. Q. And what ware they arguing about? A. Moost the gun.) Q. Specifically, what did you hear X say? A. It was not X at first, it was Giovanni. He was like, I want that fucking gun. (IBE COURT: What did you hear X say?
	NR. TERRY: That would be hearsay, Judga. The question was who ware you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I chaervad them, Judge. THE COURT: He said did you observe them get there? THE WITNESS: Yesh, I was talking about before. THE COURT: Let's nove on. THE WITNESS: Idia I was saying, you	2 3 4 5 6 7 8 9 10 12 12 13	 A. Ha started running at him, and then Giovanni followed him. And then I ran out of the dirole, and then I was probably like 50 fast from him, and then they sbarted arguing and Q. Who started arguing? A. Giovanni and E. Q. And what were they arguing about? A. About the gun.) Q. Specifically, what did you hear X may? A. It was not X at first, it was Giovanni. He was like, I want that fucking gun. . (HDE COURT: What did you hear X may?
	NR. TERRY: That would be hearsay. Judge. The question was who wate you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I chaerved them, Judge. THE COURT: He said did you observe them get there? THE WITNESS: Yesh, I was talking about hefore. THE COURT: Let's nove cm. THE WITNESS: Idles I was saying, you know, and they haven't got there, and we were already there. He's in a	2 3 4 5 6 7 8 9 1.0 1.2 1.2 1.2 1.2 1.3	 A. Ha started running at him, and then Giovanni followed him. And then I ran out of the dirole, and then I was probably like 50 fast from him, and then they sbarted arguing and Q. Who started arguing? A. Giovanni and E. Q. And what ware they arguing about? A. Moost the gun.) Q. Specifically, what did you hear X say? A. It was not X at first, it was Giovanni. He was like, I want that fucking gun. (IBE COURT: What did you hear X say?
	NR. TERRY: That would be hearsay. Judge. The question was who wate you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I chaerved them, Judge. THE COURT: He said did you observe them get there? THE WITNERS: Yesh, I was talking about hefore. THE COURT: Let's nove cm. THE WITNERS: Idles I was saying, you know, and they haven't got there, and we were already	2 3 4 5 6 7 8 9 1.0 1.2 1.2 1.2 1.3 1.5	 A. Ha started running at him, and then Giovanni followed him. And then 1 ran out of the dirole, and then I was probably like 50 fast from him, and then they sborted, arguing and Q. Who started arguing? A. Giovanni and S. Q. And what were they arguing about? A. Giovanni and S. Q. And what were they arguing about? A. Mosul the gun! Q. Specifically, what did you hear N may? A. It was not N at first, it was Giovanni. He was like, I want that fucking gun, (HDE COUNT: What did you hear N may? What did you hear him say? M. WINDERS: (Nothing at first.
	NR. TERRY: That would be hearsay. Judge. The question was who ware you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I chaervad them, Judge. THE COURT: He said did you observe them get there? THE WITNESS: Yesh, I was talking about before. THE COURT: Let's nove cm. THE WITNESS: Idics I was saying, you know, and they haven't got there, and we ware already there. And Giovanni is already fighting. He's in a hig ass circle. And, you know, I got sut of the car.	1 3 4 5 6 7 8 9 1.0 1.1 1.2 1.3 1.3 1.5 1.6	 A. Ha started running at him, and then Giovanni followed him. And then 1 ran out of the dirole, and then I was probably like 50 fast from him, and then they sborted, arguing and Q. Who started arguing? A. Giovanni and E. Q. And what were they arguing about? A. Giovanni and E. Q. And what were they arguing about? A. Doort the gun.; Q. Specifically, what did you hear N may? A. It was not N at first, it was Giovanni. He was like, I want that fucking gun. . (Bib COUNT: What did you hear N may? What did you hear him may? . The WIMPERS: (Nothing at first. BY MS. NYIKOS)
	NR. TERRY: That would be hearsay. Judge. The question was who ware you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I observed them, Judge. THE COURT: He said did you observe them get there? THE WITNESS: Yesh, I was talking about before. THE COURT: Let's move co. THE WITNESS: Idles I was saying, you know, and they haven't got there, and we ware already there. And Giovanni is already fighting. He's in a hig ass circle. And, you know, I got cut of the car, E got out of the car.	2 3 4 5 6 7 8 9 1.0 1.1 1.2 1.3 1.5 1.5 1.5 1.5 1.5 1.5 1.5 1.5 1.5	 A. Ha started running at him, and then Giovanni followed him. And then 1 ran out of the dirole, and then I was probably like 50 fast from him, and then they started arguing and Q. Who started arguing? A. Giovanni and E. Q. And what were they arguing about? A. Most the gam.) Q. Specifically, what did you hear E may? A. It was not E at first, it was Giovanni. He was like, I want that fucking gam. . (HDE COURT: What did you hear E may? What did you hear him say? Y. More then and first. BY MS. NYIKOSI Q. Now, you said Giovanni said something
	NR. TERRY: That would be hearsay. Judge. The question was who ware you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I observed them, Judge. THE COURT: He said did you observe them get there? THE WITNESS: Yesh, I was talking about before. THE COURT: Let's neve on. THE WITNESS: Idles I was saying, you hnow, and they baven't got there, and we ware already there. And Giovanni is already fighting. He's in a hig ass circle. And, you know, I got cut of the car. E you will be an.	2 3 4 5 6 7 8 9 10 11 13 13 14 15 16 17 10 19	 A. Has while Represent / A. Ha started running at him, and then Giovanni followed him. And then 1 ran out of the dirole, and then 1 was probably like 50 fast from him, and then they started arguing and Q. Who started arguing? A. Giovanni and E Q. And what were they arguing about? A. Noset the gun.) Q. Specifically, what did you hear E may? A. It was not E at first, it was Giovanni. He was like, I want that fucking gun.
	NR. TERRY: That would be hearsay. Judge. The question was who ware you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I observed them, Judge. THE COURT: He said did you observe them get there? THE WITNESS: Yesh, I was talking about before. THE COURT: Let's nove on. THE WITNESS: Idlar I was saying, you know, and they been't got there, and we were already there. And Giovanni is already fighting. He's in a hig ass circle. And, you know, I got cut of the car. EY MS. NYIKOS: Q. Sho's E? A. EVARIATION	2 3 4 5 6 7 8 9 10 1.1 1.3 1.3 1.4 1.5 1.6 1.7 1.0 1.9 2.0	 A. Has tarted running at him, and then Giovanni followed him. And then 1 ran out of the dirole, and then 1 was probably like 50 fast from him, and then they started arguing and Q. Who started arguing? A. Giovanni and E Q. And what were they arguing about? A. Noost the gun.) Q. Specifically, what did you hear 2 say? A. It was not hat first, it was Giovanni. He was like, I want that fucking gun. THEN COURT: What did you hear 2 say? What did you hear him say? M. WINNES: NOTHing at first. BY MS. NYIKOS: Q. Now, you said Giovanni say? A. Yash. Q. What did diovanni say?
	NR. TERRY: That would be hearsay. Judge. The question was who ware you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I observed them, Judge. THE COURT: He said did you observe them get there? THE MINNESS: Yesh, I was talking about hefore. THE COURT: Let's nove on. THE WINNESS: Idles I was saying, you know, and they baven't got there, and we were already there. And Giovanni is already fighting. He's in a hig ass circle. And, you know, I got cut of the car. EY MS. NYIKOS: Q. Sho's E?	2 3 4 5 6 7 8 9 10 13 13 14 15 16 19 20 21	 A. Hastarted running at him, and then Giovanni followed him. And then 1 ran out of the dirole, and then 1 was probably like 50 fast from him, and then they sborted(arguing andQ. Who started arguing? A. Giovanni and E
	NR. TERRY: That would be hearsay, Judga. The question was who wate you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I chearved them, Judge. THE COURT: He said did you observe them get there? THE COURT: Let's nove on. THE COURT: Let's nove on. THE WITNERS: Idda I was saying, you know, and they haven't got there, and we were already there. And Giovanni is already fighting. He's in a hig ass circle. And. you know, I got cut of the car. E got out of the car. EY MS. NYINGS: Q. Map's E? A. Evaristo. Q. Do you see E in the countroom today? A. 200.	2 3 4 5 6 7 8 9 10 12 13 14 15 16 17 18 10 20 21 20 21 23	 A. Ha started running at him, and then Glovanni followed him. And then 1 ran out of the dirole, and then I was probably like 50 fast from him, and then they sbarted, arguing andQ. Who started arguing? A. Glovanni and E. Q. And what were they arguing about? A. About the gun.; Q. Specifically, what did you hear N may? A. It was not N at first, it was Giovanni. He was Like, I want that fucking gun. . (BDE COUNT: What did you hear N may? What did you hear him say? M. WINDERS: (Nothing at first. BY MS. NYIKOS) Q. Mode, did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash.
	NR. TERRY: That would be hearsay. Sudge. The question was who wate you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I chaerved them, Judge. THE COURT: He said did you observe them get there? THE WITNESS: Yesh, I was talking about before. THE COURT: Let's nove cm. THE WITNESS: Idles I was maying, you know, and they haven't got there, and we were already there. And Giovanni is already flighting. He's in a hig ass circle. And, you know, I got cut of the car. EY MS. NYINGS: Q. Mho's E? A. Evaristo. Q. Co you see B in the countroom today? A. Yas. Q. Can you point to him and tall me	2 3 4 5 6 7 8 9 10 12 13 14 15 16 19 20 21 20 21 23 23	 A. Ha started running at him, and then Glovanni followed him. And then 1 ran out of the dirole, and then I was probably like 50 fast from him, and then they sbarted, arguing andQ. Who started arguing? A. Glovanni and E. Q. And what were they arguing about? A. About the gun.; Q. Specifically, what did you hear X may? A. It was not X at first, it was Giovanni. He was Like, I want that fucking gun. (EDE COURT: What did you hear X may? What did you hear him say? M. WINDERS: Nothing at first. BY MS. NYIKOS: Q. Mode, did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh. Mat did Glovanni say? M. Yeeh.
	NR. TERRY: That would be hearsay, Judga. The question was who wate you with. THE COURT: He said he observed them to get there.' He can testify to that. MR. TERRY: I didn't hear him say, I chearved them, Judge. THE COURT: He said did you observe them get there? THE COURT: Let's nove on. THE COURT: Let's nove on. THE WITNERS: Idda I was saying, you know, and they haven't got there, and we were already there. And Giovanni is already fighting. He's in a hig ass circle. And. you know, I got cut of the car. E got out of the car. EY MS. NYINGS: Q. Map's E? A. Evaristo. Q. Do you see H in the constroom today? A. 200.	2 3 4 5 6 7 8 9 10 12 13 14 15 16 17 18 10 20 21 20 21 23	 A. Ha started running at him, and then Glovanni followed him. And then 1 ran out of the dirole, and then I was probably like 50 fast from him, and then they sbarted, arguing andQ. Who started arguing? A. Glovanni and E. Q. And what were they arguing about? A. About the gun.; Q. Specifically, what did you hear N may? A. It was not N at first, it was Giovanni. He was Like, I want that fucking gun. . (BDE COUNT: What did you hear N may? What did you hear him say? M. WINDERS: (Nothing at first. BY MS. NYIKOS) Q. Mode, did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash. Mat did Glovanni say? M. Yash.

APP 000126

a.

ł

P

Ϋ́ų,			
1	The Witness Milor 27	12	and that's when I, you been, laft,
а	MR. TERRY: If half a co-conspirator, so	12	Q. Did you see G after this?
3	is Mr. Merper. Does the State want to stipulate to	3	A. Right after?
4	that? No'll stigulate to it.	4	Q. At any time, at any point after this?
5	The Court: Go Mand.	5	A. Ygah.
, 6	BY MS, NYIKOS)	6	Q. About how long after this did you are 17
7	Q. After Giovarni,	7	A. I'm thinking I didn't see him. I talked
8	TER COURT: He's right. What did you . 3	6	to him.
9	obearve? Co ahead.	5	Q. How did you talk to him; on the phone, in
10	BY MS. NYIKOSI	40	person?
11	Q. What happened next?	LT.	A. On the phone.
12	A. Like I was saying, they were fighting for	22	Q. Do you talk to him a lot on the phone?
13	the gun, and then he was like, all right, I got him.	1.3	A. No.
14	MR. TERTY: Objection, Judge. When he	14	. Q. How did you know it was B on the phone?
15	says he	15	· A. Bacausa I was like, hello. He called my
15	THE COURT: Who do you mean, he?	16	house phone. And I was like, hello, and then he was
17	THE WITNESS: Q. I'm balking about	1.7	like, what's up, dog? And I was like, what's up,
18	Giovanni and E right now. So if I say he, you know.	ji.e	man, you know, and we just started talking, and he
1.9	I'm soury.	b	wid like, key, wan
20	THE COURT: You can only testify as to	30	MR. TERRY, No foundation yet, Judge,
21	what II or the defendant said, what you heard the	23	The Court: Yeah.
22	defendant say.	82	MS. NYINGS: That's okay, Judge.
23 {	MS. JIMENEZ: That's who he's talking	23	ey MS. Nyikos:
24 (about,	34	Q. Old you zecognize his voice?
25	THE WIINESS: I'm balking about before he	35	A. Yeah. He told me it was him, you know.
L			

ä

ഷം

1	said some	thing. He didn't say nothing before.	18 1	Q.	Did you guys talk moost what happened at
1	BY MS. NY	TROS :	2	the school	L9
3	Q.	Who's the person who waid, that's all	3	A.	Not the thing. We didn't talk about it,
4	rigne, I	got it, man7	4	but he was	liks, I fucked up, man.
5	А.	B. He didn't say that in the words, but	ង	Q.	Now, when this fight was happening, did
6	pretty mu	ch in that phrase.	6	YOU KNOW B	itud a gun?
7		MR. IMRRY: Then we'll move to strike,	7	Α,	Yea.
8	Judge.		8	Q.	Row did you know knat?
3		THE COURT: What did you actually hear	9	A.	Well, before I got in the car, and, you
0.	him say?		LO	know, he g	et it from Puppet, Granuel.
1		THE WIINESS: I got it.	11	Q.	Did you see him get it from Popper?
2	ey Mes, Ny.	11/06:	La	λ.	No.
3	Q,	What haggered after that?	ĥз	Q,	Now do you know he get it from Puppet?
4	Α.	No cocked the gun back and new in the	14	А.	Because it was a black gun and that was
\$	middle of	the street and shot the kid.	L5	Puppet's gr	un,
6	Q.	How many times did he shoot?	LØ	Q.	Did you ever talk to E about how be get
7	Λ.	Pretty sure ba emptied the clip.	17	ප්ෂ යුගුනු	,
6	Q,	Do you remember how many shoch you heard?	10	А.	No.
9	А.	Nine, elght.	L9		MS. NYINGS: Gourt's indulgance.
0	Q.	Did you see what happoned to the kid?	20	ea wa' wate	(QS):
ιį	λ,	After I seen him hit the floor.	[a1]	Q.	Now, Junathan, do you remember talking to
2	Q,	Did you see where E want?	28	a detective	in this case?
1	A,	After the first shot, you know, he ran up	43	А.	Mogg or Hardy.
	co him, yo	u know, that's what I saw, and then after	24	Q.	Do you remember talking to them?
	that the g	unshots started, and then the police came,	as	Д.	Yas.

	•			-
	personal and additional first south			
1	Q.	Do you remember being on taps?	21 2	THE WERRESS! Like a day after. 23
2	A.	Xes.	2	THE COURT: That 's what he's talking
\$	Q,	Do you remember telling Detective Mogg	· []	about. When did you have your conversation shout
4		MR. TERRY: Judge, she's not refreshing	4	chat.
8	his memor	y for anything. I mean we don't have all	, (EY MS. NYINDSI
6	right. W	Ithdraw the objection.	`` [5	Q. OKAY. Now, so the day effort this
7		MS, NYINOS) Fage 13	17	shouting he told you The spary again, without the
8	er ng. ny	1809)	ទ	objections and everything ~- '
9	\$	Do you remember telling Detective Mogg	2	MR. THRRY: Objection, leading.
10	that I to	ld you that Puppet gave him the gun?	1.0	THE COURT: What did he tall your
11	A , .	Yas.	իդ	BY MS, MYIKCS;
12	Q.	Do you know where the gun ended up?	իջ	Q. What did he tell you about what happened
13	A .	After the shooting I'm pretty sure he	13	to the gun?
14	said he p	t it in the toilet.	իդ	A. He said that he got rid of it.
15		MR. TERRY: Objection.	1.6	Q. Did he tail you how
16		THE COURT: Mac's he?	1. 6	A. He said that he put it in the toilet.
17	BY MS. NYI	(KOS)	L7	Q. Did he tell you where?
20	Q.	Did you say he or 12?	1.3	A. It was like a toilet for like the
19	А.	20,	19	ganbage, yeu know.
20	g.	瓜?	20	Q. That's okay.
ຊາ	А.	Yeah. I'm sorry about my speech.	21	Did he tell you where this toilet
22		Min COURT That's all right, I thought	22	vas?
23	you said h	a. You're speaking about the defendant; is	23	A. Around the school.
	•	N N N N N N N N N N		
	that corre-	ct?	1	
24	that corre-	сц? ТИВ WIINBSSI: Уев,	24	Q. And you said it was for the garbage. Did he tell you what led you to ballove that it was
84	and agge if all the star for a special starting	THE WIINESS: Yes,	24	Q. And you said it was for the garbage. Did he tell you what led you to ballows that it was
14 5 1	by MS. NXII	THE WIINESS: Yes,	24	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage?
13	By M2. NXI 2.	THE WIINESS: Yes. (19:1) Wat: did be tell you?	24	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilet, and
1	by MS. Nyih Q. A.	THE WITNESS: Yes. (1991 , 2 What did be tell you? Well, about the gun?	24 93 22 1	 Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilat, and then he told Auppet, and then Suppet, I'm pretty
1	BY MS. NYIH Q. A. Q.	THE WITNESS: Yes.	24 23 22 2 2	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilet, and
14	BY MS. NXI Q. A. Q. A.	THE WITNESS: Yes. (1991 , 2 What did be tell you? Well, about the gun?	24 23 22 2 2 3 4 5	 Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Auppet, and then Suppet, I'm pretty gure, Puppet went there. (NR. TERRY: Objection.
4 5 1 3 4 5	BY MS. NXI Q. A. Q. A. Puppet.	THE WITNESS: Yes, XOS: What did be tell you? Well, about the gua? Yes. We just said, you know, he got it from	24 23 22 2 2 3 4 5	Q. And you said it was for the garbage. Did he tell you what had you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Ruppet, and then Ruppet, I'm pretty gure, Puppet went there. (MR. TARRY: Cojection. MS. NYIKOF: Don't talk about what Ruppet
1 3 3 4 5 6 7	BY MS. NYT Q. A. Q. A. Puppet. Q.	THE WITNESS: Yes, 1991 Weak did he tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened	24 23 22 2 2 3 4 5	 Q. And you said it was for the garbage. Did he tell you what he yes to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Puppet, and then Puppet, I'm pretty gure, Puppet went there. i MR. THEREN: Objection. MS. NYIKOF: Don't talk about what Puppet did.
14 135 13 13 13 13 13 13 13 13 13 13 13 13 13	BY MS. NYT Q. A. Q. A. Puppet. Q.	THE WITNESS: Yes. (39) Nhak did be tell you? Well, about the gun? Yes. We just said, you know, he got it from What did E tell you about what happened after the shooting?	24 23 22 2 2 3 4 5	Q. And you said it was for the garbage. Did he tell you what hed you to ballaws that it was for the garbage? A. No, he just put it in the toilet, and then he told Puppet, and then Puppet, I'm pretty sure, Puppet went there. MR. TARRY: Objection. MS. NYIKOF: Don't talk about what Puppet did. THE WITNESS: This is about the gun
1 1 3 4 5 6 7 8 9	BY MS. NYIH Q. A. Q. A. Puppet. Q. Lo the gun	THE WITNESS: Yes, 1991 Weak did he tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened	24 23 22 1 2 3 4 5 6 7 8 9	Q. And you said it was for the garbage. Did he tell you what hed you to ballaws that it was for the garbage? A. No, he just put it in the toilet, and then he told Puppet, and then Puppet, I'm pretty sure, Puppet went there. MR. TARRY: Objection. MS. NYIKOF: Don't talk about what Puppet did. THE WITNESS: This is about the gun though.
10 10 10 10 10 10 10 10 10 10 10 10 10 1	BY MS. NYT Q. A. Q. A. Puppet. Q.	THE WITNESS: Yes. (39) What did be tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened what did E tell you about what happened what the shooting? NR. TERRY: Could we have a foundation,	24 23 22 1 2 3 4 5 6 7 8 9 10	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Auppet, and then Suppet. I'm pretty sure, Puppet went there. MR. THERY: Objection. MS. NYIKOS: Don't talk about what Puppet did. THE WITNESS: This is about the gun though. MS. NYIKOS: I know, but you can't talk
	BY MS. NYIH Q. A. Q. A. Puppet. Q. Lo the gun	THE WITNESS: Yes. (39) What did be tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened what did E tell you about what happened what the shooting? NR. TERRY: Could we have a foundation, THE WITNESS: Got rid of it.	24 23 22 1 2 3 4 5 6 7 9 9 9 10 1	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilat, and then he told Auppet, and then Suppet. I'm pretty gure, Duppet went there. MR. THERY: Objection. MS. NYIKOS: Don't talk about what Puppet did. THE WITNESS: This is about the gun though. KS. MYIKOS: I know, but you can't talk about what other people did, can'y shout what you
12 1 2 3 4 5 6 7 8 9 0 1 2 2	BY MS. NYIF Q. A. Q. A. Puppet. Q. to the gun Judge?	THE WITNESS: Yes, (39) What did be tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened after the shooting? NR. TERRY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COUNT: Hold it. Do you know about	24 23 22 2 2 3 4 5 6 7 9 10 11 12	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Appet, and then Puppet. I'm pretty sure, Puppet went there. MR. THERY: Cojection. MS. NYIKOF: Don't talk about what Puppet did. THE WITNESS: This is about the gun though. MS. MYIKOF: I know, but you can't talk about what other people did, only shout what you heard.
1 2 3 4 5 6 7 8 9 0 1 2 3	BY MS. NYIH Q. A. Q. A. Puppet. Q. EC the gun Judge? when or whe	THE WITNESS: Yes, (1991) What did be tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened after the shooting? MR. TERRY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COUNT: Hold it. Do you know about re did he tell you this?	24 23 22 2 3 4 5 6 7 9 10 11 12 13	Q. And you said it was for the garbage. Did he tell you what had you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Appet, and then Puppet. I'm pretty sure, Puppet went there. ! MR. THERY: Cojection. MS. NYIKOF: Don't talk about what Puppet did. UNE WITNESS: This is about the gun though. MS. MYIKOF: I know, but you can't talk about what other people did, only shout what you heard. UNE WITNESS: (Okay,)
	BY MS. NYI Q. A. Q. A. Puppet. Q. Lo the gun Judge? when or whe BY MS. NYIN	THE WITNESS: Yes, (39) What did be tell you? Well, about the gun? Yes. We just said, you know, he got it from What did E tell you about what happened alter the shooting? NR. TIENTY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COUNT: Hold it. Do you know about re did he tell you this? OS:	24 23 22 2 3 4 5 6 7 8 9 10 11 12 13 14	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Puppet, and then Puppet, I'm pretty sure, Puppet went there. (MR. TERRY: Cojection, MS. NYIKOF: Don't talk about what Puppet did. THE WITNESS: I'mnew, 'but you can't talk about what other people did, cally about what you heard. THE WITNESS: (okay, EX MS. MYIKOS: (okay,
13 13 13 13 13 13 13 13 13 13 13 13 13 1	BY MS. NYI Q. A. Q. A. Q. LO the gun Judge? When or whe BY MS. NYIM Q.	THE WITNESS: Yes, (OS: What did he tell you? Well, about the gun? Yes. We just said, you know, he got it from What did B tell you about what happened after the shooting? MR. TIENTY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COURT: Hold it. Do you know about re did he tell you this? OS: Do you know when E talked to you about	24 23 22 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? 34 A. No, he just put it in the toilet, and then he told Ruppet, and then Ruppet. I'm pretty gure, Puppet went there. i MR. TARRY: Cojection. MS. NYIKOF: Don't talk about what Ruppet did. i THE WITHES: This is about the gura though. i MS. MYIKOF: I know, but you can't talk about what other people did, only shout what you heard. USH WITHES: i S. MYIKOF: i USH WITHES: i Q. NOW, on the day of shooting can you tell
	BY MS. NYI Q. A. Q. A. Puppet. Q. to the gun Judge? when or whe BY MS, NYIN Q. what happen	THE WITNESS: Yes, 209: What did be tell you? Well, about the gun? Yes. We just said, you know, he got it from What did B tell you about what happened alter the abooting? NR. TIENTY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COURT: Hold it. Do you know about re did he tell you this? CS: Do you know when S talked to you about ed to the gun?	24 23 22 1 2 3 4 5 6 7 8 9 10 21 12 13 14 15 16	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? 34 A. No, he just put it in the toilet, and then he told Ruppet, and then Ruppet. I'm pretty gure, Puppet went there. 1 MR. THEREY. Objection. MS. NYIKOF: Don't talk about what Ruppet did. 1 THE WITHESS: This is about the gura though. 1 MS. MYIKOF: I know, but you can't talk about what other people did, only shout what you heard. 1 MH WITHESS: 1 R. MYIKOF: 1 WH WITHESS: 1 Q. Now, on the day of shooting can you bell we what E was wearing; do you remember?
1 2 3 4 5 6 7 8 9 V 1 2 3 4 5 5 7	BY MS. NYI Q. A. Q. A. Puppet. Q. to the gun Judge? when or whe BY MS, NYIN Q. what happen A.	THE WITNESS: Yes, 209: What did be tell you? Well, about the gun? Yes. We just said, you know, he got it from What did B tell you about what happened alter the abooting? NR. TIENTY: Could we have a foundation, THE WITNESS: Got rid of it. THE WITNESS: Got rid of it. THE WITNESS: Got rid of it. THE WITNESS: Bot rid of it. THE COURT: Hold it. Do you know about re did he tell you this? CS: Do you know when S talked to you about sd to the gun? He told us all, he told us all that he	24 22 2 2 3 4 5 5 7 8 9 10 11 12 13 14 15 16 1,7	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? 34 A. No, he just put it in the toilet, and then he told Ruppet, and then Ruppet, I'm pretty gure, Puppet went there. i NR. TARRY: Objection. MS. NYIKOF: Don't talk about what Ruppet did. i THE WITNESS: Thus id about the gura though. i MS. MYIKOF: I hnow, but you can't talk about what other people did, only shout what you heard. USH WITNESS: for it is 0. Now, on the day of shooting can you tell we what E was wearing; do you remember? A. All black, slieve, long sleeves, pants,
123456789012345579	BY MS. NYI Q. A. Q. A. Puppet. Q. to the gun Judge? when or whe BY MS, NYIN Q. what happen	THE WITNESS: Yes, ANS: What did be tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened after the shooting? NR. TISHY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COURT: Hold it. No you know about re did he tell you this? CS: DO you know when E talked to you about sed to the gun? Ne told us all, he told us all that he be toldet.	24 22 2 2 3 4 5 6 7 9 9 10 11 12 13 14 15 16 7,7 8	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? ³⁴ A. No, he just put it in the toilet, and then he told Puppet, and then Puppet, I'm pretty sure, Puppet went there. ¹ MR. THEREY. Objection. MS. NYIKOF: Open't talk about what Puppet did. ¹ THE WITNESS: ¹ This is about the gun though. ¹ MS. MYIKOF: ¹ I know, Unit you can't talk about what other people did, cally shout what you heard. ¹ MH WITNESS: ¹ Q. Now, on the day of shooting can you bell we what it was wearing; do you remember? A. All black, slaws, long slawes, pants, MS. NYIKOS: ¹ know, Consel.
	BY MS. NYTH Q. A. Q. A. Puppet. Q. to the gun Judge? when or whe BY MS, NYTH Q. what happen A. put it in th	THE WITNESS: Yes, 209: What did be tell you? Well, about the gun? Yes. We just said, you know, he got it from What did B tell you about what happened alter the abooting? NR. TIENTY: Could we have a foundation, THE WITNESS: Got rid of it. THE WITNESS: Got rid of it. THE WITNESS: Got rid of it. THE WITNESS: Bot rid of it. THE COURT: Hold it. Do you know about re did he tell you this? CS: Do you know when S talked to you about sd to the gun? He told us all, he told us all that he	24 22 2 2 2 3 4 5 6 7 9 9 10 11 12 13 14 15 16 17 18 19	Q. And you shid it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Puppet, and then Puppet. I'm pretty sure, Puppet went there. MR. THEREY. Cojection. MS. NYIKOS: Don't talk about what Puppet did. THE WITNESS: This is about the gun though. MS. MYIKOS: I know, but you can't talk about what other people did, only shout what you heard. UHH WINNESS: I hnow, but you can't talk about what other people did, only shout what you heard. UHH WINNESS: I hnow, but you can't talk about what other people did, only shout what you heard. UHH WINNESS: I hnow, but you can't talk about what other people did, only shout what you heard. UHH WINNESS: I have about you bell we what E was wearing; do'you remember? A. All black, slbave, long sheeves, pants, MS. NYINCS: hage 14, coursel. EY MS. NYINCS: hage 14, coursel. EY MS. NYINCS: hage 14, coursel.
1 3 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0	BY MS. NYI Q. A. Q. A. Puppet. Q. to the gun Judge? when or whe BY MS, NYIN Q. what happen A.	THE WITNESS: Yes, ANS: What did he tell you? Well, about the gun? Yes. He just said, you know, he got it from What did B tell you about what happened after the shooting? NR. TERRY: Calld we have a foundation, THE WITNESS: Got rid of it. 'DIS COLVER: Hold it. Do you know about re did he tell you this? CS: Do you know when E talked to you about sed to the gun? NG told us all, he told us all that he be told us all, he told us all that he he told us Engens. Still no	24 23 22 1 2 3 4 5 7 8 9 9 10 11 12 13 14 15 16 17 18 19 20	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilst, and then he told Auppet, and then Suppet. I'm pretty sure, Duppet went there. MR. THERY: Objection. MS. NYIKOS: Don't talk about what Suppet did. THE WITNESS: This is about the gun though. MS. MYIKOS: This is about the gun though. MS. MYIKOS: I know, but you can't talk about what other people did, only shout what you heard. USH WITNESS: I know, but you can't talk about what other people did, only shout what you heard. USH WITNESS: I know, but you can't talk about what other people did, only shout what you heard. USH WITNESS: I Q. Now, on the day of shooting can you tell we what E was wearing; do you remember? A. All black, albave, long sheaves, pants, MS. NYIKOS: bage is, coursel. EX MS. NYIKOS: Q: Do you remember telling bateotive Mogg
	BY MS. NYTH Q. A. Q. A. Puppet. Q. to the gun Judge? when or whe BY MS, NYTH Q. what happen A. put it in th	THE WITNESS: Yes, COS: What did be tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened after the shooting? NR. TERRY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COURT: Hold it. Do you know about re did he tell you this? CS: Do you know when E talked to you about red to the gun? He told us all, he told us all that he he toilet. NR. TERRY: Excuse ma, Judge. Still no THE COURT: When did he tell you that?	24 23 22 2 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 1.7 18 19 20 21	Q. And you said it was for the garbage. Did he tell you what he year to balleve that it was for the garbage? "?? A. No, he just put it in the toilet, and then he told Puppet, and then Puppet, I'm pretty gure, Puppet went there. " MR. THERE! Objection. MS. NYIKOS! Don't talk about what Puppet did. " MR. THERE! Chiection. MS. NYIKOS! Thus, is a about the gun though. MS. NYIKOS! I know, that you can't talk about what other people did, only shout what you heard. "UHH WINNESS! I'm is for about what you heard. " UHH WINNESS! (Okay, ' EY NS. MYIKOS: ' Q. Now, on the day of shooting can you tell me what E was wearing; do you remember? A. All black, there, how should be about wood of the NYIKOS: ' Q. Do you remember telling betweetive Mogg that It was a gray sweatshirt? '
	BY MS. NYTH Q. A. Q. A. Puppet. Q. to the gun Judge? when or whe BY MS, NYTH Q. what happen A. put it in th	THE WITNESS: Yes, COS: What did be tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened after the shooting? MR. TERRY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COURT: Hold it. Do you know about re did he tell you this? CS: Do you know when E talked to you about re told us all, he told us all that he he tailet. NR. THERY: Encues me, Judge. Still no THE COURT: When did he tell you that? THE COURT: When did he tell you that?	24 23 22 2 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 7,7 18 19 20 31 22	Q. And you said it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Appet, and then Puppet. I'm pretty sure, Puppet went there. MR. TARRY: Cojection. MS. NYIKOF: Don't talk about what Puppet did. (INE WITNESS: This is about the gun though. MS. MYIKOF: I know, but you can't talk about what other people did, only shout what you heard. (INE WITNESS: I know, but you can't talk about what other people did, only shout what you heard. (INE WITNESS: I A. ALL black, slown, long shows, paths, MS. MYIKOS: I A. ALL black, slown, long shows, paths, MS. MYIKOS: I A. ALL black, slown, long shows, paths, MS. MYIKOS: I A. Discher telling batactive Mogg that it was a gray sweatshirt? A. To terfyesh my mind, yes, it was a gray
24 25 23 23 23 23 23 23 23 23 23 23 23 23 24 25 24 25 24 25 24 25 24 25 24 25 24 25 25 26 26 26 26 26 26 26 26 26 26 26 26 26	BY MS. NYTH Q. A. Q. A. Puppet. Q. to the gun Judge? when or whe BY MS, NYTH Q. what happen A. put it in th	THE WITNESS: Yes. COS: What did be tell you? Well, about the gun? Yes. We just said, you know, he got it from What did E tell you about what happened alter the shooting? MR. TERRY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COURT: Hold it. Do you know about re did he tell you this? COS: DO you know when E talked to you about red to the gun? NG told us all, he told us all that he he told us all, he told he toll you that? THE WITNESS is in parton. THE CURY: When?	24 23 22 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 1.7 18 19 30 31 22 23	Q. And you shid it was for the garbage. Did he tell you what hed you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Apppet, and then Puppet. I'm pretty gure, Puppet went there. MR. THRRY: Cojection. MS. NYIKOF: Don't talk about what Puppet did. UNE WITNESS: This is about what Puppet did. NS. MYIKOF: I know, but you can't talk about what other people did, only shout what you heard. UNE WITNESS: I know, but you can't talk about what other people did, only shout what you heard. UNE WITNESS: I Q. Now, on the day of shooting can you bell the what E was wearing; do you remember? A. All black, slows, long sheeves, pants, MS. MYINCS: I Q. Do you remember telling batactive Mogg that It was a gray sweatchirt? A. To befresh my mind, yes, it was a gray hoodle. ()))
24 25 1 3 4 5 6	BY MS. NYTH Q. A. Q. A. Puppet. Q. to the gun Judge? when or whe BY MS, NYTH Q. what happen A. put it in th	THE WITNESS: Yes, COS: What did be tell you? Well, about the gun? Yes. He just said, you know, he got it from What did E tell you about what happened after the shooting? MR. TERRY: Could we have a foundation, THE WITNESS: Got rid of it. UNE COURT: Hold it. Do you know about re did he tell you this? CS: Do you know when E talked to you about re told us all, he told us all that he he tailet. NR. THERY: Encues me, Judge. Still no THE COURT: When did he tell you that? THE COURT: When did he tell you that?	24 23 22 2 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 7,7 18 19 20 31 22	Q. And you said it was for the garbage. Did he tell you what led you to ballows that it was for the garbage? A. No, he just put it in the toilet, and then he told Auppet, and then Euppet, I'm pretty gure, Puppet went there. MR. THERE: Objection. MS. NYIKOS: Don't talk about what Puppet did. INE WINNESS: Thus, South the gun though. MS. NYIKOS: I know, Sut you can't talk about what other porple did, only shout what you heard. USH WINNESS: I know, Sut you talk about what other porple did, only shout what you heard. USH WINNESS: I Q. Now, on the day of shooting can you tell the what E was wearing, do you remember? A. All black, slown, long slowers, pants, MS. NYINOS: I Q. Do you remember telling betweetive mogg that it was a gray sweatshirt? A. To befreeb my mind, yes, it was a gray

	٠	••	I.	

'¥			
3.	Q. Was il: Enanual a car?	1 28	they haven't proved anything in reference to it yet, 27
3	A, Yee,	2	Judge. And if he was in a fight on a prior occasion,
3	Q. What kind of gar was it?	3	it is irrelevant.
4	A. Lt was a black Elko ~- El Camino.	4	MS. JINGNEZ: Judge, we have alleged a
5	Q. And do you know knamtel's nickname?	5	gang enhancement. He can testify to what the gang
៩	A. Puppet.	F	that he was a momber of did, what their activities
7	Q. Who else was in that car?	7	were. If it's in his personal knowledge, he dan
8	A. It was me, swaristo, Ensuel, Stacy ^{Sy}	в	testify to it.
9	Q. Why were you going to that school?	9	THE COURT: I'll let him go ahead. He
10	A. To fight.	2.0	said he was in the gang. He was in that gang. What
11	Q. Mae were you going to fight?	իդ	their activicies were, I'll let him go alead, what he
12	A. I dida't know. You know, I know I) a	did anyway.
23	don*b kaow.	13	MS, NYTKOS: Yes.
14	MR. WENRY: Objection; hearsey. Nova to	1.4	141 WINNASS: I got thats and I started
19	strike. If it was said by my client, I'll withinsw	15	fighting, like I was saying.
16	the objection, but that wasn't the quastion,	16	THE COURT: Walt for the question.
17	BY MS, NYIKOS:	47	BY MS. NYIKOS:
18	Q. When you got to the school who did you	20	C. That's okey. Is this the only fight you
19	start fighting with?	μ	were in as a member of Purps Locus?
20	MR. TERRY: Judge, is that stricken then?	20	A. That I can recall, yes, h hig fight. It
21.]	THE COURT: That's stricken, yesh.	81	was a big fight. I mean there was probably like one
22	By MS, NYIKOS:	22	or two other fights that I was in, and I was out of a
23	Q. When you got to the school who did you	23	Mickinsch, but it was nothing serious.
24	start fighting with?	24	Q. So you were in a couple of other fighter
25	THE COURT: If he knows.	25	MR. INNRY: Objecting; leading.
4	*****	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	

1	THE WITNESS: I know I fought the leader, 26	11	THE COURT: He testified he did,	28
2	one of the leaders from the other gang. I don't know	2	MS. WYINCS: Thank you.	
3	his nama.	3	BY M9. NYIKX9:	
法	You know what, I take that back.	4	Q. What other things did you do as a member	
ទ	It was blable.	5	of Purca Locos?	
6	By Mg. Nyikog:	6	NR. TERRY: Continuing objection, Judge.	
7	Q. What was the other gazy?	7	THE COURT: It's poted,	
9	MR. TERRY: Objection. That assumes	a	THE WITNESS: Well, there s a lot, you	
9	facts not in avidence, and it would be hearsay.	₽	ktow, I did I geen I know, prebty ence they did	
30	The course of he knows. The lot him	10	it too.	
11	answer if he knows.	1.1	THE COURT: Just what you did.	
12	THE MUINESS: Yeah, Brown Pride.	12	MR. TEXRY: Objection.	
13	MR. TERXY, Assumes facts not in	13	1996 WL10890: I got in fights, and I	
1.4	evidence. As long as the record raflects I'm	14	tagged. And I, you know, I made money by selling	
13 1	objacting.	15	dzugs,	
16	THE CONSTANT I'LL bet the record reflect	15	BY MS, NYTHYS)	
17	that.	17	Q. Did you do that as a member of Puros	
18	MR. TERRY: Thank you, Judge.	2.0	100087	
19	BY MS, NYIKOB;	a.9	A. Yeah.	
30	Q. Now, is this the only fight you were in	20	Q. And did other members of the gang do	
21	as a member of Duros Locos?	21	those things with you?	
22	MR. TERRY: Objection; invelovant,	22	MR, TORRY: Objection; heareny, without	
23	Ms. N77805: Judge, we've alleged a gang	23	foundation.	
24	enhancement.	84	THE COURT: If he observed it. If he	
2E	MR. TERMY: They may have alleged it, but	25	observed them doing the same thing, I'll let him	

			
	(
1	centify to it.	9 1	; this group? , 31
2	MR. TERRY: Foundation than, Judge,	2	
	Wiren, who present.	3	4 - · · · · · · · · · · · · · · · · · ·
4	THE COORT: I don't see the relevancy of	4	
S	it, but	5	
6	THE WITNESS When?	6	THE WITNESS: Yeah and no. Yes, because
7	BY MS. NYIROS;	7	who asked, and on my part, I wanted to.
8	Q. Yes, when?	8	THE COURT: You wanted to?
\$	A. Pretty auch I mean I was helping Salvedor	9	THE WIINESS: At the time.
10	lika soll the drugs, and then like, you know, like he	40	BY MS. NYTROSI
11.	had a friend, Little Sax, and I had to pay him back,	11	Q. Coly if you know this. 'Is there a
12	and that was like during and before, you know, I was	12	relationship between Sal and EF
13	doing that before I get in the gang.	13	A), Yos, (
14	Q. What was Salvador's role in Puros Locosy	4	MR, TERRY, Contaction, beautey.
15	MR. TERRY: Objection; heargay.	15	THE COORT: I don't look how he would
16	THE COURT: If he knows. That is	LØ	know that. How would be know that without having
17	hearsey, but if he knows.	17	somebody tell, him.
16	M9. JIMENEZ: It's not hearsay. He	[]	BY N3. NYIKOSI
19	didn't ask for a statement, Ne eaked what his	19	Q. Did S ever tell you if there was a
20	knowledge is of what Salvador's rols is. That's not	20	relationship between E and Sal?
21	hearsay.	21	MR. TERRY: Foutbation;
22	THE COURT: I'll let him answer.	22	INE WITNESS: No, 1 just knew,
	THE WITNESS: Salvador wanted to take	23	MR. TRRRY: No., We'll accept that,
3			test also see 1 the and managed more t
	over things, and he wanted to pectruit other people.		MS, NYINOS: Madas, one second. Court's
24	over things, and he wanted to mechanic other people. MR. TEURY: Objection, hearsay.	24	MS. NYINGS: Judge, one second. Court's indulgence.
4	MR. TEURY: (Mjection; hearsey.	24	incluigenters.
1	NR. TEURY: (Nyjection; hearsey.	24	Indulgences.
1	NR. TEURY: (Myjection; hearsay. ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' '	24 25 1 2	indulgence.
	NR. TEURY: (Myjection; hearsay. - - - - - - - - - - - - -	24 25 1 2 3	Indulgence. BY MS. NYTHERS: Q. New, the kin who got shot that night, com you describe him for me?
	NR. TEURY: (Myjection; hearsay. AY MS. NYIKOS: 0. Did you maswer to Salvador? A. Most of THE COURT: Hold it. Did you participate	24 25 1 2 3	Indulgence. BY MS. NYLHONS: Q. Now, the kink who got shot that night, con you describe him for me? R. Short, black hair. Mexican.
1 2 3 4 5	NR. TEURY: Chylection; hearsay. AY MS. NYIKOS: O. Did you mawar to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the herbore?	24 25 1 2 3 4 5	indulgence. BV MS. NYLHONS: Q. Now, the kin who got shot that night, com you describe him for me? P. Short, black hair, Mexican, Q. About how old was he?
4 5 1 2 3 4 5	NR. TEURY: Chylection; hearsey. AV MS. NYIKOS: O. Did you meawar to Salvador? A. Most of THE CORT: Hold it. Did you participate in recruiting the members? THE MINNES; No.	24 25 1 2 3	<pre>indulgence. indulgence. BY MS. NYINOS1 Q. Now, the kid who got shot that night, can you describe him for me? P. Short, black hair. Maxican. Q. About how old was he? A. 14, 15. y </pre>
1 2 3 4 5 6 7	NR. TETURY: Chylection; hearsey. NR. TETURY: Chylection; hearsey. NY MS. NYIKOS: O. Did you sugwar to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the members? THE WIDNES; No. BY MS. NYIKOS;	24 25 1 2 3 4 5 5 7	<pre>indulgence. indulgence. BY MS. NYTHERS: Q. Now, the kid who got shot that night, can you describe him for me? A. Short, black hair. Mexican, Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? </pre>
14 15 12 34 5 6 7 8	NR. TEURY: Chylection; hearsey. NR. TEURY: Chylection; hearsey. NY MS. NYIKOS: O. Did you senswar to Salvador? A. Most of THE CURT: Mold it. Did you participate in recruiting the members? THE WINNES; No. BY MS. NYIKOS; Q. Ware you recruited by Salvador?	24 25 1 2 3 4 5 5 7 8	indulgence. BY MS. NYTHERS: Q. Now, the kid who got shot that night, can you describe him for me? A. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. So.
1 2 3 4 5 6 7 8 9	NR. TEURY: Chylection; hearsey. NR. TEURY: Chylection; hearsey. NM. Moltof: A. Most of THE CURT: Mold it. Did you participate in reconditing the herborn? THE MURNES; No. BY MS. NYIKOS: Q. Were you recombed by Salvador? A. Yes.	24 25 1 2 3 4 5 7 9 9	 indulgence. BY MS. NYTHOS: Q. Now, the kin who got shot that night, con you describe him for ms? R. Short, black hair. Maxican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. So. Q. And just before he got shot what was he
12 12 12 12 12 12 12 12 12 12 12 12 12 1	NR. TEURY: (Myjection; hearsay. AN MS. NYIKOS: O. Did you maswer to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the members? THE MUINIES: No. BY MS. NYIKOS. Q. Were you recruited by Salvador? A. Yes. Q. Okay.	24 25 1 2 3 4 5 5 7 8 5 20	<pre>indulgences. BY MS. NYTHOS: Q. Now, the kin who got shot that night, con you describe him for me? A. Short, black hair. Mexican, Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. So. Q. And just before he got shot what was he coing?</pre>
4 5 1 2 3 4 5 5 7 5 9 9	NR. TEURY: (Myjection, hearsay. AV MS. NYIKOS: O. Did you maswer to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the members? THE MUINESS: No. BY MS. NYIKOS. Q. Were you recruited by Salvador? A. Yes. Q. Okay. THE COURT: I'll Lat him emster that.	24 25 1 2 3 4 5 5 7 5 5 20 1.1	<pre>indulgence. indulgence. BV MS. NYIHOS: Q. Now, the kink who got shot that night, con you describe him for me? A. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. So. Q. And just before he got shot what was he doing? A. No was in the ourds. He was fighting.</pre>
	NR. TEURY: (Myjection; hearsey. NR. TEURY: (Myjection; hearsey. NY MS. NYIKOS: O. Did you seswar to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the herbors? THE COURT: Hold it. Did you participate in recruiting the herbors? NH. MUINES: No. BY MS. NYIKOS: Q. Were you recruited by Salvador? A. Yes. Q. Okay. THE COURT: 1.11. Let him answar that. MR. TERRY: It would still be hearsey.	24 25 1 2 3 4 5 5 7 8 5 1 2 1 2 1 2	 indulgence. BY MS. NYLHONS: Q. Now, the kid who got shot that night, com you describe him for me? R. Short, black hair, Mexican, Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. So. Q. And just before he got shot what was he coing? A. Ha was in the circle.
	NR. TEURY: (Myjection, hearsay. AV MS. NYIKOS: O. Did you maswer to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the members? THE MUINESS: No. BY MS. NYIKOS. Q. Were you recruited by Salvador? A. Yes. Q. Okay. THE COURT: I'll Lat him emster that.	24 25 1 2 3 4 5 5 7 5 20 11 22 20	 indulgence. BY MS. NYLHONS: Q. Now, the kid who got shot that night, com you describe him for me? R. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. 80. Q. And just before he got shot what was he coing? A. He was in the pirrols. He was fighting, pretty sure, and then he can out of the circle. Q. Now, when he rem out of the circle what
	<pre>NR. TEURY: Chjection; hearsey. 30 0. Did you enswer to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the members? THE WITNES; NO. BY MS. NYIKOS: Q. Were you recruited by Salvador? A. Yes. Q. Okay. THE COURT: I'll Lat him enswer that. MR. TERRY: It would still be heareny, Judge.</pre>	24 25 1 2 3 4 5 5 7 9 20 11 2 2 3 4 5 12 20 12 2 12 2 12 2 12 2 12 2 12 2 1	<pre>indulgence. BY MS. NYINOS: Q. Now, the kid who got shot that night, con you describe him for me? P. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. Mo. Q. And just before he got shot what was he coing? A. No. Q. And just before he got shot what was he coing? A. Now, when he ran out of the circle wat did m do?</pre>
	NR. TEURY: Chjection; hearsey. NR. TEURY: Chjection; hearsey. N. Mostof: N. Most of THE COURT: Hold it. Did you participate in recruiting the members? THE MINNES; NO. BY MS. NYIKOS; Q. Were you recruited by Salvador? A. Yes. Q. Okay. THE COURT: I'll let him answer that. MR. TERRY: It would still be hearsey, Judgs. (Overlapping speakers)	24 25 1 2 3 4 5 5 7 8 9 20 11 22 20 11 22 20 11 22 20 21 20 21 20 20 20 20 20 20 20 20 20 20 20 20 20	 indulgence. BY MS. NYINDS: Q. Now, the kid who got shot that night, con you describe him for me? R. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. No. Q. And just before he got shot what was he coing? A. No. Q. And just before he got shot what was he coing? A. No. /ul>
	NR. TEURY: Chjection; hearsey. NR. TEURY: Chjection; hearsey. NM. Most of THE COURT: Hold it. Did you participate in recruiting the headborn? THE MUINES; NC. BY MS. NYIKOS; Q. Were you recruited by Salvador? A. Yes; Q. Okay. THE COURT: I.1.2. Let him answer that, MR. TERRY: It would still be heareny, Judge. (Overlagping speakers)	24 25 1 2 3 4 5 5 7 9 20 11 2 2 3 4 5 12 20 12 2 12 2 12 2 12 2 12 2 12 2 1	<pre>indulgence. indulgence. BY MS. NYINDS: Q. Now, the kid who got shot that night, con you describe him for me? A. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. Mo. Q. And just before he got shot what was he coing? A. No. Q. And just before he got shot what was he coing? A. No. Q. And just before he got shot what was he coing? A. No. Q. Now, when he ran out of the circle. Q. Now, when he ran out of the circle what did E do? A. He ran after him. And when he was crossing, that's when that's w- this is when the</pre>
	NR. TEURY: Chjection; hearsey. NR. TEURY: Chjection; hearsey. NY MS. NYIKOS: O. Did you suswar to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the hearbors? THE MUINES; No. NY MS. NYIKOS; Q. Ware you recruited by Salvador? A. Yes. Q. Okay. THE COURT: I'll lat him answar that. MR. TERRY: It would still be heareay, Judgs. (Overlapping speakers) THE COURT: He can testify if he's	24 25 1 2 3 4 5 5 7 8 5 20 11 22 12 12 12 12 12 12 12 12 12 12 12	<pre>indulgence. indulgence. BY MS. NYTHENS: Q. Now, the kid who got shot that night, com you describe him for me? A. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. No. Q. And just before he got shot what was he doing? A. He was in the circle He was fighting, pretty sure, and then he was out of the circle. Q. Now, when he her out of the circle when did E do? A. He run after him. And when he was crossing, that's when fingt's w- this is when the kid crossed, this is the</pre>
	NR. TEURY: Chjection; hearsey. NR. TEURY: Chjection; hearsey. NY MS. NYIKOS: O. Did you suswar to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the members? THE MINES; No. NY MS. NYIKOS; Q. Ware you recruited by Salvador? A. Yes. Q. Okay. THE COURT: I.'ll lat him answar that. MR. TERRY: It would still be hearsey, Judgs. (Overlapping speakers) THE COURT: He can testify if he's recruited by Salvador.	24 25 1 2 3 4 5 5 7 8 5 10 11 22 12 12 12 12 12 12 12 12 12 12 12	<pre>indulgence. indulgence. BY MS. NYINDS: Q. Now, the kid who got shot that night, con you describe him for me? A. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. 80. Q. And just before he got shot what was he doing? A. No is the foirdle. Q. And just before he got shot what was he doing? A. No was in the foirdle. Q. Now, when he was out of the circle. Q. Now, when he was out of the circle what did E do? A. He run after him. And when he was crosseling, that's when itst's this is when the kid crossed, this is the MR. TEREX: Judge, he answered the</pre>
	<pre>NR. TEURY: Chjection; hearsey. NR. TEURY: Chjection; hearsey. 30 0. Did you senswer to Salvador? A. Most of THE COURT: Mold it. Did you participate in recruiting the herbors? THE COURT: No. BY MS. NYIKOS; 0. Were you recruited by Salvador? A. Yes. 0. Okay. THE COURT: It'll Lat him emsear that. MR. TERRY: It would still be heareay, Judge. THE COURT: He can testify if he's recruited by Salvador. MR. TERRY: It assumes facts not in</pre>	24 25 1 2 3 4 5 5 7 8 5 10 11 22 12 23 14 15 12 24 12 12 12 12 12 12 12 12 12 12 12 12 12	<pre>indulgence. indulgence. BY MS. NYTHENS: Q. Now, the kid who got shot that night, com you describe him for me? A. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. No. Q. And just before he got shot what was he doing? A. He was in the circle He was fighting, pretty sure, and then he was out of the circle. Q. Now, when he her out of the circle when did E do? A. He run after him. And when he was crossing, that's when fingt's w- this is when the kid crossed, this is the</pre>
	<pre>NR. TEURY: Chjection; hearsey. NR. TEURY: Chjection; hearsey. NR. Most of Nest of Nest CURT: Mold it. Did you participate in reconsiting the herbors? THE CURT: Mold it. Did you participate in reconsiting the herbors? THE CURT: Mold it. Did you participate in reconsiting the herbors? NR. NERS; NR. BY MS. NYIKOS; Q. Were you reconsided by Salvador? A. Yes. Q. Okay. THE COURT: It'll Lat him answar that. MR. TERRY: It would still be hearsey, Judge. (Overlapping speakers) THE COURT: He can testify if he's recruited by Salvador. MR. TERRY: It assumes facts not in svidence that Salvador said constining. You know,</pre>	24 25 1 2 3 4 5 7 8 5 7 8 5 1 2 1 2 5 1 2 1 2 3 4 5 7 8 5 1 2 3 4 5 7 8 5 1 2 3 4 5 7 1 2 3 4 5 7 1 2 3 4 5 5 7 1 2 5 1 2 5 1 2 5 1 2 5 1 2 5 1 2 5 1 2 5 5 5 7 1 2 5 5 5 7 1 2 5 5 5 7 1 2 5 5 5 7 1 2 5 5 5 7 1 2 5 5 5 7 1 2 5 5 5 7 1 2 5 5 5 7 1 2 5 5 5 7 5 7 5 5 5 5 7 5 7 5 5 5 5 7 7 5 7 5 7	 indulgence. BY MS. NYTHERS: Q. Now, the kid who got shot that night, con you describe him for me? A. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. 80. Q. And just before he got shot what was he coing? A. Now, when he can out of the circle. Q. NOW, when he ran out of the circle what fide doy A. He run after pin. And when he was crossing, that's when figt's v- this is when the kid crossed, this is the i MR. THERY: Judge, he answared the question. He ran after him, That's the question.
	<pre>NR. TEURY: Chjection; hearsey. 30 0. Did you enswer to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the tembors? THE MURNES; NO. BY MS. NYTHOS; 0. Were you recruited by Salvador? A. Yes. 0. Okay. THE COURT: It'll Lat him enswer that. MR. TERRY: It would still be heareay, Judgs. (Overlapping speakers) THE COURT: He can testify if he's recruited by Salvador. MR. TERRY: It assumes facts not in evidence that Salvador said consthing. You know, will you join a fratemity? What's the difference</pre>	24 25 1 2 3 4 5 5 7 8 9 10 11 22 14 15 24 10 12 12 12 12 12 12 12 12 12 12 12 12 12	 indulgence. BY MS. NYTHERS: BY MS. NYTHERS: Q. Now, the kid who got shot that night, con you describe him for me? A. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. 80. Q. And just before he got shot what was he doing? A. Now, when he ran out of the circle. Q. Now, when he ran out of the circle what did before? A. Me run after bin. And when he was arosping, that's when fink's w- this is when the kid crossed, this is the MR. TERRY: Judge, he answered the question. He ran after him. That's the question.
	<pre>NR. TEURY: Chjection; hearsey. 30 30 0. Did you enswer to Salvador? A. Most of THE COURT: Hold it. Did you participate in recruiting the members? THE MINNES; NO. BY MS. NYIKOS; 0. Were you recruited by Salvador? A. Yes. 0. Okay. THE COURT: It'll Lat him enswer that. MR. TERRY: It would still be hearsey, Judgs. (Overlapping epeakere) THE COURT: He can testify if he's recruited by Salvador. MR. TERRY: It assumes facts not in evidence that Salvador said comsthing. You know, will you join a fratemity? What's the difference between that and somehody saying yos. It has to</pre>	1 25 1 2 3 4 5 6 7 9 10 12 11 12 12 14 15 14 16 19 20 21	<pre>indulgence. Indulgence. BY MS. NYLHOS: Q. Now, the kid who got shot that night, com you describe him for me? A. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. No. Q. And just before he got shot what was he coing? A. No was in the joirdle. He was fighting, pretty sure, and then he sen out of the circle. Q. Now, when he rem out of the circle what did E do? A. Me run after him. And when he was crossing, that's when fight's w- this is when the kid crossed, this is the MR. UNREX: Judge, he answered the question. He run after him. That's the question. The CONET: Diay, go shead. BY MS. NYEROS; A. NYEROS.</pre>
	 NR. TEURY: Chjection; hearsey. NR. TEURY: Chjection; hearsey. NR. TEURY: Chjection; hearsey. O. Did you senseer to Salvador? A. Most of THE COURT: Hold it. Did you participate In recruiting the membern? THE NITNES; NO. BY MS. NYIKOS: Q. Were you recruited by Salvador? A. Yes. Q. Okay. THE COURT: I'll lat him answar that. MR. TERRY: It would still be hearsey, JUdge. (Overlapping speakers) THE COURT: He can testify if he's recruited by Salvador. MR. TERRY: It assumes facts not in evidence that Salvador. MR. TERRY: Jt assumes facts not in evidence that somebody saying yes. It has to assume facts not in evidence. 	1 2 2 2 1 3	 indulgence. BY MS. NYTHONS: 32 Q. Now, the kid who got shot that night, con you describe him for ma? R. Short, black hair. Maxican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. 80. Q. And just before he got shot what was he coing? A. Now, when he can out of the circle. Q. Now, when he rea out of the circle what did m do? A. He rem after him. And when he was crossing, that's when that's is when the kid monsed, this is the MR. TEREX: Judge, he answared the question. He rem after him. That's the question.
4 5 77 9 9 1. 8	NR. TEURY: Chjection; hearsey. 30 30 0. Did you enswer to Salvador? A. Most of WHE COURT: Hold it. Did you participate in recruiting the members? THE MINNES; NO. BY MS. NYIKOS: 0. Were you recruited by Salvador? A. Yes. 0. Okay. THE COURT: I'll Lat him answer that. MR. TERRY: It would still be hearsey, Judge. (Overlapping speakers) THE COURT: He can testify if he's recruited by Salvador. MR. TERRY: It assumes facts not in syldence that Salvador said something. You know, will you join a fraternity? What's the difference Detween that and somebody saying yes. It has to assume facts not in syldence. THE COURT: Let me put it this way, did	1 25 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 1 2 <	 indulgence. BY MS. NYINDS: Q. Now, the kid who got shot that night, con you describe him for me? R. Short, black hair. Mexican. Q. About how old was he? A. 14, 15. Q. Had you ever seen him before? A. No. Q. And just before he got shot what was he coing? A. No. Q. And just before he got shot what was he coing? A. No. M. Now, when he rem out of the circle. Q. Now, when he rem out of the circle what did E do? A. He rem after him. And when he was crossing, that's when bing's w- this is when the found is the induced, this is the MR. TERRY: Judge, he answared the question. He rem after him. This 's the question. THE COURT: Diray, go ahead. BY MS. NYIKOS: Q. So what did he do when he was crossing

ئ ە				
1	Q. And what was is dedno? 30	11	THE COURT Hearsey.	35
2	A, Chasing him. The same as for Giovanni.	2	THUS WIINESS: What I saw the defendant	
3	Q, And	3	do, Judge, your Hanor	
4	THE COURT: He testified to this already.	4	THE COURT: You can bestify what you	
5	We're just going over it.] 5	beand him say and whois you saw him do.	1
6	EY MS. NYIKOS:	6	THE WINDERS: What I caw and what I beard	
7	Q. Did you see where this kid got shot,	7	is what I'm telling you. They were fighting for the	
8	where on his body?	ą	gan,	
9	A. In his back. He was rimning and then cut	9	MR. ZERNY: Cojection,	
10	of the blue he just fell.	ho	THE WITNESS: Hold ou, dude.	
11	Q. Now, you said earlier that 5 and Giovenni	21.	MR. IMARY: Frate not in evidence.	
13	ware fighting for the gun. Were they doing this	12	MS. JIMENEZ: Ne's testifying to it.	
73	while they were chasing the kid?	ĥa	' That's in evidence.	
14	MR. TERRY: I don't know that that's an	14	THE COURT: That's in evidence. He	
15	accurate characterization of the testimony, Judge.	2.5	observed that, Go shead,	1
1.6	If it is, I yield to you and the record.	16	THE WIINESS: Like I was saying, they	
17	THE COURT: I don't think they were	47	wars fighting for the gun, and out of the blue he	1
3.0	arguing over it then. I'm not clear on that myself.	20	cocked the gun back and he ran in the street and ahor	
1,9	Lat him clear it up. See if you can,	19	him,	
20	BY MS. NYIKOS:	ko j	THE COURT: Who's ba?	
21	Q. Could you bear anything that was	21	THE WIITES: Evaristo.	
22	happening while E and Giovanni were chasing this kidy	22	You know, it was	
23	A. Yeah. I mean they were fighting for the	23	THE COURT: Hold it. There is no	ĺ
24	gun. I had the gun. Giovanni was asking for the	44	quest i.cn.	[
25	gun. And they just supped like by the stop sign,	25		

1	and then like he was like, I got it, because Giovarni 34	1	BY MS. NYTHOS: 36
2	was like, give me that fucking gun. I'm going to	2	Q. Ast for clarification, 8 is avariato?
3	kill him.	3	A. SÍ, Yeg,
4	Q. What tone of voice was Giovanni using	4	MS. MYIKOS: Pass the wittesn.
\$	when he was saying that?	5	1151 COURT: Just a minute.
б	MR. HERRY: What again would be bearsay.	6	
7	Nove to strike.	7	(Aftar a racess the following
8	MS. NATKOF: Judge, I'm brying to get in	8	proceedings were had.)
9	a hearsay objection as excited utterance.	9	F — ·
0		2.0	Okay, Mr. Terry, the state has
1	(Ovarlapping speakers	L1,	Linished direct examination, so you can
2		12	cross-exquine,
3	THE COURT: Ask what the defendent Ald.	1.2	MR. THREET Them's you,
4	Why are we getting into all this. Ask what the	14	
5	defeudant did,	1.5	CROES-EXAMINATION
б	MS. JIMENEZ: Judge, it's relevant to	16	ay ber. THREY:
7	what's going on. The fact that they're acting	1.7	Q. Good morning.
3	begainer. The fact that they're part of a gang. The	20 J	A. Good moming.
9	fact that	<u> </u> 9	Q. Just ap we're plear, the gantleman that's
0	THE COURT. Me already know that, Me got	20	neated to my right, what is his full name?
1	that astablished as far as I'm concerned. What did	21	A. Weristo Jonalhan
2	he observe the defendant do.	22	Q. Spell dt, please.
)	MR. MERRY: So the objection is any	23	A. I dan (t. kraw.
ι	statement made by other individuals is sustained,	24	Q. Would you pronounce it a libele slower?
5	Judge?	28	H. Everisto.

			J
1	Q. Are you saying Evaristo? 3	7 1	you, she asked you about an incident on February 5; 39
2	A. Yes,	a	is that right?
ÿ	Q. Go alusad.	3	A. 6,
4	A, Jonathan Garcia,	4	Q. Fabruary 67
5	Q. Do you remember when the police saked you	5	A. It was on the 6th?
6	what his name was, you had to ask your mother, yes of	6	Q. I'm repeating what goungel asked you, '
7	11p7	17	w When she asked the questions, it was in reference to
ន	A. J don't think that happened.	8	February 6.
9	Q. Well, counsel asked you guestions in	2	P. Okay.
10	, reference to a statement that you made to the	1.0	Q. Now, my question is when did you receive
11	detectives, and just for the purposes of your	11	the head injury?
22	zecollection and comsel, just so you're plans, it's	12	A. Two weeks later.
13	this one have on 4-1.	13	Q. Now, I was not there when you got a head
14	Do you recall that you indicated	14	dajury, connect?
15	you knew S's name, but it was too hard to proucunce,	15	A, No.
26	at which time your mother provided the name, yes or	15	Q. No, it's not confract of yes, it is
17	2007	37	
18	A. Yes.	la la	A. Yea.
19	Q. Now, at a point in time prior to February	19	Q. Z was not present, conject?
20	of '05, did you receive a head injury?	20	A. Yes.
21	A. Yeu.	22	Q. You were shot in the bead, right?
22	Q. Were you in fact shot in the head?	22	A. Yes.
23	A. Yes.	23	Q. When you spoke to the police it wasn't in
24	Q. And which portion of your head received	29	Pebruary, connect?
25	that injury?	25	A. 208.
			(' '
			1 ·
2	A. My left side right here. 38]1	Q. It wasn't in March sither, correct? 40
2	Q. Let the record reflect he's pointing to	2	April 1/
3	his left.	3	A. It was late April.
4	And where did the bullet 90?	4	Q. Your recollection is that it was late
5	A. Well, I'm pretty sure the hollow point	5	Auril?
6	went up, that's how my head got split, and then the	6	A. Or early,
7	hellow, it hurst in my head.	7	Q. Now, when they asked you when this
e	Q. And as a result you had some brain	8	alleged shooting occurred at the school that you have
g	surgery, correct?	9	
20 1	A, Yes.	1.0	described, you didn't know is that righty you
11	Q. Vairly extensive, percept?	11	dion't have if it was February, March, or any other
12	A. Yes.	12	scribl, consect, yes or no? A. I knew
		-	ana a Aklasav. A l

3.3

14

15 16 17

18

19 30

þ1

22

23

64

25

g.

А,

Q٠

Α,

Q.

٨.

Q,

А.

Q.

correct?

Yes or no?

I knew ~~ yes,

was already a fight going on, connect?

Yeg.

Yes,

Yes,

All zight.

Now, when you arrived at the school there

Okay. And you observed that fight,

So you weren 's going there to start a

ł

fight, you were going there, and when you got there,

ł.

than was a fight already going lon, contract?

13

g.

Α.

Q,

А,

٥.

n.

Q.

Ά,

Q,

A,

 $\boldsymbol{\Omega}_{1}$

occniiii?

No,

No,

2006.

And that affected your memory, corvect?

A little bit. Okay, When did bhat

When crunsel directed questions to

Didn't affect your memory?

Affect your speech?

Fabruary 18, arcand 52.

A little bit.

When in 2006?

February 18.

ų.					
2		THE COURT: 1s that yes?	1 52	1 fight. That was your question. Me was trying to	43
2		THE WITNESS: Yes,	2	2 arrenar 15,	
З	BY MR. TH	RRY)	3	3 BR MR. TERRY	
4	9.	And when you got in the automobile, you	4	4 Q. Were there girls and boys involved in th	ucia
5	knew that	you wake going there	4	\$ fight?	
6	А.	To fight.	G	б А., GLYS,	
7	Q.	for a reason, correct?	7	7 Q. All guys?	
a	Α,	To fight.	8	6 A. Yns.	
9	Q.	Is that correct?	9	9 Q. And just so we're clear, who is in the	
10	A,	Yes.	ho	o vehicle that you want to the school with slowly,	
11	Q.	All right. I didn't ask you for what.	þя	_	
12	A.	Okay,	12		
1,3		MR. TERRY: So I move to strike that as	L3	3 Q. So there was a girl in the car, righty	
1.4	nonnasboni	aive, Judge.	1/3	A. Yes.	
15		THE COURT: OKAY.	15	5 Q. NOW, YOU'VE testified you are a gang	
36	sy Mr. Tor	ary:	16	6 member, correct?	
17	Q,	You know you were going there for a	L7	7 A. 25%.	
18	reason, co	mrege?	4.8	9 Q. Was the girl a gang member?	
נ פג	Α.	Yes.	19	9 A. XO.	
20	Q.	Nhen you got there a fight was already	20	Q. There was any other ferales in the darr	
21	going on,	coursect?	21	L A. No.	
22	А,	Yep.	32	Q. When you got in the car, B, as you refer	
23	Q.	So for whatever reason you would have	33	_	
24	went there	, it didn't make any difference because	44		
2S	there was	almeady a fight occurring, correct?	25	Q. Muen you got in the car?	

		of here we are a subject of the second second second second second second second second second second second se			the second second second second second second second second second second second second second second second se		
1	A .	Yes,	42	1	А.	Ne had a gun.	44
3	Q.	All right. Now, when you looked over a	nd	z	Q.	When you got in the cor?	
3	aay that	fight, wara there men and women involved i	11	э	А.	He had a gun.	
4	that Eight	17 And when I say men and woman, hoya and		4	Q,	When you got in the car?	
5	girls, me	and worken, themage worken, teenage boys?		s	А,	I was not in the car. I was in the back,	
đ	A.	There was only guys.		6	but he had		
7	Q,	Coly guys?		7	Q.	You were in the back of a car?	
Û	A.	There was girls there.		8	Å.	Yeah,	•
9	Q.	Only guys, correct?		9	Q.	And that's not in the car?	
10	\mathbf{A}_1	The school just got out, so there was ~-		10		THE COURT: Hold it, hold it. She cannob	
11	Q.	Just maswor my quastion.		11.	take lei	: him answar and walt until he finishes the	
12				13		fore you answer.	
13	ſ	(Overlapping speakers)		13		MR. TERRY: These are all yes and nos,	
14				14	Judge.	- · · ·	
15		THE CAURT: Hold it, hold it, hold it.		ıs		THE COURT: I know, but just state your	
16		MR. TORRY: I don't cure if achool just)	16	question.	·	
17	ສູດະ cut, ປ	nyjče '	þ	.7	DY MR. TERR	X	
18		THE WITNESS: Then I answered hip	μ	.	Q.	Were you in a gar?	
19	question.		þ	9	А.	Yes	
20			þ	i0]	Q,	Were you in the back seat?	
21		(Overlapping speakers)	þ	1	А.	Yes,	
22			2	2	Q.	Before you got in the car I did not have	
23		THE COURT Hold it, hold it.	2	3	a gin, corr	eçit.?	
24		You asked him in relation to the	þ	4	Х.	I answared that question, map. I said	
នទ ¦	fight were	there girls and gays involved in the	2	5	yes.		

Andreastry and the second second second second second second second second second second second second second s	STRANSPORTATION CONTRACTOR AND AND AND AND AND AND AND AND AND AND		₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩
•	-far		
1	Q. Answer it due wors time. 45		EY MR. TERRY:
3	A. E had a gan.	2	Q. You testified that you got out of the
	Q. When did he get the gun?	2	car, correct?
4	A. Before he get in the car.	4	A. Yes.
5	Q, When?	5	Q. And you want over and participated in the
6	A. Bafors ha got in the car.	6	fight, coursell?
7	Q. When? At a house?	12	- A. Yes.
8	M9. JIMENER: Objection; asked and	ą	Q. And that the flight was already ongoing
9	enswered. Re's lattering the witness.	9	before you jusped in, correct?
10	MR. TERRY: It's not battering. It's	10	А, Үер,
11	asking for an answer, Judge.	a	9. Did anybody strike that,
12	THE COURT: Hold it, hold it. Let's just	12	Did E direct you to participate in
13	sinner down here.	13	that fight verbally in the car after you observed the
14	THE WITNESS I'm supposed to say like	14	fight was already going on?
19	the minutes that he got the gun?	5	A. What do you mean?
15	THE COURT: Hold it. Aust Listen to his		Q. Exactly what I asked, did E direct you to
17	question. Do you know when he got the gun?	17	purticipate
10	THE WITNESS: Before he got in the car.	L.e	A. NO.
19	Pive minutes before,	2.9	Q. The answer is no, correct?
20	BY MR, TERRY:	20	A. Yes.
31.	Q. Nas it directly before?	bi	MR. TEFRY: Could I have the Court's
22	A. Yes.	22	induktional
23	0. Was it two minutes before?	23	THE COURT: Sura.
24	A. It was before he got in the car.	44	BY MR. TERRY:
26	Q. Was it two minutes before?	jş	Q. When you observed an intividual that you
2.9		_j.à	Al state las concerned by and state last
ĩ	A. Again, dude, it was perfore he got in the 46	1	described as the individual that was ultimately shop, 48
2	car. It was five minites.	2	when you observed him run from the circle, as you put
3	Q. Five minutes before?	3	it, did you also non after him, yes or no?
4	A. Before he got in the car.	4	A. NO. I gol
5	Q. Flys minutes before, Mr. Karper, right?	в	Q. Where did you remain? Where did you
ទ	A. ¥¢\$,	5	remain?
7	Q_{\star} · And you were aware there was a gum in the	7	A. What do you mean, like in the circle?
\$	cer, contects	в	Q. Where were you?
و ا	A. Yes.	9	A. I was in the dirdle, and then when they
10	Q. What are guns used for?	1.0	ran, I ran out of the dircle.
1,1	a. To protect.	11	Q. You anywayed my question.
12	Q. Andit	12	My question was where were you,
13	A. And shoot.	13	and you stated you were still in the circle, correct?
14	Q. As a gang member, you have testified you	14	А. учар,
15	wans a gang member, did yow ever carry a gun?	ЦВ	Q, Yqg)?
20	A, No.	15	Were you still fighting?
1.7	Q. Never carried a gun?	17	A. Water?
	a, anartan araanan ar 2008. Ni te⊥		

1.8

1.9

20

21

22

13

24 25 Q.

Α.

Q,

circle --

Α.

Q.

where were you?

Yeş .

When you wara in the circle.

effect go after the individual that had left the

I was fighting when they were fighting.

Ł

- . that was already shot, that was shot,

t

My question is when you observed E in

NO.

Wa all did.

Now, you testified that you get out of

the car and you want over to the fight, contect?

No. listen to my quastion.

THE COURT: Idsten,

THE WIINESS: Yes.

А.

Q.

А.

Q.

.

18

1.9

20

21

22

13

24

ť					
1.	А.	These 2 was running after, I saw running 49	1	Linat opdasion?	51
2	out of the	e circle.	2	A, NO,	
3	Q.	You were running after the same boy,	3	Q. Quay. So did you wan before the police	
đ	correct7		4	-	{
5	A.	I was just running out of the circle.	5	A. I ran when I beard gunshots.	
ę	Q.	Where were you running?	б	Q. Listen to my question, Mr. Rapper,	
7	A.	Out of the circle. And then	7	Your teatimony on direct	
8	Q.	let me try this one more time. Where	а	examination was that when you saw the police, you	
9	were you i	undate?	9	- Tal)	1
10	, д.	To the street.	20	My question is did you actually	ļ
11	ູ .	Ckay. Were you going after 5; yes or no?	11	ses the police and that is what caused you to nun?	
12	A.	No.	12	A, I beard sizens.	
13	Q.	Here you going after Sal, yes or no?	2.3	Q. My question is did you actually see the	Í
14	A.	No,	ļlą.	police	
15	Q.	Were you headed in the same direction as	45	A, No.	
16	the boy th	at you indicated was shot, was running, yes	15	Q and is that what caused you to run?	
17	or 1107		<u>17</u>	A. No.	Í
18	А.	Can you phyase the question before I	pe	Q. But you devicually heard	
19	answar tha	t question?	19	A. I tan	
30	Q,	I'll ank it again.	20	Q. Listen to the question,	Į
21	A.	Yeah.	21	MS. NYINOS: Judge, asked and answered at	- [
22	Q,	Were you also running after the	22 (this point. He already said he heard the sizers, and	
23 j	individual	that you testified that was ultimately	23	that's not he dich't run because he say the	
24	shot; yes a	or no?	24	police.	i
25	А,	Ves.	25	THE COURT: That's what he paid,	

50 Q. So you were chasing him, correct --52 7, ١Ŧ. MR. TERRY: That's fine. 2 A, Xes. 2 BY MR. THRRY, э ö. •• уча ок ло? 3 g, Do you remember that this taped 4 Yer7 ¢. interview -- this is going to be page 3, counsel. I was running out of the circle. 5 Α, 5 MS. NYIKOSI Thank you, 6 And you were chasing the boy; yes or no? Ö, б SY MR. TERRY 7 А. I was chasing. I was running with them. 7 Ô. Page 3. Do you remember that when the Ø You were running in the same direction as Q, 8 police did a taped interview you were asked, who is 9 Sal and, E? 9 B, and you stated, I don't know; yes or no? 10 A. Yep. 10 А. Yes. Were you also chasing the boy; yes or no? 31 Q, 11 Do you remember being asked if anybody α. 13 Ά. NO. 12 was talking in the car while you were driving to the 13 Ö. You weren't chasing the boy? 13 school7 34 Α. No. 14 MS. NYIXOS: Page, company. 15 φ. You were just running after E and Sal? 15 MR. TERRY: Page 6, Mea. I was just brying to get out of the 16 А. 16 BY MR. TERRY; chrite 17 17 Do you remember being asked that question ' Q. 3,0 Q, These are yes and nos. ιa by the police --19 А. OXAY. រទេ , A. Did I hear --20THE COLET: No answered. 20 ĝ. -- un April 17 21, BY MR. TIFRY: 21. Д. Yes. 22 Now, you indicated when you observed the 272 Q. Q., The question is were you asked if you 23 police you left, you ren; is that convert? 22 recalled anybody talking in the car when you ware 24 A. Yes. 24 going to the school? 25 ģ, Did you accusily see the police arrive on b5 λ. Aud I just said yes,

	Alfall HMA more references in the second		4
2	g. And you said up, 5.	3 1	boy? 1 . 35
2	A, In the statement?	2	And Annu needowee Mere:
۹	MR. THURKY: May I approach?	3	Cus, um, Mitcle One
Ą	THE COURT: Sure, show him the	4	(unintalligible) him, continuing, police.
5	statement.	ş	Little One told him to?
6	MR. TERRY: I WILL.	G	ANSWER: No, provoked him.
7	BY MR. UNITERY	7	3 QUESTION: ' Provoked him?
Ø	Q. I show you the battom, page 6, the	8	Auswer: Yesh.
9	question was: And was anybody talking in the car	9	QUESTION Okay
Ŭ.	while you were going to the school, and your response	ρų	THE COURT: Is this his statement, what
17	was no, correct7	þ. 1 .	he's saying?
12	A. Okay.	12	MR. RERRY That & Correct.
13	Q. Is that correct?	8.3	THE COURT: Okay.
4	А. Үев.	µ 4	BY MR. THRRY
6	Q. So all the way from where you left to	10	a.
6	when you got to the school nobody was talking, right?	15	QUESTION ORAY, UM.
7	Right?	17	ANSWER: Peer prossure.
8	А, Үдв.	4.8	CORSTICN Pressure?
9	Q. Do you remember being asked by the	þs	Yeah.
•	police: And you were going to the school because of	ho	QUESTION: Why would there be
r	a fight, hot to fight, do you remember that?	21	pressure?
2	A. Yes,	22	AMSWER: (Because Little One Ugld
5 I	Q. And Your response was yeah page 7,		
1	at a state from a strategic strate a second and the	23	j Isim, j
1	coursel. Your response was yeah, right?	23 24	bo you recall telling the police
15			
- - - -	counsel. Your response was yeah, right? A. Yes.	24	bo you recall helling the police
	counsel. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴	24 25	bo you recall helling the police all timt? \$ A. You. 56
	 counsel. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ wwww going to the school because of a fight, correct? 	24 25 1 2	Do you recall helling the police all timt? A. Yos. Q. Because 2 was pressured, that's what your
	<pre>counsel. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ www going to the school because of a fight, correct? A. Yes.</pre>	24 25 1 2 3	Do you recall helling the police all timt? A. Yos. Q. Because 2 was presented, that's what your indication was to the police, correct?
	 counsel. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ warm going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whather or not 	24 25 1 2 3 4	bo you recall telling the police all timt? A. Yos. C. Because 2 was presenred, that's what your indication was to the police, correct? A. Feer pressure, yeah.
	 counsel. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you 54 warm going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at 	24 25 2 3 4 5	bo you recall helling the police all timt? A. Yos. C. Because 2 was presented, that's what your indication was to the police, correct? A. Feer pressure, yeah. C. By when?
	 counsel. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? 	24 25 1 2 3 4 5 6	bo you recall telling the police all timt? A. Yos. C. Because 2 was presenred, that's what your indication was to the police, correct? A. Feer pressure, yeah. C. By when? A. Giovanni. Little Cnq.
	 counsel. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ wwww going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not yra jusped in the fight that was going on already at the school? A. Yes. 	24 25 1 2 3 4 5 6 7	bo you recall telling the police all timt? A. Yos. Q. Because 3 was pressured, that's what your indication was to the police, correct? A. Rear pressure, yeah. Q. By when? A. Giovanni. Little Cne. Q. Do you recall telling the police in
	 counsel. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was 	24 25 1 2 3 4 5 6 7 8	bo you recall helling the police all timt? A. Yes. Q. Because 2 was pressured, that's what your indication was to the police, connect? A. Peer pressure, yeah. Q. By when? A. Giovanni. Little Cnq. Q. Do you recall telling the police in response to the question; !
	 counsel. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ worw going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yea? 	24 25 2 3 4 5 6 7 8 9	bo you recall helling the police all timt? A. Yes. So Decause 2 was pressured, that's what your indication was to the police, correct? A. Rear pressure, yeah. Q. By when? A. Giovanni. Little Cnq. O. Do you recall telling the police in response to the question; i Before you got there, there being
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you 54 worm going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yea? A. Yes. 	24 25 2 3 4 5 6 7 8 9 10	bo you recall helling the police all timt? A. Yes. C. Because 2 was pressured, that's what your indication was to the police, correct? A. Peer pressure, yeah. C. By when? A. Giovanni. Little Cnq. C. Do you recall telling the police in response to the question: Before you got there, there being the acheel, did you know who had the gun?
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ www going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yea? A. Yes. Q. Do you remember teiling the police that 	24 25 2 2 3 4 5 6 7 8 9 10 12	bo you recall telling the police all timt? A. Yos. G. Because 2 was presenred, that's what your indication was to the police, correct? A. Rear preseure, yeah. G. By when? A. Giovanni. Little Ong. G. Do you recall telling the police in response to the question: Before you got there, there being the school, did you know who had the gun? And your response was Puppet.
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you 54 warm going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not yea jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was year? A. Yes. Q. Do you remember teiling the police that after this incident 5 told you he was acared? 	24 25 2 3 4 5 6 7 8 9 10 12 12	bo you recall telling the police all timt? A. Yos. G. Because 2 was presenred, that's what your indication was to the police, correct? A. Rear preseure, yeah. G. By when? A. Giovanni. Little Ong. G. Do you recall telling the police in response to the question: Before you got there, there being the school, did you know who had the gan? And your response was Puppet. Do you(recall telling the police
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was year? A. Yes. Q. Do you remember tailing the police that after this incident 5 told you he was acared? A. Yes. 	24 25 2 2 2 2 2 3 4 5 6 7 6 9 10 12 12 12 12 13	bo you recall helling the police all timt? A. Yos. C. Because 2 was presenred, that's what your indication was to the police, correct? A. Beer pressure, yeah. C. By when? A. Giovanni. Little Cnq. C. Do you recall telling the police in response to the question; ! Before you got there, there being the school, did you know who had the gun? And your response was puppet. Do you; recall; telling the police all that?
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yes? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember telling the police that 	24 25 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	bo you recall helling the police all timt? A. Yos. C. Because 2 was presenred, that's what your indication was to the police, correct? A. Beer pressure, yeah. C. By when? A. Giovanni. Little Cnq. C. Do you recall telling the police in response to the question; ! Before you got there, there being the school, did you know who had the gun? And your response was puppet. Do you; recall: telling the police all that? A. No.
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not yra jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yea? A. Yes. Q. Do you remember tailing the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember tailing the police that 	24 25 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	bo you recall telling the police all timt? A. Yos. C. Because 2 was presenred, that's what your indication was to the police, correct? A. Beer pressure, yeah. C. By when? A. Giovanni. Little Cnq. C. Do you recall telling the police in response to the question; Before you got there, there being the school, did you know who had the gun? And your response was puppet. Do you; recall: telling the police all that? A. No. C. Okay. Pege 18, counsel.
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yea? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acamed? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acamed? A. Yes. Q. Do you remember telling the police that be abot the hoy because scatebody provoked him? MS. MYRAS: Christian. 	24 25 1 2 3 4 5 6 7 8 9 10 12 12 13 14 15 16	bo you recall telling the police all timt? A. Yes. Q. Because 2 was presented, that's what your indication was to the police, correct? A. Peer pressure, yeah. Q. By when? A. Giovanni. Little Cnq. Q. Do you recall telling the police in response to the question; Before you got there, there being the school, did you know who had the gun? And your response was Puppet. Do you;recall telling the police all that? A. No. Q. Okay. Pege 18, counsel. Just so we're clear, so the Court
	 COURSEL Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yea? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember telling the police that be abot the hop because screebody provoked him? MS. MINES: Chjection. MR. TERM: Engl 15 and 16. 	24 25 2 2 3 4 5 6 7 8 9 10 12 12 13 14 15 16 17	bo you recall telling the police all timt? A. Yes. Q. Because 3 was presented, that's what your indication was to the police, correct? A. Peer pressure, yeah. Q. By when? A. Giovanni. Little Ong. Q. Do you recall telling the police in response to the quastion; Before you got there, there being the school, did you know who had the gun? And your response was Puppet. Do you; recall telling the police all that? A. No. Q. Okay. Pege 18, counsel. Just so we're' clear, so the Court knows, who was Puppet; what was the name?
	 COURSEL Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ warw going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yes? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember telling the police that he hey because scnebody provoked him? MS. MYINOS: Chjection. MR. TERM: Engl 15 and 16. NS. NYINOS: Nas this coping out of 	24 25 2 2 3 4 5 6 7 8 9 10 12 12 13 14 15 16 17 18	bo you recall telling the police all timt? A. Yes. Q. Because 3 was presented, that's what your indication was to the police, correct? A. Peer pressure, yeah. Q. By when? A. Giovanni. Little Cnq. Q. Do you recall telling the police in response to the quastion; Before you got there, there being the school, did you know who had the gun? And your response was Puppet. Do you;recall telling the police all that? A. No. Q. Okey. Page 18, counsel. Just no we're clear, so the Court knows, who was Puppet, what was the name? A. Beannal.
	 COURSEL Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not yran jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was year? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember telling the police that he shot the boy because scatched provoked him? MS. MYINES: Chjection. MR. TERRY: Bage 15 and 16. MR. TERRY: Is this en objection? 	24 25 1 2 3 4 5 6 7 6 9 10 12 12 13 14 15 16 17 1,8 9	 bo you recall helling the police all timt? A. Yos. G. Because 2 was pressured, that's what your indication was to the police, correct? A. Rear pressure, yeah. Q. By when? A. Giovanni. Liktle One. Q. Do you recall telling the police in response to the question; i Before you got there, there being the school, did you know who had the gun? And your response was Puppet. Do you; recall: telling the police all that? A. No. Q. Okay. Pege 18, counsel. Just so we're clear, so the Court Intows, who was Puppet; what was the name? A. Exampl. Q. Who is Ensurel? What's Ensurel's
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not yea jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was year? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was accared? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was accared? A. Yes. Q. Do you remember telling the police that be about the boy because scatchedy provoked him? MS. MYINGS: Objection. MS. MYINGS: Was this coming out of	24 25 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	bo you recall tailing the police all timt? A. Yes. Q. Because 3 was presented, that's what your indication was to the police, correct? A. Peer pressure, yeah. Q. By when? A. Giovanni. Little Cnq. Q. Do you recall telling the police in response to the quastion; Before you got there, there being the school, did you know who had the gun? And your response was Puppet. Do you; recall: telling the police all that? A. No. Q. Okay. Page 18, connael. Just so we'we'clear, so the Court Incase, who was Puppet, what was the name? A. Example. Q. Who is Enamel? What's Ensamel's A. Puppet.
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was year? A. Yes. Q. Do you remember tailing the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember tailing the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember tailing the police that he abot the hoy because scaebody provoked him? MS. MYINOS: Objection. MR. TERRY: Bage 15 and 16. MS. NYINOS: Nas this coping out of	24 25 2 2 2 2 3 4 5 6 7 8 9 10 12 12 14 15 16 17 1.8 0.9 20 21	bo you recall telling the police all timt? A. Yos. G. Because 2 was presenred, that's what your indication was to the police, correct? A. Rear presenre, yeah. G. By when? A. Giovanni. Little Cng. G. Do you recall telling the police in response to the question: Before you got there, there being the school, did you know who had the gun? And your response was Puppet. Do you; recall: telling the police all that? A. No. G. Okay. Page 18, counsel. Just só we're' clear, so the Court. Inteys, who was Puppet; what was the name? A. Beannel. G. Who is Brannel? What's Brannel's A. Augpet. G. What's Ensamel's Last name?
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yes? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember telling the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember telling the police that he shot the boy because scatchedy provoked him? MS. MYINOS: Objection. MR. TERMY: Page 15 and 16. MS. NYINOS: Nas this coping on of	24 25 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	bo you recall helling the police all timt? A. Yes. C. Because 2 was presenred, that's what your indication was to the police, correct? A. Rear pressure, yeah. C. By when? A. Giovanni. Liktle Ong. C. Do you recall telling the police in response to the question; ! Before you got there, there being the school, did you know who had the gun? And your response was Puppet. Do you recall telling the police all that? A. No. C. Okay. Pege 18, counsel. Just só we're' clear, so the Court knows, who was Puppet, what was the name? A. Exampl. Q. Who is Emanuel? What's Emanuel's A. Den't know.
4	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was year? A. Yes. Q. Do you remember tailing the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember tailing the police that after this incident 5 told you he was acared? A. Yes. Q. Do you remember tailing the police that he abot the hoy because scaebody provoked him? MS. MYINOS: Objection. MR. TERRY: Bage 15 and 16. NS. NYINOS: Nas this coming out of	24 25 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	bo you recall teiling the police all tint? A. Yes. C. Because 2 was presenred, that's what your indication was to the police, correct? A. Beer pressure, yeah. C. By when? A. Giovanni. Little Cnq. C. Do you recall teiling the police in response to the question; ! Before you got there, there being the school, did you know who had the gun? And your response was puppet. Do you; recall: teiling the police all that? A. No. C. Okay. Pege 18, counsel. Just so we're' clear, so the Court knows, who was Puppet, what was the name? A. Dayte. Q. What's Emanuel's Andres Parts? A. Dayt know. Q. Don't know?
	 COURSEL. Your response was yeah, right? A. Yes. Q. All right. So just so we're clear, you ⁵⁴ ware going to the school because of a fight, correct? A. Yes. Q. Do you recall being asked whether or not you jumped in the fight that was going on already at the school? A. Yes. Q. And do you remember your response was yea? A. Yes. Q. Do you remember tailing the police that after this incident 5 told you he was accord? A. Yes. Q. Do you remember tailing the police that after this incident 5 told you he was accord? A. Yes. Q. Do you remember tailing the police that he abot this boy because scaebody provoked him? MS. MYINES: Chjection. MR. TERRY: Page 15 and 16. MS. NYINCE: Not this en objection? BY MR. TERRY: Is this en objection? BY MR. TERRY: Q. The question is do you remember telling the police? A. No. Q. Do you recall being asked the question; 	24 25 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	bo you recall telling the police all timt? A. Yos. C. Because 2 was presenred, that's what your indication was to the police, correct? A. Rear presenre, yeah. C. By when? A. Giovanni. Little Cno. C. Do you recall telling the police in response to the question; ! Before you got there, there being the school, did you know who had the gun? And your response was Puppet. Do you recall: telling the police all that? A. No. C. Okay. Pege 18, counsel. Just so we're clear, so the Court knows, who was Puppet; what was the name? A. Exampl. Q. Who is Banauel? What's Ensamel's A. Den't know.

APP 000136

•

ጜ				
1	Before you got there, did you landw 37	2	ey MR. TERRY: 59	7
2	vius had u gun?	គ	Q. The question is did you ever tall the	
3	ANSWER: Rappet.	з	police you sold drugs, and your answer was yes,	
4	Is that your answer?	4	coursed:?	
9	A, Yee.	5	А. Хай.	Í
G	Q. Just so we're clear, Supper is not the	6	Q. The young ladies to my left are not	l
7	gentleman lines's seated at that same table with me,	7	police, they're deputy District Attorneys.	i
8	oorrect?	∫₿	Now, do you want to change your	
9	А. Үев.	19	testinony?	
20	Q. Do you remember being asked: Did you rea	20	A. Why would I do blat?	ļ
11	it, and your response being yes or yeah; do you	իդ	Q. Okay. Which police officer or detective	1
12	remanber that?	12	did you tell that you sold drugs?	
13	λ, γερ,	fia	A. Coly thing I'm prebty sure I said that	
14	Q. Do you remember being asked: Where was	1 4	to the police?	
15	the gun, and your response was well, you were	15	Q. You just said that you did.	
16		<u>16</u>	A. Yeah, but she's not a police.	
17		17	Q. Let try this again.	
18		18	A. She saked us a question and I told her,	
19		1.9	Q. You indicated on direct examination.	
20		bo (1	
21		22	(Overlapping speakers)	
22		aa	ļ	
23	The court: No.	23	THE COURT: Hold it, hold it, hold it.	
24		24	One at time. Wait until he gets finished, then you	
25		85	can answar, okey?	

2	BY MR. TERRY:	58	1		ಡಂ ಮಡಚಿತೆ	60
2	0. Do you remember telling the pol	ica that	â	BY MR. TH	RRX:	
3	Puppet told M to hold the gun; yes or no?		3	Q,	You indicated on direct examination	on that
4.	A. Can you rephrase that question		4	you sold i	ürugs, correct?	
\$	Q. Suxe.		5	A.	Yes,	
6	Do you remember telling	tha police	6	Q.	My question's simple, simple quest	sion.
7	that Puppet told is to hold the gun?		7		Did you tell the police the	at 7
8	А. Уся.		8	, A.	NO,	
9	Q. Now, did you tell the police th	at you	Ð	Q.	Nover told the police that?	
٥.	sold drugs?		10	Δ.	No .	
(1	A. Nes.		11	g,	Is that because they didn't ask?	
2	Q. Phone in that statement do you	tall the	12	А.	Yeo,	
з	police that you are or were a seller of dru	J8?	13	Q.	So you didn't volumteer that, righ	t7
4	A. They never asked.		14	д.	No. There was more	
ខ	Q. So when did you call the police	you sold	1.5	Q.	Now, were you promised that you wo	ulan':
6	drugs?		1.6	be prosecu	ted for this?	
7	A. When she just told me, when she	askecima. j	17	A ,	What do you mean?	
8	Q. When als just told you?	1		Q,	Baselly what the question says, We	erta you .
9	A. Atta dalted me.	1	9	prondeed y	ou would not be prosecuted for this?	•
۵	Q. I didn't bear her say to you, yo	virea 👌	10	А.	This?	
L	drug seller. She asked you a question.	p l	1	Q,	Xes,	
2	M9. JIMZEZ: Judge, he's clarif	And S	2	А.	Yes,	
s	binself,	þ	9	Q.	Okay. Wan mada you that promise?	One of
ł	THE COURT: Hold it, hold it, ha	uait, s	4	tliess alce	young indica to my lafty	
۶	MS, JIMENEZ: Chjeotion.	2	5		And if the answer is no. the	1618

		_		4 · · 4 · ·
	[
l	Cine.	6	1	statement when Detective Mogg on the bottom of page 3 63
3	A.	No,	2	
1	<u>р</u> ,	Who made you that promise?	9	
. 4	A.	Moss.	ी ब	1
5	Q.	The police officer, right?	S	1
6	- A.	Yes,	ø	
7	Q,	In fact, you haven't been prosecuted,	7	
8	right?		a	1
ę	Α.	Yas.	9	
10	g,	Even though you were in the car? Yes?	<u>до</u>	
11	A,	Yee,	L	BY M9. NYIKOSI
12	Q.	And you knew there was a gun? Yes?	12	
13	A.	Yes,	13	Q. Now, counsel asked you poont your
14	Q.	And you participated in the fight? Yes?	- F	statement earlier that started with, was anybody
15	А,	ман усл разсистраная то нае слорые тезу Үен.	14	calking in the car when you were going to school, and
16	A ,	res. MR. TERRY: Nothing further.	19	your answer was no.
10			μđ	He also asked you about whether
	و در معالم الم	Judga, just so we're clear, I	17	you were going there for a fight.
18	1	a copy of any documents where this young	ta Li	Do you remember telling the
19		en offsred a promise not to testify, and	19	detective when saked, Was thurs any resuch you were
20		tributing that to these DA's.	20	to go up there, and you said yeah?
21	,	THE COURT: If there's a document, if	a1	QUESTICN! Why?
22	unera a cre	a in existence.	22	Fight .
23		MR. TERRY: Correct,	43	Were you going chars to fight?
24		MS. Justing: There is no document.	24	A, To flight.
25			25	Q. Now, crunsel had asked you about your
				ji u ⊯
		·		
		•		
1	1	(Overlapping speakers) 62	Ĩ.	statement that Puppet had told E to hold the gun. 64
2		1 = , = , = , = , = , = , = , = , = , =	2	Did you see the gun back then
3 [MR. TERRY: They can't represent that	3	before you went to the school?
ą	unless they	've checked.	4	A. Yes,
5	4	THE COORT: I said if there's one in	Ş	Q. What kind of a gun was jt?
6	existence.	They said there isn't. I don't know if	6	A. A.9.
7		tion it or		
8	•	MS. NYIKOS: Judge, Mise Jimmes and I	8	Q. Now, when you say 9
9 -	were to how	lates, looked through the entire honicida	9	A. I don't know what kind. It was a g-millimater.
10		a every single piece of paper in it, and	1.0	
22		bes copies to Mr. Terry as well, so	1 1	Q. So it was a handguny
13		ting in that binder.	11	A. Yeah.
13		MR. TERRY: That doesn't mean they	22 13	Q. What color was it?
14	Were an Phon	a steed the question of the officer,	13	A. Black,
15		: walld be clear break.	1	Q. Now, this shocking you're testifying
16		F THE REPORT AND ADDREED ADDREED ADDREED][5] [15]	about today, was this before or affer you were shot
19			16	in the bead?

Å7

13

19

ko.

h1

22

29 24

45

А.

Q.

Α.

,

llefora.

Two weeks is what he said.

If that's the case -- i

7wo weeks.

About how long before?

i

MR. TRARY: Autod and answered, Judge.

MS. NYIKOS: Okay. I didn't hear it.

THE COURT: I didn't hear that either,

1

MR. TERRY: 3f neither the Court nor

ł

1.1

17

16

19

20

21

22

٦

25

BY MS. NYTHOS:

Q.

back time?

Α,

BY MS, NYEKOS:

ĝ,

REDIRECT EXAMINATION

Mogg in April, how were your communication skills

Notribie.

Jonathab, when you talked to Detective

MS. NYIKE: Hand page 3 and 4, counsel.

Wr. Terry had asked you about your

١		-		
1	counsel heard it, I'll withdraw the objection and let 65	1	(Overleyping speakers) 67	ĺ
2	him restate it.	Э		l
3	THE COURT: I don't recall,	3	Q. You said you want in the basis. Were you	1
4	M9, NYIWS: I didn't dither.	4	in the back in the bed of the truck?	i
5	(HE COURT: Go shead and ask it.	5	A. Yeah. I was laying fown.	
6	BY MS. MYLKOS:	6	Q. So you had people who were in the dah	
7	Q. About how long '	7	sitting, right?	
a	THE COURT: You may be right. I just	R	А. Уез,	
9	can't recall.	9	Q. And then you were in the back, right?	
10	THE WIINESS: Two weeks.	10	А, Хев.	
21	MS, NYIKOS) Nothing further,	[1]	Q. So a lot of things, where you were, you	
12	1	<u>h</u> 2	could not hear what was going on in the cab; is that	
13	Reciposs - Examination	μ	correct?	
- 14	ev Mr. Trary	þa	А, Уев.	
15	Q. One last series of questions, Mr. Harper.	25	Q. That's what I want to clarify, because an	
16	A. CKAY,	16	El Camino, which I had owned one, which is like a	
17	Q. Counsel asked you questions about you	17	fency truck, you know, con-truck thing, and that's	
18	ware going there to fight	he	when he said in the back, that's what I want to make	
19	A. To fight.	19	clear that he was in the back of the bad of the	
20	Q Correct?	20	truck, not in like in the back seat?	
31	That's a future act, right?	ar	A. Yezh,	
32	А. Үөд.	89	THE COURCE NOW, as a result of that do	
23	Q. Like I would say, I'm going to go	23	you have any further questions?	
24	shopping tanight, right?	24	MS, NVIKOS: None from the State,	
25	A. Yes.	25	MR. TERRY NO.	

		٦	
1	Q. But when you got there, there was a fight 66	1	THE COURT: Then you're excused. Thank 58
2	already going on, right?	2	you,
3	A. Yes.	3	(Witness acqued)
4	Q. All right. And you participated in that	4	
5	fight, correct?	5	Call your next witness.
б	A. Yes.	6	MS. JIMENEZ: Malissa Garboa,
7	MR. THRAY: Nothing further,	7	THE COURT: Remain outside. I'm going to
8	THE COURT: Anything else?	8	have you remain outside. You'll be excused by the DA
ø	M3, NYIKOG: No.	9	or the badliff.
10		10	THE CLERK: Please be seated,
11	EXAMINATION	11	Fluxin be sealed, State your full,
12	BY THE COURT:	.a	name and spell your name, plaase,
13	Q. I want to clear up scnething I think may	ei	THE WITNESS: My finne is Molissa Maria
24	be important,	14	Gamboa. M-q-1-1-a-a-a, G-a-m-b-o-a.
15	What kind of a vehicle let me	15	THE COURT: Now, Melissa, if the question
16	go baok. Who was all in the car again?	16	is asked of you by either of one of these attoineys
17	A. It was me, Evariato, Stapy, which is	1,7	that calls for a yes or no enswer, please state yes
19	Summel's girlfniced, and then Smanual.	18	or no. Don't shake your head and say ma-ham, because
19	Q. What kirl of car was it?	1.9	the court reporter cannot take that type of response.
20	A. A black El Camino.	2a	Do you understand that?
21.	Q. Was this a truck-type thing?	21	THE WITNESS: ORAY, YES.
22	A. It was like one of them, you know, like	la	THE COURT: Now, listen to the questions
aa	you can put the top on. It was like - it was like a	ia	carefully, and if they call for a yes or no answer,
24	timatit.	4	just state yes or no. Do you understand that?
25	ļ.	5	THE NUTNESS YEU,

1

EXHIBIT "F"
SALVADOR GARCETA TREAL VOL 11 8.23-2006

1 MR. HARPER: Yeah, Right here? 1 THE COURT: Yes. 2 THE BAILIFF: That's fine. Just stand right there, 2 BY MS. VILLEGAS; З THE COURT: Can you raise your right hand? 3 Q How long have you known Salvadore? đ MR. KARPER: (No audible response.) 4 A Well, probably one month or two. TRE COURT: As best you can will be find, Thank you, Go 5 5 Q One month or two. So is this on February 18th, a 6 ahead. 6 month or two before that day? 7 THE CLERK: You do soleannly swear the tastimony you're 7 A Yes. a about to give in this action shall be the truth, the whole 8 Q Okay. So her tore7 truth, and nothing but the truth, so help you God? g 9 Ą Now, he* 10 MR. HARPER: Yes. 10 0 And 11 THE COURT: Thank you. Have a seat. 11 Δ. oxer, and (Sono you put 12 Arthur, would you close that door for me, please, 12 homies -- when 13 Ökav. 13 K when we 14 And Mr. Harper, right there is that microphone, and 14 voi *l*idi 15 so that the ladies and the gentlemen of the jury can hear you, 15 16 please try and speak into that microphone for us. Thank you, 16 Q 17 MR. HARPER: Okay, 17 A N 18 THE COURT: Thank you very much. Go ahead, 18 Q Oka He night of 19 JONATHAN HARPER 19 February 18, " 20 having been called as a witness by the State and being first 20 A Yes. 21 duly sworn, testified as follows on: 21 Now did you - Sal's apartment? 0 22 DIRECT EXAMINATION 22 A Yes, 23 BY MS. VILLEGAS: 23 Q And why did you go to Sal's apartment? 24 Q Can you state your name for the record? 24 Because they were having a kickback. 68 70 Ŧ. A Jonathan Emmanuel Harper. 1 Q And can you explain to the jury what is a kickback? 2 Q Okay. Spelling of Harp ... 2 A Xickback is when like the friends go to the house or З A Huh? З apartment and they have like beer there and we -- and, you 4 THE COURT: Is the ... can you spell Harper? know, some girls, and there's the homies, you know. 4 8 THE WITNESS: Yealt, H-a -- H -- H-a-r-p-e-r. 5 Q Okay. So it was like a get-together? THE COURT: Thank you, 6 б A Yes. 7 BY MS, VILLEGAS: $\mathbf{\dot{7}}$ Q Now who was at the apartment that night? B Q Now Jonathan, how old are you? 8. A Me, Sal or Boxer, Little One, his brother ---9 A 15. g, Q Ckay, Hold on, Little Dire. Do you know what his 10 Q Now drawing your attention to February 18, 2006 ---10 real name is? 11 first of all, do you know Salvadore Garcia? 1.7. A Yes. 12 A Yes. 12 O And what is that? 13 Q Do you see him in court today? 13 A Glovanni, 24 Α Yes. 14 Q And is that, you said, his brother. Is that Sai's 15 0 Can you point him out and teil us what he's wearing i 5 brother? 16 in court today? 16 A Yes. 17 A I quess a jumisuit. 17 Q And then who else? 16 Q No, what is he wearing today? 18 A And then Manuel, That's Puppet, And Manuel's gld. 19 THE COURT: Can you see -- can you see him? 19 Stacy. And then Danger. That's Edshel, And then Edshel's 12 O THE WITNESS: No. Gray colored shirt. 20 two brothers. Adrian, That's Angel, And then Little 21 M5. VILLEGAS: What's that? 21, Scrappy, That's Brian. 22 THE COURT: A gray-colored shirt. 22 Q Brian. Okay. And what time was it that you got to 23 MS. VILLEGAS: Okay. For the record, the williess has the apartment? 2.6 2.4 20 identified the Defendant. A Probably 10:00.

Verbatim Reporting & Transcription, LLC

1	Q	Ten o'clock in the morning or at night?		A Yeah, three.	
2	A	· ·			y was ward you the only
- 3	Q	Okay. And how did you get there?		one drinking?	· ····· · · · · · · · · · · · · · · ·
4	A	We had a ride,	4	A No. Everyone there, you k	now.
5	Q	Okay, You you get a ride?	5	Q Everyone there.	
б	A	Yeah.	16	A And we were smoking wee	d, and only three people were
7	Q	Who did you get a ride from?	7	taking pills. It was may Sal, and h	
\$	A	From Sal,	B	Q Now lat me stop you for a	
9	Q	Oh, did Sal Nimself picked you up?	9	were also smoking what?	
10	A	Yeah. No, I met him on the bus at his mom's.	10	A Weed,	i -
13	Q	and the second	§11	Q Weed, And where did you	çet this weed?
12	A	We went there. Huh?	1 2	А Риррає.	
13	Q	Who took you there?	1 3	Q And ⊷	
4	A	5ai.	14	A He brought it to the party.	
5	Q	Sal himself?	15	Q And Puppet, again, is?	
.6 	A	Yeah.	16	A Manuet,	
.7	Q	Okay. Now do you know whether Sal has a girlinend?	17	Q Manuel, Do you know Man	uel's last name? .
8	A	Yes.	18	A No.	
9	Q	And what's her name?	19	Q Okey. And how long have y	iou known Manual?
0	A	I don't know har name, but it's a Emanuel's	20	A Like two months like Sal	
1	sister.		21	Q Okay.	,
2	Q.		22	A 🔷 because I met Sal and Ma	
:4	_	Yeah.	23	Q Okay. Now who else was si	noking weed that night
4	Q	Now is Sal's girifriend, has does she have a	24	besides yourself?	
****		7 	2 1000-000-000-000-000-000-000-000-000-00	offussiation contact in the contact of the contact	74 ####################################
1	baby?		1	A Everyone there.	
2	Á	לאס.	2	Q Even the olds?	
3	Q	Two. Now at that time, how many did she have?	3	A Chelsea, Chelsea,	:
4	Α	One.	4	Q (Indiscernible - simultane	ous speech) ves.
5	Q	Okay. Was she pregnant at the time?	5	A Yeah, But	······································
6	Α	Yeş,	6	Q Okay, You said everyone	, but everyone
7	Q	And was she pregnant of who's the father of the	7	A Yeah,	
3		hat she was taking care of?	ង	Q 🛛 you just named?	
9	A	Sal's,	9	A Yeah,	
0	Q	Okay. And now at this party, you said that you were	10	Q Okay, What were you do	ng that night?
1 2	drinking		11	A Playing dominos on the tal	
2 3		Yes. Okay - Million ware you detail/wath	12	Q Now this apartment, the -	was this the first time
2 1	QA	Okay, What were you drinking? Corona and Budweiser,	13	ou've been to this apartment?	
5		Now you were how old at that time?	14	A No. That was like I've b	
5		13.	15 16	Q Okay, And do you know - all achiettik what the solve to de	
,		And did you buy this beer?	16 17	ell actually, what I'm going to do	
3		No.	18	ou States Proposed Exhibit Numb	
)		Okay, Where did this beer come from?	19	MR. BUCHANAN: No objection THE COUNT: Okay.	a uncy want to offer it.
		from Sal.	20	MS. VILLEGAS: Then move to	offor
	Q	Okay. And do you recall how much beer you drank	21	THE COURT: All right. It's adm	6
	that лір		22	nead and continue.	mean with hour fail for \$
		Uke three.	2.3	MS, VILLEGAS:	
	Q	Three three bottles?	24		een right in front of
		: ™	1 NO.		n an
			-	. il. 🦋	15

3 4	THE COURT: Let me show him. You can, with your floger (demonstrates)	3	A Playing dominos and passing a blunt. We we
5	THE WITNESS: OR.	45	it's a just a cigar rolled up with weed.
6	THE COURT: Shell ask you to point things out. You can	6	Q Okay, Who rolled up this cigar? A Puppet,
7	take your finger and make Xs and show	7	A Puppet. Q Now you also mentioned that you were taking
₿	THE WITNESS: Okay.	β	A Xanax.
9	THE COURT: har where things are, all right? And I'u	9	Q besides Xanax?
0	erass things when we need to.	10	A Yeah,
11	THE WITNESS: Okay.	11	Q Okay. Where did you get the Xanax?
2	BY MS. VILLEGAS:	12	A A friend of mine, Edgar.
.3	Q Now as you walked in, you said that you were in the	13	Q What's his name?
4	dining room area?	14	A Edgar,
5	A Yes.	15	Q Edgar, Was Edgar at this party?
б 7	Q Okay. And do you see that on State's Exhibit 55?	16	A No.
\$ 8	A (Indicates.)	17	Q So you brought the Xamax with you?
9	Q Now over there, was there a table? A Yes.	18	A Yes.
0	Q And then now do you recall where you were	19	Q And how many Xanax was this?
1	sitted ~	20 21	A Three.
2	A Yes.	22	Q Three tablets?
3	Q that night?	23	A Yeah.
4	A Yes,	24	 Q And what did you do with the Xanax7 A Mo, I gave one to Chave (ph) and one to Little One.
5	 Q And who's to your right? A Edshei (ph). Q And who's across from you? A Puppet. Q How many people were at the table? A Four. Q Just the four of you. A Yeah. Q Where were everybody else? 	5 6 7 9 10 11 12	 Q Now while you were playing dominos, what happened? A Wall, we were playing and then me and Sal got in In a argument. Q What was the argument about? A He wanted me to do something, a mission. Q Okay. What is this mission? A To kill someone. Q Okay. And what happened?
	A Little One, and Chelsea, and Brian, and the the	14	 A I told him I refused, Q When he was tailing you this, was this in front of
	other girls, and Adrian was in the living room.	15	everyone at the table?
	Q Now is this a ground floor apartment?	16	A Yes.
	A Yes,	17	Q And when you refused first of all, did he say who
	Q Then the to get to this apartment, there's a		t was that he wanted killed?
	front door? A Yes,	19	A Yes,
	A 1920	20 21	Q Wha?
	O Can vold fust three its where the final dame in		A Little One's baby mamma boyfriend.
	 Q Can you just show us where the front door is? A (Indicates.) 		O Olise that the Deside the training of the State of the
	A (Indicates.)	22	Q Okay. Little Little One's baby's momma's
	A (Indicates.)	22	Q Gkay. Little Little One's baby's momma's oyfriand?

1	Q And was Little One, which is Glovanoi, was he also	-	Q Now have you seen this gun before?	
2	part of this conversation?	2		
3	A Yes, but he didn't he was not in it. He was			
4	sitting down with the the girl.		• ,	
۹ 5	Q And is this by the living room?	5	A Yeah. Every time I saw him.	
6		12	Q So it's his gun7	
7	A Yes,		A Yes.	
	Q How far away let's say where you're seated is		(WHEREUPON, COUNSEL CONFERRED BRIEFLY.)	
8	where you were seated in the cining room area,	6	MS. VILLEGAS: At this time, I'm going to have this	
9	A Yeah.	9	marked,	
0	Q Where is the living room couch to where Little One	10	THE CLERK: Exhibit 56.	
1	was was seated?	11	THE COURT: What number?	
.2	A Like right here to the like board thing right there	12	THE CLERK: 56.	
3	before you leave this part.	13	MS. VILLEGAS: 56,	
4	Q Before I leave the court courtroom so this	14	BY MS. VILLEGAS:	
5	this	15	Q I'm going to show you what's been marked as Sta	te's
6	A Yeah.	16	Proposed Exhibit Number 55. Now it's a picture of a gun.	ļs.
7	Q board right here?	17	that what the gun looked like?	
.8	A Yes.	18	A Yes.	
9	Q So this is where the couch would be if that	19	MR. BUCHANAN: To which I object until there's a	
Ö	A Yes,	20	(oundation that that's the same gun. If it's just a gun, a	
1	Q And then when Sal was telling you this and you	21	picture of a gun somewhere, I don't think it's material or	
2	refused, what happened next?	2.2	relevant. He described the gun	
3	A Well, he was mad, and then he pulled a gun out, and	23	THE WITNESS: Yes, that is the	
4	he was like so you're not going to do it, and I told him no.	24	MR. BUCHANAN: but that is avidently	
	. 80			3
	48-11-1 1 -11-11-11-11-11-11-11-11-11-11-11-11-1	*******	***************************************	485)+44
1	Q Now describe to me, first of all, where was this gun	11	THE COURT: Hold on, Hold on,	
2	located?	2	MR. BUCHANAN: not the gun.	
З	A On his hip.	3	THE COURT: Hold on,	
4	Q Okay. On his hip. And when he pulled it out, can	4	MS, VILLEGAS: I'm not offering it right now, number one.	
5	you describe this gun?	5	Number two, I'm just asking him if it looks like the gun.	
6	A – It was like it was a .38 Ruby, and it gots like a	6	MR. BUCHANAN; Well, then she's	
7	wooden tip I mean handle, but it's not wood. It's like	7	THE COLIRT: So	
e	color the wood, and it's a revolver, six-shooter, and I think	8	MR. BUCHANAN: asking him to comment or give evidence	10
9	the barrel's like six inches.	9	on a document that is not evidence.	
0	Q — Okay. So there's a you mean the six you can	10	THE COURT: She's trying to lay a foundation for the	
1	put six like	[11	picture, Thank you, 1 so have a seat, Mr. Buchanan.	
\$	A Bullats,	12	Thanks a lot, Go ahead.	
3	Q carbidges and bullets in It?	13	by MS. Villegas;	
1	A Yeah.	14	Q So on this gun, you sold that thera's a words	
5	Q Okay. And what color is the rest of the gun?	15	Ruby on It, right?	
5	A Black,	16	A Yes,	
7	Q Now you say it's a Ruby Special?	17	Q And where is the Ruby, as you recall? Without	
1	A Yeah.	18	looking at this photo, where is that Ruby?	
	Q Why do you say it's a Ruby Special?	19	A On the handle.	
)	A Because that's the brand of the gun.	20	Q Handle of the gun. And then showing you State's	
	Q Does it have Ruby	21	Proposed Exhibit Number 56, do you see a Ruby on it?	
	A Yes, on the handle,	22	A Yos.	
	Q It's written on there?	23.	50 9 And is that also similar to where you've seen the	
	A Yean.	24	Ruby of what you'recau?	
		Sugar	or Smith frank Y	83

APP 000144

4	A Yas.	1	Q And at that point when he pointed in which
2	Q Okay. Which is also on the handle?	1 2	 Consider the second seco
3	A Yes.	3	•
4	Q And you said it's a six-shot revolver?	4	Q At you. Now how tall
5	A Yes,	5	
б	Q Now when he pulled out this ~ this gun, what	6	
7	happened next?	7	Q How tall is Sal?
8	A He pointed it at me, and I was like you're going to	6	A Probably 5-10.
9	not shoot me so put it away, and he put it away, and he put it	ļэ	•
10	away. When he put it away, he like walked in the to	10	A 5-8,
11	towards the kitchen and a little bit before he got like in the	§11	Q And you were seated?
12	angle to point the gun at my head, he pulled it out when he	12	A Yes.
13	was walking.	13	¹ Q Now when he pointed that gun at you, and this is
14	Q Okay. Ecoking at the picture in front of you in	14	that same revolver that you saw him pull out at the table
5	your screen	15	A Yes.
6	THE COURT: Do you want me to take off the marks that are	16	Q what happened next?
7	already there?	17	A Well, he shot me.
6	MS. VILLEGAS: Yes, please,	18	Q Ckay. Did you see him shoot you?
9	THE COURT: Sure.	19	A Yes.
¢	BY MS, VILLEGAS:	20	Q Now what were you feeling? Could you remember?
1	Q – Ökay. Cart you show us, again, where put an X or	21	A The part, I didn't even feel, but I like went
2	put point to where you were at,	22	unconscious and I was like trying to take a deep breath and I
Э	THE COURT: Put the mark on there where you were.	23	couldn't, and my head was like leaned on the thing. I
4	THE WITNESS: (Witness Indicates.)	24	couldn't straighten my head, and I tried to touch my head to
34567999012311;;;	show me at what direction where you saw him pull out the gun and point it at you?		 Q So you're trying to touch the back of your head? A Yeah, Q So when you were new after you said that you lost consciouaness A Yes, Q and then when you woke up MR, BUCHANAN: Well, I'm going to object to leading. I - I haven't objected vary much, but she's leading now on a very critical part, MS, VILLEGAS: Okay. BY MS, VILLEGAS: Q No, I'm just asking, now when you woke up, who was around you? A Sai. Q Sai? Who else? A Sai and that's all. Q Where was Sai when you woke up? A LooWing at me,
	this (indicating). Right here, he pulled the gun out, and right here he pointed the gun.	19 20 21	Q Which side of you? A At the like where he was sitting, like he was
	this (indicating). Right here, he pulled the gun out, and right here he pointed the gun.	20 21	

APP 000145

2	Q So he was what? Standing?	1	L A No,
2	A Yeah.		
3	Q - And he's looking at you?		
4	A Yeah,	4	
5	Q Who else was around the table that you can remember?	15	
¢	A That's eff.	6	
2	Q That's all. What else do you remember at the	7	
B	apartment after the shopting?	8	42 Auchi man excensis bildhoi comó de 146 da
9	A I saw him, and he was like he said something, you	9	
0	know, and be said I think he's dead, you know,	10	
11	Q Okay. You hard that from	11	
12	A Sal.	12	
. 3	Q Sai. Who else do you remember, if you can	13	
4		1	al recidentional and
 . 5	remember anything else at that apartment? A No one because everyone (an out of the door, 1	14	
16	,	15	
13 17	remember Chelsea looked at ma when I was taking that deep breath.	16	
L / L 8		17	A After I left HealthSouth, at my mom's.
9	Q You saw her come up to you?	18	Q Now Jonathan, are you right-handed or left-handed?
	A No, she was like she like just glanced at me,	19	
20 21	Q And who else do you remember? What else do you	20	Q And as a result of this injury, can you still use
2	ramamber?	21	your right hand?
	A "that's all.	22	A No. I'm going to therapy to rehabilitate, yeah.
3	Q That's all?	23	But it I can't use it now. I
4	A Yean.	24	Q Now
, i i i i	88 		0 9 аны на настратите на налазнати и на настрати на на на на на на на на на на на на на
ï	Q Now what's the next thing that you remember after	1	A can't like open my hand,
2	that?	2	Q On that night of February 18, 2006, do you remember
Э	A Weil, I remember when I don't remember the whole	3	even touching that gun?
Å	part at the Sunrise because, you know, I was like in critical	4	A 1 didn't touch that gun.
5	condition. I woke up at the like I woke up when they	5	Q Do you not at ail? The revolver? •
ę	were transferring me to HealthSouth.	6	A Yes.
7	Q Okay. So you don't even know how long you were at	7	Q You never tooked at it, played around with it?
8	Sunrise Hospital?	8	A That night?
9	A Na.	9	Q Yes,
0	Q And so the only thing you can remember now is when	10	A No.
1		11	Q But you've touched it before that night?
2		12	A Yes.
3	THE COURT: And overruled,	13	Q Do you would you when you hold the gun, would
4		14	you hold it which hand?
5	· · · · · · · · · · · · · · · · · · ·	15	A Right.
5		16	Q Never your left?
7	· · · · · · · · · · · · · · · · · · ·	17	A Na.
3	1	10	Q Now did you what was the condition of your left
5		19	hand that evening of the 18th7
)	· · · · · · · · · · · · · · · · · · ·	D	A Well, my index finger and my middle finger
		11	Q Can you show that to the jury, the two fingers that
2		2	you're holding up, yes.
ļ	· · · · · · · · · · · · · · · · · · ·	3	🕺 A 🔤 got in a fight like 1 think two weeks before this
i	meeting with some detectives?	4	happened I jamméd my finger when I was fighting at school,
	are an an an an an an an an an an an an an	1294	91

APP 000146

۰.

. w	nen i punched the kid, like like I hit his like right here	1	A It was not my school. It was his brother's school.
	idicating forehead) wrong, and I fammed my finger.	2	
¢.	THE COURT: On his left hand?	3	
	MS. VILLEGAS: On his left hand?	4	Q Okay. How long had you been out of school?
,	THE WITNESS: Yas.	15	
ษา	MS VILLEGAS:	6	
	Q And as a result of that, what was your condition on	17	A Like I used
th	e 18th?	8	Q when you were 15
	A I couldn't bend my Anger. Both these fingers was	19	THE COURT: Hold on, Hold on.
iik	e stiff and swollen.	10	
	Q Now are you positive who shot you that hight on	11	THE COURT: Hold on a second, Mr. Harper.
Pe	bruary	12	THE WITNESS: Okay,
	A Yesi	13	THE COURT: Mr. Buchanan, you're asking a question, and
	Q - 18th? You did not shoot yourself?	4 81.4	then you're asking another question, and you're not giving him
	A Yes,	15	time to answer.
	Q And who shot you?	16	MR. BUCHANAN: All right.
	A Salvadore Garcia.	17	BY MR. BUCHANAN;
	MS. VILLEGAS: No further questions. Pass the witness.	18	Q How long have you been out of school?
	THE COURT: Go ahead, Mr. Buchanan.	19	A Well, I would go to school, but I wouldn't go
	MR. BUCHANAN: Thank you, Your Honor.	20	everyday. Like I would go, and I would on Monday, example,
	CROSS EXAMINATION	21	I would go on Monday, and then like when my dad he always
BY	MR. BUCHANAN:	22	took me to school, but I refused to go. I would just walk off
	Q All right. Jonathan, do you might if I call you	23	the campus.
tha		24	Q All right. Now what gang were you in at that time?
	92	l i	94
****	46 ####################################	H32 H7M1H	411144934114441411444441114444444444444
	A Yes.	1	A MPL. I was not going to school. See this was
	Q That's fine?	2	THE COURT: Walt, wait. Mr. Harper.
	A Yes.	3	THE WITNESS: Oh, I'm sorry.
	Q Okay, All right. Jonathan, on the 16th (sic) of		THE COURT: Mr. Buchanan's asking you a question.
	ruary, how long had you known 5ai? A 16th?	3	THE WITHESS: Yesh.
	A 16th? Q Yeah, from the February 16th? That's tha	6	THE COURT: What gang were you //?
	dent.	6	THE WITNESS: MPL
	А Усан.	9	Q Acd what's what kind of gang is that.
	2 How long had you known him?	10	Q even what a regret what of gang is that. THE COURT: Excuse me. Who's get the cell phone that's
	A Two months.	11	viaraling?
	Q Okay. Did he give you a job?	12	(WHEREUPON, DEFENDANT MOVES MR. BUCHANAN'S CELL PHONE.)
	Yes,	13	MR, BUCHANAN: Okay,
6	2 Did ha take you in when you were homeless?	14	THE COURT: Thank you.
ļ	1 was never homeless.	15	MR. BUCHANAN: 11's on silent, but it was close to the
(2 You were still living at home?	15	mterophone.
ļ	Yeah.	17	THE COURT: Yeah.
C	2 All right. Now you said you got in a fight, but	10	MR. BUCHANAN: Okay,
lsn't	It the fact that you were kicked out of school?	19	THE COURT: 'Go shoud,
Ą	No, I was not kicked out. I just didn't go,	20	BY MR. BUCHANAN:
	2 Okay, So the two weeks before when you jammed your	21	Q – How long had you been in that gang?
finge	er in a fight at school, you didn't go to school, did you?	23	A One month.
A	· · · · · · · · · · · · · · · · · · ·	3	Q Pardon me?
ζ	All right, Then why clid you have a fight at school?		one month.
	. Ala	99an	ar such purch and 95
4.6	a na		

1	Q A month? Okay. Who else was in the gang?	1	А Тhe same,
2	A Me, Chavé (ph), Little One, Danger, and E.	2	
3	Q Dkay. Now as far as Keith, was he a good friend?	3	-
d,	A Who?	4	THE COURT: The same.
5	Q Or Brian? How about Brian? Is Brian a good friend	5	THE WITNESS: I never knew her. I knew her but, you
5	of yours?	6	 know, I didn't like everyday like Edshel. I wouldn't hang out
7	A He was, '	7	with her. I just see her at his house hanging out with
1	Q Okay, And how long had you known Brian?	8	Edshel,
)	A Flye years.	9	BY MR. BUCHANAN:
)	Q Okay. And in fact, you almost considered yourself	10	Q All right. Did you go to Edsel's [sic] house very
	brothers, correct?	11	often?
	A Yes.	12	
	Q Okay. And what about his brother, Nexter (ph)?	13	THE COURT: Edro (ph), not Edsel MR. BUCHANAN: Perdon,
	A Edshei (ph)?	14	
	Q Yeah.	15	7HE COURT: like the car. Edro (ph).
		16	BY MR. BUCHANAN:
		17	Q How do you say his name?
		1	A Edshel.
	A Since fifth grade.	10	Q XO7
	Q Okay. And well, how many years?	119	THE COURT: Hech - Is it XO or is it Edro (ph)?
	A Five,	20	THE WITNESS: Edshel,
	Q Okay, Did you also consider him almost your	21	MR. BUCHANAN: Edshel?
	brother?	22	THE COURT: Not Edsel.
	A Yeah, I used to. Q Okay. He was your best friend?	23 24	THE DEFENDANT: No, Edshel. MR. BUCHANAN: Edshel, All right, I'm not good at these
	 A Yes. Q Okay. If Nexter (ph) corries in and says that you shot yourself, would be be lying? A Yes. 	4 5 6	BY MR. BUCHANAN: Q All right. Did you ever hang dut at Edshel's house? A Yes.
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. 	7 9 10 11 12 13	 Q Okay. Did you stay there on occasions? A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is [sie] it too fate to go home. Q All right. Now let's take the February 18thy. A Yes. O Now this computational spectrum whethere is a provider of the provid
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So 	8 9 10 11 12 13	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is [sic] it too fate to go home. Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. 	8 9 10 11 12	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is [sie] it too (ate to go home, Q Ail right. Now let's take the February 18thy, A Yes, Q Now this party started about what time? Ten you think you said?
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. 	8 9 10 11 12 13 14	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is (sic) it too fate to go home, Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you think you said? A Yes.
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How HE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. THE COURT: It's sustained. 	8 9 10 11 12 13 14 15	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is (sie) it too fate to go home, Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you think you said? A Yes.
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. THE COURT: It's sustained. MR. BUCHANAN: All right. 	8 9 11 12 13 14 15 16	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is [sic] it too fate to go home. Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you think you said? A Yes. Q Had you been drinking before than? A No.
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. THE COURT: It's sustained. MR. BUCHANAN: All right. THE COURT: Don't answe: that question. THE WITNESS: Okay. BY MR. BUCHANAN: 	8 9 10 11 12 13 14 15 16 17	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is [sic] it too fate to go home. Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you think you said? A Yes. Q Had you been drinking before than? A No.
	Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. THE COURT: It's sustained. MR. BUCHANAN: All right. THE COURT: Don't answer that question. THE WITNESS: Okay.	8 9 10 11 12 13 14 15 16 17 18	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is (sic) it too fate to go home. Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you think you said? A Yes. Q Had you been drinking before than? A No. Q Had you been smoking marijuana before then? A No. At the party, yes.
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. THE COURT: It's sustained. MR. BUCHANAN: All right. THE COURT: Don't answe: that question. THE WITNESS: Okay. BY MR. BUCHANAN: 	8 9 10 11 12 13 14 15 16 17 18 20	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is [sie] it too fate to go home. Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Then you think you said? A Yes. Q Had you been drinking before then? A No. Q Had you been smoking marijuana before then? A No. At the party, yes. Q Okay. You were smoking at the party, but I'm saying
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Weil, we haven't had it yet. THE COURT: So MR. BUCHANAN: Weil, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. THE COURT: It's sustained. MR. BUCHANAN: All right. THE COURT: Don't answer that question. THE WITNESS: Okay. BY MR. BUCHANAN: Q What about Manuel? 	8 9 10 11 12 13 14 15 16 17 18 20	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is (sic) it too fate to go home. Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you think you said? A Yes. Q Had you been drinking before than? A No. Q Had you been smoking marijuana before then? A No. At the party, yes.
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. THE COURT: It's sustained. MR. BUCHANAN: All right. THE COURT: Don't answer that question. THE WITNESS: Okay. BY MR. BUCHANAN: Q What about Manuel? A What about him? 	89 10 11 12 13 14 15 17 18 20 21	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is [sie] it too fate to go home. Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you think you said? A Yes. Q Had you been drinking before then? A No. Q Had you been smoking marijuana before then? A No. At the party, yes. Q Okay. You were smoking at the party, but 1'm saying before you went to the party, were you drinking? A No.
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. THE COURT: It's sustained. MR. BUCHANAN: All right. THE COURT: Don't answer that question. THE WITNESS: Okay. BY MR. BUCHANAN: Q What about Manuel? A What about him? Q Was he a good friend of yours? 	8 9 10 11 12 13 14 15 16 17 16 20 21 22	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is [sie] it too fate to go home. Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you think you said? A Yes. Q Had you been drinking before then? A No. Q Had you been smoking marijuana before then? A No. At the party, yes. Q Okay. You were smoking at the party, but 1'm saying before you went to the party, were you drinking?
	 Q Why would Nexter (ph) lie if he was your best friend for five years? MS. VILLEGAS: Objection. Speculation. How THE COURT: And we haven't had that testimony, have we? MR. BUCHANAN: Well, we haven't had it yet. THE COURT: So MR. BUCHANAN: It's a hypothetical question. THE COURT: It's sustained. MR. BUCHANAN: All right. THE COURT: Don't answer that question. THE COURT: Don't answer that question. THE WITNESS: Okay. BY MR. BUCHANAN: Q What about Manuel? A Uhat about him? Q Was he a good friend of yours? A I didn't know him. 	8 9 10 11 12 13 14 15 16 17 16 20 21 22	 A Mostly the time like I would just like on the weekends, I would go over there and hang out, probably spend the night is [sie] it too fate to go home, Q All right. Now let's take the February 18thy. A Yes. Q Now this party started about what time? Ten you think you said? A Yes. Q Had you been drinking before than? A No. Q Had you been smoking marijuana before then? A No. At the party, yes. Q Okay. You were smoking at the party, but I'm saying before you want to the party, were you drinking? A No. Q Were you doing marijuana?

.-

1	Q Were you taking the pills?	1	A No.
2	A No.		Q Oƙay. Do you ever recall when he asked you if
3	Q Xanax?	1 3	
4	A NO.	4	A Yes.
5	Q Gkay. So you got to the party, and you said you had	l E	Son blaz 90 sald no?
6	three beers?	6	5 A I didn't say that.
7	A Yes.	7	,
8	Q You were also smoking a blunt, correct?	8	
9	A Yes.	19	
0	Q Could you tell the ladies and gentlemen of the jury	10	
1	what a blunt is?	11	
2	A 11's a you know, it's a cigarillo, itt's that,	12	
3	They cut it with a razor or they split it with their fingers	13	on March Loth with Ericson?
4	and put weed in it, and then roll it like a joint.	14	A No.
5	Q Okay. So it's a cigar wrapped in marijuana?	15	Q Dkay. Do you remember teiling him that although he
5	A Yes.	16	didn't see who shat him, he knows the only person behind him
7	Q Okay. And you had that?	17	was Garcia?
3	A Yes.	19	THE COURT: Wall, why don't you instead of putting it
7	Q Okay, And then you had Xanax?	19	In that context, you're talking about what he said, correct?
)	A Yes,	20	MR. BUCHANAN: Yes, what he told Ericson.
	Q All right. Now the combination of alcohol,	21	THE COURT: So okay so you said what he said instead
;	manijuana, and Xanax, what did that do to you?	22	of what you put make it what he said.
;	A Well, it just had me in a like buzz, you know. I	23	MR. BUCHANANI Okáy. What you said.
ļ		24	THE COURT: All right, please.
	something I can't handle. I don't like to let the beer control me and the weed. Q Okay. Do you remember when I asked you about that	1 2 3	BY MR. BUCHANAN: Q Old you tell Officer Ericson on March 10th that you
	at the preliminary hearing?	4	didn't see who shot you, but Garcia was ~ Garcia was behind you?
	A Yes.	· 5	A Yes.
	Q And you said you were very messed up?	6	Q Ckay. Now on the next day, April 1st, about three
	A Yes.	7	weaks later, then you come up with a different etory. Now if
	Q Were you messed up?	8	you dkin't see him on March 10th, on April 1st, did you tell
	A Yes, That's	9	Officer Garda that you saw him out the corner of your eye?
	Q All right.	10	A Yes,
		21	Q Okay. And that you saw him shot (sic) you?
		12	A Yes,
	A Yes.	13	Q . How could you, within that two weeks, see that
	Q Okay. Did you see the gun prior to this time?	4	happen or that change of testimony?
	A Yes, on his hip.	5	A Because see, when I was in the hospital, I was
			confused because I had a brain injury. I didn't know like
	Q Okay. And now you made several statements to the	6	• · · · · · · · · · · · · · · · · · · ·
	Q Okay. And now you made several statements to the 11 police, correct?	7	that what that tape, I don't know what happened with that
	Q Okay. And now you made several statements to the 11 police, correct? 1 A When? 1	7 6	that what that tape, I don't know what happened with that tape. I don't know I didn't remember that he came to me at
	Q Okay. And now you made several statements to the 1 police, correct? 1 A When? 1 Q All Bight, Let's take ~ let's take the first 1	7 6 9	that what itset tape, I don't know what happened with that tape. I don't know I didn't remember that he came to me at the Health no Sunrise. I didn't know that, you know, I
	Q Okay. And now you made several statements to the 1 police, correct? 1 A When? 1 Q All Bight, Let's take ~ let's take the first 1 statement. Do you ever recall making a statement to Officer 2	7 6 9 0	that what that tape, I don't know what happened with that tape. I don't know I didn't remember that he came to me at the Health nd Sunrise. I didn't know that, you know, I didn't, you know I didn't remember that whole thing when I
	Q Okay. And now you made several statements to the 1 police, correct? 1 A When? 1 Q All right. Let's take ~ let's take the first 1 statement. Do you ever redail making a statement to Officer 2 Ericson that when he esked you if you had shot yourself in an 2	7 6 9 0 1	that what that tape, I don't know what happened with that tape. I don't know I didn't remember that he came to me at the Health nd Sunrise. I didn't know that, you know, I didn't, you know I didn't remember that whole thing when I was in there. I remember when I went to HealthSouth, and I
	Q Okay. And now you made several statements to the 1 police, correct? 1 A When? 1 Q All right. Let's take ~ let's take the first 1 statement. Do you ever redail making a statement to Officer 2 Ericson that when he asked you if you had shot yourself in an accident, and you said yes? 2	.7 8 9 0 1 2	that what that tape, I don't know what happened with that tape. I don't know I didn't remember that he came to me at the Health no Sunrise. I didn't know that, you know, I didn't, you know I cidn't remember that whole thing when I was in there, I remember when I went to HealthSouth, and I I woke up, and I was like I don't know, Like I couldn't
	Q Okay. And now you made several statements to the 1 police, correct? 1 A When? 1 Q All right. Let's take ~ let's take the first 1 statement. Do you ever recall making a statement to Officer 2 Ericson that when he asked you if you had shot yoursel? In an accident, and you said yes? 2 A Where at? Like at HealthSouth? 2	.7 .0 9 0 1 2 9	that what that tape, I don't know what happened with that tape. I don't know I didn't ramember that he came to me at the Health no Sunrise. I didn't know that, you know, I didn't, you know I cidn't ramember that whole thing when I was in there. I ramember when I went to HealthSouth, and I I woke up, and I was like I don't know. Like I couldn't speak, I knew something like I couldn't speak now like I
	Q Okay. And now you made several statements to the 1 police, correct? 1 A When? 1 Q All right. Let's take let's take the first 1 statement. Do you ever recall making a statement to Officer 2 Ericson that when he asked you if you had shot yourself in an accident, and you said yes? 2 A Where at? Like at HealthSouth? 2 Q In the hospital. Yes. 2	.7 .0 9 0 1 2 9	that what that tape, I don't know what happened with that tape. I don't know I didn't remember that he came to me at the Health no Sunrise. I didn't know that, you know, I didn't, you know I cidn't remember that whole thing when I was in there, I remember when I went to HealthSouth, and I I woke up, and I was like I don't know, Like I couldn't

Verbatim Reporting & Transcription, LLC

.

		Ì	
1	Q All right. Do you think you're recovered now?	1	THE COURT: Yeah, he said I didn't touch the gun.
2	A Yes.	2	MR. BUCHANAN;
3	Q You're back on	3	BY MR. BUCHANAN;
4	A Not not not normal. But	14	Q Do you know what Russian Roulette is?
5	Q Okay,	5	A Yes, and I never played that game.
é	A neutral.	6	Q What is it?
7	Q All right. Are you back on the street again?	7	A When you take bullets out of the gun, and you leave
8	A No.	Ð	one bullet, and you put the gun to your head. I'm not, you
9	Q Do you go out at all?	9	know, a person I wouldn't do that because I don't think
10	A NO.	10	about committing suicide, you know. I was about to turn 15,
11	Q Do you see your friends?	11	you know. I was like anxious to turn 16 to drive, you know,
12	A No,	12	Why would I do that?
13	Q Okay. Do you even recall talking with Anthony	13	Q All right. Now when you say that you saw this ~ on
14	Waters in the last couple weeks?	14	your third statement, you saw the gun being pointed at your
15	A Who?	15	head?
16	. Q Anthony Waters?	16	A Yes,
17	A No.	17	Q All right,
ļ 8	Q Ckay. Have you in the last couple of weeks or are	18	A He walked around me. When he walked he was
9	you now accusing Naxter (ph) of shooting you?	19	walking, he pulled the gun put, and then he got a angle, and
20	A Edshel?	20	then he pointed the gun at me.
21	Q Yes.	21	Q All right. And now
2	A I didn't say that,	22	MR. BUCHANAN: Could I approach the witness, Judge?
3	Q Are you accusing him now?	23	THE COURT: Yes.
4	A No. Idida't	24	NR. BUCHANAN; All right.
146/1/3	10+		10e
1	Q Have you told your homies	1	BY MR. BUCHANAN:
2	A I never	2	Q Where would and if you could stand up. Were you
-3	Q	3	seated or were you stood up when you were shot?
4	A sent his I never said Edshel shot me. I said	4	A No, I was sitting.
5	Sal shot me,	5	THE COURT: He was seated.
6	Q You're positive you never told anybody that Nexter	6	BY MR. BUCHANAN:
7	(ph) shot you?	7	Q Okay. Now according to your testimony, Sai was
8	A Yes.	8	behind you like this, correct?
9 2	Q Okay. And you think you were screwed up when you	9	A Yes,
Ď	made these other statements?	10	Q Okay. Now were you playing dominos?
1	A Yes.	11	A Yes.
2	Q Could you be screwed up today?	12	Q And which way would your head be?
3	A No. I have a mind it's straight	13	A (Demonstratés,)
1	Q Okay.	14	Q Would it be like that?
5	A you know, and that's why I 'm talking better, you	15	A Na.
1	know. When I was in here no. The other downstairs, it	16	Q Would it be looking at the dominos?
		17	A No, because J
t I	didn't have the words to say it. I would say me instead of (.	10	Q I'm behind you now. Can you see me?
1	Q Okay. Do you recall taking the five bullets out of	19	A Yes.
)	a gun?	20	Q Okay. At that point, you said he took a gun out
	A I didn't touch that gun that night.		ie this
	Q That's not what I asked you, I said did you recail	22	A He was walking.
	taking five bullets out of that gun? MS. VILLEGAS: Judge, I think ne just answered it.	23 4	Q., Okay, Walking. He took a gun out and fired,
		15.24	- 25 - 15 - 15 - 15 - 15 - 15 - 15 - 15
	MS. VILLEGAS: Judge, I think he just answeröd (t. 1997) 10. 1995 - 10. 1997 105	ုန္မ င၀	ffect?

Verbatim Reporting & Transcription, LLC

1	A Yes.		I THE COURT (Yeah.
2	Q He would be above you?		
3	A Yes.		
4	Q And If he fired like this and the bullet went behind		
5	your ear, correct?		a sea a number data i tanà atau a tanàna dia dia 1976.
6	A Yes		the second state that a second s
7	Q The bullet would necessarily go like that?		the second and and a second a second to
, 8	A Ha was	- F - '	
9 9		8	
	THE COURT: Show you can	9	the events for the state for and chemical state in them
0	MS, VILLEGAS: Judge, I would object as far as	10	······································
1	speculation.	11	and here and start that the second second second second second second second second second second second second
2	MR. BUCHANAN; Well	12	here. I
3	THE COURT: Right.	į 13	
4	MS, VILLEGAS: How would he know where the bullet would	14	MR. BUCHANAN: I don't want to inconvenience him. Is
5	go?	15	that
ę	THE COURT: He he wouldn't so, that's sustained	16	THE COURT: Mr. Harper, is that
7	MR. BUCHANAN: All right,	17	
Ø	THE COURT: and he doesn't need to answer that.	18	THE COURT: about right?
9	BY MR. BUCHANAN;	19	THE WITNESS: No. More like more. See, he was in
0	Q Is the gun up here where my hand is right now?	20	that angle, but he was like like two more steps back.
1	A You're not in the his angle	21	THE COURT: Okay. So you need more room,
2	Q Okay.	22	THE WITNESSI Yeah.
3	A when he shot me,	23	MR. BUCHANAN: All right, Could then I I would
4	Q Put me In it. Here?	24	can wa, please?
2 3 4 5 5	 Q All right. Right here, Okay, Now turn straight. A This Q Right there. A Right there. Q All right. Now turn straight where you're looking. 	2 3 4 5 6	chair and have Mr. Harper go down. MR. BUCHANAN! Okay, Stand up, sir. Okay. THE BAJUIF: No, sit down. THE COURT: Kalp film down. MR. BUCHANAN: Okay. Go down there.
7	All right.	'7	THE COURT: And why don't you put it in front of the ELMO
•	TRE COURT: Excuse me	8	there, Arthur, for me, and make sure there's nothing he's
)	MR. BUCHANAN: Now	9	going to trip over, Okay.
		10	MR. BUCHANAN; It should be
,		11	MS. VILLEGAS: You should probably go that way,
		12	MA, BUCHANAN: That's okay,
		13	THE BAILIFF: Okay, Lot's scoot over this way. Okay.
	BY MR. BUCHANAN:	14	Don't sit down.
	1	15	THE WITNESSI Okey.
	*	16	THE BAILIFF: Don't sit down. (Bailiff moves chain)
		17	Okay, New sit down.
		19	MR. BUCHANAN: All right.
		19	THE COURT: Okay, Now Mr. Harper.
	· · · ·	80	THE WITNESS: Yes.
	1	21	THE COURT: Why don't you just see if Mr. Buchanan can be
	Link a developed and the second second second second second second second second second second second second se	12	In the distance
	Q Okay, MS. VILLEGAS: Judge, I think It may be better to	(9 ⁰⁰)	MR, BUCHANAN: Ckay. Tell me when when you shought it
	Movivered was had be trained to use the second state of the second	4	wayld Be. 3 B & I

Verbatim Reporting & Transcription, LLC

	THE COURT: And you can look at him right now while he's	11	THE COURT: Does he
	there,	2	
	BY MR. BUCHANAN:	3	
	Q Yeah. Would that be about right?	4	
	A All right. He was right here.	15	
	Q Okay. He was right here,	6	
	A And follow my finger.	17	
	Q Okay.	B	
	A Right here, he took the gun out, right here pointed	9	MR. BUCHANAN: Can he take the stand again?
	*	10	
	Q Okay, Would that be about right?	112	
	A Yeah,	12	THE COURT: We've got to wait for the chair.
	Q Within would this be about	13	MR. BUCHANAN: I think we need his chair.
	THE COURT: And which way is your head lacing?	14	THE COURT: Anthur's getting it,
	THE WITNESS: (Witness indicating.)	15	THE WITNESS: Thank you.
	THE COURT: CKay.	16	THE COURT: You're welcome.
	BY MR. BUCHANAN:	17	THE WITNESS! Thank you.
	Q Would that be about the distance?	18	BY MR. BUCHANAN:
	A No, more.	119	Q All right. Now, if you could look at this diagram
	Q Okey.	20	which is right in front of you.
	A One more step. Right there.	21	A Yes,
	Q All right. And this would be like the way the gun	22	Q All right. Now could you place where the table was
١	was pointed, correct?	23	that you saw?
	A Yes.	24	A (Witness Indicates.)
a	MR. BUCHANAN; Well. Y MR. BUCHANAN; Well. Q Okay, Point to the ladies and gentiemen of the jury nd show where you think the entry wound was. A Right here. Q Okay, On-top of your head above about three iches above your ear, correct? A Yes. Q Is that where you think it would be?	34567890112314567890	THE COURT: It's the big pink circle there, Mr. Buchanan, BY MR. SUCHANAN; Q Now if If that is correct, how far do you think it was from where the table is to that back wall? A What do you mean? Q Well you were saying that he's on your left side, correct? A Yeah, Q He's on your left side, and he's walked back as far as you had me from you. But how much noom was there to that wall? A See, he didn't go back to me. Q Pardon? A He couldn't fit. You couldn't Q He couldn't fit behind you, could he? A No, he went in the kitchen. Q All right. So now you're saying that he's all the
		20 21	way in the kitchen?
h		6 1 2 Z	 A No. He was like (witness indicates on ELMO). Q Well, if it's that's the way. Now when this shot
	55541-5506 at \$155 at		Curred, who all disa was sested at the table?
		area and	A Edshal and Puppet.
	A K K K K	States	115

1	Q Okay. Wouldn't they be in a crossfire?	1	MR. BUCHANAN: Nothing further,
2	A Yeah.	2	• ·
3	Q And that's what you're saying happened?	13	
4	А Үевһ,	4	REDIRECT EXAMINATION
5	Q But now you're saying he went all the way into the	5	BY MS. VILLEGAS:
6	kitchen?	86	Q Jonathan, what do your friends or people that were
7	THE COURT: Weil, I would	7	
8	MS. VILLEGAS: Judge	9	
9	THE COURT: That's a misrepresentation of his testimony.	\$ 9	Q And was there when you were mentioning the names
10	He didn't say he went all the way over here in the kitchen,	10	
11	Mr. Buchanan, What he said	11	
12	MR. BUCHANAN: Well, he's saying went	12	Q Do you know of a Casper?
13	THE COURT: was he went over here,	13	A Yes, but no one in that party knows this Casper I
14	MR. SUCHANAN: He's saying he went right here, which	24	kriow. He was not there because he's another like he's not
15	would be in the kitchen.	15	a gang. He's like a click.
.6	THE COURT: Well, yeah, but not you said all the way	16	Q A click. So he's not part of the Puros Locos you
17	in the kitchen, and that's not what he said. We're talking	17	Just mentioned?
8	about	10	A No.
9	MR. BUCHANAN: Or to the antry of the kitchen then.	19	Q Okay. Is when you strike that.
0	THE COURT: Thank you,	20	MS, VILLEGASI No further questions.
2	BY MR. BUCHANAN:	21	THE COURT: Okay.
2	Q How far would that be?	22	RECROSS EXAMINATION
3	A Like two - two steps from me.	23	BY MR. BUCHANAN;
4	Q Two steps from you?	24	Q Are you in the gang now with Casper?
(600 int	116 	10004111-1604	115
1 2	A Yeah. Because I was right here like like I could lean my chair on the wall. That's how close I was at that	1	A I don't do that, you know. I'm 11i kell you
3	wall. You couldn't squeeze in the in the middle of this	2	this. I straightened my life out. I'm ready to go back to
4	part. I don't know what is it called, but it's like was	4	school and succeed, you know. I want to have a career and a
5	that thing was holding his fish tank.	5	life, you know,
6	THE COURT: The wall?	6	Q Okay. You haven't been hanging out with Casper? A No. 1
7	THE WITNESS: Yeah, this part.	17	Q You havent
8	THE COURT: Right. It's called a pony wall.	6	• • • • • • • • • • • • • • • • • • • •
9	THE WITNESS: On.	9	A dropped that life when that I was shot. That life died in that apartment. Now this is the new me.
D	THE COURT: What else, Mr. Buchanan?	10	Q Okay. And so you're rchabilitated now? You're nat
1	BY MR. BUCHANAN:	11	doing drugs?
2	Q Are you receiving assistance from the State now for	12	A No,
3	Your injuries?	13	Q You're not banging but with gang members?
4	A What do you mean?	14	A No,
5	Q Did you make application for aid to victims of a	15	Q You're not out on the street?
ŝ	crime?	16	A No.
1	A Mei	17	Q And you never said to Anthony Waters that you
}	Q Or your father?	18	thought Nexter (ph) shot
}	A I don't know. I'm not my father.	1,9	MS. VILLEGAS: Objection, This is going beyond redirect,
)	Q Who's paying your bills?	20	I think
	A My dad.	21	THE COURT: It is, This
	Q Okay. And he's outside, right?	22	MS. VILLEGAS: that was asked and answered
L !	fi tenten a tite		
! ;	A Yes.	2.3	MR. BUCHANAN: All right,
	fi tenten a tite	2.3 2.1	MR, BUCHANAN; All right, THE COUTT: Systained.

....

Verbatim Reporting & Transcription, LLC

Electronically Filed 10/04/2012 11:34:07 AM

4 . 0 .

i.

1	OPPS		Alin D. Comm			
2	STEVEN B. WOLFSON Clark County District Attorney		CLERK OF THE COURT			
3	Nevada Bar #001565 NOREEN DEMONTE					
4	Chief Deputy District Attorney Nevada Bar #8213					
5	200 Lewis Avenue Las Vegas, Nevada 89155-2212 (702) 671-2500					
6	(702) 671-2500 Attorney for Plaintiff					
7	זיין געמיני איז געמיני איז געמיני איז געמיני איז געמיני געמיני געמיני געמיני געמיני געמיני געמיני געמיני געמינ					
8		ICT COURT UNTY, NEVADA				
9	THE STATE OF NEVADA,					
10	Plaintiff,					
11	-VS-	CASE NO:	10C262966-1			
12	EVARISTO GARCIA,	DEPT NO:	XV			
13	#2685822					
14	Defendant.					
15	STATE'S OPPOSITION TO DEFENDA	NT'S MOTION TO	SUPPRESS IN-COURT			
16	IDENTIFICATION PUR	SUANT TO NRS 1	74.215(1)			
17	DATE OF HEARING: 10/9/2012					
18	IIME OF HE	ARING: 9:00 AM				
19	COMES NOW, the State of Nevac	la, by STEVEN B.	WOLFSON, Clark County			
20	District Attorney, through NOREEN DEI	MONTE, Chief De	puty District Attorney, and			
21	hereby submits the attached Points and Aut	horities in Oppositi	on to Defendant's Motion To			
22	Suppress In Court Identification Pursuant To	NRS 174.125(1).				
23	This opposition is made and based u	pon all the papers	and pleadings on file herein,			
24	the attached points and authorities in sup	port hereof, and or	ral argument at the time of			
25	hearing, if deemed necessary by this Honora	ble Court.				
26	POINTS ANI	DAUTHORITIES				
27	Evaristo Garcia, hereinafter Defenda	int, was charged by	way of Criminal Complaint			
28	with Conspiracy to Commit Murder and N	Aurder with Use of	a Deadly Weapon with co-			
	C4	Program Files\Neevia.Com\Doc	ument Converter\temp\3483192-4107610.DOC			

Defendant Giovanni Garcia. At the time of the filing of the complaint, Defendant had fled to 1 2 Mexico. An Arrest warrant was issued for Defendant on June 21, 2006. Following a 3 lengthy extradition process, Defendant was booked into the Clark County Detention Center 4 on October 16, 2008.

An Amended Complaint was filed and Preliminary hearing was held on December 18. 2008. Defendant was held to answer on the murder charge.

7

8

21

6

5

SUMMARY OF PRELIMINARY HEARING TESTIMONY

Melissa Gamboa:

9 On February 6, 2006, Melissa Gamboa was waiting outside desert Pines High School 10 for her brother, Victor Hugo Gamboa, to pick her up. (PHT 72-73). As she was waiting, she 11 observed another student, Giovanni Garcia, place a phone call from a cellular phone. (PHT 12 74). Victor arrived with his friend Bryan, and Bryan and Giovanni began to engage in a fistfight. (PHT 73). A short time later, two other young males emerged from an El Camino 13 14 vehicle and began to assist Giovanni in this fight. (PHT 74-75). The fight continued until 15 the principal came out of the school, and everyone began to run away. (PHT 76), Melissa 16 began to run toward her brother, when she noticed Defendant running toward her brother, and shooting him. (PHT 80-83). Parties stipulated that Victor Gamboa died from a single 17 18 gunshot wound to the back and that the manner of death was homicide.

19 Jonathan Harper:

20Jonathan Harper is a former a member of Puros Locos recruited by Salvador Garcia in 2005. (PHT 8, 30). Harper testified that in order to gain entry into Puros Locos, he had to 22 "get in fights". (PHT 9). As a member of Puros Locos, he would sell drugs (PHT 28, 29), 23 place graffiti (PHT 28), and get into fights (PHT 9, 27). Harper was an active member of 24 Puros Locos in February of 2006 when this shooting occurred. (PHT 7).

25 On the night of the shooting, Haper was at Salvador Garcia's home (PHT 11). He left 26Salvador's home in an El Camino vehicle driven by Manuel, "Puppet", with Defendant, and 27a girl named Stacy to go to Desert Pines High school for a fight. (PHT 25). Harper testified 28 that they were supposed to fight another gang called Brown Pride. (PHT 26, 41).

> C:\Prog2um Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC APP 000156

Prior to entering the car, Defendant obtained a gun from Puppet. (PHT 20, 44-46). Once they arrived at Desert Pines High School, Giovanni (Little One) Garcia was already fighting in a circle. (PHT 14, 43). Jonathan and Defendant exited the car and began to fight in the same circle. (PHT 14-15). Jonathan testified that the person he personally was fighting with was the leader of Brown Pride, Diablo. (PHT 26).

Jonathan then saw a young Hispanic male run out of the circle being chased by Defendant and Giovanni. (PHT 15-16). As Defendant and Giovanni chased the victim, they began fighting over the gun – Giovanni was demanding the gun, and defendant was sating "I got it." (PHT 16-17, 32-35). Defendant then cocked the gun and shot at the victim several times. (PHT 35). Defendant later told Jonathan that he shot the victim because Little One provoked him. (PHT 55-56).

The case was proceeding to trial under case C226218, when the State of Nevada presented the case to the Clark County Grand Jury on March 4 and 18, 2010. The Grand Jury returned a true bill against Defendant and Manual Lopez for one count of Conspiracy to Commit Murder with Gang Enhancement, and one count of Murder with Use of a Deadly Weapon with Gang Enhancement on March 19, 2010.

17

1

 $\mathbf{2}$

3

4

5

6

7

8

9

10

11

18 Dr. Gary Telgenhoff

SUMMARY OF GRAND JURY TESTIMONY

Clark County Medical Examiner Gary Telgenhoff testified that an autopsy of Victor
Gamboa was performed by Dr. Larry Simms. Dr. Telgenhoff reviewed the report and
findings of Dr. Simms, and concurred that the cause of Gamboa's death was a single gunshot
wound to the back and the manner of death was a homicide. Reporter's Transcript of Grand
Jury Proceedings, March 4, 2010 (GJT1), 15-20.

24 William Speas

Las Vegas Metropolitan Police Department (LVMPD) Crime Scene Analyst (CSA) William Speas testified that he responded to a shooting incident at Morris Sunset East Academy on Washington Boulevard on February 6, 2006 with other CSAs, including Daniel Proietto. Speas and Proietto photographed six (6) 9mm Makarov shell casings on

C:\Proghm Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC
APP 000157

Washington Boulevard. GJT1, 25-27. Speas and Proietto also photographed and recovered
 a 9mm Makarov Imez firearm inside a toilet tank located at 865 Parkhurst Avenue near the
 school. Speas processed the toilet tank for latent fingerprints. GJT1, 28.

4 <u>Monte Spoor</u>

CSA Monte Spoor testified that he obtained major case prints, which are prints of full
lengths of fingers, extreme tips of fingers, and palm prints, from Manuel Lopez in
connection with this investigation. GJT1, 34-35.

8 Joseph Szukiewicz

9 CSA Joseph Szukiewicz obtained major case prints from Defendant in connection
10 with this investigation. GJT1, 39-40.

11 Melissa Gamboa

Melissa Gamboa testified that on February 6, 2006 she was attending night school at
Morris Sunset Academy on Washington Boulevard. GJT1, 43-44. On that day, there was a
problem during 6th period between her friend Gena and a person named Giovanni Garcia.
GJT1, 44-45. After 6th period, Melissa observed Giovanni Garcia making a phone call.
GJT1, 47.

Her brother, Victor Gamboa, was supposed to pick her up from school that day.
GJT1, 46. Brian Marquez, Gena's brother, arrived at school with her brother. Her
boyfriend, Jesus "Diablo" Alonso, also arrived. Alonso is a member of the gang Brown
Pride who uses the moniker "Diablo". GJT1, 48-50.

Brian Marquez began fighting with Giovanni Garcia, and the fight quickly turned into
a large fight among many people. GJT1, 50-51.

The principal came out of the school, and everyone started running away. Melissa and Victor ran across Washington. GJT1, 52. As they were running, a teenage Hispanic male with short hair wearing a gray hooded sweatshirt began shooting at Victor. GJT1, 54.

Melissa first noticed this individual arriving at the school in a gray El Camino with two other Hispanic males and one female, and joining the fight between Brian and Giovanni Garcia. GJT1, 57-58. After the shooting, the shooter ran West on Washington toward

C:\Progthin Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC
APP 000158

Parkhurst. GJT1, 59.

Melissa previously testified in a hearing for this matter and identified the shooter in
court. GJT1, 62-63.

4 <u>Gena Marquez</u>

Gena Marquez attended Morris Sunset Academy in February of 2006. There had
been a fight between Giovanni Garcia and a girl named Crystal Perez. After this fight, Jesus
Alonso had confronted Giovanni Garcia who was a member of the gang Puros Locos. GJT1,
79-80. After class on February 6, 2006, Gena observed Giovanni talking on the phone with
a person called "Puppet", telling Puppet to "bring Stacy because there's a girl acting like a
man that's going to get handled like a man." GJT1, 86. Giovanni then told Gena that her
friends are going to "get theirs tonight." GJT1, 86.

Gena called her brother Bryan and also attempted to contact Jesus Alonso. GJT1, 8788. Bryan and Victor Gamboa picked her up near the school, and the three of them waited
for Melissa Gamboa. GJT1, 88-90.

As school let out, they approached the school. A fistfight broke out involving many
people including Jesus Alonso. GJT1, 91-93.

The fight broke up suddenly, and people began to scatter. Gena ran back to the car
with Bryan and Jesus Alonso; she heard approximately five (5) gunshots as they were
driving off. GJT1, 94-96.

20 Jonathan Harper

In 2006, Jonathan Harper was a member of a gang called Puros Locos, and went by the moniker "Silent". GJT1, 101-102, 106. Other members of Puros Locos at the time were Giovanni Garcia, who used the moniker "Little One"; Salvador Garcia, who went by "Boxer"; Edshel Calvillo, who went by "Danger"; Manual Lopez, who used the moniker "Puppet"; and Evaristo Garcia, who went by "E". GJT1, 102-106.

Harper became a member of the gang through his friend Edshel Calvillo by
participating in fights and tagging "PL" in various places until he was finally "jumped into"
the gang. GJT1, 106, 123.

On February 6, 2006, he participated in a fight at a high school as part of the gang. GJT1, 107. Harper was at Salvador Garcia's home and was told that he was going to fight a gang called "Brown Pride". Harper rode to the school in Lopez's El Camino with Lopez, Defendant, Edshel, and Lopez's girlfriend. GJT1, 108-109.

1

 $\mathbf{2}$

3

4

5

6

7

8

9

10

11

12

13

14

15

16

Harper testified that no one discussed a gun. GJT1, 109. Harper had previously given a statement to police that Puppet had a "nine" and "told E to hold it." GJT1, 111.

As they parked in the parking lot, Harper saw between fifteen and twenty people outside the school fighting. All four of them then got out of the car, and Harper saw Giovanni fighting. Harper then joined the fight by fighting with a person named "Diablo". GJT1, 112-113.

Other members of Puros Locos then showed up and joined the fight. GJT1, 115.

The fight started to break up and a young kid ran out of the circle. Defendant and Giovanni then ran out of the circle after him. Defendant and Giovanni were arguing. GJT1, 116-117. Harper testified that he did not remember what they were arguing about. GJT1, 117. Harper had previously told detectives that Defendant and Giovanni were arguing over a gun. GJT1, 117.

Harper testified that he then heard gunshots, but did not see anything. GJT1, 119.
Harper previously told detectives that E ran into the middle of the street and emptied the gun
shooting at the kid. GJT1, 119.

Harper testified that he did not remember what Defendant was wearing. GJT1, 120.
Harper previously told detectives that Defendant was wearing a gray hooded sweatshirt.
GJT1, 121.

Harper also testified that he does not remember speaking with Defendant after the shooting. GJT1, 122. Harper previously stated that Defendant told him that he felt like Giovanni provoked him into shooting the kid, and that after the shooting he put the gun in a toilet that was in the street. GJT1, 122.

Harper identified Defendant and Manual Lopez in photo lineups for Detective Mogg.
Reporter's Transcript of Grand Jury Proceedings, March 18, 2010 (GJT2), 7-9.

C:\Progem Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC
APP 000160

3

4

6

7

8

9

10

11

12

13

Ondrea Morales

Ondrea Morales, custodian of records for Home Depot, testified that in early February of 2009, Home Depot had processed a work order for tiling bathrooms, and removing and replacing toilets at 865 Parkhurst in Las Vegas, Nevada. GJT1, 128-131.

5 Michael Souder

LVMPD Detective Michael Souder¹ testified that he is employed as a detective in the gang unit, and has received specialized training regarding gangs and gang subculture for this assignment. GJT1, 133-138.

Puros Locos was identified by the gang unit as a gang in 2004, and claims the east side of Las Vegas as its territory – commonly using "east side" in tattoos. GJT1, 139-141.

Puros Locos has eight primary members and affiliates, including Salvador Garcia, Giovanni Garcia, Manual Lopez, Jonathan Harper, and Edshel Calvillo; and commonly engages in felonious activities. GJT1, 139-141, 145.

Detective Souder displayed and explained the meaning behind the numerous Puros
Locos tattoos on Giovanni Garcia and Manual Lopez, and the "jump in" process and gang
culture. GJT1, 141-145, 150.

Detective Souder also testified that he is quite familiar with Brown Pride Locates
(BPL), which is a much larger gang than Puros Locos. GJT1, 152. In February of 2006,
Puros Locos was struggling to make a name for themselves, and that getting into a fight with
a larger gang would improve their reputation. GJT1, 152-153.

When questioned about the lack of tattoos or field interview cards for Defendant Evaristo Garcia, Detective Souder explained that the lack of a field interview card does not mean that one is not a member of a gang, and that only the member in higher positions in the gang would have tattoos, as one must earn the right to place the gang name on one's body. GJT1, 154-155.

- 26 Alice Maceo
- 27

28

¹ The statement in Defendant's Statement of Facts that Michael Souder is a patrol officer is inaccurate.

C:\Progiam Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC

LVMPD latent print examiner Alice Maceo testified that she processed and compared latent prints from the Imez 9mm pistol in connection with this investigation. In her analysis, she was able to collect a latent print from the upper portion of the grip where one would hold the gun, a palm print on the back strap of the gun, and a fingerprint on the side of the grip. GJT2, 17-18

After comparing the latent prints she collected against the major case prints of Defendant, she identified Defendant Evaristo Garcia's right ring finger on the fingerprint from the left side of the grip, and Evaristo Garcia's palm "web area between the thumb and index finger" on the back strap of the gun. GJT2, 18-19.

10 Jonathan Robinson

1

 $\mathbf{2}$

3

4

5

6

7

8

9

Jonathan Robinson worked with Manual Lopez at Mikes Drain and Plumbing in 2006. GJT2, 21-22. After the shooting, Lopez told Robinson that he had been with a bunch of people, and there was a conflict with a young kid. Lopez stated he had given his 9mm to his friend who then shot the kid. GJT2, 23-24. Lopez also told him that he had taken the gun back, and placed it inside a toilet tank from a job he had been working. GJT2, 24. Robinson testified that Lopez was proud of the shooting. GJT2, 25-26.

17 Crystal Perez

Crystal Perez was attending school at Morris Academy in February of 2006. Perez
got into a fight with Giovanni Garcia on a Friday afternoon. The following Monday,
Giovanni told her that she was going to "get hers". GJT2, 30-31. Crystal later saw Giovanni
talking on the phone telling his friends to "bring Stacy". GJT2, 33.

Crystal left school early that day, but returned to meet with Melissa Gamboa, Victor Gamboa, Bryan Marquez, and Gena Marquez. GJT 34-35. A large fight broke out, and Victor Gamboa was fighting among the group. GJT2, 35-36. When the principal and school police officer came out, everyone started running. Crystal ran through the parking lot and fell down. As she was on the ground, she observed Victor Gamboa getting shot. GJT2, 39-40. Crystal previously told police that Giovanni Garcia was the shooter, but admitted that was not true. She did not know the identity of the shooter. GJT2, 40-41.

C:\Prog&m Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC
APP 000162

3

4

5

6

7

8

9

Clifford Mogg

LVMPD Homicide Detective Clifford Mogg was assigned to investigate the shooting death of Victor Gamboa on February 6, 2006. GJT2, 46-47. During his investigation, he developed three suspects: Giovanni Garcia, Manuel Lopez, and Evaristo Garcia. GJT2, 48.

During his investigation, Mogg obtained the cellular phone records for a phone being used by Giovanni Garcia. GJT2, 52.

At 8:01 pm on February 6, 2006, Giovanni called Manuel Lopez. There are several calls from Giovanni Garcia to Manual Lopez and Salvador Garcia's girlfriend Melinda between 8:32 pm and 8:59 p.m.

10

LVMPD dispatch received a 911 call reporting the shooting at 9:02 p.m.

Several calls of short duration (between 4 and 6 seconds) were then placed from
Melinda Lopez to Giovanni Garcia between 9:06 and 9:39 p.m.

13 Detective Mogg interviewed Manuel Lopez on two occasions. During the first interview, Lopez told Mogg he went to the school with his girlfriend to pick up Giovanni 14 Garcia, but he did not get out of the car and had no other members of Puros Locos with him. 15 16 GJT2, 57-59. During the second interview, Lopez told Mogg that the gun used in the 17 shooting was his 9mm, but he had not seen it for a few days prior to the murder. Lopez told 18 detectives that he had heard on the streets that E had used the gun to commit the murder. Lopez also changed his story about who was with him in the car. Lopez stated that he was 19 20with Stacy, E, Jonathan, and Edshel, and that Giovanni had told him to bring people. Lopez, however, denied involvement in the fight. GJT2, 65. 21

22

23

24

25

26

27

28

Melissa Gamboa's identification of the Defendant as the shooter was tied in through the testimony of Detective Cliff Mogg who testified that the Defendant present in court on the date Melissa Gamboa testified was, in fact, Evaristo Garcia. GJT2, 52.

This case is presently set for trial for July 8, 2013. Defendant filed the instant motion on September 25, 2012.

ARGUMENT

Defendant asks this Court to prevent the victim's sister from identifying him in Court.

C:\Proglam Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC

APP 000163

The primary error of law upon which the motion is based is that, quite simply, the entire line 1 2 of cases flowing from Neil v. Biggers, 409 U.S. 954, 92 S.Ct 1167 (1972), does not speak to 3 in court identifications at all, but to suggestive out-of-court identification techniques. 4 Federal decisions often refer to "pre-trial" identifications, but that is because, in the federal 5 systems, preliminary hearings are virtually never conducted. That is because a favorable ruling in a preliminary hearing in the federal system does not eliminate the necessity of 6 7 presentation to a grand jury, which is the only way a criminal case may be brought into 8 United States District Court.

Needless to say, the defendant cites no authority that an in court identification at
preliminary hearing is within the ambit of "suggestive pre-trial identification." There is
none. The reason that an in court identification is not subject to the same considerations as a
street show-up or a photo-lineup is because in a preliminary hearing, unlike those situations
(and unlike a grand jury proceeding) the witness' identification can be tested by the
defendant's counsel through cross-examination.

In <u>Baker v. State</u>, 88 Nev. 369, 372 fn.1, 498 P.2d 1310, 1311 (1972), the court noted
that the Arizona courts had held that Wade-Gilbert did not apply to an identification at
preliminary hearing. The court declined to decide on the case presented whether Stovall was
applicable to identifications at preliminary hearing.

19 Baker then took his case to the federal courts. In Baker v. Hocker, 496 F.2d 615 (9th 20 Cir. 1974), the Court of Appeals for the Ninth Circuit, affirming the District Court's denial 21 of petition for writ of habeas corpus, stated that the defendant failed "to clear even the first 22hurdle" of a Stovall violation. The defendant had not been identified in an earlier physical 23 lineup, but was identified at preliminary hearing, where he was seated between the two co-24 defendants who had been identified in that physical lineup. The court held that the risk of a 25 mistaken identification at preliminary hearing becoming "fixed" and tainting trial 26 identification "is far less present in the court proceeding because, as here, the identification 27 can be immediately challenged by cross-examination." 496 F.2 at 617.

28

The Ninth Circuit further considered the issue, and reaffirmed Baker, in Johnson v.

C:\Product Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC APP 000164

1 Sublett, 63 F.3d 926 (9th Cir 1995), cert. denied, 516 U.S. 1017, 116 S.Ct. 582). In so 2 affirming the court stated: While conceding that courtroom procedures are 3 undoubtedly suggestive, we stress that only "unnecessary" or "impermissible" suggestion violates due process. We balanced the state's strong interest in conducting the court procedure against the dangers of misidentification, which were already mitigated by cross-examination, and held that the suggestive 4 5 character of courtroom logistics was not unnecessarily 6 suggestive. (63 F.3d at 929, emphasis in original) 7 As early as 1969, the Nevada Supreme Court held, in Craig v. State, 85 Nev. 130, 451 P.2d 365 (1969) that a defendant's claim that he was prejudiced by being identified at a 8 preliminary hearing without having had a lineup was without merit. The court added that the 9 10 nature of the prejudice he claimed was not clear. Id, A year later, the court implied that testimony at preliminary hearing did not constitute 11 12 a "pre-trial" identification. In Sanchez v. State, 86 Nev. 142, 143, 466 P.2d 670, 671 (1970), 13 the court indicated in dicta that it considered pre-trial identification by a robbery victim and 14 the subsequent preliminary hearing testimony of that victim as two different things. 15 In Lamb v, State, 96 Nev. 452, 454, 611 P.2d 206, 207 (1980), the court implicitly recognized the difference between an in-court and out-of-court identification, by rejecting 16 17 that defendant's claim that trial identification was based upon an arguably improper photo-18 lineup by stating, inter alia, that the witness' preliminary hearing identification was 19 unequivocal. In Hicks v. State, 96 Nev. 82, 84, 605 P.2d 219, 220 (1980), the court again 20 distinguished in-court identifications (at preliminary hearing or trial) from out-of-court 2122 identifications which may have been suggestive. 23 As the law directly related to this identification is clearly not on his side, Defendant points to a few selective and brief lines of text from the preliminary hearing in an attempt to 24 25persuade this Court that Gamboa's identification was a suggestive procedure because 26Defendant was seated at counsel table as when she made the identification, and Gamboa's 27 description of the shooter given to police "does not match Garcia." Defendant also 28 insinuates that she had been assisted in her identification by an investigator from the District

> C:\Produlm Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC APP 000165

	Attorney's Office.
--	--------------------

 $\mathbf{2}$ Defendant's selective use of the testimony bears is not a complete portraval of how 3 the testimony actually occurred. To complete the record, the State has attached the ENTIRE 4 transcript of Gamboa's testimony as Exhibit 1, and will illustrate Defendant's flawed 5 translation of the facts herein. 6 When first questioned regarding the description of the shooter, Gamboa's testimony 7 was as follows: So from where you were standing could you see the 0 8 person who was shooting your brother? A Yes. 9 Q A Can you describe that person? Yes. 10 Q A Describe him, please. He was wearing a hoodie that night, and he was - it 11 covered his face. And he was like 5-2, 5-3. He was wearing, I believe, shorts that night. 12 Q A And what race was he? Hispanic. 13 Q A About what age was he? 14 17 or 18. Q A 15 What color was the hoodie? Gray. 16 Q A Can you describe the hair on his face? He didn't have facial. 17 And you said this is the person that you saw shooting at your brother? 18 Mm-hmm. A QAQAQA Is that a yes? 19 Yes. Would you recognize that person if you saw him again? 20Yes. Do you see that person here in court today? 21Yes. Ο Could you please point to that person and tell the judge 22 what color shirt he is wearing? He's in custody. Wearing blue. A 23 May the record reflect the witness has MS. JIMINEZ identified the Defendant. 24 THE COURT So reflect. 25PHT 81-83. Upon cross examination, Defendant's counsel confronted Gamboa with the recorded 2627 statement she gave to Detective Mogg. 28

C:\Prodram Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC

1	
1	
2	Q Do you remember that description being a follows: He was wearing a gray sweater, had a hoodie on, dark shorts, the
3	gun The gun was, I believe, a 380. It was dark. I think it was black.
4	He had light hair, a face. He – he – I don't think he had hairs on his face. He looked clean. I don't think he had a mustache.
5	Is that the description you gave? A I don't remember.
6	PHT 88.
7	Defendant's counsel (and not the State as Defendant wrote in his motion), then further asked
8	Gamboa about the difference in description:
9	Q Does the gentleman seated to my left have light hair? A Has what?
10	Q Does the gentleman seated to my left have light hair? A No.
11	Q You described that gentleman that was the shooter as having light hair, correct?
12	A Correct. Q And you indicated that my client's appearance today is the
13	same as you recall it on that day, correct?
14	Q He doesn't have light hair thought does he? A No.
15	РНТ 89-90.
16	Upon redirect examination, the State asked Gamboa about the written voluntary statement she provided to police in her own
17	handwriting prior to giving her recorded statement: Q Miss Gamboa, do you recall giving a written statement to the police at the time that this happened, one that you wrote in
18	your own hand? A Yes,
19	
20	Q Do you recall there's a box on the statement that asks if you can identify the suspect, correct? A Yes.
21	Q And you marked yes on that box, didn't you?
22	Q When you came to court earlier today, before you
23	testified, did you recognize the defendant at that time? A Yes.
24	Q And was he sitting in the same place as he is now? A No. O Where was he sitting?
25	Q Where was he sitting? A Right there. MS JIMINEZ And for the record, Judge, she pointed
26	toward the jury box.
27	A The first row.
28	Q Can you say which seat he was in? A Either first or second.

C:\Projnim Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC

-

1	Q And you said that you did not see Mr. Terry, the defense
2	attorney, talking to him? A No, I didn't.
3	Q Did anybody tell you to pick that person? A No.
4	РНТ 96.
5	The State then questioned Gamboa about the description she wrote in her own hand of the
6	shooter.
7	 Q And what was that description you gave? A Gray sweater and dark shorts. Q And do you remember saying what race he was? A Hispanic. Q And do you remember saying what color hair he had? A Black.
8	Q And do you remember saying what race he was? A Hispanic.
9	Q And do you remember saying what color hair he had? A Black.
10	РНТ 97-98.
11	Regarding the presence of a District Attorney Investigator, Gamboa testified as follows:
12	Q before you were called as a witness Were you with an individual referred to as a Victim Witness coordinator?
13	 A I'm not understanding. Q Did somebody help you come to court this morning? A As a ride or
14	Q No. When you got to the building did somebody bring you
15	up here? A No.
16	There's a young sitting in the courtroom. Have you had any – beside the two Da's have you had any conversations with her
17	today? A Yes.
18	I couldn't describe over the phone. I did talk to her over the
19	phone. I spoke with Dawn.
20	Q The lady is in the courtroom now? A Yes.
21	At that point the woman in the courtroom identified herself as Dawn Barlow, and
22	investigator with the District Attorney's Office.
23	Q Now, she's in here while you're testifying, right? A Yes.
24	Q She's helping you, right? A Yes.
25	Q And you met her before you came into court this morning?
26	
27	 A Yes. Q Courtroom, how about that? A Yes. Q And she came in when you came in? A No.
28	À No.

C:\Program Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC

APP 000168

1 QAQA Did she tell you to remain outside? 2 No. But I you came in? 3 Yes PHT 91-93. 4 5 Upon redirect examination, Gamboa was asked by the State about the investigator. 6 Q The investigator that indicated that you spoke with here in the courtroom, Dawn, did she ever tell you who to pick out as the 7 person who committed this? 8 Ά No. Q A Why did you point to the Defendant and identify him? 9 Because I recognized him. 10 PHT 98. No one told Gamboa who to identify or suggested her identification in any way. 11 12 Gamboa first recognized Defendant while he was seated in the box with other in custody 13 inmates prior to being moved to the defense table. Additionally, Gamboa never saw the 14 defense attorney talking to Defendant prior to the preliminary hearing. There was absolutely 15 nothing suggestive about the circumstances in which she made her initial identification. 16 While Defendant -- just as his original counsel did during the preliminary hearing --17 wishes to stress the reference to light hair contained in a transcription from an audio 18 recording, Gamboa's original description of the shooter written in her own hand matched 19 the description of Defendant. 20Gamboa's identification at preliminary hearing should not be set aside, and she 21 should be permitted to identify Defendant in court at trial if she is able to do so, 22111 23 111 24111 25 111 26111 27111 28

C:\Prodram Files\Neevia.Com\Document Converter\temp\3483192-4107610.DOC

APP 000169

1	CONCLUSION
2	For the foregoing reasons, the State respectfully requests that this Honorable Court
3	deny Defendant's Motion to Suppress.
4	DATED this <u>4th</u> day of October, 2012.
5	Respectfully submitted,
6	STEVEN B. WOLFSON
7	Clark County District Attorney Nevada Bar #001565
8	
9	BY /s/NOREEN DEMONTE
10	NOREEN DEMONTE Chief Deputy District Attorney Nevada Bar #8213
11	Nevada Bar #8213
12	
13	CEDTIEICATE OF FACSIMILE TO ANOMIOSION
14	CERTIFICATE OF FACSIMILE TRANSMISSION
15	I hereby certify that service of the above and foregoing, was made this 4th day of
16	October, 2012, by facsimile transmission to:
17	ROSS GOODMAN, ESQ. FAX: 385-5088
18	
19	/s/Deana Daniels Secretary for the District Attorney's
20	Office
21	
22	
23	
24	
25	
26	
27	
28	
	C:\Prolum Files\Neevin.Com\Document Converter\temp\3483192-4107610.DOC APP 000170

:

1

EXHIBIT 1

APP 000171

	THE COURT: Okay. You may proceed.	69 1		
	107 Weifenrichten, erfanzelle einen Maniferie		A.	No. '4
	MS, JIMENEZ: Thank you, Judge.	2	Q.	Is that here in Las Vegas, Clark County,
		3	Nevada?	,
		4	A.	Yes, it is. '
ELIS	SA NARIA GAMBOA, having been	5	Q.	And what hours did you go to school at
first duly	sworn to testify to the truth, the whole	6	Morris Aca	kiemy that day?
ruth, and	nothing but the uruth, testified as	7	A.	2:30 to 8 something, I believe.
(ollows:		8	Q.	What kind of school is Morris Academy?
		9	A.	it was adult ed to make up credits.
	DIRECT EXAMINATION	po	Q.	Were the classes in the afternoon and
ny ms. Jim	ensz:	1 1	evening ge	merally?
Q.	Miss Gamboa, how old are you?	12	А.	Yea. t
А.	I'm 19.	13	Q.	That day what time did you get out of
Q.	And, Miss Gamboa, did you have a brother?	14	school?	
А.	Yea.	15	A.	Don't remember.
Q.	What was your brother's name?	16	Q.	What time did school generally get out?
A.	Victor Gamboa.	17	A.	Like I said, 8 something.
Q.	And did something happen to your brother,	4.8	Q.	In the evening?
ictor?		19	А.	At night.
А.	Yes.	20	o.	At night. / /
Q.	And what happened to Victor?	21.]	And did you get out at the regular
А.	He was surdered.	22	time school	l got out that day?
Q.	Do you remember when that occurred?	23	A.	Xes.
	MR. TERRY: Just so we're clear, that's a	24	Q.	When you got out of school what did you
egal conci	lasion.	25	do after y	ou got out of school?
	ruth, and ollows: X MS. JIM Q. A. Q. A. Q. A. Q. A. Q. A. Q. A. Q. A. Q. A. Q.	nuth, and nothing but the unuth, testified as ollows: DIRECT EXMAINATION X MS. JIMENEZ: Q. Miss Gamboa, how old are you? A. I'm 19. Q. And, Miss Gamboa, did you have a brother? A. Yes. Q. What was your brother's name? A. Victor Gamboa. Q. And did something happen to your brother, ictor? A. Yes. Q. And what happened to Victor? A. Ee was murdered. Q. Do you remember when that occurred?	nuth, and nothing but the truth, testified as 7 ollows: 8 DIRECT EXMMINENTION 10 X MS. JINENEZ: 11 Q. Miss Genboa, how old are you? 12 A. I'm 19. 13 Q. And, Miss Gamboa, did you have a brother? 14 A. Yes. 15 Q. What wan your brother's name? 16 A. Victor Gamboa. 17 Q. And did something happen to your brother, 18 ictor? A. Yes. 20 A. Mes. 21 A. He was murdered. 22 A. He was murdered. 23 MR. TEREY: Just so we're clear, that's a 24	ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and nothing but the uruth, testified as ruth, and did something happen to your brother, and ruth as surdered. ruth, and what happened to Victor? ruth, and what happened to Victor? ruth, the was surdered. ruth, and ruth accurred? ruth, and ruth, and ruth accurred? ruth, and ruth, and ruth, and ruth accurred? ruth, and ruth, a

ì

:

		THE COURT: It's a legal conclusion. 70	1	A. I was talking to my friend, waiting for
	I'll let th	e record reflect that.	2	my brother.
ĺ		MS. JIMENEZ: That's fine.	а	Q. Your brother, Victor?
		THE COURT: Go ahead.	4	A. Yes.
	BY MS. JIME	NEZ:	5	Q. And why were you waiting for Victor?
	Q.	When did that occur?	6	A. He was picking me up!
	A.	The date you mean?	7	Q. Did Victor arrive at the school?
	Q.	Yes.	8	A. Yes, he did.
	A.	February 6, 2006.	9	Q. About how long after you got out of
	Q.	And in February 6 of 2005, how old were	10	school did Victor arrive at school?
	you at that	time?	ha	A. Five minutes or so or less.
	Λ.	1 believe 17.	12	Q. Before Victor got there did you notice
	Q.	And how old was your brother, Victor?	43	anybody else doing anything in particular?
1	A .	15.	14	A. Yes.
	Q.	On February 6 of 2006, what were you	45	Q. What did you see?
	doing in th	e afternoon or evening hours?	26	A. I saw my sixth period student class was
	А.	I was attending school.	17	talking about a fight. They were talking about
	Q.	Where did you attend school?	18	MR. TERRY: Judge, that would be bearsay.
	A. /	Morris	19	The question was clear, what did you see.
1	Q.	Is there a full name to Morris?	20	By MS. JIMENEZ:
	A,	Morrie Academy.	21	Q. Right. I'm asking not to talk about what
	Q.	On what street is Morris Academy located?	22	people were saying, but I want to talk about did you
	А.	I just know it's up by Washington.	23	see schebody do something after school before your
	Q.	Do you know a cross street for	24	brother got there?
Í	Washington?		25	A. Yes.

~

3	****				·····		
1	Q.	And who was that person?	73	1	ane-an-ane?	, 75	
2	እ.	Just we were just waiting for people to		2	А.	It was no longer than five minutes. It	
3	pick us u	р, 80		3	all happens	d so quick.	
4	Q.	What happened after Victor arrived?		4	Q.	At some point did scrething else happen	
5	Α.	My brother arrived. I saw that he came	1	5	with regard	to that fight?	
6	with a fri	end of him.	1	6	А.	Yes.	į
7	Q.	Do you know his friend's name?		7	Q.	What was chat?	į
8	Α.	I do now. Then I didn't know his name.	1	8	А.	More people started jumping in, girls and	ļ
9	Q.	What's his name?		9	guya.		
10	А,	Brian.	þ	0	Q.	Now many others jumped into the fight?	
11	Q.	And what happened after Victor and Brian	իս	1	А.	For defending Giovanni, I saw a guy, and	
12	got there?	N	þ	2	then after '	that I saw another guy coming.	
13	А.	I just heard I don't know if you want	þ	3	Q.	So when you say defending, do you mean on	ļ
14	ce to say	that.	þ.	4	the same al	de?	
15	Q.	I want you to talk about what you saw	þe	5	А.	Giovanni's aide, yes.	
15	happened a	fter Victor and Brian get there.	þ	6	Q.	And you said you saw a guy and another	
17	А.	I saw that Brian was talking to my	b 1	7	guy, so is t	that two guys?	1
18	brother.		48	3	Α.	Yes, other two gays.	
19	Q.	And after Hrian and your brother were	իչ	9	Q.	Where did these two guys come from?	
20	talking, w	dat did you see happen next?	- ko	5	А.	They came out of a car.	
21	А,	I saw Arian fighting.	- ku	1	Q.	Can you describe the car?	1
22	Q.	Who was Brian fighting with?	22	2	Α.	It was a I forgot the color. It was	
23	А.	Giovanni Garcia.	þa	1	like gray.	It was an El Camino, two-door car. I saw	
24	Q.	and how do you know Giovanni?	24	1	two four	people in that car.	
25	А.	I have him for sixth period class at the		;	Q.	And of the four people that you saw in	

					a subject to the second second second second second second second second second second second second second se		
ı	school I w	as arriving at.	74	1	the car, ma	les or females?	76
2	Q.	He goes to school with you?		2	А.	There was one female and three males.	
3	Α.	He did.		3	Q.	And about what age were these people?	
4	Q.	Before I want to back up for a second.		4	А.	Around my age, I can say, 17, 18.	
5		Before Victor showed up, did you		5	Q.	And what race were they?	
6	see Giovan	ai doing something before Victor got there?		5	А.	Hispanic.	
2	А.	Yes, I did.		7	Q.	AL1 of them?	
8	Q,	What did you see him do?	j	6	А.	Mn-lmm.	
9	Α.	I saw him making a phone call, and as		9	Q.	Is that yes?	
10	well he wa	s with girls.		10	А.	Yea.	
ц	Q.	was he on the phone?		u	Q.	And so you said that the two people who	
1.2	А.	He was on the phone.		L2	got in the	fight, they came from this gray Bl Camino	
ນ	Q.	Was it a cellphone?		L3	you describ	ed?	
14	A.	Xea.		14	А.	Yns.	
15	Q.	You said that after Victor and Brian		LS	Q,	What bappened after those two people	
16	showed up	that Brian and Giovanni got into a fight?	1	16	joined in th	he fight?	
17	А.	May-Itanat .		t7	А.	The principal came out.	
18	Q.	Is that yes?	ļ	18	Q.	What happened after the principal came	
19	д.	Yes.		19	out?		
20	Q,	Can you describe what kind of fight it		10	А.	Everybody started running.	
21	waxa ?		ł	21	Q.	This is the principal of the school?	
22	А.	It was a one-on-one fight, the two guys.	ł	22	А.	Yes.	
23	Q.	Was it with fists or weapons?		23	Q.	Where was that fight occurring?	
24	А.	with fists.	ł	24	А.	This was right in front of the school by	
25	Q.	How long did the two of them fight just	ł	15	the parking	lot.	

Ľ,	(State's Proposed Exhibit 1	77 1	Q. Can you put a circle the map where
1	marked for identification.)	2	THE COURT: Wait until counsel gets
		3	there.
1	MS. JIMENEZ: Judge, I have State's	4	BY MS. JIMENEZ:
ž	Proposed Exhibit 1, which is a purported map, which	5	Q. Can you gut a circle on the map where the
i	I'm showing to defense counsel. May I approach?	6	fight that you have just described was occurring.
•	THE COURT: Sure, you may.	7	A. I believe this is the entrance. There
	EY MS. JIDMENEZ:	8	was two entrance for the school.
	Q. Miss Gamboa, I'm going to show you	9	Q. Take a moment to orient yourself.
)	State's Proposed Exhibit 1. Do you recognize that	10	A. I know there was one for daycare. This
Ļ	item?	µ1	is the entrance. The fight was right across over
1	A. Yea, Ido.	12	here, the parking lot.
	Q. What is that?	13	Q. So you've drawn a circle on the map in
	A. The school I was attending.	14	the parking lot area, correct?
;	Q. Is that a map of that school?	15	A. Connect.
;	A. Yes.	16	Q. After the individuals f- you said two
	Q. And does that map fairly and accurately	17	other people jumped in the fight on the side of
	show the school and the nearby streets at the time	he	Giovanni. What happened after that?
	that this happened on February 6 of 2006?	19	A. Can you explain that again?
	А. Үев.	20	Q. After you said two people jumped into
	MS. JIMENEZ: And, Judge, I'm going to	21	the fight on the side of Giovanni, correct?
	move to admit State's Proposed 1.	22	A. Mn-Ixwa
	MR. THRRY: I have to ask for what	23	Q. Is that yes?
	purpose?	24	А. Үся.
	THE COURT: What's the purpose for it?	25	Q. What happened after that?

1 MR. TERRY: We don't have an adequate 78 1 A. They started numming because the principal cars. 80 2 foundation really to admit it. 2 principal cars. 0. And did your brother, victor, run? 4 4 that it's a fair and accurate map, that this is the 4 A. Yes. 4 4 5 location of her school, that it's the location at the 5 0. And did your more 4 7 THE COURT: For what is the purpose? 7 0. And who else run? 4 8 MS. JIMENES: I'm going to have her 6 A. Yes. 4 9 describe where people were, what they were doing. 5 0. And who else run? 4 10 THE COURT: I'll allow it in for that. 10 7 0. While the running towards my brother and 0. Th's ckay. Tikks a tissue if you need it. 11 Go absed. 11 A. I was running towards my brother and 0. Th's ckay. Tikks a tissue if you need it. 13 (State's Exhibit 1 13 14 14 14 14 admitted into evidence.) 14 14 14 15 15 For sks. JIMENES:		······································		· · · · · · · · · · · · · · · · · · ·
3 MS. JINEXEZ: We do. 1 laid a foundation 0 And did your brother, victor, run7 4 that it's a fair and accurate map, that this in the 3 0. And did your brother, victor, run7 4 that it's a fair and accurate map, that this in the 5 0. And did your run7 5 location of her school, that it's the location at the 5 0. And did your run7 6 time and the date that this happened. 6 A. Yes. 7 THE COURT: For what is the purpose? 7 Q. And who alse run7 8 MS. JIMENES: I'm going to have her 8 A. Everybody. 9 describe where people were, what they were doing. 9 Q. While the running towards my brother and 10 THE COURT: I'll allow it in for that. 10 you see happen? i 11 Go ehead. 11 A. I was running towards my brother and 0. It's ckay. Take a tissue if you need it. 12 O. Th's ckay. Take a tissue if you need it. NS. JIMENES: NS. JIMENES: I'm scirry, we are. I 13 (State's Exhibit 1 13 NS. JIMENES: I'm scirry, we are. I thought we were getting to it a little faster. 14 to mark on th	1	MR. TERRY: We don't have an adequate 78	1	A. They started minning because the 80
4 that it's a fair and accurate map, that this is the 4 A. Yes. 5 location of her school, that it's the location at the 5 0. And did you run? 6 time and the date that this happened. 6 A. Yes. 7 THE COURT: For what is the purpose? 7 0. And who alse run? 8 MS. JDMENES: I'm going to have her 6 A. Yes. 9 describe where people were, what they were doing. 9 0. While the running was happening, what did 10 THE COURT: I'll allow it in for that. 10 A. I was running'towards my brother and 11 Go ahead. 11 A. I was running'towards my brother and 12 (State's Exhibit 1 13 NR. TERRY: Judge, if counnel's not going 14 Go ahead. 11 13 NR. TERRY: Mo problem. 15 FY MS. JINSNEZ: 14 to mark on that anymore, I'll return to my seat. 15 FY MS. JINSNEZ: 14 to mark on that anymore, I'll return to my seat. 16 FY MS. JINSNEZ: 14 MR. TERRY: Mo problem. 17 G. You said that the fight was occurring in 17 MR. TERRY: Mo problem.	2	foundation really to admit it.	2	principal came.
5 location of her school, that it's the location at the 5 0. And did you run? 6 time and the date that this happened. 6 A. Yes. 7 THE COURT: For what is the purpose? 7 0. And who also run? 8 MS. JIMENES: I'm going to have her 8 A. Everybody. 9 describe where people were, what they were doing. 9 0. Wolle the running was happening, what did 10 THE COURT: I'll allow it in for that. 10 yea see happen? 11 Go shead. 11 A. I was running towards my brother and 12 O. It's ckay. Take a tissue if you need it. 13 (State's Exhibit 1 13 14 orark on that anymore, I'll zeturn to my seat. 15 MS. JIMENEZ: I'm scirry, we are. I 16 BY MS. JIMENEZ: I'm scirry, we are. I 17 Q. You said that the fight was occurring in 17 18 N. Correct. 19 19 N. JIMENEZ: I'm scirry. 11 10 MS. JIMENEZ: I'm going to ask her to 10 11 NS. JIMENEZ: I'm scirry. 11 10 M	3	MS. JIMENEZ: We do. 1 laid a foundation	3	Q. And did your brother, Victor, run7
6 time and the date that this happened. 6 A. Yes. 7 THE COURT: For what is the purpose? 7 Q. And who also ran? 8	4	that it's a fair and accurate map, that this is the	4	A. Yes,
7 THE COURT: For what is the purpose? 7 Q. And who alse ran? 8 MS. JDMENES: I'm going to have her 8 A. Everybody. 9 describe where people were, what they were doing. 9 Q. While the running was happening, what did 10 THE COURT: I'll allow it in for that. 10 You see happen? 1 11 Go ahead. 11 A. I was running towards my brother and 12 Q. It's ckay. Take a tissue if you need it. 13 (State's Exhibit 1 13 14 to mark on that anymore, I'll return to my seat. 15 PY MS. JIMENEZ: 14 16 BY MS. JIMENEZ: 16 17 Q. You said that the fight was occurring in 17 18 the parking lot, correct? 18 19 A. Correct. 19 11 MS. JIMENEZ: I'm going to ask her to 10 12 Was running behind my hother, and then I see 13 MR. TENRY: May I approach? 13 14 THE COURT: Absolutely. 14	5	location of her school, that it's the location at the	5	Q. And did you run?
8 MS. JIMENES: I'm going to have her 8 A. Everybody. 9 describe where people were, what they were doing. 9 Q. While the running was happening, what did 10 THE COURT: I'll allow it in for that. 10 You see happen? 1 11 Go ahead. 11 A. I was running towards my brother and 0. It's okay. Take a tissue if you need it. 12	6	time and the date that this happened.	6	A. Yes.
9 describe where people were, what they were doing. 9 Q. While the running was happening, what did 10 THE COURT: I'll allow it in for that. 10 A. I was running 'towards my brother and 11 Go ahead. 11 A. I was running 'towards my brother and 12 Q. It's ckay. Take a tissue if you need it. 13 (State's Exhibit 1 13 14 Go ahead. 14 15 MR. TERRY: Judge, if counsel's not going 16 BY MS. JINENEZ: 14 17 Q. You said that the fight was occurring in 17 18 He parking lot, correct? 18 19 A. Correct. 19 19 NS. JINENEZ: I'm going to ask her to 10 10 MS. JINENEZ: I'm going to ask her to 10 11 MS. JINENEZ: I'm going to ask her to 10 11 MS. JINENEZ: May I approach? 13 12 MS. TENRY: May I approach? 13 13 MR. TENRY: Now Jim. 13 14 BY MS. JINENEZ: 14 15 MS JINENEZ: 14 16 How	7	"THE COURT: For what is the purpose?	7	Q. And who else ran?
10 THE COURT: I'll allow it in for that. 10 you see happen? 1 11 Go ahead. 11 A. I was running towards my brother and 12 0. It's okay. Take a tissue if you heed it. 13 (State's Exhibit 1 13 MR. TERRY: Judge, if counsel's not going 14 admitted into evidence.) 14 to mark on that anymore, I'll return to my seat. 15 MS. JIMENEZ: I'm scirry, we are. I 16 BY MS. JIMENEZ: I'm scirry, we are. I 17 Go. Xou said that the fight was occurring in 17 18 the parking lot, correct? 19 19 A. Correct. 19 19 MS. JIMENEZ: I'm going to ask her to 10 10 was running behind my hrother, and then I see somebody just I running towards my brother, and I 12 MR. TERRY: May I approach? 13 shooting him. 14 THE COURT: Nosolutely. 14 the MS. JIMENEZ:	8	MS. JINGNES: I'm going to have her	8	A. Everybody.
II Go shead. II A. I was running towards my brother and II A. I was running towards my brother and III III A. I was running towards my brother and III IIII IIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII	9	describe where people were, what they were doing.	9	Q. While the running was happening, what did
12 12 0. It's ckay. Take a tissue if you need it. 13 (State's Exhibit 1 13 NR. TERRY: Judge, if counsel's not going 14 admitted into evidence.) 14 to mark on that anymore, I'll return to my seat. 15 BY MS. JIMENEZ: 15 MR. TERRY: No gently, we are. I 15 BY MS. JIMENEZ: 16 thought we were getting to it a little faster. 16 BY MS. JIMENEZ: 16 thought we were getting to it a little faster. 17 Q. You said that the fight was occurring in 17 MR. TERRY: No problem. 18 the parking lot, correct? 18 MS. JIMENES: 'It will be just a moment. 19 A. Correct. 19 THE WITNESS: 'While crossing the street I 20 MS. JIMENEZ: I'm going to ask her to 20 was running behind my brother, and then I see 21 mark on the map. if counsel wants to watch where 21 seem somebody just I running towards my brother, and I 22 she's marking. 22 MR. TERRY: May I approach? 23 23 MR. TERRY: May I approach? 23 abooting him. 24 YMS, JIMENEZ: 1	10	THE COURT: 1'11 allow it in for that.	20	you see happen?
13 (State's Exhibit 1 13 MR. TERRY: Judge, if counsel's not going 14 admitted into evidence.) 14 to mark on that anymore, I'll return to my seat. 15 15 15 MS. JIMENEZ: I'm soury, we are. I 16 EY MS. JIMENEZ: 16 thought we were getting to it a little faster. 17 Q. You said that the fight was occurring in 17 MR. TERRY: No purblem. 18 the parking lot, correct? 18 MS. JIMENEZ: It will be just a moment. 19 A. Correct. 19 MS. JIMENEZ: It will be just a moment. 19 A. Correct. 19 THE WINNESS: While crossing the street I 20 MS. JIMENEZ: I'm going to ask her to 20 was running behind my hrother, and then I see 21 mark on the map. if counsel wants to watch where 21 seem somebody just I running towards my brother, and I 22 she's marking. 22 seen somebody else running towards my brother and 23 MR. TERRY: May I approach? 23 shooting him. 24 YMS. JIMENEZ: 4 BY MS. JIMENEZ:	u	Go ahead.	11	A. I was running towards my brother and
14 admitted into evidence.) 14 to mark on that anymore, I'll return to my seat. 15 15 15 MS. JIMENEZ: I'm sorry, we are. I 16 BY MS. JIMENEZ: 16 thought we were getting to it a little faster. 17 Q. You said that the fight was occurring in 17 MR. TERRY: No problem. 18 the parking lot, correct? 18 MS. JIMENEZ: It will be just a moment. 19 A. Correct. 19 THE WINNESS: While crossing the street I 20 MS. JIMENEZ: I'm going to ask her to 10 was running behind my brother, and then I see 21 wark on the map. if counsel wants to watch where 21 seen acmebody just I running towards my brother, and I 22 she's marking. 22 seen acmebody else running towards my brother and 3hooting him. 24 THE COURT: Absolutely. 24 BY MS. JIMENEZ: 4	12		12	Q. It's ckay. Take a tissue if you need it.
AS AS MS. JIMENEZ: I'm sorry, we are. I AS BY MS. JIMENEZ: A Correct? BS Correct. BS MS. JIMENEZ: If while faster. A. Correct. Correct. BS THE WINNESS: While crossing the street I A. Correct. Correct. BS THE WINNESS: While crossing the street I A. Correct. BS THE WINNESS: While crossing the street I A. Correct. BS THE WINNESS: While crossing the street I Was running behind my brother, and then I see Somebody just I running towards my brother, and I Seen samebody else running towards my brother and MR. TERRY: May I approach? Shooting him. BY MS. JIMENEZ: BY MS. JIMENEZ:	u ļ	(State's Exhibit 1	13	MR. TERRY: Judge, if counsel's not going
16 BY MS. JINENEZ: 16 thought we were getting to it a little faster. 17 Q. You said that the fight was occurring in 17 MR. TERRY: No problem. 18 the parking lot, correct? 18 MS. JINENEZ: 'It will be just a moment. 19 A. Correct. 19 THE WINNESS: 'While consaing the street I 20 MS. JINENEZ: I'm going to ask her to 20 was running behind my brother, and then I see 21 mark on the map. if counsel wants to watch where 21 seen somebody just I running towards my brother, and I 22 she's marking. 23 shooting him. 23 MR. TERRY: May I approach? 23 shooting him. 24 THE COURT: Absolutely. 24 BY MS. JIMENEZ:	и	admitted into evidence.)	14	to mark on that anymore, I'll return to my seat.
17 Q. You said that the fight was occurring in 17 MR. TERRY: No problem. 18 the parking lot, correct? 18 MS. JIMENEZ: 'It will be just a moment. 19 A. Correct. 19 THE WINNESS: While copsaing the street I 20 MS. JIMENEZ: I'm going to ask her to 20 was running behind my brother, and then I see 21 mark on the map. if counsel wants to watch where 21 semebody just I running towards my brother, and I 22 she's marking. 23 shooting him. 24 THE COURT: Absolutely. 24	15		15	MS. JIMENEZ: I'm scirry, we are. I
18 the parking lot, correct? 18 MS. JIMENEZ: It will be just a moment. 19 A. Correct. 09 THE WINNESS: While crossing the street I 20 MS. JIMENEZ: I'm going to ask her to 20 was running behind my brother, and then I see 21 mark on the map. if counsel wants to watch where 21 somebody just I running towards my brother, and I 22 she's marking. 22 seen somebody else running towards my brother and 23 MR. TERRY: May I approach? 23 shooting him. 24 THE COURT: Absolutely. 24 BY MS. JIMENEZ:	15	BY MS. JIMENEZ:	16	thought we were getting to it a little faster.
19 A. Correct. 19 THE WINNESS: While crossing the street I 20 MS. JINENEZ: I'm going to ask her to 20 was running behind my brother, and then I are 21 mark on the map. if counsel wants to watch where 21 somebody just I running towards my brother, and I 22 she's marking. 22 seen somebody else running towards my brother and 23 MR. TENRY: May I approach? 23 shooting him. 24 BY MS. JIMENEZ: 1	17	Q. You said that the fight was occurring in	17	MR. TERRY: No problem.
MS. JINENEZ: I'm going to ask her to 20 was running behind my brother, and then I see Nark on the map. if counsel wants to watch where 21 somebody just I running towards my brother, and I 22 she's marking. 22 see acmebody else running towards my brother and 33 MR. TENRY: May I approach? 23 shooting him. 34 THE COURT: Absolutely. 24 BY MS. JIMENEZ:	LB	the parking lot, correct?	he	MS. JIMENEZ: Lt will be just a moment.
22 mark on the map, if counsel wants to watch where 21 somebody just I running towards my hother, and I 22 she's marking. 22 seen somebody slate running towards my brother and 23 MR. TERRY: May I approach? 23 shooting him. 24 THE COURT: Absolutely. 24 BY MS, JIMENES:	פו	A. Correct.	19	THE WITNESS: While crossing the street I
22 she's warking. 22 seen scmebody else running towards my brother and 23 MR. TERRY: May I approach? 23 shooting him. 24 BY MS, JIMENEZ: 24 BY MS, JIMENEZ:	20	MS. JINENEZ: I'm going to ask her to	20	was running behind my brother, and then I see
MR. TERRY: May I approach? 23 shooting him. MR. TERRY: May I approach? 23 shooting him. MR. TERRY: Absolutely. 24 BY MS, JIMENES:	n	mark on the map, if counsel wants to watch where	21	somebody just I running towards my husther, and I
A THE COURT: Absolutely. 24 BY MS, JIMENEZ:	22	she's marking.	22	seen somebody else running towards my brother and
	ររ	MR. TERRY: May I approach?	23	shooting him.
25 BY MS. JINENEZ: 25 Q. Can you put a V on the map where your	4	· THE COURT: Absolutely.	24	BY MS. JIMENEZ:
	25	BY MS. JINENEZ:	25	Q. Can you put a V on the map where your
	Ľ	hanny, yyy, anno 1999 a yw yny yn yn yn yn yn yn yn yn yn yn yn yn	1	

\$		_		·
1	brother was when he was getting shot at. 81.	1	saw him again?	83
2	Can you put an M for the	2	A. Yes.	
3	record, Judge, she's mark a V on the street area of	3	0. Do you see that person here in court	
4	Washington. It's towards the upper half, left-hand	4	today?	
5	side of the drawing.	5	A. Yes.	
6	And can you put an M for where you	6	Q. Could you please point to that person and	
7	were standing when your brother was being shot at.	7	tell the Judge what color shirt he's wearing?	
8	And can you put an S for Shooter,	8	A. He's in custody, wearing blue.	
9	where the person doing the shooting was standing.	9	MS. JIMENEZ: May the record reflect the	
10	Okay. I'm done marking on the map	10 I	witness has identified the defendant.	
11	at this time.	11	THE COURT: So reflect.	Į
22	So from where you were standing,	12	BY MS. JIMENEZ:	
13	could you see the person who was shooting your	h)	Q. How many shots were fired at your	
14	brother?	14	brother?	
15	A. Yes,	13	A. It was couple of rounds.	
16	Q. Can you describe that person?	<u>16</u>	Q. When you say couple, is that two or is	
17	A. Yes.	27	that **	
18	Q. Describe him, please.	28	A. More than two.	
19	A. He was wearing a hoodle that night, and	19	Q. And did you actually see the gun that the	
20	he was it was covered his face. And he was like	20	defendant you identified was holding?	
21	5-2, 5-3. He was wearing, I believe, shorts that	21	A. Yes.	
22	night.	22	Q. Can you describe that gun?	
23	Q. And what race was he?	23	A. Holding it right hand. I believe it was	
24	A. Hispanic.	24	a 380.	
25	Q. And, I'm sorry, you may have said this	25	Q. Do you know do you have a particular	
				and the second se

:

1	and I didn'	t catch it. Did you say about what age he 82	11	background in guns, Miss Gamboa?	84
2	W2187		2	A. Just a little.	1
3	А.	No, I didn't.	3	Q. It's not your job to do	
4	Ô.	About what age was he?	4	A. No, it's not.	ł
5	۸.	17 or 18.	5	Q. When I say describe it, can you describe	
6	Q.	And do you remember what he was wearing?	6	what color the gun was?	
7	А.	Yea. I just	7	A. I don't remember what color. I know it's	
8		MR. TERRY: Asked and answered.	8	either black or gray. I can guarantee you it was.	
9		THE COURT: She just said that.	9	MS. JIMENEZ: Court's indulgence a	
10		MS. JIMENEZ: Judge, I think she just	10	manent.	
11	described t	he shorts. I'm asking about the rest of	11	BY MS. JIMENEZ:	ļ
22	the clothin	G.	þ2	Q. What happened when your brother was shot	
2.3		THE COURT: She said he was wearing a	þ3	at?	
14	hoodie. Di	dn't say what color.	14	A. I ran towards him.	
15	BY MS. JUM		1 5	Q. At the time that your brother was being	
16	Q.	What color was the hoodie?	15	shot at was he facing the shooter?	
17	А.	Gray.	27	A. He was at he wasn't facing directly at	
18	Q.	Can you describe his bair or his face?	40	the shooter. He was running. Then when he kept	
19	А.	He didn't have facial,	19	getting shot at, he did look back towards me, I	
20	Q.	And you said this is the person you eaw	þo	believe to see if I was the one getting shot.	
21	shocking at	your brother, correct?	þ1	Q. So initially he was running away from the	
22	Α.	Mai-huma.	22	shooter, you said?	1
23	Q.	Is that yes?	23	A. Mm-hum.	
24	А.	Xcs.	24	Q. Is that yes?	
25	Q.	Would you recognize that person if you	25	А. ¥ев.	

1	Q.	And then you said you turned back and he	5 1	MS. JIMSMEZ: Court's inchilgence.
2	looked in	your direction?	2	Judge, I have no further
3	A.	Yes.	3	questions.
4	Q.	What happened after he was shot?	4	THE COURT: Mr. Terry
5	A.	I saw the shooter running.	5	MR. TERRY: "Thank you.
6	Q.	Where which direction did you see the	6	
7	shootar r	un in?	7	CROSS-EXAMINATION ,
6	A.	That would be the left.	8	BY MR. TERRY:
9	Q.	Could you show it on the map?	9	Q. Ma'am, you've just identified the
10	А,	Yes, I can.	μo	gentleman seated to my right
11		MS. JIMENEZ: If I can approach again	h 1	A. Xes.
12	with the	rap, Judge.	4 2	Q as the individual that you described
13		THE COURT: You may.	33	as the shooter, right? i
14		You want Mr. Terxy there?	14	A. Yea.
15		MS. JIMENEZ: Sure.	15	Q. What is his name?
16	BY MS. JII	MENEZ :	16	A. I know his name, but I'didn't know
17	Q.	Would you be able to draw an arrow	47	Q. You did not know him as of February of
18	showing wi	uich direction the shooter ran?	28	'06, connect?
19		Okay. And did you see where he	2 9	A. Correct.
20	went after	the ran?	20	Q. And isn't it true that'you're identifying
21	A,	I saw him there.	21	him because he's seated to my right?
22	Q.	And you've drawn a second arrow where you	ez	A. No.
23	indicated	you, saw him turn; is that correct?	23	Q. Do you remember giving a description to
24	д,	Yea.	24	the police?
25	Q.	What did you do after your brother was	25	A. Yes.
			N	

.	shoc?		86 1	Q. Do you remember that description being as
	А.	I was asking him if he was okay, and he		
1	was not re	epending.		He was wearing a gray sweater, had a hoodie
4	Q.	Could you see any injuries on him?	4	on, dark shorts, the gun I'm sorry, counsel, page 5.
5	А.	I just saw him holding his stomach.		MS. JIMENSZ: Thank you.
5	Q.	And was he at that point was he		BY MR. TERRY;
,	scanding u	p or what position		Q. The gam was, I believe, a 390. It was
	А.	He was sitting down against the wall.	8	
, [Q.	And what happened with your brother after	9	
,	that?	••• • • • •	40	*
.	А.	Some students from school brought their	1,	
	car over t	o try to take him to the hospital, and the	12	
		ived end they just laid him down.		MR. TERRY: May I approach?
ιl	Q.	How much time passed between when you got	14	1
\$	out of the	school and the time that this abcoting	2.5	MR. TARKY: I believe I read it verbatim.
5	happened?	-	16	THE COURT: Counsel, is this another
,	А,	It was so fast, I don't remember.	17	recorded statement?
i [Q.	bid you ever hear the person who shot the	4.8	MR. IERRY: Correct, Judge.
1	defendant	the you identified say enything?	19	THE COURT: Maybe ask her if she recalled
,	А.	No.	20	giving a recorded statement.
	Q.	Did you hear anybody else say anything	21	BY MR. TERRY:
2	leading up	to the shooting?	22	Q. Do you recall giving a recorded
۱ I	А.	N45 .	23	statement, as a matter of fact, shortly after the
ı	Q.	Did your brother have a weapon that day?	24	· · · · · · · · · · · · · · · · · · ·
	А.	No.	25	A. Yes,

×

87

4

Í

í t

ł

F

!

۰. ۱					
1	Q.	And, certainly, it would have been within 89	1	1 A. No. 91	L
2	a week, co	crect?	2	2 Q. Did you come into the courtroom at any	
3	A.	It was that same night.	3	3 time before you were called as a witness?	1
4	Q.	The same night. So that was the same	4	4 A. Xes.	
\$	exact night	that you gave that description, correct?	5	5 Q. And iso't it true that you observed me to	
6	А.	X88.	б	6 be talking to the defendant at that time?	
7	Q.	And that would have been to Detective	7	7 A. No.	
8	Moggion Tel	ruary 6 at 2326, correct?	8	8 Q. Isn't it true you remained in the	
9	A.	Correct.	9	9 courtroom during that period of time?	
10	Q.	All right. Now, the original question	to I	0 A. Khat do you mean?	
11	was, pleas	e look at that and cell me if that's the	þ 1	1 Q. Stayed in the courtroom.	
12	way you dei	scribed the individual?	þ2	2 A. Like right now?	-
13	A ,	Yas.	þa	3 Q. No, before you were called	
1.4	Q.	Yea?	14	A, No.	
15	Ä.	Mn-hmn.	15	5 Q as a witness.	ł
16	Q.	Does the gentleman seated to my left have	16	6 Ware you with an individual that	1
17	light hair	P	17	7 the commonly referred to as a Victim Witness	
18	A,	Has what?	ae	8 coordinator?	
19	Q.	Does the gentleman seated to my left have	ا قا	9 A. I'm not understanding.	
20	light hair	2	20	Q. Did somebody help you come to court this	
21	A ,	No.	þa	1 morning?	
22	Q,	You described the gentleman that was the	22	A. As a ride or	
23	shoccer as	having light hair, correct?	23	Q. No. When you got to the building did	
24	A.	Correct.	24	a somebody bring you up here?	
25	Q.	And you indicated that my client's	25		ł

			~	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	
1	appearance	today is the same as you recall it on that 90	11	Q.	There's a young lady sitting in the 92
2	day, come	ct?	2	courtroom.	Have you had any beside the two DA's,
3	A.	Correct.	3	have you ha	d any conversations with her today?
4	Q.	He doesn't have light hair though, does	4	А,	Yes.
Ş ;	he.		5	Q.	And would you point to that Lady so that
6	А,	No.	6	we're clear	
"	Q.	You described him in that same police	7		And I'll ask the lady to identify
8	report as	being 18 cr 19 years old, correct?	8	herself.	
9	А.	Correct.	9		MS. JIMENEZ: I object as to the
10	Q.	And do you recall how tall you said the	po	relevance.	
11	individual	- WAR 7	իո		MR. TERRY: We'll get to the relevance.
12	А.	Yes.	2		THE COURT: It may be. I don't know.
13	Q.	Now tall did you tell the police he was?	h3	I'll give h	in leeway.
14	А.	I don't remember what I said on my	24		THE WIINESS: I couldn't describe over
15	statement.		عا	the phone.	I did talk to her over the phone.
16	Q.	Now, you've been sitting outside the	16		MR. TERRY: I'm just asking you to point
17	courtroom	today, connect?	1.7	to her.	1
18	እ.	Correct.	1.8		THE WITNESS: I spoke with Dawn.
19	Q.	And you've seen me go back and forth,	19	BY MR. TERR	¥:
20	correct?		20	Q.	The lady is in the courtroom right now?
21	д.		21	Α.	Yeş.
22	Q.		22	Q,	Would you point to her. Third time.
23			23	А.	Over there.
24	А.		24		MR. TERRY: Would that lady stard up and
25	Q.	You never saw that at all?	25	identify her	rself for the record.
, r		***************************************			***************************************

		_		· · · · · · · · · · · · · · · · · · ·
		•		
1		MS. BARLOW: I'm a criminal investigator 93	1	HEDIRECT EXAMINATION 95
a	with the f	Sistrict Attorney's Office. My name is Dawn	2	BY MS. JIMENEZ:
3	Barlow.		з	Q. Miss Gamboa, do you recall giving a
4		THE COURT: OKay.	4	written statement to the police at the time that this
5		MR. TERRY: Thank you very much.	5	happened, one that you wrote in your own hand?
6	BY MR. TEP	RY:	6	A. Yas.
7	Q.	Now, she's in here while your testifying,	7	MS. JIMENEZ: And, Juxige, if I can
8	right?		8	approach. I have her handwritten statement.
9	A.	¥es.	9	BY MS. JIMENEZ:
10	Q.	She's helping you, right?	po	Q. Do you recall there's a box on the
11	A.	Yes.	þ 2	statement that asks if you can identify the suspect,
12	Q.	And you met with her before you came into	12	correct?
13	che buildi	ng today, right?	13	A. Yes. i ;
14	А.	Inside the court.	14	Q. And you marked yes on that box, didn't
15	Q.	Before you came into the court this	15	YOU?
16	morning?		16	A. Yes.
17	А.	Yes.	17	Q. Meen you came into court earlier today,
18	Q.	Courtroom, how about that?	18	before you testified, did you recognize the defendant
19	A .	Yes.	19	at that time?
20	Q.	And did she come in when you came in?	20	A. Yes.
21	Α.	No.	21,	Q. And was he sitting in the same place that
22	Q.	Did she tell you to remain outside?	R 2	he's sitting now?
23	А,	No.	23	A. No.
24	Q.	But I you came in?	24	Q. Where was he sitting?
25	Α.	Yes.	25	A. Right there.
•		***************************************	, Inne	

	Q. Were you ever shown a photo spread of any ⁹⁴	1	MS. JIMENEZ: And, for the record, Judge,
	individuals that the police believed were involved in	2	she's pointed toward the jury box.
	the shooting?	3	BY MS. JIMBARS:
	A. No.	4	Q. In the first or the second row?
	Q. So this is the first time that you're	5	A. The first rew.
	identifying my client as being the individual that	6	Q. Can you say which seat he was in?
	was shooting?	7	A. Bither first or second.
-	А. Үев.	8	Q. And you said that you didn't see
	Q. Is that because you want to believe he's	9	Mr. Terry, the defense attorney, talking to him?
	the individual that was doing the shorting?	10	A. No, I didn't.
	А., Мо.	11	Q. Did anybody tell you who the defendant
	Q. Would you acknowledge he does not meet	12	was?
	the description that you gave the police that same	jus ;	A. No.
	day; yes or no?	1.4	Q. Did anybody tell you to pick that person?
	Yes or no?	15	A. \$10.
	A. Can you explain that again?	1.6	Q. Do you remember what you wrote in your
	Q. No. I'll ask the question.	1.7	bandwritten statement about how the shooter looked?
	Do you acknowledge that he does	2.8	A. A little.
	not meet the description that you gave to the police	h 9	Q. Would it refresh your memory to look at
	that same day it occurred; yes or no?	20	the handwritten statement?
	A. Yes.	21	A. Yes, please.
	MR. TERRY: Nothing further.	22	MR. TERRY: I prefer counsel ask a
	MS. JIMENEZ: Thank you, Judge.	23	specific question, and then if she needs to refresh
ļ		24	her memory, we don't have a problem with that.
		25	MS. JIMENEZ: That's what I just did. I

Į Ļ

\$

ł

۰.				
1	asked her	if she called how she described it. She 97	1 1	THE COURT: You said a statement. He did ⁹⁹
2	said no.	I asked if it would refresh her memory to	2	say that.
з	look at th	e statement.	3	BY MR. TERRY:
4		THE COURT: Go ahead.	4	Q. Do you recall telling Detective Mogg on
5	BY MS. JI	HENEZ :	5	that same date, 2-6-06 at 2050 hours, which would
6	Q.	I want to direct your attention to the	6	have been before the recorded statement, that the
7	first few	lines, and let we know when you're done	7	individual was 5-foot-??
8	reading th	nat, okay?	8	A. Like I said, I don't remember telling
9	А.	Okay.	9	that to the detective.
10	Q.	Are you done?	20	Q. You acknowledge that that's what his
11	А.	Mm-lawn,	11	report attributes to you as having said?
12	Q.	Is that yes?	12	A. I believe that's his report, but I don't
ม	A .	Yes.	23	nemeralber,
14	Q,	I'm taking the statement back.	24	Q. So you're not disputing that, you're just
15		Did that help you remember how you	15	saying you don't remember, currect?
16	described	the abooter to the police in your	16	A. I don't remember.
17	handwritte	m statement?	17	MR. TERRY: Nothing further.
18	Α.	Yes,	18	THE COURT: Okay. Do you have anything
19	Q.	And what was that description you gave?	19	else?
20	A.	Gray sweater and dark shorts.	20	MS. JIMENEZ: No, Judge.
21	Q.	And do you remember saying what race be	21	THE COURT: You all done, Mr. Terry?
22	wa.\$?		22	MR, TERRY: Yes, Judge.
23	А.	Hispanic.	23	THE COURT: You're excused. You may
24	Q.	And do you remember saying what color	24	remain in the hallway.
25	hair he ha	d?	25	

			98	1	**** ********************************	
1	А.	Black.	аñ	ı	(Witness excused)	100
2	Q.	The investigator that you indicated that		2		
з	You spoke a	with here in the courtroom, Dawn, did she	i	з	Call your next witness.	ļ
4	ever tell y	ou who to pick out as the person who		4	NS. JIMENEZ: Could we have the Court's	
5	committed t	bis?		5	indulgence.	
6	А.	No.	i	6	THE COURT: Sure.	
7	Q.	Why did you point to the defendant and		7	Just remain in the hallway until	
B	identify hi	147		8	this bearing is completed, and the bailiff or the DA	
9	Α.	Because I recognized him.		9	will excluse you, okay, ma'am?	
10		MS. JIMENEZ: Judge, I have nothing		10	THE WITNESS: Ckay.	
11	further.			บ	THE COURT: Thank you.	
12				12	MS. JIMEREZ: Judge, can we approach?	
13		RECROSS-EXAMINATION		13		
14	by Mr. terr	iχ;		14	(Side bar discussion)	
15	Q.	Counsel asked you about a statement that		15		
16	you wrote.	Do you recall describing the individual	i	16	(After a recess the following	
27	AS being as	5×£000-7.		27	proceedings were had.)	
18	A.	Don't remember.	ĺ	18		
19	Q.	Xes?		19	MR. TERRY: Defendant's present, Judge.	
20		MR. TERRY: Show counsel another		20	THE COURT: Defense is now present. All	(
21	statement.			21,	parties and stronneys are present.	
22		MS. JIMENEZ: That's fine. I thought he	1	2.2	So now you go shead and swear him	
23	said a stat	ement she wrote, and I think.		23	in, okay?	
24				24	THE CLERK: Please be seated.	
25		(Overlapping speakers)		25	State your full name.	

		Electronically Filed 10/08/2012 08:46:46 AM
1	RPLY	
2	Ross C. Goodman, Esq. Nevada Bar No. 7722	Alun S. Ehrunn
3.	GOODMAN LAW GROUP P.C. 520 S. Fourth Street, Second Floor	CLERK OF THE COURT
4	Las Vegas, Nevada 89101 Telephone: (702) 383-5088	
5	Facsimile: (702) 385-5088 Attorneys for Defendant Evaristo Jonathan Garcia	
6	Evarisio Jonainan Garcia	
7	ł.	CT COURT INTY, NEVADA 10C262966-1
8	THE STATE OF NEVADA,	Case No: C262966
9	Plaintiff,	Dept. No.: XV
0		REPLY IN SUPPORT OF MOTION TO
1	VS.	SUPPRESS IN-COURT IDENTIFICATION PURSUANT TO NRS
2	EVARISTO JONATHAN GARCIA,	174.125(1)
3	Defendant.	
. 1		

The unique facts of this case scream for this Court to exclude the in-court identification as a violation of due process. The State's legal authority is strikingly in contrast with the eyewitness in this case who admits that her description of the shooter - at night wearing a hoodie from 3 years earlier - does not match Garcia. In Hicks v. State, 605 P.2d 219, 221 (Nev. 1980), the photographic identification was permitted since the manager of the motel originally identified Hicks as the perpetrator of the robbery from approximately 400 photographs shown to him at the police department. Shortly thereafter, he again identified Hicks from a group of six photographs. Likewise, in Lamb v. State, 96 Nev. 452, 611 P.2d 206 (1980), the victim identified Lamb out of photographic lineup but complained that date on his photograph was soon after the crime compared to the other photographs that displayed dates before the crime. This Supreme Court held that such disparity in dates did not invalidate the photographic lineup because the witness testified he did not notice the numbers on the photographs. Moreover, the Court held the record 1

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

18

19

20

21

22

23

24

25

26

27

28

1

2

3

reflects an independent basis for identification of Lamb as the man who came to victim's car lot.

Contrary to selecting the defendant from a 400 photographic lineup in Hicks or meeting a defendant the day before in daylight and selecting him from a photographic lineup in Lamb, the State does not provide any facts establishing an independent basis of reliability for the inherently suggestive in-court identification. Instead, the State attempts to short-circuit the due process inquiry by completely ignoring the eyewitness' admission that the independent basis for the incourt identification did not match Garcia.

The State's response omits any facts supporting a finding that an independent basis existed for Melissa's in-court identification of Garcia 3 years later. The point of these constitutional safeguards is to prevent a due process violation and resulting prejudice from an unreliable identification. Accordingly, the lack of independent reliability prevents Melissa from recounting the prior courtroom identification at trial.

Dated this 8th day of October, 2012.

GOODMAN LAW GROUP P.C.

/s/ Ross C. Goodman, Esg. Ross C. Goodman, Esq. 520 South Fourth St. Las Vegas, Nevada 89101 Attorney for Defendant

2

	1	CERTIFICATE OF SERVICE									
	2	Therefore contribution to an analyze of the contraction to the company of the									
	3	I hereby certify that I am an employee of the GOODMAN LAW GROUP, and that on the									
	4	8 th day of October, 2012, I served a true and correct copy of REPLY IN SUPPORT OF									
	5	MOTION TO SUPPRESS IN-COURT IDENTIFICATION PURSUANT TO NRS									
	б	174.125(1) by:									
	7 8	[] Mail on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below.									
	9	 9 [] Personal delivery by causing a true copy thereof to be hand delivered this date to th address(es) at the address(es) set forth below. 10 [X] Courtesy copy by email on the parties in said action by causing a true copy thereof 									
	10 11										
	12	[] Federal Express or other overnight delivery									
	13	Noreen DeMonte Deputy District Attorney									
5088	14	200 E. Lewis Avenue Las Vegas, Nevada 89101									
33-508	15	Noreen.DeMonte@ccdanv.com									
(702) 383-5088	16	Attorneys for Plaintiff									
	17										
	18	Tifferia Istanon Developed									
	19										
	20	GOODMAN LAW GROUP									
	21										
	22										
	23										
	24										
	25										
	26										
1	27										
	28	3									
		APP 000182									
	H										

GOODMAN LAW GROUP A Professional Corporation 520 S. Pourth Street, 2⁶⁴ Floor Las Vegas, Nevada 89101

ł

ŝ

;