

IN THE SUPREME COURT OF THE STATE OF NEVADA

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ERNESTO MANUEL GONZALEZ,

CASE NO. 64249

Appellant.

v.

THE STATE OF NEVADA,

Respondent.

_____ /

APPELLANT'S APPENDIX, VOLUME X

**APPEAL FROM JUDGMENT AFTER
JURY TRIAL AND SENTENCING**

Second Judicial District
State of Nevada

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1 and the Vagos.

2 Q Do you have an opinion as to whether the killing of a
3 gang member by a rival gang member would cause a rivalry
4 between the gangs?

5 A Absolutely.

6 Q And based upon the information that you've gathered in
7 the course of your career, did it contribute toward the rivalry
8 between the Vagos and the Hells Angels?

9 A Yes.

10 Q Now back to the situation at the Nugget, did you have
11 an opportunity view the videotape depicting the standoff at the
12 Oyster Bar?

13 A Yes.

14 Q And then did you see the fight that happened later in
15 front of Trader Dick's where Jeffrey Pettigrew punched
16 Mr. Rudnick in the face?

17 A Yes.

18 Q And then you saw the rest of the video which depicted
19 fights between Vagos and Hells Angels; is that right?

20 MR. DOGAN: Objection. Leading.

21 THE COURT: I think it's predicate to his answer, so
22 I'll overrule.

23 THE WITNESS: Yes.

24 BY MR. HALL:

25 Q Would that be consistent with the rivalry based upon

1 your training and experience?

2 A Yes.

3 Q And do you have an opinion as to why -- were you aware
4 that the Vagos were having a national meeting at the Nugget
5 on -- during Street Vibrations in September of 2011?

6 A No.

7 Q All right. And were you aware that there were
8 approximately 500 Vagos that were staying at the Nugget under
9 the Green Nation?

10 A I wasn't aware of that number, but based on the video,
11 there was a lot.

12 Q Right. So you could see that there was a very high
13 number of Vagos present at the Nugget during the course of this
14 incident?

15 A Yeah, there appeared to be a good showing on both --
16 both the halves.

17 Q All right. So based upon your training and
18 experience, would that be a violation of the territorial
19 boundaries that are typically claimed by respective outlaw
20 motorcycle gangs?

21 MR. SCHONFELD: Your Honor, I'm going to object. It's
22 leading, and we are beyond just a preface of the question.

23 THE COURT: I'm going to sustain it. I also think
24 it's kind of vague. I don't know what you mean, "that would
25 be." It didn't make sense to me, the question.

2252

1 MR. HALL: Thank you. I'll rephrase.

2 BY MR. HALL:

3 Q The fact that the Vagos were having a national meeting
4 at the Nugget, given that fact, would it be, based upon your
5 training and experience, inappropriate for the Hells Angels to
6 trespass on that territory, that being the Nugget, where the
7 Vagos were having their national meeting?

8 MR. SCHONFELD: Objection. Assumes facts not in
9 evidence. Foundation. Compound. Leading.

10 MR. DOGAN: I would join in that objection, Your
11 Honor.

12 THE COURT: Sustained.

13 MR. HALL: Well, Your Honor, he's -- I'm asking him to
14 be deemed an expert, and I provided him with a hypothetical.

15 THE COURT: Well, you didn't ask it that way.

16 MR. HALL: Okay. Let me rephrase it.

17 BY MR. HALL:

18 Q So, let me give you a hypothetical. And the
19 hypothetical -- I just basically gave you the facts that would
20 be in my hypothetical. So the facts would be if that was Vagos
21 territory and they were having the national meeting at the
22 Nugget, 500 Vagos in attendance, and the Hells Angels had a
23 booth outside yet entered the Nugget subsequently, could that
24 be deemed a violation of the codes of conduct with respect to
25 territory claimed by the Vagos? And let's start there. Would

1 that be a violation of the territory that could be claimed by
2 the Vagos?

3 MR. SCHONFELD: I'm still going to object. It's an
4 incomplete hypothetical. Assumes facts not in evidence and
5 lacks foundation.

6 MR. DOGAN: I join.

7 THE COURT: I'll overrule incomplete. It goes to the
8 weight given to it.

9 You can answer the question.

10 THE WITNESS: Yes. Based on my training and
11 experience, the fact that at runs like this and events like
12 this where you have rivals there, often you'll have your clubs
13 that will, say, claim the Nugget or claim The Horseshoe or
14 whatever, say, hotel they will stay at. And roam between the
15 other clubs, like, "We are going to stay here," and to avoid
16 any type of huge incident like the one you experienced here.

17 BY MR. HALL:

18 Q Would it be your opinion that the murder of
19 Mr. Pettigrew and the shooting of several Vagos was the product
20 of the ongoing rivalry between the Vagos and the Hells Angels?

21 MR. SCHONFELD: Your Honor, I'm going to object. Goes
22 to the ultimate question.

23 THE COURT: I'm going to sustain the objection not
24 because it goes to the ultimate question, but I am going to
25 sustain the objection as improper for this expert to testify.

1 BY MR. HALL:

2 Q Well, you've already testified that their --

3 THE COURT: It goes to intent. You can't -- an expert
4 can't testify as to the intent of the parties. They can
5 testify as to the ultimate facts in the case, their opinion,
6 but they cannot testify to ultimate intent. And so that goes
7 to intent. So that's why I'm sustaining it.

8 MR. HALL: Well, he can render his opinion, correct?

9 THE COURT: As to facts in the case.

10 MR. HALL: Right. So is it a fact there's a rivalry
11 that exists between the two gangs, the Vagos and Hells Angels,
12 based upon your training and experience?

13 MR. SCHONFELD: Asked and answered.

14 THE COURT: Sustained. I mean, he's testified to
15 that.

16 BY MR. HALL:

17 Q All right. You're not aware of -- that's fine I'll
18 stop right there.

19 Now, with respect to your investigation into the Kern
20 County stabbings, were the witnesses essentially cooperative?

21 A No.

22 Q And why is that?

23 MR. SCHONFELD: Objection. Calls for speculation.

24 MR. DOGAN: Join.

25 THE COURT: The form of the question does call for

1 speculation. Sustained.

2 BY MR. HALL:

3 Q Did you ask them why they were not cooperative?

4 A Yes.

5 Q All right. Why weren't they cooperative?

6 A All our witnesses were bikers. They openly said they
7 were keeping to their code, that they don't cooperate with law
8 enforcement. They don't talk to cops. They don't assist in
9 criminal investigations. Ultimately, if you did speak, a few
10 drop their colors and ultimately testified, but even the
11 testimony was so vague that they were still sticking to their
12 code.

13 Q All right. Now, when the Vagos members indicated this
14 was a hit on Jeffrey Pettigrew -- do you know who Jeffrey
15 Pettigrew is or was?

16 A I recall the name.

17 Q He was the president of the San Jose chapter of the
18 Hells Angels.

19 A Okay.

20 Q All right. Would --

21 MR. DOGAN: Your Honor, objection as to reviewing
22 Mr. Rudnick's statements. I don't know whether -- I don't
23 believe he's reviewed it.

24 THE COURT: I don't know where -- I'm sorry, your
25 objection, reviewing another witness's statement?

1 MR. DOGAN: That's correct, Your Honor.

2 THE COURT: That's not a legal objection. So you've
3 got a basis for a legal objection.

4 MR. DOGAN: Can I voir dire him?

5 THE COURT: On the basis for his opinion?

6 MR. DOGAN: That's correct.

7 THE COURT: That you're objecting that he give?

8 MR. DOGAN: On the basis that he did not review
9 documents privy to this case.

10 THE COURT: Okay. I'm not sure. I don't know what
11 Mr. Hall is asking. Are you asking a hypothetical? Are you
12 asking him to testify as to the witness's -- Mr. Rudnick's
13 statement? Where are you going here?

14 MR. HALL: I'm asking him -- well, I'm laying some
15 foundation as to what he knows so that I can ask him a question
16 about rivalry between gangs and the hit on Pettigrew,
17 essentially.

18 THE COURT: Okay. It sounds to me like the witness
19 said he didn't even know who Mr. Pettigrew was. So if you want
20 to ask a hypothetical question putting some facts out there
21 that maybe you know of and ask him for an opinion, you can do
22 that. Otherwise, I'm going to sustain the objection into the
23 line of questioning based on his testimony.

24 MR. HALL: Okay.

25 ///

1 BY MR. HALL:

2 Q Did Delano Mike make any comments indicative of his
3 knowledge of the rivalry between the two OMGs?

4 A He made statements at previous instances between the
5 two organizations that -- that it was war, and they were waging
6 war due to an act of violence that was -- but other than that,
7 as far as the rivalry, I think his actions -- ongoing actions
8 and the very similar actions each time, were enough to show the
9 knowledge of the rivalry and the beef between the two clubs.

10 Q Okay. And do you know, based upon your training and
11 experience, whether or not the chapter would communicate with
12 other chapters?

13 A Absolutely.

14 Q So, for example, the Kern County Hells Angels would
15 communicate with the San Jose Hells Angels for example?

16 MR. DOGAN: Objection, leading.

17 THE COURT: Sustained. You can ask how he -- the
18 basis of his opinion.

19 BY MR. HALL:

20 Q What's the basis of your opinion with respect to a
21 communication between the respective chapters?

22 A You have the monthly officer meetings either in San
23 Bernardino or Oakland. You have minutes that are kept at those
24 meetings as far as club business for each chapter. You have a
25 representative from East/West Coast chapters. And if I'm not

1 mistaken, at least one or two representatives from the East
2 Coast to discuss club business, what's going on, members in
3 custody, trials, criminal acts, everything.

4 Q Based upon your training and experience, do you have
5 an opinion as to whether or not gangs would retaliate for acts
6 of violence?

7 MR. DOGAN: Objection. Leading and vague.

8 THE COURT: I'm going to overrule. I don't believe
9 that's that vague.

10 THE WITNESS: Yes. I mean, you have an act of
11 violence kind of viewed as an eye for an eye. You would be
12 expected to retaliate or to carry out an act of violence
13 against the person that did it to you or the club itself.

14 BY MR. HALL:

15 Q Do you know whether or not there was any type of a
16 treaty between the Hells Angels and Vagos?

17 A At which time? I've never heard of one. They --
18 according to one Vago that I spoke to, that a meeting was held
19 when the County Line chapter showed up in Kern County,
20 basically Bakersfield, and that it was supposedly a truce or a
21 truce would be -- they were going to coexist, that it didn't
22 happen.

23 MR. HALL: Court's indulgence.

24 BY MR. HALL:

25 Q You've executed search warrants with respect to your

1 investigation into the stabbing of Vialano; isn't that correct?

2 A Yes.

3 Q And what, if any, experience have you had with respect
4 to sharing information with respect to ongoing criminal cases
5 against either the Vagos or the Hells Angels?

6 A Talking about between outlaw motorcycle gangs or
7 officers?

8 Q For example, what's been your experience that the
9 Hells Angels would share information on criminal cases to
10 coordinate defense efforts or tactics for defense?

11 MR. SCHONFELD: Objection. Leading.

12 THE COURT: Sustained.

13 BY MR. HALL:

14 Q What experience, if any, have you had with respect to
15 -- or have you had any experience with respect to Hells Angels
16 sharing information regarding criminal cases?

17 MR. DOGAN: Objection. Relevance.

18 MR. SCHONFELD: Still leading.

19 THE COURT: The asking if he has any experience is not
20 leading, so I'm going to overrule that.

21 Asked and answered, I think maybe you're referring to
22 the question where he talked about both Vagos a few minutes ago
23 with outlaw gangs and having West Coast meetings.

24 MR. DOGAN: I objected on ground of relevance.

25 THE COURT: Oh, relevance?

1 MR. DOGAN: Yes, Your Honor.

2 THE COURT: Overruled.

3 THE WITNESS: My particular experience is mostly with
4 the Hells Angels. As far as that goes, as far as -- are West
5 Coast officer meetings.

6 I've read minutes from meetings, notes, computer
7 versions of it, disks, where they discuss current cases, one of
8 which was my particular case. I believe Mr. Gil-Blanco's name
9 was also mentioned in there. My name, too. If any chapters
10 had any information to discredit us.

11 I listened to over a year of phone calls between our
12 primary suspect, our Hells Angel, and other chapter members as
13 far as a defense strategy, obtaining of a new attorney, the
14 Court process itself, a strategy they are trying to use, the
15 seizing of club property from our suspects, search warrants
16 done by other members who are facing other charges from this
17 particular member's chapters.

18 Very organized, very well-known between the different
19 charters and the different chapters as far as what's going on
20 everywhere.

21 BY MR. HALL:

22 Q So let me give you a hypothetical. If
23 Mr. Villagrana, a full-patch member of the Hells Angels, had
24 ATF records which have been marked as an exhibit in this
25 particular case, Exhibit G, it's ongoing surveillance conducted

1 by ATF on Hells Angels members, would that be some of the
2 information that would be a showing of a code of conduct of the
3 Hells Angels?

4 MR. SCHONFELD: Objection, Your Honor. Assumes facts
5 not in evidence. Lack of foundation.

6 THE COURT: Because it's a hypothetical I'm going to
7 overrule the objection.

8 You can answer it.

9 THE WITNESS: Okay. Yes. Again, outlaw motorcycle
10 gangs as far as organization, their intelligence, their
11 counterintelligence, they watch us just as much as we watch
12 them. Very organized. Very knowledgeable as far as this
13 wouldn't be the first case where we found police documents in a
14 Hells Angel member's possession or clubhouse. I've assisted
15 other agencies in similar search warrants where countless
16 documents, confidential documents, were located and seized. It
17 wouldn't be shocking to have confidential documents to me.

18 Q All right.

19 MR. SCHONFELD: I object to foundation. There's
20 nothing in the record to suggest those records were
21 confidential or ever subject to any type of order.

22 THE COURT: Okay. I'm overruling the objection. I
23 don't know if it's confidential or not. The hypothetical
24 called for ATF documents. It didn't necessarily say
25 confidential. The witness sort of added that. So I think the

1 testimony is still admissible.

2 MR. HALL: Thank you.

3 BY MR. HALL:

4 Q Along the same lines, there was evidence selected from
5 Mr. Villagrana's residence that he was in possession of a grand
6 jury transcript of a shootout in Laughlin. Are you familiar
7 with that? First of all, are you familiar with the shootout in
8 Laughlin?

9 A Yes.

10 Q And you're familiar with grand jury transcripts with
11 respect to the preliminary hearings or preliminary process to
12 get defendants to trial, correct? Grand jury or preliminary
13 hearing?

14 A I'm familiar with the process. I never reviewed those
15 particular documents, but I'm very familiar with it.

16 Q Hypothetically speaking, would it be consistent in
17 your training and experience in the sharing of information
18 involving ongoing criminal cases involving Hells Angels for
19 them to share transcripts of criminal cases; for example,
20 transcripts of grand jury investigations into criminal activity
21 such as that in Laughlin?

22 MR. DOGAN: Objection. Leading.

23 MR. SCHONFELD: I join the objection, Your Honor.

24 THE COURT: Overruled. It's a hypothetical question.

25 THE WITNESS: Yes.

1 MR. HALL: Thank you. I have no further questions.

2 THE COURT: All right. We've got about 15 minutes to
3 do some cross and we'll take our lunch recess. Choose.

4 MR. SCHONFELD: I'm up.

5 THE COURT: Okay. Great.

6 MR. SCHONFELD: May I remain seated here, Your Honor.

7 THE COURT: Yes, you may.

8 MR. SCHONFELD: Thank you.

9

10 CROSS-EXAMINATION

11 BY MR. SCHONFELD:

12 Q Mr. Colbert, I'm missing from your curriculum vitae --

13 THE COURT: I'm sorry. I'm going to stop you there.

14 Ms. Clerk, did we get a copy? Has the curriculum been
15 marked as an exhibit?

16 Is it part of this -- the motions that you filed
17 Friday.

18 MR. HALL: No, but I'll approach and have this marked
19 as an exhibit.

20 THE COURT: I thought you were all looking at it, but
21 we didn't have it.

22 MR. DOGAN: I believe they attached it as an exhibit
23 this morning.

24 THE COURT: This morning's pleadings I haven't had a
25 chance to look at. So are they attached to this morning's

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1 pleadings?

2 MR. DOGAN: I believe so. I got it in an e-mail on
3 Friday, Your Honor.

4 THE COURT: Okay. That's -- oh, no. That's Tyler
5 Clark.

6 MR. HALL: We just received it this morning, Your
7 Honor, so we immediately e-mailed it to defense counsel.

8 THE COURT: So the clerk will mark it. The pleading
9 that does have a curriculum vitae attached was filed on the
10 14th and is Exhibit 1, but it's Tyler Clark.

11 MR. DOGAN: My apologies, Your Honor.

12 THE COURT: That's okay.

13 THE COURT CLERK: Exhibit P marked.

14 (Exhibit P marked for identification.)

15 THE COURT: Now, Counsel, you may continue to inquire.
16 And that's the document you're looking at, right?

17 MR. SCHONFELD: It is, Your Honor. Thank you.

18 BY MR SCHONFELD:

19 Q Mr. Colbert, your curriculum vitae does not outline
20 your educational background; is that correct?

21 A Yes.

22 Q Do you hold a four-year degree?

23 A No, sir, I don't.

24 Q Do you hold an associate's degree?

25 A No, sir.

1 Q You've never taken any formal classes in sociology?

2 A No.

3 Q No formal classes in behavioral science?

4 A No, sir.

5 Q No formal education in psychology?

6 A No, sir.

7 Q You've never written any scholarly publications
8 related to what you call outlaw motorcycle gangs; is that
9 correct?

10 A That is correct.

11 Q You've never been published on the subject whatsoever;
12 is that correct?

13 A No, sir.

14 Q You've never written any analytical reports as an
15 expert with respect to the Hells Angels Motorcycle Club, have
16 you?

17 A No, sir.

18 Q You've never taught at a four-year college regarding
19 the subject of what you call outlaw motorcycle gangs; is that
20 correct?

21 A No.

22 Q I'm correct?

23 A You're correct. I apologize. I misunderstood you.

24 Q You're currently an investigator, a detective in the
25 robbery/homicide division; is that correct?

1 A Yes, sir.

2 Q And it was in that capacity that you investigated a
3 Michael Pena case; is that correct?

4 A No.

5 Q The Michael Pena case, what was your assignment at the
6 time of the Michael Pena case?

7 A I was assigned to the gang suppression unit, so I was
8 called out to be the lead as far as the gang end of it due to
9 my training and experience.

10 Q What years were you with the gang suppression
11 division?

12 A I believe I was in there from 2000 -- as a full-time
13 member, from 2007 to 2011, late 2011. Part-time from 2003 to
14 2007.

15 Q After 2011 when you left that assignment, you were a
16 patrol deputy?

17 A Yes, sir. I went back to patrol.

18 Q And after patrol, you're now in robbery/homicide; is
19 that correct?

20 A Yes.

21 Q In looking at your formal training courses for expert
22 testimony, you would agree with me that listed is only one
23 training that focused solely upon what you would call outlaw
24 motorcycle gangs; is that correct?

25 A Yes, sir. And I apologize, that was -- my previous CV

1 was destroyed in a thumb drive accident with a washing machine.
2 This last week has been absolutely hectic. I had to throw that
3 together just for court. I apologize, it's not the greatest.
4 And several of the training courses, I just don't remember when
5 I went to them.

6 Q As I stated, in the curriculum vitae that we had
7 received, there was only one formal training course that
8 focused only on what you have called outlaw motorcycle gangs,
9 correct?

10 A I believe that's correct, yes.

11 Q And that's a one-day class, correct?

12 A Yeah, I believe so.

13 Q Do you need to see your CV?

14 A No. That's fine.

15 Q August 23rd, 2010, to August 23rd, 2010. So that
16 would be one day, correct?

17 A Yes, sir.

18 Q You have never been admitted as an expert witness
19 related to the Hells Angels in a court of law; is that correct?

20 A Yes, I have.

21 Q What case?

22 A It would have been this case (indicating). The
23 preliminary training -- excuse me, I apologize. Preliminary
24 hearing, two separate preliminary hearings on the murder of the
25 -- or death of Roger Vialano.

1 Q So the Roger Vialano case, that is the only time you
2 have been admitted as an expert witness as it relates to the
3 Hells Angels Motorcycle Club?

4 A Yes.

5 Q And you testified in that case, correct?

6 A Yes.

7 Q And you rendered your opinion that the acts of
8 Mr. Pena were done in furtherance of the Hells Angels
9 Motorcycle Club, correct?

10 A Yes.

11 Q And the jury heard that testimony, correct?

12 A No.

13 Q Oh, you didn't testify before the jury?

14 A I didn't testify before the jury. I testified at
15 preliminary hearing because Mr. Gil-Blanco was otherwise
16 engaged. Mr. Gil-Blanco did the ultimate expert at the jury
17 trial.

18 Q Okay. So you testified at the preliminary hearing and
19 Mr. Gil-Blanco did not?

20 A Yes.

21 Q Then the District Attorney's Office decided to only
22 call one expert or so-called expert related to the Hells
23 Angels, and that was Mr. Gil-Blanco and not you, correct?

24 A Yes.

25 Q Were you involved in the decision-making process as to

1 why you were no longer going to be called as a witness at the
2 trial?

3 A Yes.

4 Q And what was the basis of that decision?

5 A It was from the minute I -- I was the one that
6 requested Jorge Gil-Blanco to be brought in. His experience is
7 untouchable as far as outlaw motorcycle gangs. He's lived this
8 for I don't know how many years and he can testify as an expert
9 much better than I can.

10 Q So you felt that he was a much better expert as it
11 related to Hells Angels Motorcycle Club than you could?

12 A I thought that he was more experienced as far as Hells
13 Angels and Vagos to testify, yes.

14 Q And so it was your decision that Mr. Gil-Blanco -- you
15 initiated the decision that Mr. Gil-Blanco should be called in
16 your place and stead as the so-called expert related to the
17 Hells Angels Motorcycle Club, correct?

18 A Yes, that was part of the decision. I brought it up.
19 I brought Mr. Gil-Blanco on board. We are friends. I brought
20 him on board from minute one. I actually called him that
21 night.

22 Q Because you wanted his expertise in the investigation
23 and preparation for trial?

24 A No. It was to run names across him. He's one of
25 those people that can remember names. I can't. I can tell him

1 a chapter and he can probably give you a roster. He's that
2 guy. I'll -- I'm not that guy.

3 Q So he knows far more about the Hells Angels Motorcycle
4 Club than you do, correct?

5 A That's absolutely true.

6 Q And you're aware that it's been raised that the --
7 strike that.

8 Did Mr. Gil-Blanco testify at the trial of Michael
9 Pena?

10 A Yes.

11 Q And he sat before the jury, correct?

12 A Yes.

13 Q And you also testified at that trial, correct?

14 A Yes.

15 Q And you presented similar testimony as to what you
16 provided here regarding what you believe to be the facts of
17 that case, correct?

18 A Yes. And also the rivalry and the prior acts leading
19 up to the case, yes.

20 Q And Mr. Pena was charged with murder in that case,
21 correct?

22 A Yes, he was.

23 Q And he was charged with promoting a criminal street
24 gang, correct?

25 A Yes.

1 Q And the jury heard all the testimony that we've been
2 describing, correct?

3 A Yes.

4 Q And they returned an absolute 100 percent not-guilty
5 verdict, correct?

6 A Yes, sir. Mr. Pena and all the other codefendants
7 were acquitted.

8 Q So a jury did not agree with Mr. Gil-Blanco that the
9 stabbing of Mr. Vialano was an act of murder, correct?

10 MR. HALL: Objection. Speculation.

11 MR. SCHONFELD: I don't see how that's speculation.

12 THE COURT: When you use the word agree. Sustained.

13 MR. SCHONFELD:

14 Q The jury -- did you render an opinion in that trial?

15 A An expert opinion, sir?

16 Q Before the jury, did you render an expert opinion on
17 any subject?

18 A I don't recall. I don't think I did.

19 Q Now, I'm going to sort of start where Mr. Hall left
20 off in some respect. You talked about in your searches and
21 seizures of clubhouses and various members of the Hells Angels'
22 homes, you found that members of the Hells Angels would share
23 defense files relating to pending cases; is that correct?

24 A I don't think I ever said defense files, sir.

25 Q They would share information regarding pending cases?

1 A We have information in minutes. I would also find our
2 police reports that were -- shouldn't have been there. They
3 were in no way, shape, or form redacted as far as the names
4 or --

5 Q Can you point to what cases you're referring to that
6 had reports that were not redacted and shouldn't have been
7 there?

8 A I specifically remember a search warrant in Temecula,
9 California. I assisted in San Bernardino. That was one of our
10 reports that were there with no information redacted as far
11 as --

12 Q Is there a protective order that you're aware of that
13 you can produce to this Court related to the police report in
14 that investigation?

15 A Repeat that.

16 Q Was there a protective order that you can produce or
17 point out for this Court that would establish that the report
18 that you're referring to was not permitted to be disclosed
19 without the redaction?

20 A I don't -- I'm not aware of an order. I'm aware of a
21 statute stating the victim information to be redacted, however
22 not aware of a court order.

23 Q And is it true that you testified that in the minutes
24 of some of the meetings, there were discussions regarding Jorge
25 Gil-Blanco as well as yourself regarding the Oildale case,

1 correct?

2 A Yes. I believe my name was mentioned in one. If I
3 remember correctly, Gil-Blanco's name was in a couple of
4 others.

5 Q And on direct examination, you testified that the
6 reference was, has any other member dealt with this witness so
7 we can have information to discredit that witness on the stand,
8 correct?

9 A I believe the exact statement was they were like notes
10 and anybody with information to discredit Gil-Blanco.

11 Q Nothing wrong discrediting a witness on the witness
12 stand, is there?

13 A No.

14 Q Nothing wrong somebody asking others who have
15 experience with a particular witness in Court to provide that
16 information to another's need, correct?

17 A No.

18 Q Nothing wrong with -- strike that.

19 So basically what you're saying is that the Hells
20 Angels share information with each other when there are people
21 defending cases?

22 A The Hells Angels share information with each other
23 about a lot of things, sir.

24 Q And one of them is when a member is defending
25 themselves, they try to gather information for defense in that

1 case?

2 A Yes.

3 Q Sir, when you were first contacted in reference to
4 testifying in this case, isn't it true that the sole basis of
5 that contact was for you to testify regarding the facts of the
6 Oildale incidence in question?

7 A I don't recall the conversation when I was asked to
8 testify.

9 MR. HALL: Object, Your Honor. This is -- doesn't
10 have anything to do with his testimony.

11 THE COURT: I'm going to sustain the objection.

12 MR. SCHONFELD:

13 Q You weren't initially contacted by the State of Nevada
14 to render expert witness testimony regarding the Hells Angels
15 in this case?

16 MR. HALL: Objection. Relevance.

17 MR. SCHONFELD: Your Honor, the relevance is that this
18 person isn't even qualified to render an expert opinion as it
19 relates to the Hells Angels Motorcycle Club and the fact that
20 it was last minute after this Court ruled that that fact
21 witness can't testify regarding incidents that didn't involve
22 either one of these defendants. There's been a shift that all
23 of a sudden this person is going to be produced as a witness.

24 THE COURT: They answered that question as not
25 relevant, so I'm going to sustain the objection.

1 BY MR. SCHONFELD:

2 Q Mr. Colbert, you don't even know the name of the
3 decedent in this case, do you?

4 A I was told it. I'm horrible with names, sir. I
5 apologize. I don't remember it.

6 Q So you're going to offer to render expert opinions in
7 this case against Mr. Villagrana and you don't know the name of
8 the decedent; is that correct?

9 A I was offering expert -- I don't recall the name of
10 the decedent, no.

11 Q You didn't provide any testimonial history in your
12 curriculum vitae, did you?

13 A I'm sorry?

14 Q You didn't provide your testimonial history as an
15 expert witness in your curriculum vitae, did you?

16 A No, sir, I haven't. I haven't kept track
17 of it. I rarely get challenged in Kern County.

18 Q When was the last time you utilized your curriculum
19 vitae prior to this morning?

20 A It's been a long time.

21 Q A year?

22 A Over a year.

23 Q Two years?

24 A Last time I brought a resume to court was probably
25 2009, maybe, as far as actually providing the document.

1 Q So the last use of your curriculum vitae for court
2 purposes was in 2009; is that accurate?

3 A Yes.

4 Q You would agree with me there are members of Hells
5 Angels Motorcycle Club that have absolutely no criminal record,
6 convictions, or arrests, correct?

7 A Yes, sir.

8 Q So it's not required in order to be a member of the
9 Hells Angels Motorcycle Club that you be a criminal, correct?

10 A Not to my knowledge, no.

11 Q Or that you engage in criminal acts, correct?

12 A I believe as far as my experience, the membership
13 itself, there is criminal acts included in a lot of different
14 ways in that members themselves are part of those acts, if not
15 directly, indirectly.

16 Q My question was, isn't it true that you do not have to
17 commit crimes in order to be a member of the Hells Angels
18 Motorcycle Club?

19 MR. HALL: Asked and answered, Your Honor.

20 THE COURT: Overruled. He didn't answer the question.

21 THE WITNESS: I don't know any rules that you have to
22 be a criminal.

23 MR. SCHONFELD:

24 Q So I'm correct?

25 A I believe so.

1 MR. HALL: Narrative.

2 THE COURT: Sustained as to "So I'm correct."

3 BY MR. SCHONFELD:

4 Q You suggest that you're an expert in the Hells Angels
5 Motorcycle Club?

6 A Yes, sir. I've never reviewed documents that say you
7 have to be a criminal to be a Hells Angel, no.

8 Q Or that you have to commit crimes in order to be a
9 member, correct?

10 A No, sir, I've never seen that.

11 THE COURT: It's noon. Are you close to being done?

12 MR. SCHONFELD: Probably not.

13 THE COURT: Okay. Then we'll take our lunch recess.
14 We'll be back in the Court at -- do you want to start at 1:15?
15 1:30? What's best for all of you, 1:30 or 1:15?

16 MR. HALL: 1:15.

17 MR. SCHONFELD: 1:15 is fine, Your Honor.

18 THE COURT: Okay. 1:15.

19 Court is in recess.

20 (Lunch recess taken.)

21 THE COURT: Okay. Counsel, you can continue your
22 cross-examination.

23 MR. SCHONFELD: Thank you, Your Honor.

24 ///

25 ///

CROSS-EXAMINATION RESUMED

BY MR. SCHONFELD:

Q Mr. Colbert, isn't it true that you had never infiltrated a motorcycle club?

A Yes, that's true.

Q And you testified that the Hells Angels has no chapter in Kern County; is that correct?

A No.

Q So am I correct?

A I'm sorry. Yes.

Q You also testified that you were familiar with the hierarchy of the Hells Angels and that it was similar to the Vagos. Do you remember that testimony?

A Range, structure, yes.

Q Is there a national president of the Hells Angels Motorcycle Club?

A I don't recall who it is, sir. I've been out of gangs for a while.

Q There is a position of national president; that's your testimony?

A Based on my training and experience, yes.

Q And is there a national vice president as well?

A Yes.

Q And you don't know who those individuals are?

A No, sir. I've been out of gangs for a while now.

1 Q But your training and experience is what gives you
2 that information that there's national and -- president and
3 vice president, correct?

4 A I believe so, unless I'm mistaking the two or
5 confusing the two. I don't believe so.

6 Q You -- you would agree with me if you were mistaking
7 the two or confusing the two that you wouldn't really be an
8 expert on the Hells Angels, correct?

9 A Sir, I haven't -- I lived bikers for quite a while.
10 I've been out of gangs for about a year. I haven't been doing
11 gang cases or gang testimony.

12 Q So as a result of the time lapse, you are no longer an
13 expert as it relates to the Hells Angels?

14 A I think I have more knowledge than the average person;
15 however, there are more qualified people out there, absolutely.

16 Q Okay. Are you aware that the Hells Angels Motorcycle
17 Club is a nonprofit organization?

18 A I don't recall as far as their financial or actual
19 business organization end of it.

20 Q You would agree with me most of the Hells Angels
21 chapters in the United States have a clubhouse?

22 A The ones I know of, yes. I'm not sure if all of them
23 do.

24 Q So it's not within your area of expertise?

25 A The ones I'm familiar with do.

1 Q And the clubhouses have a death head in front of them?

2 A Sometimes.

3 Q The Hells Angels make it clear that it's their
4 clubhouse, correct?

5 A The ones that I've seen, yes. The Purdue clubhouse,
6 yes, absolutely.

7 Q They hold parties where members of the public can
8 attend, correct?

9 A Yes.

10 Q So they let members of the public into their
11 clubhouse, correct?

12 A Based on my training and experience, yes.

13 Q And law enforcement has, in fact, gone to some those
14 parties, correct?

15 A Yes.

16 Q The members of the Hells Angels wear their trademark
17 logo on their clothing, correct?

18 A Yes.

19 Q Most of the Hells Angels have regular day jobs,
20 correct?

21 A Yes.

22 Q Families and children, correct?

23 A Sometimes, yes.

24 Q As far as the Oildale incident that you investigated
25 and testified to, Mr. Pena was part owner of the tattoo shop

1 where the incidence in question occurred, correct?

2 A Yes. He was like a silent-partner type.

3 Q And he was at that location prior to any member of the
4 Vagos arriving on May 30th, 2011, correct?

5 A Yes.

6 Q He was the only full-patch Hells Angels member on
7 location, correct?

8 A No.

9 Q How many full-patch members were there at that time?

10 A At the time, it was Michael Pena and reported to have
11 been Ryan Chapley from the Fresno County chapter.

12 Q You never confirmed that with independent evidence,
13 correct?

14 A Besides statements, no.

15 Q The only person that could testify with any form of
16 definity that was a full-patch member would have been Mr. Pena,
17 correct?

18 A I later saw Mr. Chapley there, but at the time of the
19 death, no.

20 Q And the Vagos clubhouse was, I think you testified, a
21 couple of blocks away?

22 A It wasn't a clubhouse. It was a member's house that
23 they held a party at.

24 Q And somebody called the Vagos member's house and said
25 that Michael Pena was at Michael Pena's tattoo shop, correct?

1 A Yes.

2 Q And the Vagos went there, on your direct examination
3 you said, on their bikes and with a truck in order to confront
4 Michael Pena, do you remember that?

5 A Yes, that was the general statements made by several
6 subjects.

7 Q And according to the witness statements in that
8 Oildale case, there were between 10 to 20 members of the Vagos
9 that arrived at that tattoo shop, correct?

10 A I believe that was correct as far as the witness
11 statements.

12 Q And as far as you understand, they went there knowing
13 that Michael Pena, a member of the Hells Angels was located
14 within that structure, correct?

15 A Yes. I believe they said he was sitting out front.

16 Q You would agree with me that the members of the Vagos
17 had at least one gun and several knives, correct?

18 A I know at least one gun. As far as knives, I know
19 specifically of two names said they had pocket knives -- style
20 knives. I don't recall the rest.

21 Q So -- just so we are clear, 10 to 20 members of the
22 Vagos go to a location where you can only confirm there was one
23 patched member of the Hells Angels, and the Vagos had one gun,
24 at least two knives, correct?

25 A Yes.

1 Q And they went there to confront Michael Pena, the only
2 patched member of the Hells Angels at that location, correct?

3 A Yes.

4 Q Now, you testified that members of the Vagos, quote,
5 dropped their colors, end quote, and testified in the Oildale
6 trial?

7 A Yes.

8 Q Okay. So you had members of Vagos who essentially
9 said, "I'm no longer going to be a member of the Vagos. I'm
10 going to cooperate with the police and testify against the
11 member of the Hells Angels, Michael Pena, who's on trial"?

12 A When I say drop their colors and testify, I wouldn't
13 call it cooperating. They were rather uncooperative on the
14 stand. They did give some statements in police reports;
15 however, they weren't very -- they kind of recanted on the
16 stand.

17 Q Well, what I refer to -- let me ask you this: You've
18 been in law enforcement, you know what a CI is, correct?

19 A Yes.

20 Q Sometimes referred to as a CS, confidential source?

21 A I only heard them CI.

22 Q What does CI mean to you?

23 A Confidential informant.

24 Q And confidential informant is somebody cooperating
25 with the police?

1 A Yes.

2 Q So these individuals who, quote, dropped their colors,
3 end quote, were confidential informants at some point in time,
4 correct?

5 A No.

6 Q They came in and said, "I'm willing to voluntarily
7 appear at the trial of Michael Pena and testify against him"?

8 A Absolutely not. We had to track them down. They
9 dropped their colors on their own, on their own doing as a
10 result of the homicide. Several members did.

11 Q They agreed to come to court and testify once you
12 located them, correct?

13 A They agreed under subpoena and under threat of arrest
14 to testify.

15 Q And they did in fact testify at the trial, correct?

16 A Yes.

17 Q You testified at the trial, correct?

18 A Yes.

19 Q Jorge Gil-Blanco testified at the trial, correct?

20 A Yes.

21 Q And the defense asserted a position that Michael Pena
22 was defending himself at the time of the incidence in question;
23 is that correct?

24 A That was the defense strategy, yes.

25 Q And that defense strategy resulted in an ultimate

1 acquittal on all charges including a gang enhancement, correct?

2 A Yes.

3 Q Mr. Villagrana, Cesar Villagrana, was not involved in
4 the Oildale incidence, was he?

5 A Not to my knowledge.

6 Q In fact, you haven't seen his name in any single
7 report related to the Oildale incidence that you're testifying
8 to, correct?

9 A That's correct.

10 Q Isn't it true that initially, the responding officer
11 that went to the tattoo parlor cleared the call and stated that
12 he believed that there had been no felony committed?

13 A Yes. He cleared the call and left based on the
14 statements by the parties involved.

15 Q And the decedent in that case, Roger Vialano had a .40
16 caliber pistol in his possession at the time of the incident in
17 question, correct?

18 A Yes.

19 Q He also had a ten-round magazine in his possession,
20 correct?

21 A It was in the weapon.

22 Q Along with a fixed-blade knife; is that correct?

23 A I believe so, yes.

24 Q So he didn't have a pocketknife, he actually had a
25 fixed-blade knife, correct?

1 A If memory serves me correctly, yes, he did. He had a
2 fixed-blade knife.

3 Q Mr. Pena was not arrested on the date of those
4 incidents in question, was he?

5 A No.

6 THE COURT: That question was relating to both?

7 MR. SCHONFELD: The Oildale incidence.

8 THE COURT: Oildale and the tattoo --

9 MR. SCHONFELD: Oildale is the tattoo parlor, Your
10 Honor. The other is the Kern County Fair, which I haven't
11 gotten into.

12 THE COURT: Oh, Kern County Fair. Thank you.

13 MR. SCHONFELD:

14 Q Nobody was arrested at the Kern County Fair incident,
15 correct?

16 A Later a full-patch member -- or at the time was a
17 prospect, and after he got out of custody, he was made
18 full-patch for fighting.

19 Q Okay. I'm not talking about in general at the Kern
20 County Fair, I'm talking about the incident where you said the
21 Hells Angels had their tent.

22 A You're talking about the standoff between the two?

23 Q Yes.

24 A Nobody was arrested as a result of the standoff.

25 Q That was another incidence where the Vagos members

1 came into where the Hells Angels had already been located and
2 conducting their fair business, correct?

3 A Yeah, they came in to where the booth was. I don't
4 recall who got to the bike run first.

5 MR. SCHONFELD: Court's indulgence.

6 THE COURT: Yes.

7 MR. SCHONFELD:

8 Q Sir, is it your understanding that Cesar Villagrana is
9 here because he's accused of personally shooting and killing
10 someone, correct?

11 A Yes.

12 MR. SCHONFELD: I have no further questions.

13 THE COURT: Okay. Cross?

14 MR. DOGAN: Thank you, Your Honor.

15
16 CROSS-EXAMINATION

17 BY MR. DOGAN:

18 Q Sir, you have not taught any courses regarding outlaw
19 motorcycle gangs or motorcycle clubs at any conference,
20 correct?

21 A No.

22 Q And you yourself have attended outlaw motorcycle gang
23 conferences, correct?

24 A Yes.

25 Q And you only attended one of them, right?

1 A It's been more. Some of them -- if they are not
2 what's called POST certified they don't get put on my list of
3 stuff I can look up, and then -- when I used to keep track of
4 it. It met its demise with the washing machine, I apologize.

5 Q Sir, when you refer to the list, are you referring to
6 your CV?

7 A The list of where the training courses and the dates
8 are, that's from a much larger list of my training that's
9 required by California Peace Officer Standards and Training.
10 If it's certified by POST, then they will -- it goes on my list
11 for that training record. If it's not, it's just a conference
12 I attend, classes here or there, or a conference, or lectures,
13 or whatever you want to call them. They don't all make it on
14 there.

15 Q But according to your CV, you've only attended one of
16 these conferences, correct?

17 A That was POST certified, yes.

18 Q And you attend these courses to learn how to learn not
19 teach, correct?

20 A You are required to, at the courses, to be able to
21 pass on the knowledge you get to other officers at the
22 department. So that's our or training motto. We have to be
23 able to -- whatever we are taught, to be able to pass it on so
24 you don't have to send the whole department to a training
25 necessarily, you can send one person and they can turn around

1 and teach it.

2 Q But you have not taught any law enforcement training
3 classes in your department, have you?

4 A Oh, absolutely.

5 Q Say that again?

6 A In my department, yes.

7 Q Yeah.

8 A Absolutely.

9 Q So you've brought together groups of law enforcement
10 officers to teach them regarding outlaw motorcycle gangs?

11 A I've taught in the basic academy. I've taught
12 advanced officers school. I've given presentations to the
13 sheriff command staff, board of supervisors, police department
14 members as far as outlaw motorcycle gangs. Much more as far as
15 criminal street gangs go which always have a section for outlaw
16 motorcycle gangs.

17 Q And your focus has been primarily criminal street
18 gangs; isn't that right?

19 A It's both. You cover every aspect of gang
20 investigations and outlaw bikers are just as much a part of it
21 as Hispanic turf gang or Cripps and Blood gang.

22 Q Are you finished?

23 A Yeah.

24 Q Sorry. You're no longer part of the gang task force
25 in your department; is that correct?

1 A Yes.

2 Q And you -- you've been out of that gang task force for
3 over a year; is that correct?

4 A Yes, it's little over a year now.

5 Q Okay. You have never infiltrated any Vagos motorcycle
6 club, correct?

7 A No.

8 Q And you have testified as an expert on one single
9 occasion, correct?

10 A No. I've testified on Vagos case, it was a concealed
11 weapons case in approximately 2007, maybe 2008. It resulted in
12 a plea deal. I testified twice at separate preliminary
13 hearings for the particular homicide case that we have of in
14 front of us today.

15 Q And you testified as an expert in these cases?

16 A Yes.

17 Q And you testified as an outlaw motorcycle gang expert
18 in these cases?

19 A Yes.

20 Q And you named three cases; is that correct?

21 A Two separate incidents on this same case and one other
22 case regarding some Vagos members from I believe Tulare, if I
23 remember correctly. It's been a long time.

24 Q So I would be incorrect that during your direct
25 examination, you stated you testified on one single occasion

1 which would be the Oildale incident?

2 A Yes. I've testified on a Hells Angel case one time or
3 one -- covering one incident. It was two separate preliminary
4 hearings due to the fact that the first trial was dismissed and
5 refiled due to -- I think we had to try to get witnesses
6 together. Something -- we couldn't meet the speedy trial
7 requirement.

8 Q And you just stated that that case was dismissed,
9 correct?

10 A The Oildale homicide was initially filed, it was
11 dismissed and immediately re-filed due to -- I don't recall
12 what the issue was as far as either getting witnesses or
13 something regarding time restraints, and it was re-filed and we
14 went forward again.

15 Q And in the Oildale incident, the defendant was a Hells
16 Angel, correct?

17 A Yes, sir.

18 Q And he was being prosecuted for murder, correct?

19 A Yes. There was actually two defendants. Both Hells
20 Angels full-patch member and Hells Angels hang-around.

21 Q And the victims in this case were Vagos; is that
22 right?

23 A Yes, sir.

24 Q And that case went before the jury, right?

25 A Yes.

1 Q You did not testify as an expert in that case, did
2 you?

3 A Not in front of the jury, no.

4 Q And the defendants in that case were ultimately
5 acquitted by the jury, correct?

6 A Yes.

7 Q Now, during your direct examination, you had mentioned
8 that you spoke to three Vagos; is that correct?

9 A In the Oildale murder?

10 Q In regards to your opinion as an expert regarding the
11 Vagos.

12 MR. SCHONFELD: Your Honor, I would just ask that it
13 not be referred to as murder again. I'm sure it was just a
14 mistake.

15 THE COURT: Okay. Keep counsel sitting next to you
16 happy.

17 MR. SCHONFELD: I think the witness has also used that
18 term.

19 THE COURT: Do you want to rephrase your question?

20 MR. DOGAN: Yes, Your Honor. Thank you.

21 THE COURT: Thank you.

22 BY MR. DOGAN:

23 Q In regard to your testimony here today regarding your
24 opinion in regard to the Vagos, you spoke to three Vagos; is
25 that right?

1 A I think I spoke to more during the investigation, but
2 I got actual statements from at least three Vagos.

3 Q And one Vago member you spoke to regarding tattoos; is
4 that right?

5 A Yes. That was actually during the previous expert
6 testimony. The victim was actually a Vago in that case, and
7 he -- he was talking about the tattoos being greened out.

8 Q And is that the only subject that you discussed were
9 tattoos with that member?

10 A No, no. We talked about how he patched up. I mean,
11 it -- a lot of things. I don't recall the whole interview.
12 It's been a long time, but . . .

13 Q Do you have an audio recording of that interview?

14 A I don't think so. I'm not sure, it's been so long.
15 It's probably six years ago.

16 Q Six. Okay. Do you have any police reports regarding
17 that interview?

18 A There was police reports completed. I would have to
19 do some serious research as far as finding the Case Number at
20 that time. We didn't even use our automated record system. We
21 were still doing paper reports.

22 Q And that interview was conducted pursuant to
23 prosecution, correct?

24 A The prosecution in which the interview subject was a
25 victim, yes.

1 Q And when you interviewed that individual, was he still
2 a member of the club?

3 A No.

4 Q And he was a -- was he kicked out of the club?

5 A That's -- the gist of the investigation was, according
6 to him, he was a full-patch member of the Vagos --

7 Q Uh-huh.

8 A -- and because of statements he made and -- he was put
9 in bad standing and they basically kidnapped him, stole his
10 weapons, and cut his --

11 Q He was a cooperating witness?

12 THE COURT: Cut his what?

13 THE WITNESS: What?

14 THE COURT: You weren't through with your answer and
15 he stopped you.

16 THE WITNESS: They cut his cuts off him. They took
17 his colors back.

18 THE COURT: You may proceed.

19 MR. DOGAN: Your Honor, the rest of the answer I would
20 move to strike as nonresponsive. My question asked for a yes
21 or no answer. Whether he was a member of good standing or not.

22 THE COURT: I think -- I'm going to overrule your
23 objection. I think it was responsive.

24 BY MR. DOGAN:

25 Q Okay, sir. Do you know this Vagos' name?

1 A Yes, I remember his first name was Ronald. I
2 apologize, I'm going a hundred percent from memory, it's been a
3 long time. It's Ronald something or other, I just don't
4 remember his last name.

5 Q Then you refer to another Vagos member regarding a
6 truce between the HAs. Do you recall that testimony?

7 A Yes.

8 Q And do you recall his name?

9 A Bret Vialano, the victim in the death.
10 Did you hear me?

11 Q I did not hear you, I'm sorry.

12 A Bret Vialano, the father of the Oildale death.

13 Q And when you spoke to this individual, was he a member
14 of the Vagos?

15 A Yes.

16 Q And you spoke to this individual regarding the Oildale
17 prosecution, correct?

18 A No. This was before, outside of a bar that I just
19 kind of was casually talking to him.

20 Q Were you drinking?

21 A No. I was on duty.

22 Q You went to a bar on duty?

23 A I went to respond to a call where the Bakersfield
24 Bastards, the Red and White club, and the Vagos were getting
25 ready to fight inside a bar. And back then I was the lead or

1 the go-to guy as far as bikers go in the gang unit. I
2 responded and I talked to some bikers.

3 Q So you were there in response to a call, correct?

4 A Yes.

5 Q And in response to a call you spoke to this
6 individual, correct?

7 A Yes.

8 Q And that was to -- that was in relation to your law
9 enforcement duties, correct?

10 A Yes.

11 Q In regard to the Vagos, have you ever read their
12 bylaws?

13 A I believe I've read older versions of them passed down
14 from other gang investigators, but as far as a recent one, no.

15 Q And how old were these versions?

16 A I don't even know. There were several passed down. I
17 ultimately had almost 20-plus-years-old Hells Angels version
18 one. It was actually on a typewriter. I've had reviewed --
19 I'm sorry. I've reviewed different clubs' bylaws, but I --
20 nothing current or recent.

21 Q And how did you obtain the Vagos' bylaws?

22 A It was through other gang investigators during the
23 course of their careers, or search warrants; just documents
24 that are shared.

25 Q Do you know who authored it?

1 A I don't.

2 Q Do you have a copy of it?

3 A I don't.

4 Q When was the last time you reviewed the Vagos bylaws?

5 A It had probably been 2007 when I did the weapon case I
6 previously spoke of, and I think they were old at that time,
7 honestly.

8 Q Have you ever -- you had never reviewed the chapter
9 minutes of the Vagos, have you?

10 A Not to my recollection.

11 Q Okay. And you have never conducted a search warrant
12 or assisted in conducting a search warrant of a Vagos'
13 residence, have you?

14 A I think we did during this case. I'm trying to
15 remember. It was a search warrant, though. I searched Vagos
16 members' residences, but not that I can recall as far as it
17 being a search warrant or not.

18 Q Okay. How many Vagos are there in the United States?

19 A I have no idea.

20 Q How many Vagos members are there in California?

21 A No idea.

22 Q What countries have Vagos chapters?

23 A I know the United States does, Mexico, I think. Other
24 than that, I'm not sure.

25 Q How many Vagos chapters are there in the United

1 States?

2 A No idea.

3 Q Is there a Vagos chapter in Bakersfield?

4 A Not anymore.

5 Q Can you name one Vagos president of a chapter?

6 A When I was investigating gangs, the only one I could
7 remember or beside the County Line chapter president was
8 Knuckles. I don't recall his real name. And the national
9 president, Terry the Tramp. But I don't think he's in it
10 anymore, honestly.

11 Q Is it correct that Terry the Tramp is the individual
12 who started the Vagos?

13 A I don't know.

14 Q Can you name a sergeant-of-arms of the Vagos?

15 A There was Bret Vialano and Jack Sealy of the County
16 Line chapter. After that, I don't know.

17 Q And this is in relation to Bakersfield, correct?

18 A Yes.

19 Q And this is in relation to the case you personally
20 investigated, correct?

21 A Yes.

22 Q Can you name five members of the Vagos from any
23 chapter in the United States, active members?

24 A No.

25 Q Can you name the treasurer of the Vagos?

1 A No.

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

3 THE COURT: Yes.

4 BY MR. DOGAN:

5 Q Sir, you're aware that Vagos have families, correct?

6 A Yes.

7 Q And you're aware they have 9:00-to-5:00 jobs, correct?

8 A Some do, yes.

9 Q And you're aware there are even Vagos who are
10 members -- professional in the community, correct?

11 A Yes.

12 Q And the Vagos members are ordinary working people,
13 correct? There are members --

14 A Yes, there are members who are ordinary working
15 people. I would say that's fair.

16 Q And you're aware there are members who have never
17 committed crime, correct?

18 A I'm sure that's fair.

19 Q And in order to become a member of the Vagos, you do
20 not have to commit crimes, correct?

21 A Not to my knowledge.

22 MR. DOGAN: Nothing further.

23 THE COURT: Anything further, Mr. Hall?

24 MR. HALL: Just have a couple of questions, Your
25 Honor, thanks.

REDIRECT EXAMINATION

BY MR. HALL:

Q Detective Colbert, I think both defense attorneys asked questions about members of the Vagos or Hells Angels having regular daytime jobs or families. Do you remember that line of questioning?

A Yes.

Q All right. Well, that -- does that mean to you that they are incapable of committing crimes?

A No, that's not the case.

Q Doesn't have anything to do with committing crimes whether or not they have a job, right?

A No.

Q As a detective, there's a lot of people that have jobs that still commit crimes such as Murder, assault with a deadly weapon, battery with a deadly weapon, those type of things?

MR. DOGAN: Objection. Leading.

THE COURT: Sustained.

BY MR. HALL:

Q Now, with respect to the Hells Angels, do they have any code of conduct based upon your training and experience with respect to protecting the club and other club members?

A Yeah.

MR. SCHONFELD: Objection. Leading.

THE COURT: Overruled with regard to whether or not

1 they have a code of conduct, not what it is. The question was
2 whether they had one.

3 MR. HALL: Right.

4 THE COURT: So I'll overrule the objection as to
5 leading. It's yes or no.

6 THE WITNESS: Yes.

7 BY MR. HALL:

8 Q Can you tell me about what that -- based upon your
9 training and experience, what that code is?

10 A It's my training and experience and even in the bylaws
11 as far as the -- you back up your cut. You back up your fellow
12 members, your -- other people don't respect your -- your club,
13 your gang, you back it up with force, violence, whatever it
14 takes.

15 Q And would the Vagos have that same code based upon
16 your training and experience?

17 A Based on my training and experience and speaking to
18 other investigators, yes.

19 Q All right. Now in this particular case that you
20 investigated regarding the homicide and the stabbing of
21 Mr. Rinehart, did Mr. Pena have any trophies in his possession
22 when he was contacted by police on the day of the homicide?

23 MR. DOGAN: Objection. Beyond the scope.

24 MR. SCHONFELD: Join. Vague and ambiguous.

25 THE COURT: I find it vague and ambiguous. Sustained.

1 BY MR. HALL:

2 Q All right. You testified earlier that you're familiar
3 with the Vagos colors; is that correct?

4 A Yes.

5 Q And we talked about -- let's back up a little bit.
6 We'll get to the trophy that I talked about here in a minute.
7 But what's the -- why did the Vagos go over to the tattoo shop?

8 MR. SCHONFELD: Asked and answered.

9 MR. HALL: No, I don't think it was. He talked about
10 the birthday party, the fact that there were Vagos and going to
11 the tattoo shop, but then on cross-examination, it was -- there
12 was some questions about the Vagos just going over there
13 haphazardly.

14 THE COURT: I thought on direct the testimony was that
15 they learned -- they believe that Mr. Pena was alone, so they
16 went to confront him.

17 MR. HALL: That's part of it, but I think there is
18 additional information that would add a context to that portion
19 of his testimony.

20 THE COURT: The cross-examination didn't go to the
21 intent of the Vagos. The cross-examination went to the fact
22 that the Vagos went to the Hells Angel at that location, not
23 what their intent was. There's no cross-examination as to the
24 intent of the Vagos.

25 MR. HALL: Well, isn't it a fact they went there to

1 confront Pena? Doesn't that go to the reason they went over
2 there?

3 THE COURT: That was on your direct.

4 MR. HALL: Right.

5 THE COURT: He testified to that in direct. There was
6 cross-examination about them going there, but not any
7 cross-examination of this witness as to his testimony as to why
8 they went there. That's why the objection was beyond the scope
9 of cross.

10 MR. HALL: Okay.

11 BY MR. HALL:

12 Q Well, on direct examination I did ask you about any
13 hits; is that correct?

14 A I believe so.

15 MR. SCHONFELD: Objection. I don't understand that
16 question. Vague and ambiguous, Your Honor.

17 THE COURT: I'm sorry what do you mean by hits?

18 MR. HALL: Let me rephrase. Yeah.

19 BY MR. HALL:

20 Q A hit. Well, what does a hit mean to you in general
21 gang terminology?

22 MR. SCHONFELD: Your Honor, this is beyond the scope.

23 THE COURT: I don't know if it is. I have to find out
24 what a hit is before I find it beyond the scope.

25 MR. SCHONFELD: Considering that term has not yet been

1 raised in this content.

2 THE COURT: The content of the information may not be
3 beyond the scope.

4 THE WITNESS: To me, a hit, as a former gang
5 investigator, would be, say, "I want this particular subject
6 dead and I'm going put a hit on him, a contract, a price of
7 whatever. I want it to be known I want this person dead," and
8 somebody is going to carry that out.

9 MR. SCHONFELD: Renew my objection, Your Honor.

10 MR. DOGAN: Join.

11 THE COURT: Sustained.

12 BY MR. HALL:

13 Q During the course of your investigation, was it your
14 belief that the Vagos went over to the tattoo shop because they
15 believed that Pena had put out a hit on Vagos?

16 MR. DOGAN: Objection.

17 MR. SCHONFELD: Your Honor, objection. This is way
18 beyond the scope.

19 MR. DOGAN: And we are revisiting what was previously
20 sustained, Your Honor.

21 THE COURT: Well, except -- yeah, I don't know how
22 your cross-examination was --

23 MR. SCHONFELD: It also goes back to the asked and
24 answered as to why they went there. This witness has said
25 three times, twice on direct and once on cross.

1 THE COURT: Right. I understand that. Sustained.

2 BY MR. HALL:

3 Q All right. Well, during the course of your
4 investigation -- or you testified earlier there was a rivalry
5 between the two gangs?

6 A Yes.

7 Q Did the cross-examination change your opinion whether
8 or not there was a rivalry?

9 A No.

10 Q And did part of the investigation in your report
11 indicate that there was -- that the Vagos believe that Pena put
12 a hit out on the Vagos?

13 MR. DOGAN: Objection. Leading.

14 MR. SCHONFELD: Nice try. Objection, Your Honor.

15 THE COURT: Sustained.

16 BY MR. HALL:

17 Q Now, as part of your duties as a detective, do you
18 teach members of other police forces that there's rivalry that
19 exists between the Hells Angels and Vagos?

20 A In my prior teachings when I was in gangs, yes, that
21 was one of the topics and one of the subjects. Not a lot of
22 our officers have contact with outlaw motorcycle gang members
23 because in Kern County, Bakersfield mostly, unless you had the
24 ones that maybe lived there, that were passing through town, or
25 they were having a run or something like that, you didn't see

1 them on a real regular basis. So we would put together
2 trainings as far as who is battling who and what to look out
3 for when contacting the members.

4 Q And was part of what you taught the rivalry that
5 existed between the Hells Angels and Vagos?

6 A Yes.

7 Q And that was based upon a number of violent conflicts
8 between the two that you were aware of in your area?

9 MR. SCHONFELD: Objection. Leading.

10 THE COURT: Sustained.

11 MR. DOGAN: Join.

12 BY MR. HALL:

13 Q What was the basis of those teachings?

14 A Based on several contacts, some of which were violent
15 at the bars, the conflict I believe actually in the PowerPoint
16 I showed photos of the standoff between the two and how serious
17 it can get and potentially dangerous it can get when you have
18 that many subjects facing off. That was one of the topics in
19 the training, yes.

20 Q Now, you were asked whether or not you had infiltrated
21 either the Vagos or the Hells Angels; is that right?

22 A Yes.

23 Q But is it common practice for you to share information
24 with other law enforcement officers regarding the Hells Angels
25 and Vagos?

1 A Yes, including officers that have infiltrated at least
2 one.

3 Q And does part of the information you share establish
4 that the rivalry exists in other states besides California?

5 A Yeah.

6 MR. DOGAN: Objection. Leading.

7 THE COURT: Sustained.

8 BY MR. HALL:

9 Q What information have you gathered during the course
10 of your training and experience regarding where this rivalry
11 has been shown?

12 MR. DOGAN: Objection. Beyond the scope.

13 THE COURT: Overruled.

14 THE WITNESS: At the time of our homicide -- I
15 apologize. At the time of our death investigation, there --
16 either before or after, and I don't recall which, there was an
17 incident in Arizona that I believe has been testified to here
18 in court regarding a Hells Angel-Vagos shooting, ambush style,
19 investigation. I don't recall enough to give accurate details
20 of that, but I have spoken to people about it, read reports,
21 and things like that. But it's just been awhile.

22 Q How many -- you testified that there were -- there was
23 another support group for the Hells Angels at the tattoo shop;
24 is that correct?

25 A Yes.

1 Q And what was the name of that support group?

2 A They are called the Bakersfield Bastards.

3 Q Now, at the time of homicide and stabbing of
4 Mr. Rinehart, was there only one patch member of the Hells
5 Angels at the tattoo shop?

6 A For sure there was one. There was believed to be a
7 second, and then also at least one hang-around.

8 Q All right.

9 A A person who saw the second and a hang-around later
10 on, but obviously wasn't there at the time of the death.

11 Q Were there members of Bastards there?

12 A Yes.

13 Q And how many of those people were there?

14 A I know at least two or three, one of which was a
15 tattoo artist there. There was at least one other member's
16 bike that was there. There was also -- I apologize, there was
17 another full-patch Hells Angel there from Orange County. When
18 we got there, there was a full-patch bike. You can tell there
19 was a full-patch bike because it had a death head on the side
20 of the tank registered to Chad Britely who was a registered
21 Hells Angel along with Mr. Pena, he was also reported to have
22 been there. We could never track him down and get a statement.

23 Q Did Mr. Pena have a weapon?

24 A Yes.

25 Q What did he have?

1 A He was seen by our deputies responding with a large
2 Bowie-style knife and a nylon-type sheath. He was -- I'm
3 sorry. He was initially seen with it. The deputy directed his
4 attention elsewhere, and he looked back at Pena and it was
5 missing or it was gone. But the deputy, and in frustration,
6 you know, on my end, didn't do anything about it.

7 Q So there was some discretion of evidence?

8 MR. SCHONFELD: Objection, Your Honor.
9 Mischaracterizes the evidence.

10 THE COURT: Sustained.

11 MR. DOGAN: Argumentative.

12 THE COURT: It's argumentative how you characterized
13 the evidence in the question.

14 BY MR. HALL:

15 Q Did that compromise the investigation?

16 A Absolutely.

17 Q The fact that Mr. Pena was seen with a weapon and then
18 the weapon was gone?

19 A Absolutely.

20 Q How would that compromise the investigation?

21 A We had our suspect or our reported suspect according
22 to other people armed still and with a weapon in his possession
23 and it was no longer there. The initial deputy that responded
24 did a horrible job and they didn't follow up and they ended up
25 leaving.

1 Q Did you ever -- I think you testified with respect to
2 the motorcycle belonging to Chad Britely; is that right?

3 A Yes.

4 Q And you never had an opportunity to talk to
5 Mr. Britely?

6 A No.

7 Q Was he there when you responded?

8 A No.

9 Q What is Bret Vialano's current status with the Vagos?

10 A Last time I talked to him, he said he went out on
11 either stress or a medical. He's out.

12 Q Do you know why he's out?

13 A According to him, he just couldn't take any more. His
14 son got killed. He didn't want to do it anymore.

15 Q And was Delano Mike or Mike Pena, was he arrested on
16 the day of the homicide -- stabbing?

17 A No.

18 Q When was he arrested?

19 A A warrant was issued later on. I don't recall when,
20 but we ultimately found him a couple of months later I want to
21 say.

22 Q What, if anything, did he have in his possession when
23 he was arrested?

24 A When he was arrested, he had some Hells Angels
25 paraphernalia, when he was -- he was detained the night of the

1 death and then he was arrested later on. He had things in his
2 possession both times.

3 Q What did he have in his possession on the date when he
4 was detained?

5 A In his pant pocket, he had a green and white -- like a
6 key chain like you would make it -- I call it like a church
7 camp-type bracelet, because it was the little beads that
8 spelled out Vagos in his pocket.

9 Q Now, would that be consistent with collecting a trophy
10 after a conflict with a rival motorcycle gang?

11 A That was all.

12 MR. SCHONFELD: Objection. Vague and ambiguous.
13 Beyond the scope.

14 MR. DOGAN: I join, Your Honor.

15 THE COURT: I don't know, I think it's argumentative.
16 That's what you're going to argue, it's a trophy, but I don't
17 see it goes to anything they crossed on.

18 BY MR. HALL:

19 Q Okay. Now, why did the original responding officer,
20 why did he leave?

21 A On both sides, Mike Pena and the Vagos that were still
22 on scene, there was a good amount of blood there, and Mike Pena
23 who was armed, and the deputy looked away and all of a sudden
24 Pena was no longer in possession of his knife, of his large
25 knife, and both sides were saying that we had a fight, but

1 nobody wants anything done, nobody is hurt, nobody is anything,
2 and they left.

3 Q Had the victims, that being Mr. Rinehart and Roger
4 Vialano, been transported from the scene prior to the original
5 deputy responding?

6 A Yes, they had been taken away, and we didn't become
7 aware of their condition until much later after all the parties
8 involved basically left.

9 Q So the fact that the investigation was not immediately
10 investigated, did that compromise your investigation of the
11 case?

12 MR. DOGAN: Objection. Leading.

13 THE COURT: Did you answer that already?

14 MR. DOGAN: Asked and answered.

15 THE WITNESS: I don't know. I'm sorry.

16 THE COURT: I'm going to sustain. Asked and answered.

17 BY MR. HALL:

18 Q Now, would you consider Mr. Pena's cuts as evidence of
19 gang involvement?

20 A Yes.

21 Q And what happened to his cuts or his vest?

22 A He was on the phone after getting arrested. He called
23 the later-determined-to-be-codefendant and --

24 MR. SCHONFELD: Your Honor, this is beyond the scope.

25 MR. DOGAN: I would join, Your Honor.

1 THE COURT: I don't know where it's going, so I don't
2 know if it's beyond the scope. So I'll withhold ruling until I
3 find out what happens.

4 THE WITNESS: I ultimately found the cut at the
5 hang-around's house. There was a call made by Mr. Pena to,
6 "Get that stuff off my vest." When I ultimately found the cut,
7 it had the front flash, the Filthy Few, the 666, the death
8 heads, and everything had been removed and the only thing left
9 was the back patch.

10 MR. SCHONFELD: Renew my objection.

11 THE COURT: How does this go to cross? Which part of
12 cross?

13 MR. HALL: This goes to the part of the cross that
14 dealt with do the Hells Angels commit any crimes? Do they work
15 together?

16 THE COURT: I think the question --

17 MR. HALL: It's self-defense. Sharing information.
18 That type of thing.

19 THE COURT: Okay. The sharing information was between
20 clubs, not between members of the same club, so I'm going to
21 sustain the objection. I don't think they crossed or
22 questioned members of the same club sharing information. It
23 was one branch of the club to another branch of the club that
24 they were crossing on.

25 MR. HALL: Your Honor, I think we did. I'm reviewing

1 my notes and I think we did talk about members of the same
2 organization sharing information regarding pending criminal
3 cases, and that was asked on cross-examination according to my
4 notes. So that's why I was going back into it.

5 MR. SCHONFELD: I thought the Court ruled already.

6 THE COURT: I thought what you were talking about was
7 someone in the organization located in Nevada having
8 information of something that went on in California, or
9 California in Arizona, and Arizona in California.

10 But your question is about what went on within a
11 specific club, this Mr. Pena and his hanger-on, and I didn't
12 hear any cross-examination on that.

13 MR. HALL: That's what I did on direct. And I'm
14 looking at my notes on cross, and they were asking, if you
15 recall, there were specific questions by Mr. Schonfeld who
16 said, "Well, when they are -- when they have a criminal case,
17 wouldn't they share information on a criminal case that would
18 help each other out? There's no law against that, is there?
19 There's no law" --

20 THE COURT: Did you think he was referring in that
21 question to members of the same organization --

22 MR. HALL: Absolutely.

23 THE COURT: -- in the same geographical location --

24 MR. HALL: Absolutely.

25 THE COURT: -- and clubhouse?

235

1 MR. HALL: Yes.

2 THE COURT: That's what you thought?

3 MR. HALL: Yes.

4 THE COURT: I took it completely different.

5 MR. SCHONFELD: No kidding, Your Honor, because you
6 understood it. The exhibit that they showed was an objection
7 and we objected to it and reserved that objection, that
8 Mr. Villagrana had information related to the Laughlin case.

9 THE COURT: Right.

10 MR. SCHONFELD: This witness testified that the
11 various charters share information. "Have you ever dealt with
12 Colbert? Do you know anything that could impeach him? Have
13 you ever dealt Gil-Blanco? What do you have on him?" So you
14 are correct, Your Honor. My understanding is that the Court
15 already sustained the objection.

16 THE COURT: Right. I don't think -- it goes beyond
17 the scope of cross.

18 MR. HALL: Okay.

19 BY MR. HALL:

20 Q Well, you indicated that you found reports during the
21 execution of search warrants that shouldn't be there; is that
22 right?

23 MR. SCHONFELD: Objection to the characterization.

24 MR. HALL: I'll rephrase.

25 ///

1 BY MR. HALL:

2 Q Didn't you indicate you found police reports that --
3 that had not been redacted that were in possession of Hells
4 Angels members that didn't have anything to do with the
5 investigation contained in the police reports?

6 MR. DOGAN: Objection. Leading. Compound.

7 MR. SCHONFELD: Join.

8 THE COURT: I think that's a predicate question. I'm
9 going to overrule your objection. He's asking him if he
10 testified to that which I think is a predicate to a subsequent
11 question.

12 THE WITNESS: Yes, I did locate police reports
13 from --

14 THE COURT: He asked you if you testified to that.

15 THE WITNESS: Yes. I'm sorry.

16 BY MR. HALL:

17 Q And is that part of the basis for your opinion that
18 gang members share information?

19 A Part of it, yes.

20 Q By that, being Hells Angels gang members and Vagos
21 gang members?

22 A Part of it, yes.

23 Q And you testified on direct that there was another
24 Vagos that was arrested for fighting. Was that during the
25 fair?

1 A No. There was a Hells Angel that was arrested later
2 on after the standoff.

3 Q That was the same day?

4 A Yes.

5 Q All right. And what was the Hells Angels arrested
6 for?

7 MR. SCHONFELD: Your Honor, I'm going to object
8 because the witness volunteered that information. I then
9 clarified the question, and there was nothing else delved into.
10 So it's beyond the scope.

11 MR. DOGAN: I would join, Your Honor.

12 THE COURT: I'll overrule it. It came out during
13 cross.

14 You can answer the question.

15 THE WITNESS: Can I get the question? I am sorry.

16 THE COURT: What was the person arrested for?

17 THE WITNESS: I believe it was simple assault,
18 resisting or delaying a police officer in the performance of
19 his duties, and possession of a concealed deadly weapon.

20 BY MR. HALL:

21 Q And who was he arrested for -- who did he allegedly
22 assault, the Hells Angels?

23 A I don't recall the actual fight. He tried to run.

24 Q Do you know if it was a rival gang member?

25 A He was another biker. It was at the bike rally. I

1 just don't recall who it was.

2 Q Then you testified Ronald had his colors cut off; is
3 that right?

4 MR. DOGAN: Objection. Leading.

5 THE COURT: Sustained.

6 BY MR. HALL:

7 Q Remember your testimony about Ronald?

8 A Yes.

9 Q And what was significant about Ronald and his colors
10 if anything?

11 A He was a reported or self-reported full-patch Vago.
12 He came in bad standing. He was kidnaped, several items were
13 stolen including his cuts, and he was also told to get -- cover
14 up his tattoos, the green.

15 Q Would that be consistent with the customs of the code
16 of customs and conduct which are followed by the Vagos?

17 A Based on my training and experience, yes.

18 Q Okay. Now you testified regarding a truce with Bret
19 Vialano. Bret Vialano is -- Roger Vialano is the victim, that
20 was his dad, Bret Vialano?

21 A Yes.

22 Q So apparently there was some discussion putting aside
23 the rivalry between the Hells Angels and the Vagos?

24 A There was discussion about a -- somewhat of a truce.
25 This was casual conversation between me and another -- he was

1 the one when I went to go make contact with all the bikers, he
2 was the representative that came out. The red and white
3 subjects were -- sent somebody out as well and said, "Hey, we
4 are going to leave." I then had some casual conversation with
5 Beth.

6 Q So you had the casual conversation.

7 A Yes. It wasn't documented. It was conversation about
8 how they basically showed up overnight and, you know, what the
9 plans were, and how the red and white and green were going to
10 coexist.

11 MR. HALL: Thank you. I have no further questions.

12 THE COURT: Anything further?

13 MR. SCHONFELD: Briefly, Your Honor.

14
15 RECROSS-EXAMINATION

16 BY MR. SCHONFELD:

17 Q You testified on redirect with Mr. Hall regarding the,
18 quote, code, end quote. Where is this code?

19 A It's mentioned several times in my report. Several of
20 the Vagos members that we attempted to talk to would mention
21 the word code.

22 Q For Hells Angels, where is the code?

23 A What I believe they are referring to is in bylaws, how
24 you don't cooperate with law enforcement. You don't --

25 Q Where is it? Have you given it to the prosecutor?

1 A I'm sorry?

2 Q Have you given it to the prosecutor?

3 A I have no idea, sir, where it is.

4 Q So you keep referring to the code as this loose term.
5 You actually have nothing you can give me that would show this
6 code, do you?

7 A No, sir. If you get a copy of the bylaws, I'm sure
8 you can read it.

9 Q When is the last time you saw bylaws?

10 A It's been a while.

11 Q So you don't know what the, quote, code was in
12 September of 2011, do you?

13 A No, sir, I don't.

14 Q On the date of the incident in this case, you don't
15 know what the, quote, code was, do you?

16 A I don't remember if I have a current set of bylaws or
17 not. It kept getting mentioned by several bikers.

18 Q And you don't know what the rivalry was in September
19 of 2011 because you had been out of gangs already, right?

20 A In September of 2011?

21 Q Yes.

22 A I still talk to investigators. It's well-known about
23 the ongoing acts of violence between other clubs.

24 Q Now you testified that you spoke to somebody who had
25 infiltrated a club?

1 A Yes.

2 Q Which club did they infiltrate?

3 A One of which was the ATF agent that did one of the
4 ones in Black Rain he had infiltrated.

5 Q What was his name?

6 A I believe it's Kozlowski.

7 Q Kozlowski had infiltrated the Hells Angels and become
8 a member?

9 A No. As far as the Hells Angels, I spoke to for quite
10 a while, Jay Dobbins at a conference.

11 Q Jay Dobbins is no longer part of the ATF, is he?

12 A I don't think so. I think he retired.

13 Q He sued the ATF, didn't he?

14 A I believe.

15 THE COURT: I'm sorry, he what?

16 MR. SCHONFELD: He sued the ATF.

17 THE WITNESS: I believe he did, yes.

18 MR. SCHONFELD:

19 Q You could not confirm with any independent evidence
20 that Chad -- I forget the last name. The person whose
21 motorcycle was out in front of the tattoo shop --

22 A Britely. Britely.

23 Q You can't confirm he was actually there during the
24 Oildale incidents in question, correct?

25 A I don't have anybody that physically puts him there,

1 no. Just his bike.

2 MR. SCHONFELD: Nothing further.

3

4

RE CROSS-EXAMINATION

5 BY MR. DOGAN:

6 Q Sir, you keep referring to a casual conversation with
7 a Vagos member. Would that be Vialano?

8 A Yes.

9 Q And do you recall when this conversation took place?

10 A It was before the homicide, maybe a month, maybe two
11 months. It was outside of a bar that they were attending.

12 Q You can't recall the exact -- the date and time, can
13 you?

14 A No, sir.

15 Q Do you know the name of the bar?

16 A Yes. It's called the Lone Only Lounge.

17 Q Do you recall what time of day it was?

18 A It was nighttime. It was very dark. It was a 9-1-1
19 call we were dispatched to.

20 Q Did you speak to him inside the bar?

21 A No.

22 Q Did you speak to him outside the bar?

23 A Yes.

24 Q Was it a one-on-one conversation?

25 A Yes.

1 Q And were there any other members of law enforcement
2 around you when you spoke to him?

3 A No. He introduced me to Knuckles, the chapter
4 president. He was very polite, very cooperative. We just had
5 just a casual conversation.

6 Q And this casual conversation was regarding the Vagos?

7 A I brought it up knowing not to ask about club
8 business. I brought it up, the fact, how are they going to get
9 along with the red and white because of the fair incident and
10 also the incident that occurred that evening, and it seems to
11 be a pattern, and is everything going to be cool.

12 And he had mentioned that the two clubs had sat down
13 together and talked about it -- a truce, and how they were
14 going to be able to get along and coexist. He then discussed
15 how they were just guys that wanted to ride together and, you
16 know, belong to something, something to that effect.

17 Q But before you spoke to Mr. Vialano, you were there in
18 regard to a fight; is that right?

19 A It was a potential fight and there was a peace
20 disturbance. I don't think anybody ever fought.

21 Q Was it a fight between two motorcycle clubs?

22 A Yes.

23 Q So you were there conducting an investigation of a
24 fight which almost took place?

25 A I was conducting an investigation about a peace

1 disturbance between two motorcycle clubs, yes.

2 Q And in furtherance of that investigation, you spoke to
3 Mr. Vialano, correct?

4 A Yes.

5 Q You keep referring to a code regarding the Vagos. Do
6 you have a written code on your person right now?

7 A No, sir.

8 Q Have you ever read the, quote, code before?

9 A No, sir. It keeps getting mentioned by Vagos members.

10 Q What Vagos members have mentioned the code?

11 A It would have been Earl Rinehart. I believe it's
12 documented in the reports he actually says the word "code."
13 The other name witness, and I apologize I'm having trouble
14 right now remembering his name. Frank Shepard. I believe
15 Roger Vialano also mentioned it sometime in the investigation
16 as well, all of which are no longer Vagos members.

17 Q So Mr. Rinehart, Shepard, and Vialano, they are no
18 longer members of the Vagos, correct?

19 A Yes.

20 Q And they are in bad standing with the Vagos, right?

21 A I don't know if they are in bad standing. I think
22 Rinehart left. What he told me was due to his age and him --
23 he just got stabbed. Shepard had medical issues. And I think
24 Vialano said the same thing, something to the effect of a
25 medical or something. I don't recall.

1 Q But this code is not written bylaws; is that right?

2 A I have no idea.

3 Q Okay. Is that because you have not read bylaws?

4 A I haven't read any in a long time.

5 Q And you've never seen the code referenced to in the
6 minutes, correct?

7 A No. I can't even recall if I've ever seen any Vagos
8 minutes, honestly.

9 Q Okay. So during your testimony, you referred to an
10 Arizona incident, would you be speaking of the Yavapai
11 incident?

12 A I believe so.

13 Q And you learned this outside the courtroom, correct?

14 A No. I learned this after the incident. It was during
15 my investigation. They were similar incidences.

16 Q Sir, if you recall your redirect, you stated that the
17 Yavapie incident was testified to in this case; was that
18 accurate?

19 A I believe that's what the Arizona -- Les -- I think
20 it's Les is his name, I've spoken to him over the phone. I
21 would assume that's what he is here to testify for, but I
22 didn't talk to him about it.

23 Q So you're familiar -- you just said that you spoke to
24 him over the phone; is that right?

25 A I spoke to him in the past during my investigation

1 regarding Vagos and things like that. It was with Jorge
2 present as well.

3 Q And when you say "Les," you're referring to Les
4 Skelton?

5 A I believe that's his last name, yes.

6 Q And you saw Mr. Skelton in the court area previously;
7 is that right?

8 A Yes.

9 Q And Mr. Skelton advised you during court what he was
10 testifying to?

11 A No. We -- he and I talked for the entire time we were
12 here last week, I think it was last week, right? But it was
13 all casual conversation like what we were going to do that
14 night. I believe we talked about seeing a basketball game,
15 just things like that. I mean, nothing about our cases.

16 Q So it's your testimony now that you spoke to
17 Mr. Skelton previously on one occasion regarding the Yavapie
18 incident?

19 A I believe I spoke to him, I apologize. I'm going
20 strictly from memory from over two years ago. I believe it was
21 either him or Eric Bennett, but I believe it was him over the
22 incident in Arizona where the two clubs shot it out, and Jorge
23 Gil-Blanco and I -- Jorge knew much more about it. He
24 basically was giving me the summary of it.

25 Q So your testimony in this courtroom during redirect is

1 incorrect, that you did not speak about Yavapie, Arizona?

2 A I've spoken about it in the past. We spoke about it
3 during my investigation in 2010, and since then, but not here
4 in court, not in the hallway. I haven't spoken to Les about
5 his case that I can remember. I don't even honestly recall if
6 it was actually him I spoke to or if it was Jorge giving me all
7 the information or Eric Bennett. It's been a while, I
8 apologize.

9 Q You spoke to one individual who infiltrated the club.
10 That would be the ATF agent, right?

11 A Yes.

12 Q And that was the Hells Angels, correct?

13 A I spoke to ATF Agent Dobbins or former ATF Agent
14 Dobbins about the Hells Angels. Agent -- again I butcher his
15 name.

16 Q Kozlowski?

17 A Yeah, one of the guys from Black Rain, in the past
18 infiltrated the Vagos. That was one of the trainings I went
19 to.

20 Q Who was the one that infiltrated the Vagos?

21 A It was Kozlowski.

22 Q Okay. And what member of -- what law enforcement
23 agency does he belong to?

24 A I don't recall. I think it's ATF.

25 Q And is this the individual who sued the ATF?

1 A No.

2 Q That would be Dobbins who sued the ATF?

3 A Yes.

4 Q When you attended this conference with Kozlowski, do
5 you recall what the date was?

6 A No. It was a one-day specific topic on
7 outlaw-motorcycle-type training, and it was basically a
8 debriefing mostly of Black Rain.

9 MR. DOGAN: Your Honor, may I have your indulgence?

10 THE COURT: Yes.

11 MR. DOGAN: Your Honor, I would pass the witness.

12 THE COURT: Okay. Thank you.

13 Anything further?

14 May the witness step down?

15 MR. HALL: I was going to ask him about the codes
16 since they brought up the code.

17 THE COURT: Okay.

18

19 FURTHER REDIRECT EXAMINATION

20 BY MR. HALL:

21 Q So what -- you remember the questions regarding the
22 code of conduct?

23 A Yes.

24 Q Or the code?

25 A Yes.

1 Q What does the code entail, based upon your training
2 and experience?

3 A It's based on my readings, my training, and experience
4 after talking to outlaw motorcycle gang members themselves.
5 They don't cooperate with law enforcement. They don't call the
6 cops. They take care of things on their own. They take care
7 of their own street. They take care of their own area, their
8 own clubhouse, their own business. They don't cooperate in any
9 way, shape, or form with law enforcement and doing such would
10 result in punishment, or fine, or whatever.

11 Q Is there anything in the code that speaks to defending
12 fellow gang members and/or backing them up in a fight or
13 confrontation?

14 MR. DOGAN: Objection. Leading, and it's beyond the
15 scope, Your Honor.

16 THE COURT: I think that the source of the code is
17 what the cross-examination was about, not the content of the
18 code. I'll let you go a little bit, then I'm going to sustain.
19 BY MR. HALL:

20 Q So what's the source of the code? I mean, is the
21 code, a sense, universal in the things that you just mentioned
22 here, universal between the Hells Angels or Vagos?

23 A What I believe when they say code, it's not only the
24 written rules, but the unwritten rules, the what -- how you
25 rate within this particular organization. There is both

1 written rules, both unwritten rules, and to be followed by
2 members, associates, or else, honestly.

3 Q There was an another individual that gave you some
4 information regarding a truce; is that correct?

5 A I spoke to Bret Vialano outside of the bar I mentioned
6 previously.

7 Q How about an individual by the name of Van Curren? Do
8 you remember his name being mentioned before?

9 A Yes, he -- I believe I never spoke -- his name is
10 Jimmy Van Curren.

11 MR. DOGAN: Your Honor, this is beyond the scope.
12 Objection.

13 THE COURT: What does it go to in the recross?

14 MR. HALL: This goes to the information regarding the
15 truce because they asked about Bret Vialano, and there was
16 other information he had regarding the truce and communication
17 regarding the Vagos and Hells Angels. You know, it goes to the
18 rivalry.

19 MR. DOGAN: This is cumulative and there was no
20 mention of this individual's name.

21 THE COURT: Okay. I'm going to sustain the objection.

22 MR. HALL: All right. I have no further questions.

23 THE COURT: May this witness be excused?

24 MR. DOGAN: Yes, Your Honor.

25 MR. SCHONFELD: Yes, Your Honor.

1 THE COURT: Anybody have a problem with him being
2 excused?

3 Okay. You may step down. You're excused.

4 THE WITNESS: Thank you, Judge.

5 THE COURT: Thank you.

6 THE WITNESS: You stay warm.

7 THE COURT: We'll try. It's pretty cold down in
8 Bakersfield, too, isn't it?

9 THE WITNESS: Not like this. This is crazy.

10 THE COURT: Please step forward, face the Court clerk.

11
12 DON FIESELMAN,

13 having been first duly sworn, was examined

14 and testified as follows:

15
16 DIRECT EXAMINATION

17 BY MR. HALL:

18 Q Sir, would you state your name and spell your last
19 name?

20 A Don Fieselman. Last name is F-I-E-S-E-L-M-A-N.

21 Q And where are you currently employed?

22 A With the Las Vegas Metropolitan Police Department.

23 Q How long have you been employed at the Las Vegas
24 police department?

25 A A little over 16 years.

1 Q All right. And can you tell us a little bit about
2 your employment there, what you've done over the last 16 years?

3 A I was hired in August of 1996. I went through the
4 police academy when I was assigned after that to the northwest
5 area command in patrol.

6 In 1999, I became a field training officer.

7 In 2001, I went to a problem solving unit which was a
8 plain-clothes kind of patrol squad that did medium length
9 investigations.

10 In 2002, I was transferred to the vice section.

11 And in 2008, I was transferred to the organized crime
12 section criminal intelligence, where I worked outlaw motorcycle
13 gangs.

14 Q Can you tell us about your experience with outlaw
15 motorcycle gangs?

16 A My experience with outlaw motorcycle gangs actually
17 began in 1994 when I was a police officer in Idaho. I had
18 several contacts with outlaw motorcycle gangs as a police
19 officer in Idaho.

20 When I came to Las Vegas in the problem solving unit
21 in the northwest area command, I had frequent contacts with
22 outlaw motorcycle gang members. I regularly attended a
23 multi-state investigators meeting once a month. I -- where we
24 would get together. It was an outlaw motorcycle gang
25 investigators meeting. We would get together and share

1 intelligence, talk about investigations, identify suspects,
2 that kind of thing.

3 In 2002, I attended the Southern California Outlaw
4 Motorcycle Gang Investigators Seminar in Palm Springs. Also in
5 2002 while I was still assigned to PSU, I volunteered for a
6 stolen motorcycle task force in Laughlin, Nevada, during the
7 Laughlin River Run which is a bike rally down there. The --
8 that was the year that the Hells Angels and Mongols had a melee
9 inside the Harrah's and there were three murders.

10 As part of that, I was asked to -- well, I had
11 actually been surveilling people that day. The next day after
12 the incident occurred, I was asked to assist with search
13 warrants for the Hells Angels motorcycles and later for the --
14 one of the Mongols or Mongols motorcycle club member's cars
15 that was parked nearby. So I assisted with that investigation
16 to that extent.

17 In, let's see -- I continued to -- to meet with those
18 investigators from different states, even after I was
19 transferred to the vice section in 2002. I would go to regular
20 meetings locally talking about outlaw motorcycle gang
21 investigations and intelligence and things like that.

22 And then in 2010 -- sorry, 2008, when I was
23 transferred to the outlaw motorcycle gang investigator squad, I
24 attended the International Outlaw Motorcycle Gang Investigators
25 Association training in Iowa. I took -- or I received a lot of

1 outlaw motorcycle gang training in my department locally, and I
2 later was an instructor in basic outlaw motorcycle gang
3 investigation classes that I gave to gang resource officers and
4 members of the Las Vegas police department.

5 Q Have you interviewed any outlaw motorcycle gang
6 members?

7 A Yes.

8 Q All right. Who have you interviewed?

9 A I have interviewed Charles Goldsmith from the Hells
10 Angels. He was the president of the Sin City charter in Las
11 Vegas. His son, Brad Goldsmith, who was a full-patch member of
12 the Hells Angels Sin City charter. I interviewed Ramone
13 Rodriguez who went by the nickname Firecracker. He was a
14 Vagos. I have interviewed Eddy Williams from the Vagos. I've
15 spoken at length to Robert Cane from the Vagos, and had short
16 conversations with Thomas Macnamera. I've had short
17 conversation with Keith Hare from the Sin City charter of the
18 Hells Angels, and I've had police contacts with short
19 interviews with Eric Klauss from the Las Vegas chapter of the
20 Hells Angels and Brandon Young from the Sin City charter of the
21 Hells Angels as well.

22 Q Have you ever infiltrated any outlaw motorcycle gangs
23 yourself?

24 A Not myself, no.

25 Q Now, during the course of your career, have you shared

1 information from other police officers and perhaps confidential
2 sources or confidential informants regarding the Hells Angels
3 and/or Vagos?

4 A Yes.

5 Q And do you also share information with respect to the
6 Mongols outlaw motorcycle gang?

7 A Yes.

8 Q Are you familiar with any rivalry -- let me back up a
9 little bit. Have you read any books or other documentaries?

10 A I've read several books regarding Hells Angels and
11 Mongols and Banditos motorcycle clubs, yes.

12 Q And have you taught classes?

13 A I've taught classes in the basic outlaw motorcycle
14 gang investigations, yes.

15 Q Are you familiar with the colors that the Hells Angels
16 use --

17 A Yes.

18 Q -- to identify themselves?

19 A Red and white, yes.

20 Q All right. And do they have -- and they go by the
21 Hells Angels; is that right?

22 A Yes.

23 Q And they have certain patches that identify them as
24 Hells Angels members?

25 A Yes.

1 Q All right. And how about the Vagos, do they have a
2 certain color or do you know?

3 A Yes, they have -- they -- their color is green.

4 Q And they have a consistent logo?

5 A Yes.

6 Q Or a logo that they use consistently to identify
7 themselves with the Vagos motorcycle gang?

8 Are you familiar with the characteristics of the Hells
9 Angels with respect to their codes of conduct?

10 A Yes.

11 Q And what codes of conduct do the Hells Angels tend to
12 follow?

13 MR. SCHONFELD: Objection. Foundation.

14 THE COURT: I guess it would be -- I think he's given
15 enough foundation. I'm going to overrule. Between books and
16 personal interviews, I think that's overruled.

17 You may answer the question.

18 THE WITNESS: I'm sorry. Could you repeat it? The
19 codes of conduct for the Hells Angels?

20 BY MR. HALL:

21 Q Yes.

22 A The Hells Angels, their code of conduct is basically
23 that they demand respect. They -- they are often seen trying
24 to control areas within biker events regarding bike runs. If
25 they set up support booths and things like that, they'll post

1 guards. They screen heavily for -- they screen their
2 prospective members for police officers. They have several
3 things in place to avoid allowing membership to a police
4 officer or even a confidential informant. They're -- they --
5 in all of my contact with them, they've carried weapons,
6 usually many times out in the open, sometimes concealed weapons
7 as well: Fixed-blade knives, firearms, sometimes folding
8 knives, or spring-blade knives. But they generally have
9 weapons or access to weapons.

10 There's a code of conduct, to get more concise, I've
11 watched people from the very start of their career as a Hells
12 Angel when they are just a hang-around, as they move through
13 the process, they start out as a hang-around, they are given a
14 little license plate we call it, which is a square patch.
15 Usually that goes on the back of the jacket that indicates what
16 charter they are hanging around. That gives the club time to
17 get to know them and it gives them time to get to know the
18 different club members.

19 From there, if they are voted in, they are given a
20 prospect patch it's called which is the bottom rocker. For the
21 Hells Angels, their prospect -- excuse me, their prospect
22 period is a minimum of one year. And during that time, they
23 are required to attend the USA run and other runs to meet club
24 members from across the country. They -- they will meet all of
25 those club members, and then if it is decided by the charter

1 that they are prospecting for, they come up with a vote, a
2 unanimous vote will get them a full-patch into that -- into
3 that charter.

4 Q Is there any code of conduct -- well, let me ask you
5 about the Vagos. With respect to the code of conduct that you
6 just talked about regarding respect, territory, screening
7 for -- screening members to determine whether or not they are a
8 value to the club or a threat to the club, would that be the
9 same information for the Vagos based upon your training and
10 experience?

11 A Basically, yes.

12 Q Is there any code of conduct with regard to backing a
13 fellow member up in a violent confrontation or confrontation
14 period?

15 MR. FREY: Interpose an objection. Mr. Fieselman is
16 my witness, so you're hearing from me for the first time.

17 So I object on the ground that it's leading.

18 THE COURT: Sustained.

19 BY MR. HALL:

20 Q Are there other aspects of the code of conduct that
21 you're familiar with except -- I mean, in addition to respect,
22 territory, guards, carrying weapons, and the initiation process
23 and becoming a member?

24 A During an investigation I conducted, I located a set
25 of handwritten rules from a member's house that were specific

1 to -- to the Hells Angels, and it indicated guidelines and
2 rules for member and prospect behavior, how they were to treat
3 each other, when they could fight each other, and when they
4 were expected to defend the club, when they were expected to
5 attend meetings, and how often they were -- how often they were
6 required to attend runs and their -- their responsibilities for
7 protecting the club and for protecting their colors.

8 Q And can you tell me what those rules provided?

9 A The rules in a basic sense was that you can't --
10 you're not to fight another member without it being sanctioned.
11 There shouldn't be any fistfights. That -- not just those
12 handwritten rules, but also the interviews and other things
13 I've done, I know they say that when one -- when one member is
14 fighting somebody outside of the club, every member should be
15 fighting that person outside the club.

16 MR. SCHONFELD: I would like clarification. He was
17 talking about written rules and now he's combined those written
18 rules with some unknown source. I think for purposes of the
19 record, we should probably be a little more clear.

20 THE COURT: I'll let you go into that on
21 cross-examination.

22 You may continue.

23 THE WITNESS: The -- I've lost my train of thought. I
24 apologize. But basically, they talk about --

25 ///

1 BY MR. HALL:

2 Q Let me refresh your recollection as to where you were.
3 According to my notes, you were indicating that the rules that
4 you are familiar with based upon your training and experience
5 and things that you've reviewed, that a member can't fight
6 another member, and one member or all members are required to
7 back up a member if they are involved in a confrontation or a
8 fight.

9 A Correct. They -- that's -- and to speak to that,
10 that's in several of the books I've read and in source
11 interviews that I've done and the written rules that the club
12 and the members of that club come first before any other thing,
13 even family oftentimes.

14 Q Are you familiar with any rivalries that exist between
15 the Vagos, Hells Angels, Mongols?

16 A Yes. There are several.

17 Q All right. And can you tell us a little bit about
18 your knowledge with respect to rivalries?

19 A The -- as I said, I was in Laughlin in 2002 when the
20 Hells Angels and the Mongols were involved in the murder -- the
21 murders down there. Just prior to that, we were actually -- we
22 received information and watched a meeting between the Hells
23 Angels and the Banditos who were in a dispute about whether or
24 not the Banditos could attend that biker run. It was a verbal
25 confrontation.

1 I have been present at the Las Vegas bike festival in
2 October when Hells Angels and Vagos -- actually, the Hells
3 Angels walked out of their support booth and confronted a group
4 of Vagos. There was a large verbal confrontation.

5 MR. SCHONFELD: Your Honor, I'm going to object. None
6 of these instances of alleged conduct have been disclosed
7 either in pleadings by the State or in the exhibits attached to
8 those pleadings. The only instances that were noticed for
9 purpose of these proceedings and in order to comply with this
10 honorable Court's order are the wedding chapel incidents.

11 MR. FREY: We join in that. And I don't want to pile
12 on objections, but I want the record clear --

13 THE COURT: The October fight in Las Vegas. October
14 of what year?

15 THE WITNESS: The confrontation I was referring to was
16 in October of 2010, I believe.

17 THE COURT: And where -- was there a location in Las
18 Vegas?

19 THE WITNESS: It was a Cashman Center at the bike
20 festival which would have been off Washington and Las Vegas
21 Boulevard.

22 THE COURT: And it was at what kind of a fest?

23 THE WITNESS: It's called Bike Fest. It's a
24 motorcycle rally every year in Las Vegas in October.

25 THE COURT: Okay. And that's information that you

1 learned that on that occasion forms the base of your opinion or
2 at least in part?

3 THE WITNESS: Yes. Yeah, I was there for that.

4 THE COURT: And the discovery on that, Mr. Hall?

5 BY MR. HALL:

6 Q Is that contained -- any of that information contained
7 in either your CV or your report regarding your investigation
8 into a special wedding chapel case?

9 A Not the that particular incident, no. Some of the
10 members from the Hells Angels that are in my case were at that
11 Bike Fest, but not that particular incident.

12 Q Okay. But you're familiar, just generally speaking,
13 with rivalries that exist between the Hells Angels and the
14 Vagos?

15 A Yes.

16 Q All right. And was part of the information that you
17 had was that an incident that occurred in Las Vegas?

18 A Yes.

19 Q And during the course of your training and experience
20 and the various seminars that you attended, did you learn that
21 there had been other incidents of violence between the Hells
22 Angels and Vagos?

23 A Yes. We actually had -- excuse me, some of our local
24 Vagos who were involved in the -- who were shot at in southern
25 Arizona.

1 MR. SCHONFELD: Your Honor, I'm going to object again.
2 Your Honor, the Court order was very clear, if a witness is
3 going to take the stand and testify about particular instances
4 of alleged misconduct or alleged gang activity, it had to be
5 plead with specificity and we are entitled to the reports.

6 This witness is noticed as a witness who would testify
7 to opinion regarding rivalry which we still haven't heard and
8 specifically regarding the wedding chapel incident, we haven't
9 heard either yet.

10 THE COURT: I think you did hear his opinion with
11 regard to rivalry.

12 MR. SCHONFELD: Then let's move on. We don't need to
13 hear of specific instances of alleged misconduct because they
14 weren't pled and we don't have to enforce it.

15 MR. FREY: I need to join the objection for purposes
16 of preserving the record.

17 THE COURT: The point of knowing the alleged instances
18 that the witness bases their opinion on is because the witness
19 can give his opinion and the reasons for that opinion, and we
20 can hear hearsay as an expert. But we do need to give notice
21 of that which is why I entered the order and the order was to
22 try to delay -- to resolve issues of delay that we had in
23 October when we tried to get through this initially. So we
24 seem to be still having those issues of delay with regard to
25 the discovery.

1 So is this -- has this been disclosed? They say it
2 hasn't been disclosed in your pleadings, but has it even been
3 disclosed anywhere so that they can traverse this witness on
4 this matter?

5 MR. HALL: Yes, Your Honor. What he was talking
6 about, what Detective Fieselman was referring to was the
7 shootout in Arizona. We had Les Skelton testify about it. We
8 provided them with the police reports regarding the shootout in
9 southern Arizona. And that's part of the information he had
10 regarding the -- regarding Hells Angels. So we disclosed.

11 THE COURT: The Oildale?

12 MR. HALL: No. We'll get to Oildale because he
13 probably knows about that one. This is exhibit -- as a matter
14 of fact, this was disclosed in the -- this incident was
15 disclosed in the PowerPoint that was originally presented
16 before the grand jury by Jorge Gil-Blanco. And if you recall,
17 Les Skelton testified about -- yes, and it's Exhibit Number 11
18 attached to our motion. So the police reports on that issue
19 have been disclosed to defense counsel. We had a witness
20 testify about it. Jorge Gil-Blanco testified about it. And as
21 a broad-brush stroke, Your Honor, we listed in our motion, I
22 think approximately 11 different incidences of violence between
23 the Hells Angels and Vagos that we wanted to discuss. If you
24 recall, we started off with the brawl between the Hells Angels
25 and the Vagos at the Costa Mesa swap meet --

1 THE COURT: The point, though, is which witness is
2 going to talk about which instances. And so --

3 MR. HALL: -- that we wanted to bring in the witness
4 who had a hands-on knowledge of those instances. So that's
5 what we are doing now is bringing in the witness that knows
6 about the wedding chapel in this particular case.

7 So each witness was an investigator in those
8 particular incidents of violence between the Hells Angels and
9 the Vagos, so they have specialized knowledge regarding that
10 investigation because they were there, they interviewed people,
11 and they can provide --

12 THE COURT: That's not admissible.

13 MR. SCHONFELD: And, Your Honor --

14 THE COURT: Just because you know specialized
15 knowledge of a fight between Hells Angels and somebody doesn't
16 make it admissible as proof of gang activity, of gang
17 enhancement, nor does it make it admissible necessarily in this
18 case.

19 MR. SCHONFELD: And, Your Honor --

20 THE COURT: This case, specific instances of bad act
21 of either of the defendants come in, and those witnesses can
22 testify, and then I have to make a ruling it's been shown by
23 clear and convincing evidence and if it fits the parameters of
24 NRS 48. And if not, it won't come in.

25 With regard to gang enhancement evidence, the statute

1 is very clear the expert can testify as to rivalries, et
2 cetera, and the defense is entitled to cross-examine as to the
3 basis of their opinion.

4 And if the basis of their opinion are particular
5 instances that they have knowledge of, that they have looked
6 up, read, reviewed, then that information becomes relevant to
7 the expert's opinion. An expert's opinions must be given and
8 the basis for that opinion must be provided to the defense.

9 Now, I know we entered an order. I entered an order
10 requiring you to do that sooner than the statute requires you
11 to do it because we have these issues with regard to what would
12 be admissible or not. But you still have to do it.

13 And the question here is you've said Exhibit 11, you
14 do have an addendum, and there's three parts to Exhibit 11. Is
15 that the exhibit you're talking about?

16 MR. HALL: That's the exhibit I'm talking about with
17 respect to the shootout in Arizona.

18 THE COURT: Okay. That's the Yavapie County.

19 MR. HALL: Right.

20 THE COURT: And then the issue -- I think their
21 arguments were going back to the issue at the Cashman Center;
22 is that correct?

23 MR. SCHONFELD: Yes, Your Honor.

24 THE COURT: So let's retro back to Cashman Center.
25 Has that information been disclosed?

1 MR. HALL: No.

2 THE COURT: Okay. So that's brand-new. So you're
3 moving on. You're not going to rely on that.

4 MR. HALL: Right.

5 MR. SCHONFELD: So that testimony will be excluded or
6 stricken?

7 THE COURT: Well, I haven't made any ruling about
8 admissibility of testimony, but Mr. Hall is voluntarily
9 abandoning that area at this point.

10 MR. SCHONFELD: I'll note for the record the statement
11 Mr. Hall made is very indicative what the State is attempting
12 to do here which is bring in people that really aren't experts
13 to get them somehow admitted as experts, and I think we've done
14 a good job of discrediting the expertise. So they can testify
15 about specific instances they investigated because this Court
16 knows the Court won't allow it in because it's not other acts
17 of defendant.

18 So the State admitted they called the officer from
19 Oildale to testify about Oildale, and they want this witness to
20 testify about the wedding chapel, and the fact that the last
21 witness testified that Mr. Gil-Blanco was an expert in the case
22 that he investigated because he was more of an expert is
23 further evidence of what is going on here. I know the Court
24 will later hear argument on that, but I wanted to preserve it
25 for the record.

1 THE COURT: I thought I heard argument just now.

2 MR. SCHONFELD: There will be a lot more.

3 MR. FREY: With the exception we heard argument, I
4 join in the argument. I would like to remind the Court at this
5 juncture for my own level of comfort, I know if you're not
6 comfortable with doing it, you're not going to do it --

7 THE COURT: You mean about a disability?

8 MR. FREY: Correct. I believe the bike center
9 incident shouldn't be presented to Your Honor as a basis upon
10 which he forms the opinion.

11 THE COURT: Are you talking the Bike Fest?

12 MR. FREY: Bike Fest, correct.

13 THE COURT: Mr. Hall has abandoned that, so I don't
14 have to make a ruling on it.

15 Based on the fact it wasn't disclosed and just came
16 out today, so he's going to abandon that.

17 With regard to the Yavapie, the information he may
18 know, I'll let him go on. I think you have a lot of
19 information on that. Whether or not you knew this witness was
20 going to give an expert opinion on it, I don't know because you
21 have plenty of time to review the records and his report. I'm
22 going to let him testify to it. We've got a lot on the Yavapie
23 County.

24 MR. SCHONFELD: That will be another issue we'll have
25 to address and argue because the case law is clear that you

1 can't keep building on testimony.

2 THE COURT: Absolutely. We are just hearing the
3 evidence today. As I said earlier, I'm not saying what is
4 admissible or not, but I am allowing the testimony for today.

5 Okay, Mr. Hall, you may proceed.

6 MR. HALL: Thank you, Your Honor.

7 BY MR. HALL:

8 Q You were saying you were familiar or you had
9 information regarding a rivalry between the Vagos and the Hells
10 Angels and part of that information was the shootout in Yavapie
11 County; is that correct?

12 A Yes.

13 Q All right. And so is that part of the basis of your
14 opinion that a rivalry exists between the Hells Angels and the
15 Vagos?

16 A Yes.

17 Q And another part of your information about codes of
18 conduct, and I believe we got kind of sidetracked here, we were
19 talking about Hells Angels gang members and Vagos gang members
20 having to back up fellow gang members in fights, violent
21 altercations?

22 A Yes.

23 Q All right. So based upon your training and
24 experience, gang members are required to do that?

25 A Yes, they are.

1 Q And when I say "that" --

2 A They are required to assist their -- assist other
3 members if there is a fight.

4 Q All right. And of course, the Hells Angels have a
5 common symbol and name; is that correct?

6 A That's correct.

7 Q All right. And what would that be?

8 A It's the name Hells Angels and the death head.

9 Q And how about the Vagos?

10 A The Vagos have the name Vagos and Loki, their symbol.

11 Q All right. And are there patches, tattoos, rockers,
12 and colors that are of significance?

13 A Yes. For the Hells Angels, their colors are red and
14 white, they hold sacred. They also commonly use the number 81
15 referring to H, which is the 8th letter of the alphabet, and A,
16 which is the first letter of the alphabet, to identify or call
17 themselves the 81. It appears on jewelry, artwork, things like
18 that. They will call themselves the red and white. They put
19 that on support gear and other designs and things of that
20 nature. And then a lot of their businesses that I've seen that
21 are Hells Angels controlled are painted red and white, the
22 buildings are painted red and white.

23 For the Vagos, their color is the green. They use the
24 number 22 for V which is the 22nd letter of the alphabet. They
25 will occasionally refer to themselves and the support clubs as

1 the Green Nation. So those are their common symbols.

2 Q All right. Now do you know whether or not there's a
3 hierarchy that the Vagos and the Hells Angels have within their
4 respective gangs?

5 A Yes. It's slightly different for both clubs. But the
6 Hells Angels have -- in each chapter, they have a set of
7 officers. There's a secretary-treasurer, or they may divide
8 that up to a secretary and a treasurer. There'll be a
9 sergeant-at-arms, a vice president, and a president. There's a
10 road captain that -- he's -- he's -- he's responsible for the
11 runs and the vehicle maintenance, making sure that everybody's
12 bike runs and things like that. He has a lot of
13 responsibilities on the runs.

14 The Hells Angels go, depending on where their charter
15 is physically located, they go to East Coast or West Coast
16 officers meetings. For the Hells Angels in Las Vegas, they go
17 to the West Coast officers meetings. They attend -- excuse me,
18 they are required to attend those, and then they are also
19 required to send representatives to the USA run and the world
20 run, different -- where they have officer meetings at those --
21 at those venues.

22 For the Vagos, they have officers within their
23 charters or their chapters as well, but they have an actual
24 national president that they answer to, and they have -- so
25 they have regional officers and national president.

1 Q Now, do the Hells Angels have -- one of their common
2 activities of engaging in fights with deadly weapons, assault
3 with deadly weapons, and acts of violence?

4 A Yes.

5 MR. SCHONFELD: Objection. Leading.

6 THE COURT: Sustained.

7 BY MR. HALL:

8 Q Can you expand on that a little bit?

9 MR. SCHONFELD: Move to strike.

10 MR. HALL: I'll stop and back up.

11 THE COURT: Go ahead.

12 BY MR. HALL:

13 Q Are you familiar with the types of crimes that the
14 Hells Angels are known to engage in?

15 A Yes.

16 Q And what would that be?

17 A Murder, attempted murder, battery with a deadly
18 weapon, drug trafficking, prostitution. They are very
19 diversified in that. Weapons trafficking, things of that
20 nature.

21 Q Okay. Now, you were involved in the Laughlin
22 shootout?

23 A Yes.

24 Q All right. Can you tell us what happened in that
25 particular case?

2353

1 A In that case, the Hells Angels and the Mongols
2 motorcycle club were both in -- were both attending Laughlin
3 River Run in 2002. By and large, the Mongols are staying at
4 Harrah's and the Hells Angels were staying at The Golden
5 Nugget. They were -- the Hells Angels, there were some
6 confrontations prior.

7 MR. SCHONFELD: Your Honor, I'm just going to object.
8 This witness wasn't noticed as a witness who would be
9 testifying regarding the Laughlin incidences. Laughlin was
10 produced in discovery; however, a different witness was noticed
11 for those purposes.

12 THE COURT: Do you intend to call another witness,
13 also?

14 MR. HALL: Your Honor, I was trying --

15 THE COURT: Or is this the witness?

16 MR. HALL: I was going try to streamline a little bit,
17 and since she mentioned the Laughlin River Run case and the
18 fact that he was assisting in that investigation, I was going
19 to use him with respect to the Laughlin case.

20 THE COURT: Okay. Well, proceed then. You have to
21 establish whether in the testimony today whether or not he will
22 be allowed to have that, but I will let him go into it,
23 especially in light of the fact he may not be calling another
24 witness. Instead -- you're going to use this one instead; is
25 that your plan?

1 MR. SCHONFELD: The reason he can't call the other
2 witness is the other witness is absolutely a fact witness.
3 They recognize that deficiency in their notice. They noticed
4 Detective Long about the witness who would testify about
5 Laughlin. He sat here two days last week. He wasn't called as
6 a witness. When we had the conference call Friday, they didn't
7 mention his name. I surmise the reason for that is because
8 they couldn't qualify him as an expert, not that they qualified
9 the other witnesses, but I believe they even acknowledged that
10 they wouldn't be able to qualify him as an expert, therefore
11 they decided not call him. And all of a sudden, the exhibits
12 related to Detective Long are going to be presented through
13 this witness, and we didn't have notice that that would be the
14 State's intent.

15 THE COURT: But you did have notice they intended to
16 bring a witness to testify about it and you did have the
17 information, so I'm going to allow him to go into it.

18 You may proceed.

19 MR. HALL: Thank you.

20 BY MR. HALL:

21 Q So we are talking about your involvement in the
22 Laughlin River Run case, and you were telling us about that
23 case.

24 A Right. The night that it happened which I believe it
25 was April 27th, 2002, the Hells Angels, a large -- a large

1 number of Hells Angels rode from The Golden Nugget up to
2 Harrah's past a marked patrol unit that had its overhead lights
3 on. They parked their bikes and in the parking lot of Harrah's
4 where the Mongols were known to stay, and many of them left the
5 keys in the motorcycles. They walked in a line formation.
6 From different entrances and inside, they confronted the
7 Mongols, and a melee broke out resulting in the murder of three
8 people: two Hells Angels and a Mongol.

9 I had been earlier that night, prior to that incident,
10 I had been out taking pictures of gang members. And, in fact,
11 one of the victims, Jeremy Bell, was doing burnouts on his
12 motorcycle at The Golden Nugget, and I was taking pictures of
13 him. At the time, I didn't know who he was. I didn't identify
14 him until after the event. But that night, after the -- after
15 the murders took place, my -- one of the people I was down
16 there with was the video producer for our department, he went
17 to the scene, I went to the substation and worked the scene the
18 next day just in a covert capacity, interacting with different
19 people.

20 And that night I was asked by the homicide sergeant if
21 I would assist the district attorney's office with search
22 warrants for those 30 motorcycles that the Hells Angels rode to
23 Harrah's. We completed a search warrant for those 30
24 motorcycles, and I served that and impounded weapons and
25 knives, handguns, different items like that from the

1 motorcycles as well as the keys, and took pictures of the
2 motorcycles. Later, when I dropped that evidence off at
3 homicide, they asked me to do a search warrant on a car linked
4 to a Mongols member that had been parked at one of the parking
5 garages. So I wrote up a search warrant for that, served a
6 warrant on that vehicle and got gang indicia, similar to what I
7 got on the Hells Angels bikes, methamphetamine, cash, weapons,
8 some communication equipment, blunt tools like hammers and
9 bats, things of that nature.

10 Q Now, the search warrant you served on the Hells Angels
11 motorcycles revealed that -- a number of weapons; is that
12 correct?

13 A That's correct.

14 Q So we talked about the code of conduct and some of the
15 crimes that the Hells Angels typically commit?

16 A Yes.

17 Q I think you were beginning to testify about that and
18 there was an objection.

19 So based upon your training and experience, what
20 crimes, if any, were the Hells Angels typically committing?

21 MR. SCHONFELD: Asked and answered.

22 THE COURT: Sustained.

23 BY MR. HALL:

24 Q Okay. Now during the course of the execution of the
25 search warrant of the Hells Angels bikes, did you find any

1 evidence in those motorcycles that was consistent with your
2 opinion of what crimes the Hells Angels typically commit?

3 A Yes. The weapons, many of them there were several
4 knives strapped to the actual frame of the motorcycle that
5 would not be necessarily -- they are hard to see unless you
6 really knew what you were looking at. They hid them behind the
7 bars, but they were easily accessible to the rider. The
8 firearms were obviously accessible to the riders of the bikes,
9 and there were also -- I remember seeing decals, one of the
10 first times I had seen it, the decals on the motorcycles that
11 said -- that basically threatened anybody who touched the
12 motorcycle. It said -- it would say words similar to, "This
13 bike belongs to a Hells Angel," the F word, they would say mess
14 with it and find out, basically.

15 Q So was there a rivalry that existed between the Hells
16 Angels and the Mongols?

17 A Oh, yes.

18 Q And so fast-forward again to the incident which
19 occurred at A Special Memory Wedding Chapel. Did you
20 investigate that incident?

21 A I did.

22 Q All right. Can you tell us what happened there?

23 A On the night of December 20th, 2008, I was called by
24 my sergeant who asked me to respond to A Special Memory Wedding
25 Chapel at 800 South Fourth Street, Las Vegas. He advised me

1 there was a fight between the Hells Angels and the Mongols at a
2 wedding. And I responded to the scene, but because of -- due
3 to the way the call had went out, patrol had responded first,
4 medical and private citizens had removed some people. The
5 scene had been locked down and our crime scene unit had come
6 in. So basically by the time I was notified and able to make
7 it there, the only people left were the crime scene unit and
8 most of the evidence had been collected by them.

9 I was provided by the owner and his father-in-law of
10 that wedding chapel a video from their DVR, their surveillance
11 cameras in the wedding chapel, and I also received the written
12 statements from some of the victims and witnesses.

13 As I started investigating the case and viewed the
14 video numerous times, I found that what had occurred -- well,
15 let me back up. I interviewed the witnesses, several
16 witnesses, victims at their homes. I went to the hospital and
17 interviewed the victims there. I determined that what had
18 happened was Brad Goldsmith was a prospect at the time for the
19 Sin City charter of the Hells Angels was getting married to his
20 high school sweetheart. The bride had reserved that wedding
21 chapel for December 20th, and there were numerous Hells Angels
22 in attendance, some wearing full patches, a couple in prospect
23 patches. There were at least one in soft colors. The bride's
24 dress was white with red trim and there was -- they had the
25 entire chapel pretty much filled with people. At the same

1 time, the bride from the Mongols had reserved that chapel right
2 afterward, the exact same room even, that the Hells Angels had
3 used. And because the brides were making the reservations,
4 nobody knew there was any outlaw motorcycle gang involvement
5 until they walked up.

6 On the video of the actual chapel where the wedding
7 took place, Charles Goldsmith who was about 6-foot-8 and
8 weighed about 425 pounds, they call him Pee Wee, he was seated
9 in the very front row right behind his son, Brad, where they
10 got married. He stayed seated after the ceremony and the
11 wedding chapel -- they were going to take photos, I assume,
12 many of the people from that wedding left through a front door
13 in that chapel. And this is a basic summarized version. This
14 isn't every fact I know of it.

15 They left from the front door of that building. That
16 front door emptied out into a common courtyard. It was not the
17 front door of the business. The front door of the business was
18 on a -- it's an L-shaped building. The front door could be
19 seen from the door they exited. So when they exited, they were
20 out in a common courtyard next to the front door of the
21 entrance of the business, the wedding chapel.

22 A short time later on the video, Jeff Murray, a
23 prospect from the Sin City charter of the Hells Angels wearing
24 his prospect patch, walks back in that door and whispers in Pee
25 Wee's -- I'm sorry, Charles Goldsmith's ear. There is a point

1 immediately following that where several members of the Hells
2 Angels and their associates gather up near the doors that go to
3 the lobby of the wedding chapel, and they have a conversation.
4 These videos have no audio, so it can't be heard what they are
5 saying.

6 After a short conversation, Charles Goldsmith points
7 towards the altar in the front of the room and several of the
8 members start walking that way, and one of the associates
9 escorted the bride up there and moved all the women that were
10 present into one little area in the front. Other members
11 including Brandon Young, Brad Goldsmith, an associate named
12 Samuel Murray took their tuxedo coats off. Some of them handed
13 them to Charles Goldsmith's daughter who was standing there.
14 Brandon Young who was a member of -- he was a prospect at the
15 time for the Sin City charter of Hells Angels, he just threw
16 his jacket into a pew, and they walk out. As -- just prior to
17 walking out, Charles Goldsmith put on his sunglasses, and then
18 they walked in kind of a line formation out that door into the
19 lobby of the business where they believed the Mongols to be.

20 On another camera that shows the lobby and from the
21 victim's statements and witness statements, not just involved
22 with the -- I'm sorry, not just related to the Mongols or Hells
23 Angels, but there was a separate family there waiting for their
24 wedding as well who had nothing to do with either club, from
25 all those statements I gather that -- in the video, the groom

1 from the Mongols' side who was wearing what they call soft
2 colors which were they were an embroidered patch, a Mongol
3 patch on basically a black garage shirt that identified him as
4 a Mongol MC member. He was standing near the counter. He told
5 me later he asked his friend to go out and tell the females in
6 his party to stay out in the car because they didn't know what
7 was going to happen, but he said he didn't think anything would
8 probably happen because the families were there. He said, "I
9 knew it would kick off if there was just us, but we had our
10 families there and they had their families there." So he is
11 videotaped standing next to the front counter. People are
12 going about their business. He's got -- he had paperwork in
13 his hand which we later determined was his wedding license and
14 things like that. And he had his -- he more or less had his
15 back to the door that led to the chapel where he was to be
16 married and where the Hells Angels prospect had just been
17 married.

18 The line of Hells Angels comes out, and as on the
19 video, the groom, James Nalder, the groom to be, the Mongol
20 groom to be James Nalder, turns over his shoulder just as
21 Charles Goldsmith closes distance on him, and Charles Goldsmith
22 hit him with his left hand punched him in the face and knocked
23 him down. And then the line just kept the coming out of Hells
24 Angels. Eugene Formica who was to be James Nalder's best man
25 and also wearing a soft color Mongols shirt was attacked pretty

1 much next to James Nalder and associate of theirs Udel Wickham
2 who was standing all the way back toward an empty chapel,
3 actually not even in view, really, from the chapel that the
4 Hells Angels left. He was attacked by a Hells Angel associate
5 and is shown on a different camera being kicked and kicked.
6 Sorry, hit and kicked and pushed over the podium.

7 During the fight, several members of the Hells Angels
8 could be seen using weapons. For his part, Jeff Murray, the
9 prospect, appeared to have a knife in his hand when he entered
10 the room. And as Charles Goldsmith knocked Nalder down and
11 other Hells Angels members helped him keep Nalder on the
12 ground, Jeff Murray can be seen moving forward and doing a
13 stabbing motion with what I believe is a knife in his hand into
14 the abdomen of James Nalder. A short time later, John
15 Merchant, a Hells Angel Nomad member from Reno who was wearing
16 a full-patch Hells Angels cut came out in the same line, and as
17 he walked past the counter, picked up a glass vase that was
18 sitting there, he can be seen raising the glass vase over his
19 head at least twice and bringing it down hard in the area where
20 James Nalder is now surrounded by the Hells Angels.

21 Eugene Formica was pushed or was trying to escape and
22 he was bent over at the waist trying to walk through the crowd
23 and he was getting hit and kicked by several members of the
24 Hells Angels and associates that were present.

25 And at one point, John Merchant from the Reno chapter

1 of the Hells Angels can be seen removing something from his
2 pocket, manipulating it as though he were opening up a knife
3 and moving in on Eugene Formica. John Merchant makes kind of a
4 stabbing motion toward Eugene Formica, and on the video you can
5 see Eugene Formica who has a bald head, you can see the blood
6 come over his head and turn his whole face red. He continued
7 to get pummeled into the front of the counter where a Hells
8 Angel associate and long-time supporter, Armando Porous, hit
9 him numerous times and then dragged him with the help of some
10 other people, some other Hells Angels associates, dragged him
11 out the door into the courtyard.

12 I later learned that a third Mongols member, Jonathan
13 Babcock, who was wearing a white rush shirt with a black
14 embroidered Mongols color on his back, Mongols patch on his
15 back, he had run from the car, but he was in very poor health.
16 He's had numerous medical procedures and is in extremely poor
17 health. He got to the front door and was punched by a member
18 of the Hells Angels party.

19 Through witness statements and his own admission, Brad
20 Goldsmith, who can be seen on the video inside during the
21 initial fight, just around the time Eugene Formica gets stabbed
22 in the head, Brad Goldsmith turned around and walked outside
23 and punched Jonathan Babcock in the face, knocking him
24 unconscious. Jonathan Babcock hit his head on the ground and
25 split his head open and he was then hit, according to the

1 witnesses, with champagne bottles, and fists, and kicked
2 several times.

3 A short time later, Charles Goldsmith walked out and
4 picked up a decorative trash can that was there and hit Babcock
5 in the face with it, breaking his teeth backwards.

6 During all of this, several members of the Mongols
7 party were being chased by other Hells Angels members. And
8 inside, for his part, John Merchant can be seen manipulating
9 his knife again and running up to a now prone, basically, on
10 his stomach, James Nalder, who's laying on his stomach by the
11 counter, and you see John Merchant go in and make several
12 stabbing motions into his abdomen. And then withdrew his knife
13 back and put it in his pocket and then left.

14 When we arrived, there were no Hells Angels party
15 members left. They left as soon as the fight was over, and
16 through the course of the investigation, speaking to the
17 victims, I learned that the reason that James Nalder turned
18 just before Charles Goldsmith struck him was he heard him say
19 words to the effect of, "You killed my brother," or, "You think
20 you're going to kill my brother," or something to that effect.
21 And I knew from -- well, I spoke to other witnesses who heard
22 words very similar to, "You killed our brother," or something
23 like that.

24 As I said, during the course of the investigation,
25 Charles Goldsmith contacted on his own a Henderson police

1 officer who was at another biker event several months later.
2 He walked up to the officer and asked him and told him
3 basically that he was waiting for the police to come arrest him
4 for the fight he had at his son's wedding and when the officer
5 inquired what fight he was talking about, Charles Goldsmith
6 said, "Well, if someone killed your brother officer, would you
7 ever forgive them?" Basically, "Wouldn't you want revenge?"
8 And it was known to me from other sources, newspaper releases
9 and our investigations, that I believe it was September of
10 2008, but just a couple of months prior to the wedding chapel
11 occurring, Mark Guardado, the president of the San Francisco
12 chapter of the Hells Angels and a very close friend of Charles
13 Goldsmith and the Goldsmith family was murdered by a Mongol,
14 and that Mongol was taken into custody prior to the wedding
15 chapel event as well. And it was reasonably well publicized
16 within the newspapers and within the investigators' network
17 that this was a Mongol who had shot and killed this Hells
18 Angels president.

19 As I went about my investigation, I found numerous
20 themes relating to Mark Guardado, who they called Papa,
21 including rest-in-peace stickers on the motorcycles. On the
22 social media sites they would have In Memory of Papa postings
23 and things like that. So I knew they were close to him and
24 that was probably the reason for the attack.

25 Q The reason for the attack -- well, let's -- so Charles

1 Goldsmith, what was his position in the Hells Angels?

2 A At the time he was the president of the Sin City
3 charter.

4 Q All right. And how about Brandon?

5 A Brandon --

6 Q Or Brad.

7 A I'm sorry, Brad was a prospect at that time.

8 Q Okay. John Merchant?

9 A He was a full-patch member.

10 Q Joseph Denoso?

11 A He was an associate.

12 Q Fred O'Dell?

13 A He was a full-patch member of the Sin City charter.

14 Q Armando Porous?

15 A Armando Porous was the long-time supporter and very
16 good friend of Charles Goldsmith.

17 Q So were James Nalder, Eugene Formica, John Babcock,
18 James Wickham, and James Pope, were they members of the
19 Mongols?

20 A No. James Nalder, Formica, and Jonathan Babcock were
21 members.

22 Udel Wickham, James Pope, and Timothy Jameson were
23 just close associates.

24 THE COURT: Okay. This is a good time to take our
25 break, so we'll be in a short recess for the afternoon.

1 Court is in recess.

2 (A break was taken.)

3 THE COURT: Thank you. Please be seated.

4 Counsel, you may continue.

5 BY MR. HALL:

6 Q Detective Fieselman, there was a video that was taken
7 of the fight between the Mongols and Hells Angels at Harrah's
8 in Laughlin, Nevada; is that correct?

9 A That's correct.

10 Q All right. And there was also a video at a special
11 wedding -- A Special Memory Wedding Chapel regarding another
12 altercation and stabbing between the Hells Angels and Mongols;
13 is that correct?

14 A Correct.

15 MR. HALL: All right. Your Honor, I would indicate
16 for the record that that has been marked as Exhibit H, and I
17 would play that at this time to display the types of crimes
18 that are committed by the Hells Angels on rival gang members;
19 however, in the interest of time, I'm going to ask that you
20 just admit that into evidence because I think we already played
21 that in any event when Jorge Gil-Blanco --

22 THE COURT: H was admitted on October 29th.

23 MR. HALL: Right. I'm making a record on that issue.

24 THE COURT: Okay. You wanted this expert to review it
25 also as well as Mr. --

1 MR. HALL: I want the Court to consider that as
2 evidence that this witness can testify to.

3 THE COURT: Okay. We'll deal with that in the
4 argument, but it was admitted.

5 Did you want to show that tape again?

6 MR. HALL: No, I didn't. I just wanted to reference
7 that I want to use that to support his testimony, that it has
8 been admitted, so I'm making a record in that regard.

9 THE COURT: Okay. Thank you.

10 MR. HALL: And I'm trying to move on since time seems
11 to be running short.

12 BY MR. HALL:

13 Q So based upon your knowledge of the investigation
14 regarding the Laughlin incident and the special wedding chapel,
15 what types of crimes, punishable as felonies, have the Hells
16 Angels engaged in?

17 MR. SCHONFELD: Objection. Asked and answered.

18 THE COURT: Overruled. He said beside what he already
19 testified.

20 THE WITNESS: Beside what I already testified to is
21 that --

22 BY MR. HALL:

23 Q Yes.

24 A The -- On the video, the murders and the assault with
25 a deadly weapon, Battery with a Deadly weapon, shooting into a

1 structure, mayhem, the main course of those two investigations
2 were the attempted murders and the murders that occurred.

3 Q You've had an opportunity to see the video of the
4 incident at the Nugget; is that correct?

5 A Yes.

6 Q And is that consistent with the code of conduct that
7 is exhibited by the Hells Angels that you're familiar with as
8 far as fighting with rival gang members?

9 MR. FREY: Just interpose an objection. The language
10 specifically says -- I believe focuses on a leading objection.
11 I need to make a record of my objection. I believe it's
12 leading.

13 MR. SCHONFELD: I join in the objection. It goes to
14 the ultimate issue and intent.

15 MR. FREY: Join in that as well, Your Honor.

16 THE COURT: Okay. I'm not sure it's leading. I
17 don't. I don't know. It's hard, Mr. Hall, I'm having a little
18 trouble because many of your questions are leading. It is not
19 going to -- it is not inadmissible because it goes to the
20 actual characteristics of persons or members of gangs as long
21 as you don't allow him to try to get him to testify that in
22 fact in this instance, that's what it was. He can say it's
23 consistent with, and I'm going to overrule as to leading
24 because I don't know how he can ask it other than that.

25 MR. FREY: Thank you.

1 THE WITNESS: The video appears consistent with their
2 actions, yes.

3 BY MR. HALL:

4 Q All right. Can you expand on that in terms of what
5 you saw that was depicted in the Nugget video that is
6 consistent with crimes committed by Hells Angels in furtherance
7 of the rivalry?

8 A The grouping of the persons involved in kind of a --
9 more or less a guard kind of situation where they line up and
10 the -- the initial confrontations that start out verbally and
11 then escalate using -- utilizing weapons and fists and things
12 of that nature. Those where one group confronts the other,
13 that gets back to the respect that I talked about. You can see
14 it in the Laughlin -- I saw it in the Laughlin videos that I
15 reviewed as well where something is said that is -- that is --
16 it appears to be disrespectful or is taken as disrespectful,
17 and the Hells Angels or the opposing group will then basically
18 defend their honor through physical acts of violence.

19 Q Let me provide facts with respect to a hypothetical.
20 So my hypothetical, I have the Vagos OMG at the -- attending
21 the Street Vibrations motorcycle event here in September of
22 2011, and their national meeting is going to be held at the
23 Nugget in Sparks. And they were given a discounted rate for
24 their rooms at the Nugget under the Green Nation code. And the
25 Hells Angels had a booth outside adjacent to the Nugget. Other

1 than that, the Hells Angels would typically stay over at the
2 Grand Sierra. So there was essentially a casino where the
3 Vagos would stay and a different casino where the Hells Angels
4 would stay. The Hells Angels end up staying at the Nugget
5 where the Vagos are having their national meeting, and based
6 upon your training and experience with respect to outlaw
7 motorcycle gangs and their code of conduct regarding respect
8 and territory, would the Hells Angels being at the Nugget be a
9 violation of the territorial respect that the gangs would
10 typically have?

11 A Yes. It would be considered disrespectful much as it
12 was in Laughlin when the Hells Angels went to Harrah's where
13 the Mongols are staying.

14 Q And was that showing of disrespect the reason for
15 violent conflict or conflict?

16 A Yes.

17 Q And once that conflict is initiated, would the
18 respective gang members be required pursuant to the code of
19 conduct to assist the respective gang members in a fight?

20 A Yes, they would. They would be expected to.

21 MR. HALL: Thank you. I have no further questions.

22 THE COURT: Cross?

23 MR. SCHONFELD: Thank you, Your Honor.

24 ///

25 ///

CROSS-EXAMINATION

BY MR. SCHONFELD:

Q Are you familiar with an individual named Jethro Pettigrew?

A I know his name, and I've seen his picture, and I've seen him in the video.

Q Do you know what his involvement in this case is?

A Yes.

Q What is that?

A He's the victim of murder as well as the initiator of the confrontation viewed on the video.

Q And you're aware that Cesar Villagrana is not accused of having shot or otherwise personally injured Jethro Pettigrew?

A Honestly, I'm not familiar with that part of the case.

Q So you don't know what theory of liability the State has charged or accused Mr. Villagrana, do you?

A I do not.

Q Were you aware that you testified that there was some verbal conflicts between members of the Hells Angels and the Vagos that you observed on the video --

A Yes.

Q -- at the Nugget in the case that we are here for, correct?

A Yes.

1 Q Were you aware that Jethro Pettigrew told the members
2 of the Vagos that were instigating conflict that he just wanted
3 to chill out and have a beer?

4 A I'm not familiar with those facts, no.

5 Q So when you were asked the questions regarding the
6 hypothetical about Hells Angels coming to the national meeting
7 and being in the hotel and the disrespect and all that, you
8 don't know all the facts, do you?

9 A Of this case?

10 Q Right.

11 A No, I don't know all the facts.

12 Q So you really can't render an opinion as to whether or
13 not people in this case acted consistent with this so-called
14 code, can you?

15 A Yeah, I --

16 MR. HALL: Your Honor, I'm going to object to his
17 knowledge of the case. I think that's irrelevant. Knowledge
18 with respect to the statement -- what statement Pettigrew made
19 or didn't make during the course of.

20 THE COURT: He says he can. The question says he
21 couldn't and he says he can. So we'll let the answer stand.

22 BY MR. SCHONFELD:

23 Q Without knowing Jethro Pettigrew told the Vagos
24 repeatedly, "Let's cool it and have a beer together" --

25 MR. HALL: Object. Assuming facts not in evidence.

1 BY MR. SCHONFELD:

2 Q Hypothetically speaking, if the evidence in this case
3 demonstrates that Jethro Pettigrew told members of the Vagos
4 that he didn't want any trouble, he wanted to hang out and have
5 a beer, that wouldn't change your opinion of the case; is that
6 your testimony?

7 A No, it wouldn't change my opinion.

8 Q So you can watch a video in a vacuum and render your
9 opinion?

10 A I can watch a video and render my opinion based on --

11 Q Without looking at the volumes and volumes of other
12 evidence in this case, correct?

13 A Based on my opinion of whether it's consistent, sure.

14 Q Without looking at the grand jury transcript, correct?

15 A Correct.

16 Q Without looking at any of the witness statements,
17 correct?

18 A Without -- yes, without -- whether it's consistent
19 with a code of conduct, yeah.

20 Q You didn't look at the grand jury transcripts in this
21 case, did you?

22 A No.

23 Q You didn't look at any witness statement in this case?

24 A No.

25 Q You didn't look at any police investigative reports in

1 this case, did you?

2 A I don't believe that I studied any of the police
3 reports, no.

4 Q If we have boxes and boxes of discovery other than the
5 videos, you haven't looked at any of it, have you?

6 A No.

7 Q I'm correct?

8 A You're correct.

9 Q But you're still sitting on the witness stand under
10 oath representing your opinions as to whether or not the
11 conduct in this case was consistent with gang rivalry, correct?

12 A Yes.

13 Q Without knowing all of the conduct, right?

14 A Without knowing all of the what? I'm sorry.

15 Q All of the conduct.

16 A Just what I've seen on the video, that I was asked to
17 testify.

18 MR. HALL: Your Honor, I object as to "all of the
19 conduct" as lack of foundation. So if he can explain what he
20 means by "all of the conduct," or at least fill in the witness.

21 THE COURT: It's really argumentative, so I'm going to
22 sustain the objection on argumentative grounds.

23 MR. SCHONFELD:

24 Q There was no Vagos/Hells Angels conflict at the
25 wedding chapel incidents that you testified to, correct?

1 A No.

2 Q I'm, correct?

3 A Correct.

4 Q There was no Vagos/Hells Angels conflict at the
5 Laughlin incidents that you testified to, correct?

6 A Correct.

7 Q Mr. Villagrana was not at either of those locations
8 during those incidents in question, correct?

9 A I am not sure if he was present in Laughlin. I know
10 he wasn't at the wedding chapel.

11 Q Is Mr. Villagrana a member of the Hells Angels in
12 2002?

13 A I don't know.

14 Q You don't know anything about Mr. Villagrana, do you?

15 A Very little.

16 Q You did not -- the -- the wedding chapel case went to
17 trial once already, didn't it?

18 A One of the three trials, yes.

19 Q Resulted in a mistrial?

20 A Yes.

21 Q For discovery violations on the part of the State?

22 A I -- no, I don't know why, actually. I wasn't allowed
23 in court, so I'm not sure what the arguments were that led to
24 the mistrial, only what I read in the paper, actually.

25 Q You were not noticed as the gang expert in that case,

1 correct?

2 A No, I was.

3 Q You and Jorge Gil-Blanco as well?

4 A Yes. Both of us.

5 Q You provided your curriculum vitae to the defendant in
6 that case?

7 A I did.

8 Q Have you ever been admitted to testify and actually
9 testify as a gang expert as it relates to the Hells Angels
10 motorcycle club?

11 A No.

12 Q You didn't testify at the grand jury in the wedding
13 chapel case as a gang expert?

14 A No, I don't believe that --

15 Q Mr. Gil-Blanco did that, didn't he?

16 A Yes.

17 Q Why is it that the State of Nevada would go out and
18 get someone from out of state who doesn't --

19 MR. HALL: Objection, Your Honor.

20 THE COURT: Argumentative?

21 Sustained.

22 MR. SCHONFELD: What was the objection to the question
23 I didn't finish, Your Honor?

24 THE COURT: He objected. I said are you saying
25 argumentative? He nodded his head, I said yes. When you asked

1 why the State of Nevada would go out of its jurisdiction to
2 find someone from out of state, and that's as far as you went.

3 MR. SCHONFELD: Sounds like the question.

4 BY MR. SCHONFELD:

5 Q Do you have any personal knowledge as to why the State
6 of Nevada sought out and secured Mr. Gil-Blanco's testimony
7 when you were available in your opinion to testify as an expert
8 witness in that case?

9 MR. HALL: Irrelevant. Argumentative.

10 THE COURT: Sustained on both grounds.

11 BY MR. SCHONFELD:

12 Q You testified at the Laughlin incidents when the
13 police searched the parked motorcycles of the Hells Angels
14 outside that they found weapons; is that correct?

15 A That's correct.

16 Q So you would agree with me members of the Hells Angels
17 came over to the casino and left their weapons outside?

18 A They left some weapons outside, yes.

19 Q And in one instance, there was a member who had a
20 permit to carry multiple firearms had he chosen to, and he left
21 those outside as well, didn't he?

22 A I don't know if he -- I'm not familiar with that.

23 Q You don't know all the facts of that case, do you?

24 A I don't know each and every fact of that case,
25 but . . .

1 Q You weren't aware that Shawn Regas had a concealed
2 weapons permit in the State of Nevada and left two firearms
3 that he was allowed to carry concealed into the casino outside
4 on his motorcycle?

5 A I know he had two firearms outside because I found
6 them on the bikes.

7 Q So you testified to Her Honor that you found all these
8 weapons, but what you didn't say in some instances these people
9 were allowed to carry them in the casino and chose not to?

10 A I actually didn't know that he had a concealed weapons
11 permit.

12 Q You weren't the investigating officer in that case,
13 were you?

14 A Not the case agent, no.

15 Q You weren't the gang expert or so-called gang expert
16 in that case, were you?

17 A No.

18 Q Were you aware that members of the Hells Angels were
19 arrested and charged in the Yavapie County incident where you
20 talked about a shootout between the two clubs?

21 A I wasn't -- I'm not familiar with who was arrested,
22 only that our local Vagos were involved.

23 Q Were you aware if that case was dismissed?

24 A No.

25 Q Do you form your opinions based on these instances

1 that you testified about, but you really have incomplete
2 knowledge of each one so far, would you agree?

3 A No. I don't -- I'm not the case agent for each one,
4 but to the extent that I needed the information for my job as
5 an outlaw motorcycle gang in Las Vegas, I was given the
6 information necessary.

7 Q So you pick and choose the information that you want
8 and don't even look at the other stuff; is that your testimony?

9 A No. They provide bulletins, and in meetings like I
10 said with other investigators, you glean certain information
11 from those.

12 Q So someone else -- someone else picks and chooses the
13 information that they think is important and they leave out the
14 rest of it and you rely upon it; is that your testimony?

15 A I rely upon their case summaries and investigative
16 knowledge.

17 Q But you don't actually go any deeper and look at the
18 rest of the evidence in those cases, correct.

19 A Not unless they directly relate to an investigation I
20 am doing, no.

21 Q So the only case as far as incidents of conduct that
22 you've testified to where you had actually seen all of the
23 evidence is the wedding chapel case, accurate?

24 A Where I've seen all of the evidence, I'd say that's
25 accurate, yes.

1 Q You would agree with me that, going back to the
2 Laughlin, isn't it true that the San Francisco Hells Angels
3 charter was unable to obtain rooms at the Flamingo Laughlin
4 where members in Bullhead City and other members were staying,
5 so they had to stay at Harrah's Hotel Casino?

6 A I know there were some Hells Angels staying at
7 Harrah's, but I'm not familiar with what charter they were
8 from.

9 Q Were you are aware they were staying there because
10 they couldn't get rooms anywhere else?

11 A I was not aware of that.

12 Q So you didn't read Detective Long's report related to
13 the Laughlin incident?

14 A His report, not the entire report.

15 Q He's the case agent, you're aware of that?

16 A Yes.

17 Q He wrote a report that is many, many pages. You
18 didn't read it?

19 A No.

20 Q So were you aware that intelligence report indicated
21 that the Mongols were attempting to raise their status among
22 the outlaw biker, what they call gangs, and were aggressive
23 during the four-day event?

24 A We had -- we had briefed on that kind of information
25 while we were down there.

1 Q So you were aware that the Mongols were trying to
2 bolster the status and they were going to be aggressive toward
3 Hells Angels?

4 A Yes.

5 Q And the handful of Hells Angels that were staying at
6 Harrah's, every time the small group of Hells Angels would
7 enter the casino area of Harrah's, they would be surrounded,
8 followed, and stared at by Mongols members. Were you aware of
9 that?

10 A Yes.

11 Q And isn't it true that the Mongol members had duffel
12 bags with them?

13 A I don't know.

14 Q Isn't it true the Mongol members had walkie-talkies so
15 they could communicate with each other as they surrounded this
16 small group of Hells Angels?

17 A They had walkie-talkies with them. I located them in
18 the search warrant.

19 Q Isn't it true when the Hells Angels moved into the
20 Rosa's Cantina Area at Harrah's Laughlin, they were surrounded
21 by a large number of Mongol members?

22 A Yes.

23 Q And that was before the fight broke out, correct?

24 A Correct.

25 Q Isn't it true that the police officer was the first --

1 sorry -- strike that.

2 Isn't it true that the Las Vegas Metropolitan Police
3 officer fired his weapon before any member of the Hells Angels
4 motorcycle club did?

5 A I cannot speak to that sequence. I don't know.

6 Q And again, you haven't read the case agent's report in
7 that case, correct?

8 A No.

9 Q So the only evidence in the case you looked at is the
10 video, isn't it, and the 30 search warrants that you helped
11 execute?

12 A That and there was a case briefing after -- after the
13 event that I attended they went over some of the testimony and
14 some of the video evidence.

15 Q You didn't look at any of the reports, correct?

16 A Not -- no, just the ones I read.

17 Q You didn't look at any of the grand jury transcripts,
18 correct?

19 A No.

20 Q Didn't look at any of the witness statements?

21 A I may have looked at some of the witness statements
22 when I was preparing my Mongols search warrant depending on --
23 I don't remember now what was available to me back then.

24 Q So, Officer, you were in vice from 2004 until 2008,
25 correct?

1 A I think I was in vice from 2002 to 2008.

2 Q So you agree while you were in vice from 2002 to 2008,
3 you were not investigating what you would call outlaw
4 motorcycle gangs, correct?

5 A Actually, because I regularly attended the outlaw
6 motorcycle gang investigators meetings even while I was in
7 vice, I often identified members that were out driving around
8 while I was out doing my -- doing my investigations and
9 reported that information to the outlaw motorcycle gang squad,
10 but I didn't have any actual outlaw motorcycle gang cases
11 during that time.

12 Q My question was you didn't investigate any outlaw
13 motorcycle gangs, correct?

14 A Correct.

15 Q Primarily you were investigating prostitution,
16 pandering, and child pandering from 2004 until 2008, correct?

17 A From 2002 until 2008, yes.

18 Q You testified -- sorry.

19 Your curriculum vitae states you've been the case
20 agent on what you call several outlaw motorcycle gang
21 investigations. Please name them.

22 A The wedding chapel case. There was a Banditos versus
23 non-outlaw club case that I don't have the event number for
24 handy. I was in -- I was the case agent on that. I was the
25 case agent on an investigation regarding Vagos and drug

1 trafficking. I was the case agent on -- well, I wasn't -- I
2 was -- I assisted as more or less a second chair on a Banditos
3 versus Flaming Knights stabbing. Most of the other
4 investigations, because we don't -- in my section, we don't get
5 calls for service, we kind of -- we go out and proactively
6 investigate things. Most of the other investigations were just
7 follow-ups on tips and things like that.

8 Q Okay. Your CV says you have been case agent on
9 several outlaw motorcycle gang investigations, right?

10 A Correct.

11 Q You've given us the wedding chapel, an investigation
12 with the Banditos not related to any other what you guys called
13 outlaw motorcycle gang, and a drug investigation of the Vagos.
14 That's it?

15 A Well, it was actually -- it was related to outlaw
16 motorcycle gangs because they -- they were -- the Banditos were
17 protecting their patch and their territory against that other
18 club.

19 The Vagos case and then the Banditos, Flaming Knights
20 case which was a stabbing, like I stated, they were basically
21 more or less two case agents in that, myself and Joe Gagliardi.
22 And like I said, the other investigations that I've done have
23 all been, you know, follow-ups on leads.

24 I was the case agent on a Vagos -- there was a
25 prohibited person with a firearm, and he was -- the same day he

1 was involved in an altercation wherein he and another Vago
2 attacked a driver. I was the case agent in that as well.

3 Q Do you consider that to be an outlaw motorcycle gang
4 investigation?

5 A Absolutely. They had cut off traffic to let their
6 people out of a party and basically parked in a travel lane,
7 and when a vehicle went around them, they went down as a group
8 and attacked that driver and a passenger.

9 Q In your curriculum vitae states you've been a member
10 of a federal task force regarding what you guys called outlaw
11 motorcycle gangs. What was that task force?

12 A It was a task force with the ATF.

13 Q When was that?

14 A In 2010 when I was assigned to the outlaw motorcycle
15 gang investigator squad, I was made part of that task force.

16 Q How long were you on that task force?

17 A The year and a half I was on that squad.

18 Q What did you investigate as part of that task force?

19 A We investigated outlaw motorcycle gangs. I assisted
20 with the Black Rain investigation regarding the Mongols that
21 the ATF ran. We had -- I assisted with Hells Angels
22 investigations.

23 Q Which ones?

24 A The -- the Cash -- it doesn't have a name. It might
25 have a name, but the three Hells Angels members were federally

1 indicted last year for narcotics trafficking. I assisted in
2 that. It had to do with undercover -- an undercover
3 investigation with the ATF.

4 Q Would you agree with me that the conduct in that case
5 is not alleged to have been club related, correct?

6 A Oh, no, it was club related. It was the three Hells
7 Angels were part of a group that assisted in that criminal
8 activity, part of a group of Hells Angels.

9 Q Is it your testimony anytime a member of the Hells
10 Angels commits a crime that it's club related?

11 A Any time a member of the club commits a crime that its
12 club related?

13 Q Yes.

14 A No, not necessary.

15 Q So you just testified, Oh, yeah, it's club related
16 because these three were members of the Hells Angels.

17 A Right. And they were acting with other Hells Angels
18 during the commission of this crime.

19 Q So anytime at least two members of the Hells Angels
20 commit some criminal act together --

21 MR. HALL: Objection. Argumentative.

22 BY MR. SCHONFELD:

23 Q -- it is club related; is that your testimony?

24 THE COURT: Sustained.

25 MR. SCHONFELD: How is that argumentative?

1 MR. HALL: Argumentative.

2 THE COURT: Because he's answered the question.

3 BY MR. SCHONFELD:

4 Q Is it your testimony that if more than one member of
5 the Hells Angels engages in a criminal act that it is club
6 related?

7 MR. HALL: Same objection.

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

9 THE WITNESS: It depends on whether it is done in
10 furtherance of or at the behest of the club.

11 MR. SCHONFELD:

12 Q So how is the three members providing security for an
13 alleged drug transaction club related?

14 THE COURT: I didn't know they were providing
15 security.

16 Did you testify to that?

17 THE WITNESS: No.

18 THE COURT: Is that the case?

19 THE WITNESS: That is the case.

20 MR. SCHONFELD: I know the case quite well, Your
21 Honor.

22 THE COURT: Okay. Well --

23 THE WITNESS: They were enriched by it. They were
24 paid and the payment was made to different -- my understanding
25 is the payment was made based on their level in the club. It

1 wasn't an equal -- in other words, it was -- it was -- it
2 enriched the club based on their status within the club.

3 BY MR. SCHONFELD:

4 Q It enriched the club. How did it enrich the club?

5 A It was the Hells Angels chapter providing that
6 security and getting paid for it.

7 Q The chapter or the individual members?

8 A The money was given to all those persons involved.

9 Q Okay. So three people provided security for a
10 government-created drug deal, correct? It wasn't a real drug
11 deal, right?

12 A What's that? I'm sorry.

13 Q It was not a real drug deal. It was a
14 government-created drug deal, correct?

15 A It was an undercover drug deal, yes.

16 Q Right. Buyers and sellers were all members of law
17 enforcement, correct?

18 A Correct.

19 Q And three members of the Hells Angels provided
20 security for that alleged drug deal, correct?

21 A That's my understanding, yes.

22 Q And those three individual members were allegedly paid
23 for providing that service, correct?

24 A Correct.

25 Q And they weren't wearing their patches during that

1 drug deal, correct?

2 A I don't believe so, no.

3 Q Okay. And it wasn't sanctioned or approved by some
4 grand Hells Angels authority, correct?

5 A Well, it actually was, I believe, approved by the
6 president.

7 Q The president was involved in it allegedly?

8 A Correct.

9 Q But that doesn't show that it was approved on a club
10 level, does it?

11 A Are we talking on a national club level?

12 Q No.

13 A I'm sorry.

14 Q Is the Hells Angels one-member-one-vote? Are you
15 familiar with that?

16 A Yes.

17 Q So no one person can tell another what to do, correct?

18 A Incorrect. The president actually can tell members
19 what to do.

20 Q You were aware that those three names referred to were
21 indicted federally, correct?

22 A Correct.

23 Q Not charged with any form of RICO or racketeering,
24 correct?

25 A I don't believe so, no.

1 Q Not charged with anything related to the Hells Angels,
2 correct?

3 A Not as far as a gang enhancement or RICO, no.

4 Q Not charged with anything whatsoever related to the
5 Hells Angels, correct?

6 A I don't know that for sure, but I don't remember
7 reading any gang enhancement in the charges, no.

8 Q Nevertheless, it's your testimony because three
9 members of the Hells Angels were together, it's club related;
10 is that accurate?

11 A Based on the circumstances of the deal, I believe it
12 was, yes.

13 Q And did you have input in making a recommendation for
14 prosecution in that case?

15 A No.

16 Q Okay. So you didn't have the ability to tell them
17 your opinion that it must be club related so they should have
18 been charged with club-related activity?

19 A No. That wasn't my investigation.

20 Q You were on that task force, though?

21 A Correct.

22 Q And you testified you were part of that investigation.

23 MR. HALL: Your Honor, at this point I'm going to
24 object. We are getting far afield.

25 THE COURT: It's cumulative. Sustained.

1 MR. SCHONFELD:

2 Q In your curriculum vitae, it says, "I have managed
3 sources of information regarding outlaw motorcycle gangs."
4 What sources of information have you managed?

5 A Numerous persons who have come forward with
6 information about people they know in motorcycle gangs. I have
7 -- through the investigation at the wedding chapel, the victims
8 and their family members have provided me information about the
9 subculture and the gangs. There's just numerous different
10 citizen sources. I have spoken to other investigators from
11 other jurisdictions. The International Outlaw Motorcycle Gang
12 Investigator Association seminar that I attended had numerous
13 sources of information concerning subculture that can be called
14 upon regarding, you know, any questions I might have or
15 identities of suspects I might have, things of that nature.

16 Q I'm trying to figure out "managed." You've never
17 handled -- been the handler of a confidential informant related
18 to outlaw motorcycle clubs, have you?

19 A One very short term one that I managed and others that
20 other people have technically been the handler and that I
21 debriefed.

22 Q And then you testified that as far as interviewing
23 members of the Hells Angels, you interviewed Pee Wee Goldsmith,
24 Charles, and Brad Goldsmith; is that correct?

25 A Correct.

1 Q And then the other contact you've had with members of
2 the Hells Angels was just short contact where they didn't
3 provide you with any substantive information related to the
4 club, correct?

5 A Related to the club? Yeah, I would say that's
6 probably accurate.

7 Q So basically, two interviews. Those were both
8 recorded, correct?

9 A Correct.

10 Q And they were both related to the wedding chapel
11 incident, correct?

12 A Correct.

13 Q You -- you've never written any scholarly publications
14 related to any outlaw motorcycle clubs, correct?

15 A No, I never have.

16 Q You've never been published on the subject whatsoever,
17 correct?

18 A No.

19 Q You've never written any analytical reports as an
20 expert witness regarding the Hells Angels, correct?

21 A No.

22 Q You never taught a four-year college regarding the
23 subject of outlaw motorcycle clubs or gangs as you call them,
24 correct?

25 A Correct.

1 Q You're aware the Hells Angels motorcycle club is a
2 nonprofit cooperation?

3 A Yes.

4 Q Other clubs that you've investigated such as the
5 Mongols or Vagos, they are not nonprofit cooperations, are
6 they?

7 A I don't believe so, no.

8 Q You would agree that the Hells Angels charters engage
9 in charitable toy runs and other events, correct?

10 A They engage in those, yes.

11 Q You're aware that there are members of Hells Angels in
12 the United States that have no felony convictions?

13 A Yes.

14 Q Members in the United States that have no felony or
15 misdemeanor convictions, correct?

16 A Correct.

17 Q Members in the United States that have never been
18 arrested?

19 A I'm sure there are.

20 Q Members in the United States that hold professional
21 licenses?

22 A Yes.

23 Q You would agree with me that it is not a requirement;
24 therefore, in order to be a member of the Hells Angels that you
25 commit any crime whatsoever, correct?

1 A Any requirement? No, I don't believe it is.

2 Q You would agree, though, the Hells Angels charters
3 have a clubhouse?

4 A Yes, most that I've encountered.

5 Q And the clubhouses have a death head on the front of
6 them most of the time?

7 A Yes.

8 Q So they make it clear that's their clubhouse?

9 A Yes.

10 Q They hold parties where members can attend?

11 A Yes.

12 Q And they hold parties where members of the public can
13 attend?

14 A Correct.

15 Q And members of the public can come into their
16 clubhouse?

17 A Correct.

18 Q And in some cases, law enforcement goes to those
19 parties?

20 A I've never been. You mean under -- are you referring
21 in a covert status or overt?

22 Q Sure you're not in uniform, but members of law
23 enforcement have walked into those parties pretending to be
24 members.

25 A I'm sure they have, yes.

2396

1 Q Members of the Hells Angels wear jackets with their
2 trademark logo on it, correct?

3 A Correct.

4 Q And most members of Hells Angels have regular daytime
5 jobs, correct?

6 A I can't answer. I don't know if they do or not. The
7 ones that I know, some do, some don't.

8 Q Do you know what Cesar Villagrana's daytime job is?

9 A I do not.

10 Q In your curriculum vitae, you listed five cases where
11 you testified as an expert. Are you familiar with that?

12 A Yes.

13 Q Not one of those cases is the wedding chapel case?

14 A Correct.

15 Q Not one of the cases that you've listed where you were
16 admitted as an expert involves motorcycle clubs, correct?

17 A Correct.

18 Q How long have you been riding a motorcycle for?

19 A Since 2002.

20 Q Have you ever been a member of one of the law
21 enforcement motorcycle groups?

22 A No.

23 Q You're aware that those exist?

24 A Oh, yes.

25 Q You're aware that there's members of law enforcement

1 that actually have Support Your Local Hells Angels Association
2 stickers on their motorcycles, correct?

3 A It would not surprise me in the slightest.

4 Q Not illegal to have that sticker on the bike, right?

5 A No.

6 Q When you say it wouldn't surprise you if that
7 occurred, you also wouldn't believe those police officers to be
8 committing some sort of criminal conduct, right?

9 A Criminal conduct, no.

10 Q It was shortly after the Laughlin River Run incident
11 that you were reassigned to vice; is that correct?

12 A Yes.

13 Q Even though you had been involved in that
14 investigation, you were not assigned to outlaw motorcycle
15 groups?

16 A No. I actually volunteered for stolen motorcycle task
17 force during Laughlin River Run to get down there.

18 Q You're aware that after the Hells Angels Motorcycle
19 Club opened a charter in Las Vegas that the Las Vegas
20 Metropolitan Police Department assigned two officers to monitor
21 the Hells Angels Motorcycle Club in Las Vegas?

22 A I don't know the number, but I know they were assigned
23 yes.

24 Q You're familiar with Officer Peterson and McDermitt?

25 A Yes.

1 Q They were assigned to the Hells Angels, correct?

2 A I don't know -- I know they were assigned to the
3 outlaw motorcycle gang squad, but I don't know if they were
4 particularly assigned to Hells Angels.

5 Q You've never been assigned such as those two people to
6 monitor the Hells Angels, correct?

7 A Well, yes, as part of the outlaw motorcycle gang
8 squad, I was.

9 Q You're in intelligence. You don't do the actual
10 day-to-day stops, go to the clubhouse, follow them around?

11 A That's actually -- the intelligence section contains
12 the outlaw motorcycle gang squad. That's where Pearson's and
13 McDermitt were assigned as well.

14 Q Your role is different from theirs within the
15 intelligence section?

16 A Not at that time, no. In 2010 I was assigned to their
17 squad.

18 Q How many officers were on that squad at that time?

19 A I actually took Doug Pearson's place on that squad,
20 and I believe there were five of us at the time.

21 Q And you are no longer part of that squad?

22 A No.

23 Q Why not?

24 A They asked me to monitor Mexican cartels, and I moved
25 to a separate squad. I didn't change desks, I just --

1 different assignment.

2 Q In your curriculum vitae it states you interacted with
3 what you call motorcycle gang members in an undercover
4 capacity. Have you done that with the Hells Angels?

5 A Yes.

6 Q Who did you interact with in an undercover capacity?

7 A Keith Hair from the Las Vegas charter. Several
8 unknown Hells Angels during the Laughlin River Run. Prior to
9 the incident at Harrah's, I walked around and spoke to them,
10 took pictures of them, things of that nature. Wow. I have
11 attended numerous biker events including I was present at the
12 Hells Angels USA run in Montana in 2008. We walked around and,
13 you know, more or less mingled where they were. We didn't
14 necessarily always have conversations with them, but we, you
15 know, sit next to them and strike up a conversation if we
16 could. Just numerous -- that's kind of what we did.

17 Q So basically while in an undercover capacity, you
18 would socialize with members of Hells Angels?

19 A Yeah, and surveil them as well, yeah.

20 Q But you weren't undercover in any investigation
21 against them?

22 A Oh, no.

23 Q What did you talk to Keith Hair about?

24 A I spoke to Keith Hair in an overt capacity about an
25 illegal raffle and poker run that they were conducting at Yolo

1 Pass, and about a week later, he actually chased me down the
2 aisle of the Las Vegas Bike Fest to invite me to the clubhouse
3 party --

4 Q So?

5 A -- when I was in a covert status. He didn't remember
6 me.

7 Q So you interacted with him in your law enforcement
8 capacity? He knew you were a law-enforcement officer
9 originally?

10 A Originally he did, then he forgot who I was, and we
11 spoke concerning the party at the clubhouse.

12 Q And a week later at Bike Fest, he thought you were a
13 regular member of the public and he welcomed you to come to the
14 clubhouse?

15 A Yes.

16 Q Did you go to the clubhouse?

17 A I did not. I drove past it, but I never went in.

18 Q You testified, and it's in your reports, that outlaw
19 -- what you call outlaw motorcycle gangs engage in murder,
20 kidnapping, assault, battery, rape, firearms trafficking. Give
21 me an example of a Hells Angel that you're familiar with that
22 was charged with rape?

23 A The -- At the USA run, I'm not sure if he was charged
24 specifically with rape, but he was accused of a sexual assault..

25 Q My question was, give me an example of a member of the

1 Hells Angels that you're familiar with that was charged with
2 rape.

3 A I cannot tell you his name because it was at the USA
4 run, but . . .

5 Q And you can't tell us whether or not he was actually
6 charged?

7 A I can't tell you for sure if he was charged, no.

8 Q So you can't testify as to one Hells Angels member
9 that you know of that has been charged with rape, correct?

10 A That I know of personally, no.

11 Actually, now that I think about it, in the -- in the
12 investigation regarding the Arizona incident -- I cannot
13 remember his name, he was a fugitive for several years, and
14 he -- why can't I think of his name? I can see his face.
15 There were actually three Hells Angels that were charged with
16 the rape and murder of a female in a clubhouse in Arizona I
17 believe.

18 Q You can't tell us their names, though, correct?

19 A I can't. There's a book about it, but I cannot recall
20 their names.

21 Q So your knowledge is based upon reading a book?

22 A Well, in that case, both reading the book and also
23 getting the bulletins on him as a fugitive. We looked for him
24 during several river runs and bike fests and things of that
25 nature. I think he was later found in Argentina.

1 Q And you don't know whether or not he was convicted of
2 that charge?

3 A I don't know if he's been to trial yet. Honestly, I
4 haven't followed it.

5 Q Is there a national president of the Hells Angels?

6 A No.

7 Q Is there a national vice president of the Hells
8 Angels?

9 A No.

10 Q You agree with me anyone who would testify there's a
11 national president of the Hells Angels doesn't know but bare
12 minimum of the Hells Angels, correct?

13 A I don't know what they know about the Hells Angels. I
14 know they don't have a president or a national -- sorry,
15 national president.

16 Q Pretty elementary knowledge, isn't it?

17 MR. HALL: Argumentative. Irrelevant.

18 THE COURT: Sustained.

19 BY MR. SCHONFELD:

20 Q Would you consider yourself an expert on the Hells
21 Angels if you believed they have a national president?

22 MR. HALL: Argumentative. Irrelevant.

23 THE COURT: Sustained. I think it's argument.

24 MR. SCHONFELD: Pardon me, Your Honor?

25 THE COURT: It's argument.

1 BY MR. SCHONFELD:

2 Q You would agree with me when you first started
3 learning about the Hells Angels, one of the initial things you
4 were told was their structure?

5 A That's -- yes.

6 Q So one of the first things you were taught is it goes
7 from prospect -- sorry. Hang-around?

8 A Correct.

9 Q To prospect?

10 A Correct.

11 Q To member?

12 A Correct.

13 Q And then each charter has a treasurer?

14 A Correct.

15 Q Sergeant-at-arms?

16 A Correct.

17 Q President?

18 A And a vice president.

19 Q And a vice president?

20 A And a secretary often as well.

21 Q And you learned right away there was no national
22 president or vice president?

23 A Honestly, I can't say that I learned that right away
24 about the Hells Angels specifically, because I was first taught
25 about the general structure of outlaw motorcycle gangs. When I

1 studied the Hells Angels is when I learned about the West Coast
2 officers meeting and East Coast officers meeting and the
3 national runs and things of that nature.

4 Q So when you started focusing and learning more about
5 the Hells Angels is when you discovered they don't have a
6 national president or national vice president?

7 A Correct.

8 Q Going to the wedding chapel incident, it was in
9 December of 2008, correct?

10 A Correct.

11 Q Brad Goldsmith was getting married, correct?

12 A Correct.

13 Q He was a prospect at the time?

14 A Correct.

15 Q When he and his friends and family arrived at the
16 wedding chapel, they had absolutely no issue with anybody
17 there, correct?

18 A Not to my knowledge, no.

19 Q And there were both members and non-members of Hells
20 Angels, correct?

21 A Correct.

22 Q And it was after the Goldsmith wedding party arrived
23 that members of the Mongols arrived; is that correct?

24 A That's correct.

25 Q And in your report, you call the Mongols a rival

1 motorcycle club; do you remember that?

2 A Yes.

3 Q You would agree with me the fact they were a rival
4 motorcycle club in your opinion would be reason for the Hells
5 Angels members to fear that they were going to be attacked?

6 A I -- I can't speak to their state of mind. There were
7 only three Mongols that were present. Actually only two
8 visible at first. The third was in a car.

9 Q In your testimony known to be rivals, correct?

10 A Correct.

11 Q And just arrived out of the clear blue at their
12 wedding?

13 A Well, at the wedding chapel, yes.

14 Q Not a big wedding chapel, is it?

15 A No. It's not a huge one, no.

16 Q You interviewed Samuel Murray after the wedding chapel
17 incident, correct?

18 A Correct.

19 Q That was a recorded interview?

20 A Yes.

21 Q Have you turned that recording over to the State of
22 Nevada in this case?

23 A In this case, that recording, I don't believe so.

24 Q Was Samuel Murray investigated for any type of
25 criminal violation at the time you interviewed him?

1 A Yes.

2 Q In exchange for him cooperating with you, he was given
3 leniency correct?

4 A No.

5 Q So he just decided to be interviewed?

6 A Yes.

7 Q It was also video recorded, wasn't it?

8 A Yes.

9 Q What he told you is that he had believed that the
10 members of Mongols had arrived at the wedding chapel, had a
11 gun?

12 A Yes, he said he believed that.

13 Q And other witnesses from the Hells Angels interviews
14 said the same thing, correct?

15 A Yes, they in fact indicated that they saw a gun at one
16 point.

17 Q So members of the Hells Angels were already at a
18 wedding before any Mongols were there?

19 A Correct.

20 Q And the Mongols, according to you, are a rival?

21 A Correct.

22 Q And the members of the Hells Angels saw the what you
23 call rival Mongols with a gun?

24 A No. They said they saw them with a gun. There was no
25 gun on video.

1 Q You would agree with me videos don't always show
2 everything, right?

3 A Right.

4 Q You would also agree with me that Samuel Murray smokes
5 marijuana on a daily basis?

6 A I believe he told me that, yes.

7 Q But nevertheless you utilized his interview as
8 evidence against the defendants in that case, correct?

9 A I have, I'm not sure if it's -- if it was ever brought
10 out in the trial.

11 Q Another person you interviewed was Joshua Ramos?

12 A Yes.

13 Q He also stated that he believed that Mongol members
14 were present with a gun when they arrived at the wedding
15 chapel, correct?

16 A Yes.

17 Q Nobody has been convicted in that case as you sit here
18 today; is that correct?

19 A Not yet.

20 Q Correct me if I'm wrong, I believe on direct you
21 testified initially that all of your contact with Hells Angels
22 members, the members had weapons. That's not accurate, is it?

23 A I don't think I would have said all. Many of them
24 maybe.

25 Q You've had contacts with members of Hells Angels where

1 there were no weapons, right?

2 A That's a good question. I can't remember an incident
3 of contacting them where they didn't have some type of weapon,
4 at least a folding knife or a blunt instrument. I'm trying to
5 think. I can't -- I can't -- I don't -- when I contacted
6 Brandon Young, I can't remember if he had a folding knife or
7 not, but I really can't remember any instance where I've
8 interacted with a Hells Angel that there hasn't been some kind
9 of weapon, even a small one.

10 Q Not illegal to carry a folding knife, is it?

11 A No.

12 Q You testified at the beginning of your direct
13 examination regarding these handwritten guidelines and rules
14 for prospects and members; do you remember that testimony?

15 A Yes.

16 Q You would agree with me that nowhere in those written
17 rules does it say if one member gets in a fight, all other
18 members have to join in?

19 A I don't remember the exact verbiage, whether it would
20 say exactly that. The gist of it was that you're to support
21 your brothers.

22 Q But it didn't say you are to support your brothers and
23 if one brother gets in a fight, everybody else has to join in?

24 A I don't know it has those words specifically.

25 Q So you reached a conclusion that the rule that you

1 have to support your brothers means if one brother gets in a
2 fight you must join in?

3 A I believe there's verbiage in there about protecting
4 your brother in a fight or something to that effect.

5 Q You don't remember exactly though?

6 A Not the exact verbiage, no.

7 MR. SCHONFELD: Nothing further at this time.

8 THE COURT: Okay. Cross?

9 MR. FREY: Thank you, Judge.

10
11 CROSS-EXAMINATION

12 BY MR. FREY:

13 Q Let's talk about the Laughlin incident and then the
14 wedding chapel incident. With respect to Laughlin, it's true
15 Mr. Gonzales was not on scene. Can we agree on that?

16 A I don't believe so. I don't know everybody who was on
17 scene.

18 Q If I told you that he was not on scene, you would have
19 no basis to contradict that, though?

20 A No.

21 Q So to your knowledge, he was not on scene?

22 A No.

23 Q Same is true with respect to the wedding chapel.
24 Mr. Gonzalez was not on scene?

25 A No.

1 Q Nor was any Vagos?

2 A No.

3 Q Same question with respect to the Laughlin incident,
4 to your knowledge, no Vagos was on the scene?

5 A Not to my knowledge.

6 Q And they were not actively engaged in the hostilities?

7 A No.

8 Q So you would agree both incidents, the wedding chapel
9 and Laughlin, had nothing do with the Vagos?

10 A It -- no, it didn't involve the Vagos, no.

11 Q Neither incident had anything to do with the Vagos?

12 A Not to my knowledge, no.

13 Q Neither incident had anything to do with Mr. Gonzalez?

14 A Not to my knowledge.

15 Q Let's talk about your law enforcement experience. You
16 reference that you initially started out as a patrol officer, I
17 believe in Idaho?

18 A Correct.

19 Q Where you had contacts on an occasional basis, I
20 suppose, with purported members of outlaw motorcycle gangs as
21 determined, fair?

22 A Correct.

23 Q Was there anything special about your duties as a
24 patrol officer that caused you to come into contact with outlaw
25 motorcycle gang members more than any of your colleagues?

2415
~~2415~~

1 A No, not out there.

2 Q So you were just a regular patrol officer --

3 A Correct.

4 Q -- that on occasion would come into contact with
5 people you thought belonged to one of these organizations?

6 A Correct.

7 Q Just like any other patrol officer?

8 A Correct.

9 Q You weren't investigating them in any special
10 capacity?

11 A No.

12 Q But you changed assignments in 2002 -- I'm sorry,
13 2001, true?

14 A Right. I was patrol officer in Idaho in 1994 to '96.
15 And then in '96, I joined The Metro, Las Vegas Metropolitan
16 Police Department and did change assignments to a problem
17 solving unit in 2001.

18 Q So you went from patrol officer to a member of the
19 problem solving unit in 2001?

20 A Correct.

21 Q After you had joined Metro?

22 A Yes.

23 Q Now, you stayed with that unit from 2001 to 2002,
24 correct?

25 A Correct.

1 Q And in that capacity you first had occasion to
2 investigate outlaw motorcycle gangs?

3 A Yes.

4 Q And then there's a lull in your experience because you
5 changed to the organized crime bureau in 2002, true?

6 A No, I'm sorry. I changed to the vice section in 2002.

7 Q I'm sorry. The vice section?

8 A Correct.

9 Q Correct. And there was a lull in your investigative
10 activities with respect to outlaw motorcycle gangs; is that
11 true?

12 A That's true.

13 Q In fact, you weren't a case agent from the years 2002
14 to 2008 with respect to any outlaw motorcycle gang
15 investigation, true?

16 A Correct.

17 Q You only resumed your investigative duty with respect
18 to those organizations in 2010?

19 A True.

20 Q And that was in your capacity as a member of the
21 organized crime bureau, correct?

22 A Yes.

23 Q And then you changed assignments again within the
24 organized crime bureau to investigating Mexican drug cartels?

25 A It's actually not a change of assignments. It's just

1 a change of -- there's several squads within the organized
2 crime bureau/criminal intelligence section. Like I said, I
3 didn't even move desks, I just changed my investigative focus
4 to organized crime -- sorry, Mexican cartels.

5 Q Shifting away from outlaw motorcycle gangs?

6 A My invest -- yes, my focus.

7 Q With the exception of the wedding chapel incident,
8 since 2010 have you been a case agent on any outlaw motorcycle
9 gang investigation?

10 A Yes.

11 Q In addition to the wedding chapel incident?

12 A Yes.

13 Q What were those investigations?

14 A As I said before, the Banditos-Flaming Knights
15 stabbing, the Banditos versus the Iron Order which is where
16 they cut the patch off. Now I've lost my -- I was the case
17 agent on the Vagos prohibited person -- prohibited person with
18 a firearm case regarding Ramon Ramirez. And as far as actual
19 case agent, not just assisting on the case, I believe those
20 were my main cases. Like I said, a lot of my duties were
21 following up tips and surveillance and things of that nature as
22 well.

23 Q And you were the case agent on the Banditos case and
24 the Vagos prohibited person case after 2010?

25 A Oh, yes, yes. I -- oh, hold on. No. Not after 2010.

1 I'm sorry. I'm sorry. That was during my time from 2008 to
2 2010.

3 Since 2010, I have not been the case agent on an
4 outlaw motorcycle gang case.

5 Q With respect to the Vagos prohibited person case, what
6 was the disposition in that matter?

7 A He pled and was deported.

8 Q There's no gang enhancement filed in that case,
9 correct?

10 A That's correct.

11 Q And certainly no gang enhancement conviction in fact,
12 correct?

13 A Correct.

14 Q But yet you maintain it was club related?

15 A Well, yes. He was at a club function.

16 MR. HALL: Excuse me. Excuse me for interrupting,
17 Counsel.

18 Your Honor, we during our telephone conference
19 indicated that we wanted to call Officer Donvalos. He's not
20 going to be available tomorrow. These two witnesses took a
21 little longer. I don't know if we want to stop here, bring in
22 Donvalos, or address that issue at this time.

23 THE COURT: It's --

24 MR. HALL: Quarter to 5:00.

25 THE COURT: I don't know how you can get direct and

1 cross done.

2 MR. HALL: Well, then can we put him on the list for I
3 guess the 29th is when we next have --

4 MR. FREY: Your Honor, I wasn't privy to the
5 conversation in chambers, the conference call. I don't know
6 who Donvalos is or what he pertains to.

7 THE COURT: It was Ms. --

8 MS. PUSICH: Your Honor, I was just speaking with Mr.
9 Schonfeld, we don't remember that name either.

10 MR. STEGE: Ceballos.

11 MS. PUSICH: That one is familiar.

12 MR. SCHONFELD: That one is familiar.

13 MR. STEGE: And brief.

14 THE COURT: I don't think it will be 13 minutes brief,
15 right? So did you want to bring -- did you want to bring him
16 in or have a short break and go ask him if he's available. Our
17 next time to be together is tomorrow?

18 THE COURT CLERK: Tomorrow. And then the 29th.

19 THE COURT: Tomorrow. So you know he's not available
20 tomorrow. Is that what you're telling me.

21 MR. STEGE: Let me confer with him.

22 MR. HALL: Can he be excused to go confer?

23 THE COURT: Absolutely.

24 MR. HALL: Thank you.

25 Excuse the interruption. He's good to go.

1 THE COURT: Okay. Good. Good.

2 MR. FREY: I need to find my place now, Your Honor.

3 THE COURT: The court reporter can read the last
4 question you had.

5 (Record read.)

6 BY MR. FREY:

7 Q Now, moving on to the second incident that you
8 referred to -- actually during the cross-examination of
9 Mr. Villagrana's counsel with respect to the Vagos and drug
10 trafficking, do you recall that reference?

11 A I don't recall exactly what were we talking about.

12 Q This is a case I believe you maintained you were a
13 case agent on?

14 A Oh, oh, oh. It was a short-term case investigating
15 narcotics trafficking.

16 Q Was that before 2010 or after 2010?

17 A That was prior to 2010.

18 Q Prior to 2010.

19 And what was the disposition of that matter?

20 A I actually left the squad before that case -- that
21 case is -- well -- that's not true. I -- that case -- I closed
22 that case prior to leaving the squad because I hadn't gathered
23 enough evidence to go forward.

24 Q And again, what was the disposition of that matter?

25 A Pardon me?

1 Q What happened in court? Did it go to court?

2 A No, no, no. I closed the investigation.

3 Q Meaning you didn't forward the case on to the District
4 Attorney's Office for prosecution?

5 A Correct, correct.

6 Q If I represented to you that the Vagos are a nonprofit
7 organization, would you have any basis to contradict that?

8 A Not any basis to contradict it, no.

9 Q Listed in your CV and based upon your direct
10 examination, you mention that you are a member of various
11 outlaw motorcycle gang investigator organizations?

12 A I have attended those and I was a member, yes.

13 Q And how many times have you attended those
14 conferences, correct?

15 A Correct.

16 Q How many times have you attended those conferences?

17 A The Southern California Outlaw Motorcycle Gang
18 Investigators Conference I only attended in 2002. And the
19 International Outlaw Motorcycle Gang Investigators Conference I
20 attended in 2008.

21 Q So you attended two conferences separated by six
22 years?

23 A Correct. The conferences, yes.

24 Q At those conferences, did you have occasion to hear an
25 individual by the name of Jorge Gil-Blanco present?

1 A I do not recall if he presented at the international
2 or not. I don't -- I don't recall him at the Southern
3 California Outlaw Motorcycle Gang Investigators Course, but
4 that was in 2002. I would have to look over my training
5 materials.

6 Q But you can't recall right now?

7 A I can't.

8 Q With respect to your attendance there, that's an
9 opportunity for you and individuals like you who do the same
10 thing to share intelligence, true?

11 A True.

12 Q And in fact, the presenters there do actively share
13 intelligence. In fact, that's the subject of many of the
14 presentations you see?

15 A True.

16 Q Is it your practice to take that material and go and
17 independently corroborate what you receive?

18 A If it -- if it has some Las Vegas nexus, yes, I would
19 probably spend the time to do that.

20 Q So for example, if you -- if a presenter presents to
21 you a report from an officer, I imagine that happens?

22 A Perhaps redacted copies or from investigations case
23 summaries, things of that nature.

24 Q Right. And those reports may contain the contents of
25 that officer's conversation with, let's say, an open informant?

1 A Yes.

2 Q Do you go out and actively seek out the informant?

3 A No.

4 Q So you do not independently corroborate the
5 informant's statement?

6 A In a case like that, no.

7 Q In a case like Yavapie, did you go out and
8 independently corroborate the witness statements that you
9 reviewed or did not review? I don't know with respect to that
10 incident.

11 A No.

12 Q And, in fact, all you know about that Yavapie incident
13 is what you heard from other outlaw motorcycle gang
14 investigators, true?

15 A And in the media, yes.

16 Q So the media supplies your information, correct?

17 A I use that as a source of some of it.

18 Q As well as books?

19 A Books, other investigators.

20 Q Documentaries?

21 A Documentaries. Again, my contacts within the outlaw
22 motorcycle gang investigators. All of those things.

23 Q But as you've testified you don't independently
24 corroborate, necessarily, what you get from other outlaw
25 motorcycle gang investigators?

1 A Not if -- not unless I was investigating something
2 germane to that.

3 Q And how about the books that you read? You do not
4 independently corroborate the contents of the books that you
5 read?

6 A In truth I have at one point, some contents. I've met
7 some of the people, and in fact I was interviewed by the author
8 of two of those books, Julian Sheer for The Road to Hell. And
9 he has two books, Angels of Death. I was interviewed by him at
10 the international --

11 MR. FREY: Object. My question is whether he
12 independently corroborated the content of the books that you
13 read. Now he's talking about his interview, Your Honor.

14 THE COURT: Okay. So he said that he has at some
15 point some contents, "I met with some of the people and in fact
16 I was interviewed." I'm not sure how that goes to
17 corroboration. Was that before or after the book was written?

18 MR. FREY: I have no idea. I think either way, it's
19 irrelevant and nonresponsive to the question.

20 THE COURT: It was somewhat responsive because you're
21 asking about the book in corroboration. If the interview is in
22 the book that he reviews later, it's corroborated, right?

23 MR. FREY: It sound like he's corroborating himself.

24 THE COURT: He knows the answer. I don't know. I
25 don't know the answer.

1 MR. FREY: I understand. I guess he can complete the
2 answer --

3 THE COURT: Then we can decide.

4 THE WITNESS: I apologize. In one of the books he
5 talks about a Canadian Hells Angel who I later met at a Las
6 Vegas event and only a small part of corroboration, but just
7 corroborated his travels and his associates within the Hells
8 Angels.

9 BY MR. FREY:

10 Q And you meeting him at that event was just by sheer
11 luck?

12 A Absolutely.

13 Q You didn't actively seek him out for purposes of
14 corroborating anything?

15 A No.

16 Q And he was a member of the Hells Angels?

17 A Yes.

18 Q With respect to the books that you've listed in your
19 CV, those books are commercially available?

20 A Yes.

21 Q Where did you purchase those books?

22 A In different places. I've purchased them at Amazon,
23 in book stores, and from the author.

24 Q With respect to the documentaries that you list, I
25 should back up. You do list documentaries that you reviewed in

1 your CV?

2 A I don't think I list them by name.

3 Q Would the documentaries be documentaries produced by
4 The History Channel?

5 A The History Channel --

6 Q By National geographic?

7 A Yes.

8 Q You wouldn't consider Sons of Anarchy to be a
9 documentary, would you?

10 A No.

11 Q And those documentaries are quote/unquote commercially
12 available?

13 A Yes.

14 Q So anybody behind me in the audience could have
15 reviewed those as well, right?

16 A Correct.

17 Q So anybody that would sit as a juror could have
18 reviewed those, correct?

19 A Correct.

20 Q Because they are commercially available?

21 A Yes.

22 THE COURT: But not while they are a juror.

23 MR. FREY: Not while they are a juror. That's
24 correct.

25 ///

1 BY MR. FREY:

2 Q Now, Mr. Sher you referenced his name as author to the
3 books that are listed on your CV?

4 A Yes.

5 Q And Mr. Sher is not a tenured academic?

6 A I do not know his full background.

7 Q He is not a Ph.D.?

8 A I don't believe so.

9 Q You list another individual author by the name of
10 Levine. Do you know what Mr. Levine's day job is?

11 A I do not know any of his background, no.

12 Q If I represented to you that he is a mixed martial
13 arts referee, would you have any basis to contradict that?

14 A I would not.

15 Q He's certainly not an academic to your knowledge?

16 A Again, I have no knowledge of his background at all.

17 Q But yet you list these books in your CV presumably as
18 evidence of the material upon which you formulate opinions?

19 A Part of the material, yes. Part of my research.

20 Q And you wouldn't list a book in there that you didn't
21 think was irrelevant to the formulation of your opinion,
22 correct?

23 A If it -- depending if it related to the outlaw
24 motorcycle gangs or the momentous motorcycle gang subculture I
25 would list it.

1 Q I see in your CV -- you listed in your CV, in fact
2 those are the materials you rely upon to render an opinion such
3 as the opinion that you rendered in this case?

4 A Those are some of the materials, yes.

5 Q You've never infiltrated the Vagos, have you?

6 A I have not.

7 MR. FREY: Your Honor, I apologize. I need to ask a
8 question. I can't recall whether or not it was answered.

9 BY MR. FREY:

10 Q But have you been qualified as an expert with respect
11 to outlaw motorcycle gangs previously?

12 A No.

13 Q And you have no publications in this field?

14 A No.

15 Q No formal training in the social sciences?

16 A No.

17 Q And --

18 MR. HALL: I think we've been through this line of
19 questioning. Can we skip it since it's already been asked and
20 answered?

21 MR. FREY: I understand they want to get to their
22 witness.

23 THE COURT: Let's not argue about it. I didn't hear
24 anything about his educational background. Maybe it was, but I
25 didn't hear it. So I'll let you ask the questions.

1 BY MR. FREY:

2 Q With respect to the social sciences, you have no
3 formal training in that field, correct?

4 A Just -- no.

5 Q Including no formal training in psychology, correct?

6 A Only a high school class.

7 Q Okay. Not formal training, correct?

8 A No.

9 Q Sociology?

10 A No.

11 Q Same answer, anthropology, correct?

12 A Correct.

13 Q Do you always preface your supplemental reports in an
14 outlaw motorcycle gang investigation with a narration about the
15 subculture?

16 A Always? Not always, no.

17 Q But you did in the Laughlin case?

18 A Yes. Oh, wait. In the Laughlin case or the wedding
19 chapel case? I don't believe in the Laughlin case, I did, no.

20 Q In the wedding chapel case you did?

21 A Yes.

22 Q Are you familiar with the term one percenter?

23 A Yes.

24 Q You're obviously familiar with the term outlaw
25 motorcycle gang?

1 A Yes.

2 Q And you're familiar with a three-piece patch, correct?

3 A Correct.

4 Q According to your training and experience, three-piece
5 patch equates to an outlaw motorcycle gang member?

6 A That is how it starts out, yes.

7 Q An outlaw motorcycle gang member equates to a one
8 percenter, correct?

9 A Correct.

10 THE COURT: Is this a good place to stop?

11 MR. FREY: Couple more questions, Your Honor, and then
12 I will be ready to end.

13 MR. SCHONFELD: Your Honor, I did have a couple more
14 questions. I can do it on recross. It's related to the
15 Arizona rape. I was able to look it up. And maybe that can
16 refresh his memory, there was no rape allegation. I can follow
17 up on that.

18 MR. FREY: I misrepresented the length of my continued
19 cross. So, no, I can't --

20 THE COURT: So we better stop. We are not supposed to
21 go overtime. We are already overtime. So we are back on it
22 again tomorrow morning at 10:30. We'll do this witness and
23 then Mr. Cisneros, right?

24 MR. STEGE: Ceballas.

25 THE COURT: Okay. So, sir, we'll see you back in the

1 morning.

2 THE WITNESS: Thank you.

3 THE COURT: Court is in recess.

4 (Proceedings concluded.)

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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)
4

5 I, SUSAN CULP, an Official Reporter of the Second
6 Judicial District Court of the State of Nevada, in and for the
7 County of Washoe, State of Nevada, DO HEREBY CERTIFY:

8 That I am not a relative, employee
9 or independent contractor of counsel to any of the parties, or
10 a relative, employee or independent contractor of the parties
11 involved in the proceeding, or a person financially interested
12 in the proceedings;

13 That I was present in Department No. 4 of the
14 above-entitled Court on Tuesday, January 14, 2013 and took
15 verbatim stenotype notes of the proceedings had upon the matter
16 captioned within, and thereafter transcribed them into
17 typewriting as herein appears;

18 That the foregoing transcript, consisting of pages 1
19 through 216, is a full, true and correct transcription of my
20 stenotype notes of said proceedings.

21 DATED: At Reno, Nevada, this 27th day of January,
22 2013.
23

24 /s/ Susan Culp
25 SUSAN CULP, CCR No. 343

2429

43

1 Code No. 4185

2
3 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
4 IN AND FOR THE COUNTY OF WASHOE
5 THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

6 -o0o-

7 STATE OF NEVADA,)
8 Plaintiff,)
9 vs.)

Case No. CR11-1718A
CR11-1718B

Dept. No. 4

10 CESAR VILLAGRANA and)
11 ERNESTO GONZALEZ,)
12)
13 Defendants.)

14 TRANSCRIPT OF PROCEEDINGS

15 Evidentiary Hearing

16 Tuesday, January 15, 2013

17 Reno, Nevada
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23

24 Reported By: SUSAN CULP, CCR No. 343

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I N D E X

WITNESS

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1 RENO, NEVADA, TUESDAY, JANUARY 15, 2013, 10:40 A.M.

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3
4 THE COURT: Thank you. Please be seated. Okay.
5 Let the record reflect the witness is still on the stand. And
6 I think, Mr. Frey, you're in the middle of your
7 cross-examination.

8 MR. FREY: Thank you, Your Honor.

9 MR. HALL: Your Honor, just for the record, the
10 exclusionary rule continues?

11 THE COURT: Yes. The exclusionary rule has been
12 invoked and it continues for the rest of the case.

13 MR. FREY: Can I, judge?

14 THE COURT: You may.

15 MR. FREY: Thank you.

16
17 CROSS-EXAMINATION RESUMED

18 BY MR. FREY:

19 Q Detective Fieselman, we left off talking about the
20 three-piece patch. Do you remember that?

21 A Yes.

22 Q And how that denotes in your terminology outlaw
23 motorcycle gang member?

24 A It can, yes.

1 Q An outlaw motorcycle gang member equating to a One
2 Percenter?

3 A Pardon me?

4 Q An outlaw motorcycle gang member --

5 A Yes.

6 Q -- equating to a One Percenter?

7 A Yes.

8 Q Now, you did produce a report of the wedding chapel
9 incident, correct?

10 A Correct.

11 Q And as part of that report, you wrote about outlaw
12 motorcycle gang background and subculture. Do you recall
13 that?

14 A Yes.

15 Q And that's actually subheading two in that report,
16 correct?

17 A Correct.

18 Q And the testimony we just referred to, that's
19 consistent with your observations in that section of your
20 report?

21 A Yes.

22 Q And in that section of your report, you actually
23 drop a footnote. Do you recall that?

24 A Yes.

1 Q Footnote two?

2 A I believe so. I don't recall the exact contents,
3 but . . .

4 Q Do you recall dropping a footnote to refer to the
5 Blue Knights MC?

6 A Yes.

7 Q And that's on page 13 of 52, correct?

8 A Correct.

9 Q For the record, Bates stamped page number 15.

10 And according to your knowledge, Blue Nights are
11 actually a law enforcement motorcycle club. Is that right?

12 A That is right.

13 Q Then it would surprise you that the Blue Nights
14 actually have a three-piece patch?

15 A No. As I stated in the report, many of the
16 nonoutlaw clubs ignoring the history of the three-piece patch
17 have taken a three-piece patch.

18 Q So then there is no direct equivalence between a
19 three-piece patch and a One Percenter?

20 A No. It's one of the -- it's one of the things
21 that -- in the history of the three-piece patch, that's how it
22 started out, but it's not a direct -- a three-piece patch does
23 not equal necessarily an outlaw motorcycle gang.

24 Q And that would be contradictory to your testimony

1 previously that a three-piece patch equates to a One
2 Percenter?

3 A I believe I indicated it can, yes.

4 Q Detective Fieselman, with regard to the structure of
5 the Vagos you recall testifying about that, right?

6 A Yes.

7 Q Can you identify the national president of the Vagos
8 Motorcycle Club?

9 A The -- when I left the investigative squad on the
10 bikers, it was Terry the Tramp. I believe now -- I believe
11 the international president is TaTa, but I don't know his real
12 name.

13 Q My question called for the national president?

14 A I don't know right now.

15 Q Now do you know the national sargeant at arms?

16 A No.

17 Q Or the national treasurer?

18 A I do not right now, no.

19 Q Do you know who the president of the northern Nevada
20 charter is?

21 A The northern Nevada charter?

22 Q Correct.

23 A I do not know right now.

24 Q Do you know if there is a northern Nevada charter?

1 A The last briefing that I attended, they were -- I
2 believe they were in the process of setting one up, but I
3 don't know if it ever occurred or not.

4 Q You do not know if there's a northern Nevada
5 charter?

6 A I don't.

7 Q How many days have you been under subpoena in this
8 case?

9 A I have no idea. I was subpoenaed several weeks ago.
10 I don't recall.

11 Q To be more specific, how many days have you been
12 present in this courthouse waiting to testify in this case?

13 A Four days total.

14 Q Does that include today?

15 A Yes.

16 Q And two days last week?

17 A Yes.

18 Q And I imagine when you were waiting to testify, you
19 sat in that horseshoe area outside the courtroom; is that
20 correct?

21 A That's correct.

22 Q And you sat accompanied by other individuals who you
23 would assume would be testifying here today?

24 A Yes.

1 Q People you recognized?

2 A Some of them.

3 Q From your attendance at conferences?

4 A Some of them.

5 Q And some of them you recognized from working past

6 cases; is that true?

7 A That's true.

8 Q Where you share intelligence, correct?

9 A Correct.

10 Q And sitting in that horseshoe area, did you have

11 occasion to speak with them about the current case that you're

12 investigating, the wedding chapel case?

13 A I've spoken to them about it, yes.

14 Q And you spoke to them last week about the case?

15 A I've spoken about my investigation here, yes.

16 Q Your investigation with respect to the wedding

17 chapel case?

18 A Correct, yes.

19 Q Which obviously touches upon your testimony in this

20 case?

21 A It -- well, yes.

22 Q And you testified to that on direct exam?

23 A Yes.

24 Q That you had investigated that case?

1 A Yes.

2 Q In fact, you're the case agent?

3 A Correct.

4 Q And it's really the main reason why you're here
5 today, correct?

6 A I believe so, yes.

7 Q Okay. And that's the case that you shared
8 intelligence on with other officers out in the horseshoe area?

9 A No, I didn't share intelligence on it. I've
10 discussed it. It's -- you know, the position in court, where
11 it's heading, things like that. But I haven't discussed
12 what -- I haven't discussed what I would call intelligence,
13 like names or identifying suspects in their cases or anything
14 like that.

15 Q Who did you speak with specifically?

16 A Dan Long from homicide, from LVMPD homicide. I
17 don't recall speaking at length about it with anyone else,
18 other than most of them are reasonably familiar with it.

19 Q Did you speak with Dan Long in the presence of
20 others?

21 A No. We spoke on the plane on the way out.

22 Q When you were sitting in the horseshoe area did you
23 overhear any other officer speak about cases they have worked
24 on?

1 A I'm sure that I did. Not in the horseshoe area.
2 I -- we spoke about other cases they've worked on while -- I'm
3 trying to think. I don't think we talked about anything out
4 here. I -- I was curious, I guess. When we arrived, we
5 talked about what cases we were here for.
6 Q Was that in the District Attorney's office?
7 A He spoke to the District Attorney about my case,
8 yes.
9 Q So there are two occasions in which you spoke about
10 the case outside of your testimony here, correct?
11 A Yes.
12 Q One time at the District Attorney's office?
13 A Yes.
14 Q And do you know that session to be termed "a
15 pretrial"?
16 A Yes.
17 Q Okay. So you pretrialed with the District
18 Attorney's office?
19 A Correct.
20 Q And you spoke about the wedding chapel case with
21 Detective Long on a separate occasion?
22 A Yes.
23 Q On the plane coming out here?
24 A Yes.

1 Q Now, my initial question was whether or not you
2 overheard other officers talk about their cases in the
3 horseshoe area.

4 A Right. And I -- we've talked about random subjects,
5 but I don't know if it's about their cases. We haven't talked
6 about their testimony concerning their cases, but whether it's
7 their cases they're here about or not.

8 Q Did you overhear them talk about cases that related
9 to outlaw motorcycle gangs?

10 A In the horseshoe area, I don't recall. I don't
11 think I did.

12 MR. FREY: Court's indulgence, Judge. Thank you.
13 BY MR. FREY:

14 Q With respect to the pretrial, were you pretrialed
15 with other officers present?

16 A No. Oh, that's not -- the first -- the first
17 meeting I had, Dan Long was there.

18 Q And did the prosecution play the wedding chapel
19 video for you?

20 A No.

21 Q But you discussed the wedding chapel incident in the
22 presence of Dan Long; is that true?

23 A That's true.

24 Q You referenced your training in outlaw motorcycle

1 gangs at -- beginning with the structured organizations?

2 A That's -- that's part of the basics that you teach,
3 yes.

4 Q And is part of the basics learning the identifying
5 logo or symbols of any particular club?

6 A It's one of the things that comes up in training,
7 yes.

8 Q When you learned about the Hells Angels, one of the
9 first things you learned about was the death head, right?

10 A Correct.

11 Q If you're learning about the Vagos, one of the first
12 things you're going to learn about is the logos, correct?

13 A Generally, yes.

14 Q When you teach courses, is that something that you
15 teach?

16 A It -- yeah. It's not one of the first things I
17 teach. But if you have a local club, you're going to show
18 usually their logos, so that the investigators know locally
19 what they're looking for.

20 Q That's a basic element of any training?

21 A For mine, yes.

22 MR. FREY: Pass the witness, Your Honor.

23 THE COURT: Mr. Hall?

24 MR. HALL: Thank you, Your Honor.

1 REDIRECT EXAMINATION

2 BY MR. HALL:

3 Q Did anybody try to influence your testimony or tell
4 you what to say?

5 A No.

6 Q Did any of the witnesses try to influence your
7 testimony or tell you what their testimony was about?

8 A No.

9 Q All right. And did Dan Long, did he already know
10 about the wedding chapel case?

11 A Oh, yes.

12 Q I mean he's a detective down in Las Vegas, and I
13 imagine he's also in the robbery/homicide division; is that
14 right?

15 A Yes, he's in the homicide section.

16 Q So that's a pretty highly publicized case?

17 A It was, yes.

18 Q All right. So pretty much everybody in Las Vegas
19 knows about the --

20 MR. FREY: Objection, Judge. It's leading.

21 THE COURT: Sustained.

22 BY MR. HALL:

23 Q Now, were there guilty pleas in the Laughlin case?

24 A Yes, there were.

1 Q How many, do you know?

2 A I believe there were six in the District Court. And
3 I believe there were six in Federal Court as well.

4 Q And those were two felonies involving Assault with a
5 Deadly Weapon and crimes such as that?

6 A Yes.

7 Q All right.

8 MR. FREY: This is beyond the scope. Nobody
9 discussed any guilty pleas or the results of the Laughlin
10 case.

11 THE COURT: I think the Laughlin case was discussed
12 in cross. So perhaps that goes to responding to the
13 cross-examination. You don't have to talk about the exact
14 thing in order for it to be admissible redirect. So I'm going
15 to overrule the objection.

16 MR. HALL: Thank you, your Honor.

17 BY MR. HALL:

18 Q There was also some discussion regarding Troy Regas;
19 is that right?

20 A Troy and Shawn, yes.

21 Q Troy and Shawn?

22 MR. FREY: Objection.

23 THE WITNESS: Or Shawn, yes.

24 MR. FREY: There was no discussion regarding Troy

1 Regas. So the question misstates prior testimony and assumes
2 facts not in evidence.

3 THE COURT: What was the prior question about Troy
4 Regas? I don't remember the question.

5 MR. HALL: I think there was some mention about
6 Mr. Regas having some weapons in his saddlebags.

7 MR. FREY: That was Shawn Regas.

8 MR. HALL: Shawn Regas had some weapons in his
9 saddlebags.

10 THE COURT: Okay. So you can ask the question about
11 Shawn Regas.

12 BY MR. HALL:

13 Q Do you remember the questions regarding Shawn Regas
14 having guns in his saddlebags when he went to Harrah's?

15 A Yes.

16 Q All right. Did you see Shawn on the video inside of
17 Harrah's?

18 A Yes.

19 Q And was he engaged in the fight with the Mongols?

20 A Yes.

21 Q What was his involvement?

22 A At one point, he was holding up a Mongols member
23 while the Mongols member was stabbed.

24 Q So he assisted in the Battery with a Deadly Weapon,

1 basically, with one of his fellow Hells Angels?

2 A Yes.

3 Q All right. And that would be consistent -- or would
4 that be consistent with the code of conduct with respect to
5 helping your fellow Hells Angels in battling rival gang
6 members or fighting with rival gang members?

7 A It would, yes.

8 Q And do members -- or based upon your training,
9 experience and knowledge of the Hells Angels and Vagos, have
10 members come and gone from both outlaw motorcycle gangs and
11 does the gang still exist?

12 A Yes.

13 MR. FREY: Your Honor -- I'm sorry. I object and
14 I'd move to strike. That's beyond the scope as it relates to
15 Mr. Gonzalez. I referenced nothing about coming and going of
16 members in my cross.

17 THE COURT: You asked about the structure. So I'm
18 going to overrule your objection.

19 THE WITNESS: Yes, there is a change in membership.
20 BY MR. HALL:

21 Q All right. And would an example of that be the fact
22 that Mr. Pettigrew obviously is no longer with us and another
23 president of the Hells Angels, Papa Guardado, is also no
24 longer with us, yet the Hells Angels still continue to exist?

1 A Yes.

2 Q All right. And I guess the same thing could be said
3 for Roger Vialano, who was a member of the Vagos; is that
4 correct?

5 A Correct.

6 MR. FREY: Objection, Your Honor. I made no
7 reference to Roger Vialano. I understand your ruling there.

8 THE COURT: -- you gave me that -- I don't remember
9 you, but I think on cross-examination by Mr. Schonfeld there
10 was discussion about Roger Vialano.

11 MR. FREY: I don't believe in the same sense as
12 Mr. Hall was referring to Mr. Vialano. I believe that he's
13 referring to Mr. Vialano in the sense that it relates to --

14 THE COURT: Oh, I'm sure he's using it for purposes
15 of ongoing activity when members leave and go. But the
16 subject matter that was mentioned was opened.

17 MR. FREY: I don't recall that. I note my objection
18 for the record.

19 THE COURT: I do remember it. Overruled.

20 BY MR. HALL:

21 Q Would you characterize both the Vagos and the Hells
22 Angels as a sophisticated organization?

23 A Yes.

24 MR. FREY: Objection to characterization, Your

1 Honor. And it's leading.

2 THE COURT: It is. Sustained.

3 BY MR. HALL:

4 Q How would you characterize the Hells Angels and
5 Vagos organizations?

6 A I would characterize them as both highly structured
7 organizations.

8 Q Now, there were some questions on cross-examination
9 regarding some of the charitable activities that the Hells
10 Angels are involved in. Do you remember that?

11 A Yes.

12 Q All right. Now based upon your training and
13 experience, do you have an opinion as to why the Hells Angels
14 may engage in that type of activity?

15 MR. SCHONFELD: Your Honor, I'm going to object. It
16 calls for speculation.

17 THE COURT: Sustained.

18 MR. SCHONFELD: Lack of foundation. Thank you.

19 BY MR. HALL:

20 Q Do you have an opinion as to whether or not that
21 type of activity, charitable activity, would be used to defray
22 police investigations into their activities and promote their
23 public persona?

24 MR. SCHONFELD: Your Honor, I object. Now it's the

1 same question, but it's leading.

2 THE COURT: Sustained.

3 BY MR. HALL:

4 Q Are you aware of any efforts by the Hells Angels to
5 promote their persona or perception to the public?

6 A Yes.

7 MR. SCHONFELD: Your Honor. You know, Your Honor,
8 you get two or three leading questions that get sustained and
9 obviously the witness now knows what Mr. Hall is trying to
10 elicit. So it's been going on since yesterday, and also went
11 on last week. So I think it's clearly improper to continue to
12 suggest the answer to the witness, I have a leading objection
13 sustained, and then get the witness to answer the question by
14 asking a clearly open-ended question when the witness knows
15 what Mr. Hall is looking for. That's exactly what's
16 happening.

17 THE COURT: I agree. It's extremely frustrating to
18 you. I don't know of an evidentiary ruling that would
19 preclude a person for asking the form of the question
20 inappropriately and then correcting the form of the question.
21 If you can think of an evidentiary rule that doesn't allow you
22 to do that, I'll listen to it. But I don't know of it.

23 It's overruled.

24 ///

1 BY MR. HALL:

2 Q You may answer the question.

3 A Yes, I'm familiar with activities that they engage
4 in for purposes of publicity, of making themselves appear as
5 benevolent organizations and attempting to counter news
6 reports or publicity regarding things like Laughlin and the
7 wedding chapel where they were involved in violent acts.

8 Q Do you have an opinion as to whether or not the
9 Laughlin incident and the wedding chapel incident would harm
10 the image of the Hells Angels?

11 MR. SCHONFELD: Objection, calls for speculation.

12 THE COURT: Sustained.

13 MR. HALL: It's calling for his opinion.

14 THE COURT: His opinion as to whether or not it
15 would harm their reputation in the community; he has no
16 special knowledge about that. So it's improper.

17 MR. HALL: Okay.

18 BY MR. HALL:

19 Q Do you have an opinion as to whether or not the
20 Hells Angels fighting with Vagos would have raised their
21 status or individual status within the outlaw motorcycle gang?

22 MR. SCHONFELD: Your Honor, I'm going to object at
23 this point. It's beyond the scope.

24 THE COURT: I'm not -- I don't think it's beyond the

1 scope in subject matter, but I do believe that the question is
2 vague, because I don't know what we are talking about. So I'm
3 going to ask that you rephrase the question where I'm not
4 sure. Whatever, whoever, ever fights, raises their status. I
5 don't know what your question is about.

6 MR. HALL: Okay.

7 BY MR. HALL:

8 Q Are there -- are you aware of a way that a prospect
9 or member can improve their status within an outlaw motorcycle
10 gang, such as the Hells Angels or Vagos?

11 A Well, based on my knowledge and experience in that
12 and talking to -- talking to people who have been in clubs or
13 hang around clubs, the prospects and the members are expected
14 to conduct themselves in a certain manner in order to stay
15 with the organization. Those things include, you know,
16 mundane things like being on time for meetings, attending
17 meetings, regularly attending runs, keeping their bike in good
18 working order, and things like that. But it also, they get
19 actual -- in the case of the Hells Angels that I investigated,
20 and also in cases that I was present for in Sturgis, South
21 Dakota, where I attended that run, and in the Banditos case,
22 those outlaw motorcycle gang members were actually given
23 patches when they -- we would see them come up on their flash
24 patches on their cuts following violent incidents. In the

1 Banditos Flaming Knights case that I worked, the Banditos that
2 were involved showed up later with a patch.

3 MR. SCHONFELD: Your Honor, I'm going to object that
4 anything the Banditos did is irrelevant and it's beyond the
5 scope.

6 MR. FREY: I join the objection, Judge. And --

7 THE COURT: Okay. Sustained. I don't know where
8 the relevance is. You may be able to establish it, but you
9 haven't.

10 MR. HALL: Okay.

11 BY MR. HALL:

12 Q Now, with respect to the fight at Laughlin, did the
13 Laughlin fight raise the status of the Hells Angels that were
14 seen engaged in battle with Mongols?

15 A Yes. I am aware from the after-case briefing that
16 some of the Hells Angels involved received their full patch,
17 the prospects who were involved received their full patch if
18 they conducted themselves well. And the Hells Angels as an
19 organization, more or less were responding to the disrespect
20 they felt from the Vagos according to how -- well, what the
21 Hells Angels perceived as disrespect and some confrontations
22 they had before the Hells Angels used the -- they went over
23 there to protect their status to show that they weren't going
24 to be confronted in a disrespectful manner and not answer.

1 Q All right. And would the same be true for the Vagos
2 in terms of respect?

3 MR. FREY: Judge, I'm certainly going to object now.
4 It's clearly beyond the scope of my cross which was fairly
5 limited to very clear cut and compartmentalized subject matter
6 areas.

7 THE COURT: It is. We do not have a jury here. The
8 remedy is to let him reopen. So I'm not sure where he's
9 going.

10 MR. FREY: Your Honor, I thought the remedy would be
11 to prohibit him from inquiring into areas he didn't cover on
12 direct examination.

13 THE COURT: Well, that is, but if there's no bias
14 you let people reopen.

15 MR. FREY: Certainly we're biased, Your Honor,
16 because he's going through areas he didn't cover on direct
17 examination, so he can bolster the case that he never made in
18 his direct examination.

19 THE COURT REPORTER: Mr. Frey.

20 MR. FREY: Sorry.

21 THE COURT REPORTER: Sorry. Slow down, please.

22 THE COURT: He can bolster the case he didn't make
23 as new information. This is a pretrial hearing. This is not
24 in front of a jury where the final resolution is going to be

1 made. I haven't made any ruling with regard to the
2 admissibility of any of the evidence.

3 This is an evidentiary hearing. So I need to hear
4 the evidence. So I'm going to let him go beyond, somewhat
5 beyond, if he asks to reopen. It's essential. So I'm just
6 asking you to please let us get this evidence out.

7 MR. FREY: Your Honor, I understand. I
8 understand --

9 THE COURT: So I sustain the objection. If he asks
10 to reopen, I'll probably let him.

11 MR. HALL: May I reopen for this purpose of --

12 THE COURT: How many purposes are you going to ask
13 to reopen, Mr. Hall? How many questions do you have that you
14 didn't ask?

15 MR. HALL: We're talking about code of conduct
16 during cross-examination and the fights between Vagos and
17 Hells Angels. This is one of the issues that came up,
18 according to my notes, during cross-examination, whether or
19 not these fights that these outlaw motorcycle gang members
20 typically engage in raise their status if they prove their
21 mettle by --

22 THE COURT: Okay. What in the cross does this refer
23 to?

24 MR. HALL: Well, we talked about Laughlin. We

1 talked about the wedding chapel. And in this case we have the
2 Hells Angels and Vagos fighting each other. And he has some
3 expertise with respect to the Vagos. So my point is, you
4 know, does engaging in a fight raise a person's standing or
5 status inside the gang.

6 THE COURT: What did --

7 MR. HALL: So it's part of the gang code that we
8 discussed during direct examination of this witness --

9 THE COURT: Okay. But if you just --

10 MR. HALL: -- and other witnesses as well.

11 THE COURT: If you discussed it in direct, you don't
12 need to do it now in redirect, unless he respond --

13 MR. HALL: We can move on. I'll move on.

14 THE COURT: So I guess your objection was sustained
15 and he's not asking to reopen.

16 MR. FREY: Thank you.

17 BY MR. HALL:

18 Q Do you have -- let me give you a hypothetical.
19 Mr. Villagrana was in possession of a transcript of the
20 Laughlin grand jury proceedings, as well as disks containing
21 video of the Laughlin melee, as well as ATF records that dealt
22 with confidential informants that the ATF was using to
23 infiltrate the Hells Angels. Do you have an opinion as to why
24 he might be in possession of those materials?

1 MR. SCHONFELD: Objection. Compound, beyond the
2 scope, calls for speculation.

3 THE COURT: A hypothetical question can be compound
4 and dealing with more than one element. So I'm overruling on
5 that ground. The other grounds were asked and answered.

6 MR. SCHONFELD: Beyond the scope.

7 THE COURT: Beyond the scope; overruled. But with
8 regard to speculation, sustained.

9 BY MR. HALL:

10 Q Based upon your training and experience, do Hells
11 Angels engage in countersurveillance of law enforcement?

12 A Yes.

13 MR. SCHONFELD: Objection, beyond the scope.

14 THE COURT: I can't remember at this point if it
15 was.

16 MR. SCHONFELD: Your Honor, his previous witness
17 from the Oildale case, which talked about the ATF files and
18 the search warrant and that type of stuff. This witness
19 didn't address any of that. This is completely beyond the
20 scope.

21 THE COURT: What about in your cross, did you raise
22 issues?

23 MR. SCHONFELD: Nothing about that. I did with the
24 first witness yesterday, not with this witness.

1 THE COURT: I'm going to -- I'm sorry, I don't
2 remember. I'm not disagreeing with you, but I don't remember.

3 MR. HALL: I'm going to ask to reopen for this
4 limited purpose, based upon the fact that he's familiar with
5 Laughlin and Mr. Villagrana had Laughlin materials. I thought
6 I asked some information on direct, but --

7 THE COURT: If you already asked it, though, it
8 would be cumulative and asked and answered, but if you haven't
9 asked it, I'll let you ask that. The question that was
10 objected to was whether or not they conducted
11 countersurveillance. I'll allow that question.

12 THE WITNESS: The answer is yes, they do.

13 BY MR. HALL:

14 Q All right. And would possession of those materials
15 be indicative of countersurveillance that would be
16 conducted by Hells Angels?

17 A Yes.

18 MR. SCHONFELD: Objection. Assumes facts not in
19 evidence, beyond the scope, speculation.

20 MR. HALL: Well, the facts are --

21 THE COURT: Counsel, that's argument. You get the
22 facts in. Then you get to argue what it means. But we don't
23 need an expert to tell us that.

24 MR. HALL: Okay. You're right. It is quite

1 obvious. Thank you. No further questions.

2 MR. SCHONFELD: Your Honor, if I have --

3 THE COURT: Yes.

4 MR. SCHONFELD: Thank you.

5

6 RE CROSS-EXAMINATION

7 BY MR. SCHONFELD:

8 Q Detective, since yesterday, I spoke to you in front
9 of the District Attorney and advised you or suggested that you
10 refresh your memory in reference to your testimony that you
11 recalled one rape case involving the Hells Angels. Do you
12 remember that conversation?

13 A Yes.

14 Q And did you in fact refresh your memory and confirm
15 or dispel your belief that the Arizona case you were referring
16 to involved allegations of rape by members of the Hells
17 Angels?

18 A I did. It was actually kidnap and murder. I was
19 thinking of other instances of sexual assault allegations.

20 Q So with that part of your testimony now confirmed to
21 be inaccurate, you have not testified as to one single rape
22 allegation or conviction related to a member of the Hells
23 Angels; yes or no?

24 A No, I did --

1 Q Am I correct?

2 A No. There was an allegation in Missoula where I
3 attended the USA run in 2008 of a sexual assault.

4 Q That's the one you testified you didn't know if
5 anyone was arrested even, correct?

6 A No. He was arrested. I didn't know if he was
7 charged with rape.

8 Q Okay. That's --

9 A But he was investigate -- the sexual assault was
10 alleged.

11 Q So you cannot testify as to -- without adding
12 additional information that maybe you researched overnight, I
13 was asking you as of your knowledge as of yesterday, aside
14 from the case in Missoula where you don't even know if an
15 individual was charged with this rape, you couldn't testify as
16 to one single Hells Angels' rape charge, correct, as of
17 yesterday?

18 A Rape charge?

19 Q Yes.

20 A No. Just the investigation.

21 Q That was included in your curriculum vitae that
22 Hells Angels members commit rape, correct?

23 A Yes, that's crimes that -- yes. I've received
24 information that they are -- that there has been alleged

1 sexual assaults, yes.

2 Q But you couldn't testify as to any single charge as
3 of yesterday, correct?

4 A Not as of yesterday, no.

5 Q Shawn Regas was never charged in State Court related
6 to the incidents at the Laughlin River Run; is that correct?

7 A In State Court?

8 Q Yes.

9 A I don't recall if he was charged in State Court or
10 Federal Court.

11 Q Shawn Regas had all charges against him in Federal
12 Court dismissed, correct?

13 A I'm not sure. But I -- I know that many of them
14 did. I don't know if Shawn did or not.

15 Q Shawn Regas was not convicted of one single
16 allegation of criminal conduct related to his participation or
17 alleged participation in the Laughlin River Run incidents,
18 correct?

19 A I don't know for sure.

20 Q Based on your training and experience, isn't it true
21 that members of the Hells Angels from various charters share
22 information on cases so that they can identify witnesses that
23 may have exculpatory evidence, correct?

24 MR. HALL: Calls for speculation.

1 MR. SCHONFELD: Well, Your Honor, this was
2 completely opened over my objection on redirect where he
3 talked about his countersurveillance.

4 THE COURT: Well, the form of your question is
5 speculative. Sustained.

6 BY MR. SCHONFELD:

7 Q You testified on redirect regarding members of the
8 Hells Angels being in possession of defense items from other
9 cases. Do you remember that?

10 A Yes.

11 Q Isn't it true that members share that information to
12 assist each other in the defense of their cases in court?

13 A Honestly, I have never seen members do that. The
14 defense attorney investigators that I know do that and the
15 defense attorneys will share that information. But the
16 suspects themselves don't share that information, that I've
17 ever experienced, for purposes of finding exculpatory
18 evidence, no.

19 Q You haven't talked to other investigators or
20 intelligence officers who have conveyed that type of
21 information to you?

22 A Not concerning exculpatory evidence, no.

23 Q How about concerning being able to identify, for
24 example, 50 people on a video?

1 A What's the question?

2 Q The question is, for example, in the Laughlin case,
3 you would agree with me that there were, I think according to
4 your testimony, at least 30 members of the Hells Angels; is
5 that correct?

6 A There were 30 motorcycles, yes.

7 Q Okay. You would agree with me that not every member
8 of the Hells Angels knows every other member, correct?

9 A I couldn't testify to that. I know that as part of
10 their customs, they go -- the reason the prospects have to go
11 to the USA Run is to meet every other member, so that they are
12 known throughout the club.

13 Q So the USA Runs have 2,000 people, members of the
14 Hells Angels attending them?

15 A No, they don't -- not every member has to attend,
16 but prospects have to attend in order to meet members.

17 Q So if the prospect attends, how would they meet the
18 members that aren't present, because not everyone has to
19 attend?

20 A True. I'm simply saying that part of the customs
21 are to get those people known throughout the organization.

22 Q So there would be some members that they don't get
23 to meet, right?

24 A Probably, yes.

1 Q And if those members happen to be on a video and the
2 defendant in that case doesn't recognize them, how would they
3 be able to figure out who the member is --

4 MR. HALL: Objection. Argumentative, speculative.

5 THE COURT: I think he's already testified to the
6 identifying garments that people wear?

7 MR. SCHONFELD: No, I'm talking about witnesses,
8 Your Honor. I can proffer to the Court that the reason videos
9 are circulated is there's members that other people don't
10 know. So you have a percipient witness to an event that you
11 want to be able to identify, so you can say oh, maybe we
12 should talk to Joe from wherever.

13 THE COURT: I don't think he's expressed any
14 expertise in knowing why they do that. You might know why
15 they do that.

16 MR. SCHONFELD: He testified regarding what he
17 thought was countersurveillance, Your Honor.

18 THE COURT: Well, actually I didn't let him testify
19 to the videotape -- or to the hypothetical that Mr. Hall
20 asked. I sustained the objection.

21 MR. SCHONFELD: He did testify regarding what he
22 calls countersurveillance, Your Honor.

23 THE COURT: Not with specifics.

24 MR. SCHONFELD: Okay. So the objection is sustained

1 then?

2 THE COURT: Yes.

3 BY MR. SCHONFELD:

4 Q You testified regarding your conversations with
5 other officers or you hearing other officers while waiting for
6 court. Do you remember that?

7 A Yes.

8 Q And you were specific to state that you did not hear
9 discussions regarding other incidents while in the horseshoe
10 area. Do you remember that?

11 A Yes.

12 Q Where else did you hear conversations about other
13 people's cases or investigations?

14 A I've heard -- regarding this specifically?

15 Q Regarding -- let me rephrase it.

16 From the time you got on the plane last week to fly
17 to Las Vegas this morning, tell me where else you heard
18 officers discussing their investigations of the Hells Angels
19 or the Vagos?

20 A We haven't really discussed investigations; more
21 just what case we were here in town for.

22 Q Where did that occur?

23 A Once at the airport and once at dinner.

24 Q Where did you go for dinner?

1 A The buffet at the El Dorado. I wouldn't recommend
2 it. No. I'm just kidding.

3 Q Which night was that?

4 A Well, we went to the buffet last night, and --

5 Q Who went last night?

6 A Mike from San Jose.

7 Q Is that Mike Ceballos?

8 A Yes.

9 Q And what did you guys discuss?

10 A Quite simply that, that I was here -- he asked me
11 again -- I think he asked me, "Aren't you here or didn't you
12 investigate the wedding chapel?" And I asked him what he
13 investigated. And he stated that he is -- he does biker
14 intelligence within San Jose and was part of the -- I believe
15 part of the investigation of a shooting at a cemetery.

16 Q Did he tell you the reason he had been subpoenaed as
17 a witness in this case?

18 A No.

19 Q Did you tell him or obviously he had an
20 understanding as to the reason you were subpoenaed as a
21 witness?

22 A I think it's understood that we were both subpoenaed
23 for the same reason.

24 Q When I say "the reason," I mean the incidents that

1 you anticipated would be discussed while on the witness stand?

2 A No. We didn't discuss testimony or --

3 Q Not what I asked.

4 A -- or what we were expected to --

5 Q The somebody matter of what you would be testifying
6 to.

7 A I think we both understood that we would be
8 testifying about our cases.

9 Q And you obviously shared with each other what your
10 cases were?

11 A Yeah.

12 Q Any other -- what about last week, did you have
13 similar discussions with any other witnesses in this case?

14 A I don't believe so. Again, because -- because I
15 attend the biker meetings and things, most of these cases I've
16 either heard of before or, you know, know a little bit about
17 or at least know who is investigating them.

18 Q Had you ever met Officer Ceballas prior to yesterday
19 or prior to being subpoenaed as a witness in this case?

20 A No.

21 Q Did any member of the District Attorney's Office
22 instruct you at any point in time not to discuss the subject
23 matter of your testimony with other witnesses?

24 A Of our testimony, yes.

1 Q When were you given that admonishment?

2 A Really the very first day, I believe, when we
3 were -- you know, we were -- I think the first day. I don't
4 recall the exact date and time. But it's a given, you don't
5 discuss what your testimony is on the stand.

6 Q What's your understanding of the exclusionary rule?

7 A It excludes people who may be witnesses from the
8 courtroom so that they cannot overhear testimony. And it also
9 bars you from speaking about testimony you've given on the
10 stand.

11 Q When you went for dinner last night, that was after
12 you had already been concluded on direct examination and my
13 cross-examination and you were subject to cross-examination
14 from Mr. Gonzalez's counsel; is that correct?

15 A Correct. And I didn't discuss testimony.

16 Q But you discussed the wedding chapel case with
17 detective or Officer Ceballos, correct?

18 A I told him I was the investigator of that case. He
19 was familiar with the case.

20 Q And then you talked about some of the facts,
21 correct?

22 A No.

23 Q You just said, I'm here for the wedding chapel case,
24 and that was it?

1 A As I said, he was aware of the case. I don't know
2 if he had seen it on the news or not, but I believe he was
3 aware of the case. We didn't -- we didn't talk about case
4 facts.

5 Q What was the extent of the conversation related to
6 the wedding chapel case at the buffet last night?

7 A Just simply that that was the case that I was a case
8 agent for.

9 Q And that's it, nothing more?

10 A I don't recall anything more, no.

11 Q And at no point in time did you tell officer or
12 Detective Ceballos that you couldn't discuss anything related
13 to that case, correct?

14 A Actually, I did. When we first sat down, I actually
15 said it. I wouldn't -- I just predicated our conversation
16 with, "I can't discuss my testimony." And then we started
17 eating.

18 Q And talking about the reason you were here?

19 A No. He -- no. Like I said, we discussed the cases
20 that we had done.

21 Q Was anybody else present at dinner?

22 A No.

23 Q Do you know an Officer Kirby?

24 A Yes, but I can't remember which one he is. I

1 believe so.

2 Q Have you ever talked to him?

3 A At the risk of answering a question with a question,
4 was he here?

5 Q Last week.

6 A Then I probably at least introduced myself.

7 Q When you were sitting in the horseshoe last week,
8 did you hear officers or overhear officers talking about some
9 of their interactions with either members of the Hells Angels
10 or the Vagos?

11 A No. When I finally -- because I didn't come to this
12 horseshoe until late on the first -- late on the first day,
13 and there wasn't anybody throughout, really. And it was --
14 actually it was right after that that -- it was right after
15 that that during the break that DA Hall came out and said,
16 "Don't discuss testimony."

17 MR. SCHONFELD: I have nothing further at this time,
18 Your Honor.

19 THE COURT: Mr. Frey.

20 MR. FREY: Thank you.

21

22 RECROSS-EXAMINATION

23 BY MR. FREY:

24 Q You recall stating when I began my cross-examination

1 that the Vagos had nothing to do with the Laughlin incident,
2 correct?

3 MR. HALL: Asked and answered.

4 THE COURT: I'm going to overrule it because of one
5 of his answers to your questions.

6 MR. HALL: Okay.

7 MR. FREY: Thank you.

8 THE WITNESS: That they had nothing to do with
9 Laughlin; they were not present in Laughlin to my knowledge,
10 no.

11 BY MR. FREY:

12 Q During your testimony, if you recall, you mentioned
13 the Vagos. And perhaps it was a mistake and you meant to
14 mention the Mongols, but if you mentioned the Vagos in
15 connection with the Laughlin case that would have been a
16 mistake?

17 A Yes, if I did. I don't recall the question that I
18 would have said that about.

19 Q But if you mentioned the Vagos in connection with
20 the Laughlin case that would have been a mistake?

21 A If it was indicating that they would have been a
22 part of it, yes, it would have been a mistake.

23 MR. FREY: No further questions.

24 THE COURT: Anything further, Mr. Hall?

1 MR. HALL: (Shakes head.)

2 THE COURT: I don't think we dealt with this witness
3 with the issues that we dealt with before until your recross.
4 Is that your memory?

5 MR. SCHONFELD: Actually, codefendant's counsel
6 raised those issues initially. Then in my recross I expanded
7 on them.

8 THE COURT: So if you want to go into those areas
9 that's where I think most of the recross was. And you are
10 entitled to go into those areas if you want. But you don't
11 have to.

12 MR. HALL: Just briefly.

13

14 FURTHER REDIRECT EXAMINATION

15 BY MR. HALL:

16 Q During your course of being here as a witness for
17 these hearings regarding a gang enhancement, has anybody tried
18 to influence your testimony or provided you with other
19 person's testimony?

20 A No.

21 Q Have you seen anybody else, any other witness engage
22 in that type of activity where they were trying to influence
23 or inform another witness of what was going on in the
24 courtroom in violation of the rule of exclusion?

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A No.

THE COURT: Anything else?

May this witness be excused?

MR. SCHONFELD: Yes, Your Honor.

MR. FREY: Yes.

THE COURT: Any objection?

MR. HALL: No objection.

THE COURT: You may step down. You're excused.

THE WITNESS: Thank you.

THE COURT: Go ahead and call your next witness.

MR. STEGE: Mike Ceballos.

(Witness sworn.)

THE COURT: You may proceed.

MICHAEL CEBALLOS,
called as a witness by the plaintiff herein,
being first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. STEGE:

Q Sir, will you state and spell your name.

A My first name is Michael. Last name is Ceballos,
C-E-B-A-L-L-O-S.

1 Q You're a police officer with the San Jose Police
2 Department -- San Jose Police Department; is that correct?

3 A That's correct.

4 Q How long have you been a police officer?

5 A Five years.

6 Q I'd like to direct your attention back to June 15th
7 of 2012, about 2235 hours. Did you respond to a location in
8 San Jose known as the Pink Poodle?

9 A Yes, I did.

10 Q What is the Pink Poodle?

11 A The Pink Poodle is a strip club.

12 Q And what part of town is that in San Jose?

13 A It's in the western side of town. It's located in
14 the area of Bascom and San Carlos.

15 Q And what was the reason that you went to that
16 location?

17 A To fill with another officer. There was a call
18 of -- there was a fight. Well, somebody reported a fight in
19 the area. So a single officer responded initially. And he
20 had contact with several subjects. He put on the radio. So I
21 responded to assist.

22 Q And when you responded to assist, who did you see
23 there at the site?

24 A Several Hells Angels standing out front of the club.

1 Q And which -- how could you tell they were Hells
2 Angels?

3 A They were all wearing their colors and their vests.

4 Q What part or how close to the strip club were they
5 standing?

6 A Probably like five feet from the doorway, ten feet
7 from the doorway.

8 Q And were they all standing together?

9 A Yes.

10 Q And what were they doing when you first arrived
11 there on the scene?

12 A Just standing around. Just talking to the officer.

13 Q And so what did you do?

14 A Walked up and said hello.

15 Q And who did you say hello to?

16 A I think initially it was Andrew Danley. I spoke to
17 him a couple times. So I spoke to him that day.

18 THE COURT: Would you spell that for me, please?

19 THE WITNESS: I'm not really sure how to spell it.
20 Andrew, common spelling. And Danley, D-A-N-L-E-Y. Something
21 like that.

22 BY MR. STEGE:

23 Q And you recognized Danley, you previously have
24 spoken with him?

1 A Yes. Yes, sir.

2 Q How was Danley dressed?

3 A He was wearing his cuts. His vest and his Hells
4 Angels patches and so on.

5 Q Was he wearing a specific patch related to an office
6 within the Hells Angels?

7 A Yes. I noticed that -- I noticed that he had the
8 treasurer patch over his San Jose patch.

9 Q And who else did you speak to? Who else was there
10 with Danley?

11 A Danley's father, Mr. Jimmy Arnet, Angela Wilkins,
12 Mr. Villagrana, and a few others.

13 Q Let's talk about -- well, with respect to Danley,
14 have you previously seen him wearing his Hells Angels attire?

15 A Oh, yes.

16 Q These are full cuts?

17 A Absolutely. At least a dozen times probably.

18 Q What about his father, Jimmy Arnet, what's his
19 status?

20 A His father is the previous president, ex-president
21 of that chapter.

22 Q Of that San Jose chapter?

23 A Correct.

24 Q And you've previously seen him wearing Hells Angels

1 full cut?

2 A Numerous times, yes, sir.

3 Q And associating with other Hells Angels?

4 A Yes, sir. Numerous times.

5 Q What, if anything, did you notice about Arnet's
6 patches on the vest?

7 A That day I noticed that there was a -- he was
8 wearing a new patch or at least one that it was the first time
9 that I saw it. It was just a patch that I hadn't seen. So it
10 kind of struck a note with me. It had the Drake Street Crew
11 on his --

12 THE COURT: I'm sorry. I couldn't hear you.

13 THE WITNESS: It said Drake Street Crew. It's the
14 side rocker that he wears on his vest. And it represents the
15 city -- or sorry, the street that the clubhouse is located on.

16 MR. SCHONFELD: And Your Honor, I'm going to object
17 so far to this line of the questioning. This is alleged to be
18 an other act or wrongdoing by Mr. Villagrana. This is not
19 alleged in the motion to admit gang enhancement evidence nor
20 has this witness been introduced for that purpose.

21 So what other people are wearing really has nothing
22 to do with the alleged other act that is trying to be
23 introduced.

24 THE COURT: I'm going to overrule the objection.

1 BY MR. STEGE:

2 Q He's wearing this Drake Street Crew side rocker. Is
3 that what you called it?

4 A Correct.

5 Q And you were gesturing to your left side or to the
6 side of where the patch is located?

7 A Yes.

8 Q Does Drake Street have any significance to the Hells
9 Angels to your knowledge?

10 A Yes. That's where their chapter clubhouse is
11 located on, Drake street.

12 Q And you've seen that?

13 A Oh, yes, sir. Numerous times.

14 Q Let's move on to Angelo Wilkins. Was Angelo Wilkins
15 there when you first walked up?

16 A No, sir, he was not.

17 Q At what point does Wilkins come out?

18 A After I was talking to the -- you know, a couple of
19 the guys out front, I guess somebody went inside and got him
20 and came outside. And just wanted to know if everything was
21 okay, if there was any trouble. He just, as the president he
22 tries to keep the peace and make sure none of his guys are
23 getting in trouble.

24 Q What did you notice with respect to his patches?

1 A He was wearing the president patch over his San Jose
2 patch.

3 Q And you wrote in your report that it was a newer
4 patch. Why would you use that term, "newer"?

5 A Oh, because it was clean. It was very bright red
6 and white. Normally the guys that have been in for a while,
7 you can tell with the patches, the white starts getting a
8 little dirty. So you can tell that they've been in the club
9 for a while. So it was a brand-new bright patch as well as a
10 few others he had on himself.

11 Q A few other newer patches?

12 A That I noticed, yes.

13 Q Tell us about those other patches?

14 A He was wearing the Dequiallo patch, Triple Six and
15 the Filthy Few patch.

16 Q And have you had previous contact with Mr. Wilkins
17 prior to the date we've been talking about?

18 A Yes. I've spoken to him before several times when
19 he was in cuts and a few times where he wasn't wearing his
20 vest at his house.

21 Q And do you -- did you know Jeffrey Pettigrew to be
22 the previous president of the San Jose Hells Angels?

23 A Yes, sir, I do.

24 Q And have you seen Pettigrew wearing the president

1 patch or acting as the president of San Jose?

2 A Yes, sir. Several times.

3 Q What about Villagrana, did you see him there?

4 A Yes, sir, I did.

5 Q And what was Villagrana wearing?

6 A A Hells Angels vest.

7 Q And I've just been calling him by his last name.

8 Cesar Villagrana is the person you were just talking about,
9 right?

10 A Yes, sir.

11 Q Do you see Cesar Villagrana in the courtroom right
12 now?

13 A Yes, sir, I do.

14 Q Would you identify him for the record.

15 A Sitting right over there wearing a dark suit, red
16 and maroon tie, white shirt.

17 MR. STEGE: Ask the record reflect he's identified
18 the defendant, Your Honor.

19 THE COURT: The record will so reflect.

20 BY MR. STEGE:

21 Q And what was he wearing?

22 A Dark clothing and his HA vest.

23 Q Hells Angels cut?

24 A Yes, sir.

1 Q Did you speak with a person by the name of Bruce
2 Chase or see a person by the name of Bruce Chase?

3 A Yes, I did.

4 Q Have you had previous contact with Bruce Chase?

5 A Yes, sir, I have.

6 Q Was he wearing a full Hells Angels cut?

7 A No. That day that I -- that day at the Pink Poodle
8 he was wearing a prospect. I met him before. I stopped him
9 before. And he was at that point more of a hang-around. But
10 on this occasion when I saw him there, he was wearing a
11 prospect vest, which is just represented by the lower bottom
12 rocker.

13 Q And what about -- did you speak to a person or see a
14 person named Felix Gregorio?

15 A Yes, sir.

16 Q Do you know of his association with the Hells
17 Angels?

18 A Yes. He's been associated, a hang-around of the
19 Hells Angels for a long time, at least that I'm aware of.

20 Q You mentioned in speaking about Mr. Wilkins coming
21 out, you said before that you were talking to the people who
22 were outside?

23 A Yes, sir.

24 Q Did you speak with Mr. Villagrana?

1 A No, sir.

2 Q Who did you speak to?

3 A Spoke to Danley, Bruce Chase, Mr. Arnet. I think
4 that's it.

5 Q Tell us about the conversation with Arnet.

6 A I just asked him about the new patch.

7 MR. SCHONFELD: Objection. Hearsay.

8 THE COURT: Why is this not hearsay?

9 MR. STEGE: I'll move on judge.

10 BY MR. STEGE:

11 Q And now with respect to the Drake Street Group
12 patch; is that right?

13 A Correct.

14 Q Did you notice any motorcycles in the area?

15 A Yes, sir. They were all parked right out in front.

16 Q And whose motorcycles were they?

17 A All the members that I was speaking to.

18 Q Was there a bike there with the license plate Area
19 81, Area 81?

20 A Yes, sir.

21 Q And did you do an investigation -- or let me ask
22 you, had you previously -- had you previously seen that
23 motorcycle before?

24 A Yes, sir.

1 Q And who have you seen riding that motorcycle, the
2 Area 81 motorcycle, prior to the day we have been talking
3 about?

4 A Mr. Tausan.

5 THE COURT: I couldn't hear that answer.

6 THE WITNESS: Mr. Tausan.

7 BY MR. STEGE:

8 Q Is that Steve Tausan?

9 A Steve Tausan, correct.

10 Q T-A-U-S-A-N?

11 A Yes, sir.

12 Q Now at the time what did you learn about the
13 registration of Tausan's motorcycle?

14 A It was in the change of ownership state.

15 MR. SCHONFELD: Your Honor, I'm just going to object
16 on relevance. So far I haven't heard anything relevant to
17 other act evidence.

18 THE COURT: We'll see if that bears fruit or not.
19 I'm going to hear the evidence and then rule on it.

20 BY MR. STEGE:

21 Q You later learned that Area 81 motorcycle was
22 registered to who?

23 A Mr. Villagrana.

24 Q And transferred from Tausan?

1 A Correct.

2 Q Did the other members there that we've been talking
3 about, did they have motorcycles there that were registered or
4 associated with them?

5 A Yes. Well, they are all registered to them or their
6 fathers. And they all had their death head on the gas tank.

7 Q So everyone but Villagrana had a motorcycle
8 registered in their name on that date?

9 A Yes.

10 Q And the Area 81, Steve Tausan's bike was in the
11 process of being transferred to Mr. Villagrana?

12 A That is correct.

13 MR. STEGE: Court's indulgence.

14 THE COURT: Yes.

15 BY MR. STEGE:

16 Q Was there an arrest made or what became of the
17 investigation into this call of a fight?

18 A Oh, it was unfounded. No one -- there was no
19 victim. So we couldn't really have a crime. But they were in
20 the area of where the fight occurred, so that's why I
21 originally -- my sergeant went out there and started talking
22 to them. It was more of a consensual contact than any sort of
23 detention or arrest.

24 Q And you've previously been out to the Pink Poodle?

1 A Yes, sir. Several times.

2 Q And is it true that the Pink Poodle is associated
3 with the Hells Angels?

4 A Long-standing. Yes, sir.

5 Q And what's your basis for saying that?

6 A They've been there for years operating, you know,
7 they've done business out of the club. At least it's known
8 they do business out of the club. Long-standing friends with
9 the owner. And it's just known within the PD.

10 Q And you've been out there and previously seen Hells
11 Angels there?

12 A Dozens and dozens of times, yes, sir.

13 Q In fact, is that the location where Tausan had
14 allegedly or a man was killed by Tausan, but he was ultimately
15 acquitted?

16 A That's absolutely correct. Yes, sir.

17 MR. SCHONFELD: Your Honor, I'm going to object to
18 that evidence or that testimony. It's irrelevant, beyond the
19 scope.

20 THE COURT: I don't know the relevance.

21 MR. STEGE: It's their hangout that goes with their
22 territory.

23 THE COURT: Why is this admissible?

24 MR. STEGE: Well, this entire line of questioning or

1 just --

2 THE COURT: I'm kind of thinking the whole line of
3 questioning. But why is what happened with Mr. Tausan at the
4 Pink Poodle at sometime in the past, why is that relevant
5 through this witness?

6 MR. STEGE: It shows the connection between
7 Villagrana and Tausan, but going to him ultimately having his
8 bike.

9 THE COURT: I'm going to sustain the objection. I
10 don't think what Tausan did there has relevance.

11 MR. STEGE: I'll pass the witness.

12 THE COURT: Cross.

13 MR. SCHONFELD: Your Honor, I move to exclude this
14 witness. I don't think we should waste any time with
15 cross-examination. The State --

16 THE COURT: I'm going to wait. I understand what
17 their prior bad act evidence is supposed to be. This is
18 predicate on the relationship. I don't know if it's going to
19 come in as bad act evidence, but you should take the
20 opportunity to cross if you want.

21 MR. SCHONFELD: Okay.

22 ///

23 ///

24 ///

1 CROSS-EXAMINATION

2 BY MR. SCHONFELD:

3 Q Sir, isn't it true that Mr. Villagrana had
4 absolutely nothing to do with the alleged call of the
5 disturbance in the area of the Pink Poodle?

6 A I'm not really sure I understand your question.

7 Q Mr. Villagrana did absolutely nothing wrong to incur
8 his contact with you on June 15, 2012, correct?

9 A Did he do anything wrong?

10 Q Yeah.

11 A No, sir.

12 Q Right. Not illegal to be a member of the Hells
13 Angels, is it?

14 A Not that I know of.

15 Q You did not write a report related to those
16 instances in question until at least one month after your
17 interaction with Mr. Villagrana on June 15th, 2012; is that
18 correct?

19 A No, sir.

20 Q Okay. Do you see this narrative report that's been
21 produced in discovery?

22 A Yes, sir.

23 Q It's not on any formal police department letterhead
24 or document, is it?

1 A Correct.

2 Q It's just something that's typed up with no date, no
3 signature, no name of the author; is that correct?

4 A That's correct.

5 Q Clearly because this was a nonevent, wasn't it?

6 A That's correct, sir. It was more informational.

7 Q So at what point did you type this up and why is it
8 not on official police department letterhead?

9 A Because there was no crime.

10 Q So you just typed this up and put it in your file or
11 did you type it up so the State of Nevada could have it?

12 A Typed it up and put it on the file within our
13 department for our information.

14 Q But not on an official report?

15 A Correct.

16 Q And the reason it's not on an official report is
17 because it was a nonevent?

18 A It was no crime, so it doesn't go on a crime report.

19 Q You don't have like a letterhead that --

20 MR. STEGE: Asked and answered, Judge.

21 THE COURT: Sustained.

22 MR. SCHONFELD: I'll move on.

23 BY MR. SCHONFELD:

24 Q This report was not written until at least one month

1 after the June 15th incident --

2 MR. STEGE: Asked and answered. He already said
3 that.

4 THE COURT: I'm going to overrule. He said it
5 wasn't, but I didn't get the answer, so . . .

6 BY MR. SCHONFELD:

7 Q Is that correct?

8 A I'm not sure of the date, but I relayed the
9 information to some other officers, to my superiors. And they
10 said, "Well, the information that you have could be valuable
11 in the future. Write an informational report or write a
12 little something, just so we can have it on file." And that's
13 what you see there, I'm assuming.

14 Q Well on the bottom of this report it talks about as
15 of July 18, 2012. It talks about the registered owner of the
16 Area 81 vehicle or license plate. Do you know that?

17 A Uh-huh.

18 Q Is that "Yes"?

19 A Yes, sir.

20 Q And so the incident is on June 15th and your report
21 contains information related to July 18th. You'd agree with
22 me that it was over one month before these documents were
23 prepared; is that correct?

24 A No, sir. That last little bit was added at the end,

1 when I went back and checked the license plate again.

2 Q So you didn't note in there that part was a
3 supplement or anything like that, did you?

4 A Correct, sir, because it's not a police report.

5 Q And you would agree with me Mr. Villagrana did not
6 commit any bad act on June 15th, 2012, that caused you to
7 interact with him, correct?

8 MR. STEGE: Objection. That's a legal conclusion.

9 THE COURT: Sustained.

10 BY MR. SCHONFELD:

11 Q Mr. Villagrana had done nothing wrong as far as you
12 know, on June 15, 2012, before, during or after his
13 interaction with you, correct?

14 A Sir, no one there did anything wrong.

15 Q Prior to June 15, 2012, you had already identified
16 Mr. Villagrana, according to you, as a full-patch member of
17 the Hells Angels, correct?

18 A Yes, sir.

19 Q So you didn't need this interaction in order to
20 establish in your mind that Mr. Villagrana was a member of the
21 Hells Angels, correct?

22 A No, sir.

23 Q Your role with the San Jose Police Department is to
24 investigate the Hells Angels in that area, correct?

1 A No, not just them.

2 Q Well, that's part of your role, right?

3 A Correct, yes, sir.

4 Q And therefore you had previously identified
5 Mr. Villagrana; is that correct?

6 A Yes, sir.

7 Q Mr. Villagrana was cooperative with you on June
8 15th, 2012, was he not?

9 A Yes, sir. He was in no sort of -- no verbal
10 arguments, no nothing. He was standing there quietly.

11 Q In fact, your report states that -- let's see --

12 THE COURT: You're referring to the report. Would
13 you make a record of where that report is.

14 MR. SCHONFELD: Yes. This is attached to the Other
15 Acts Motion as Exhibit 1.

16 THE COURT: Okay.

17 MR. SCHONFELD: The State's motion. And it is the
18 first page of Exhibit 1.

19 THE COURT: Okay. Thank you.

20 BY MR. SCHONFELD:

21 Q Your report reflects, "All subjects were cooperative
22 and informed the officers they wanted no trouble"?

23 A Yes, sir. They never want any trouble.

24 Q Okay. "All subjects," that included Mr. Villagrana,

1 correct?

2 A Yes, sir.

3 Q He was cooperative and didn't want trouble?

4 A Correct.

5 Q And then you testified that Mr. Wilkinson even came
6 out to make sure everything was okay?

7 A Pretty much what anybody would do, yes, sir.

8 Q You would agree with me that your interaction with
9 Mr. Villagrana on June 15th, 2012, has nothing to do with the
10 incidents that occurred at the Nugget Casino in this case,
11 right?

12 MR. STEGE: Objection.

13 THE COURT: I'm going to sustain the objection.

14 THE WITNESS: I'm sorry. Can you ask that question
15 again?

16 MR. SCHONFELD: It's been sustained.

17 THE COURT: No, because I sustained the objection.
18 So you can't answer it.

19 THE WITNESS: Oh, okay.

20 BY MR. SCHONFELD:

21 Q Now your report reflects that Mr. Tausan's
22 motorcycle was parked in front of the Pink Poodle, and it's
23 your belief that Mr. Villagrana was the new owner. I'm a
24 little unclear on that.

1 A Well at the time, so was I. That's why I went back
2 a month later and ran the plate.

3 Q Isn't it true the motorcycle that was in front of
4 the Pink Poodle, you didn't check the VIN number, did you?

5 A Did I check the VIN number?

6 Q Yes.

7 A No, sir. I can honestly say it was not safe for me
8 to go there and start poking around with bikes with a bunch of
9 Hells Angels standing around.

10 Q So you did not check the VIN number?

11 A No, sir, I did not check the VIN number.

12 Q So the only thing you can testify to is that the
13 license plate on it was Area 81, which at one point belonged
14 to Mr. Tausan, correct?

15 A Yes.

16 Q And later belonged to Mr. Villagrana, correct?

17 A Yes. Same matching paint, saddlebag. Everything.
18 Tank, bag, everything, were all the same. Same paint. So I'm
19 assuming the VIN number would match from the first time I
20 sight checked.

21 Q You didn't check the VIN number, did you?

22 A That day, no, sir. Unless they can change out the
23 tanks and saddlebags and everything else.

24 Q And you never checked DMV records to establish

1 whether or not Mr. Tausan's motorcycle was sold to
2 Mr. Villagrana or anybody else, did you?

3 A Yes, sir. I did a month later.

4 Q You checked the license plate number being
5 transferred, but you did not check the vehicle being
6 transferred; isn't that true?

7 A I'm not sure I understand what you're saying. Are
8 you talking the VIN number?

9 Q What I'm saying, Officer, and you're under oath --

10 A Yes, sir.

11 Q And we can subpoena records from the Department of
12 Motor Vehicle --

13 A By all means.

14 Q You would agree with me that there is a difference
15 between selling a motorcycle and transferring the license
16 plate, correct?

17 A Correct. Yes, sir, I do know that.

18 Q You did not verify that Mr. Tausan's motorcycle
19 ownership had been transferred to Mr. Villagrana. What you
20 verified is that the license plate had been transferred.

21 A Okay. I'll agree with you.

22 Q Am I right? So you don't know that that was
23 Mr. Tausan's bike as opposed to Mr. Villagrana's bike with a
24 transferred license plate, do you?

1 A No. I'm assuming it was, because the paint matched
2 as well.

3 Q So it was an assumption on your part, right?

4 A Yes, sir.

5 MR. SCHONFELD: I have nothing further, Your Honor.

6 THE COURT: Whose witness? Do you want to ask any
7 questions.

8 MS. PUSICH: Your Honor, we don't have any
9 questions. They haven't touched on anything that would affect
10 Mr. Gonzalez.

11 THE COURT: Thank you. Mr. Stege, anything further?

12 MR. STEGE: Yeah.

13

14 REDIRECT EXAMINATION

15 BY MR. STEGE:

16 Q After that date, have you ever seen Villagrana
17 riding that motorcycle?

18 A Yes, sir.

19 Q And how did you know it to be the same motorcycle?

20 A Paint, the plate, same person riding it.

21 Q Well, what's so unique about the paint that would
22 make it --

23 THE COURT: I think your question was vague. I
24 believed you were asking a question about what was unique

1 about Mr. Tausan's motorcycle that made this witness think
2 that Mr. Villagrana's motorcycle outside the Pink Panther was
3 in fact that person's motorcycle. The witness just answered
4 the question what made it unique later when you saw
5 Mr. Villagrana driving it.

6 MR. STEGE: Right.

7 THE COURT: So which one is it? What's your
8 question?

9 MR. STEGE: I'll ask both.

10 BY MR. STEGE:

11 Q What made you think on the date you've been talking
12 about that that bike --

13 THE COURT: What date? Before at the Pink Panther
14 or the question you just asked about later?

15 MR. STEGE: The date at the Pink Panther --

16 MR. DOGAN: Poodle.

17 BY MR. STEGE:

18 Q Talking about June 15th, 2012. What made you think
19 on that date that the bike was the Tausan bike?

20 A Because I had seen that bike before, because it
21 matched the paint on that tank. The paint was specific.

22 Q And how is the paint specific?

23 A Red and white and yellow and striped. Kind of, you
24 know, weird designs on it.

1 Q So a custom paint?

2 A Yes, sir.

3 Q Okay. What about the -- and you said the -- you
4 noticed the bags on it or the saddlebags on it?

5 A Yes, sir.

6 Q Are those the same saddlebags you had seen when
7 Tausan was riding the bike?

8 A Uh-huh.

9 Q Is that yes or no?

10 A Yes. I'm sorry.

11 Q And the license plate was the same when you had seen
12 Tausan riding it?

13 A Yes, sir.

14 Q Subsequent to this June 15th, 2012 date, had you
15 seen -- have you seen anyone riding that motorcycle, this
16 unique motorcycle with the custom paint and the Area 81
17 license plate?

18 A Yes, sir.

19 Q And who was that?

20 A Mr. Villagrana.

21 MR. STEGE: Nothing further.

22 THE COURT: Anything further?

23 MR. SCHONFELD: No. Thank you, your Honor.

24 THE COURT: May this witness be excused?

1 MR. STEGE: Yes.

2 MR. SCHONFELD: Yes.

3 THE COURT: You may step down. You're excused.

4 THE WITNESS: Thank you very much.

5 THE COURT: Okay. It's 11 minutes to 12:00 of our
6 second day of the second week. How many more witnesses?

7 MR. STEGE: We have Mr. Clarke. We asked him to be
8 here this afternoon.

9 THE COURT: Is that the only other witness for
10 today?

11 MR. STEGE: Yes.

12 THE COURT: And so when do you expect him? Anytime
13 in the afternoon?

14 MR. STEGE: I think I told him to meet me at 1:00,
15 start to be available at 1:00.

16 THE COURT: And if we come back at 1:15 that will be
17 okay.

18 MR. STEGE: Can I make a record?

19 THE COURT: Please be seated, everyone.

20 MR. STEGE: Last week we had Mr. Skelton on the
21 stand. And there was an issue brought up about the audio
22 recordings, if the Court recalls. I want to make a record
23 that last week we did disclose those. This was the issue of
24 getting them to play. Yesterday during our afternoon break,

1 we disclosed the remainder of those that Mr. Skelton gave us
2 to both of the defense counsel.

3 THE COURT: I'm sorry. You gave them in a different
4 format? They are now -- is that what you're making a record
5 that you now can hear them?

6 MR. STEGE: We got the remainder of them yesterday
7 and disclosed them. The ones that we were having issues with,
8 we disclosed those last week, either Thursday or Friday.

9 THE COURT: Are they different or the same thing?

10 MR. STEGE: Different.

11 MR. HALL: Your Honor, I think they can play them.

12 MR. DOGAN: Your Honor, because Mr. Skelton is not
13 going to be here -- wasn't here yesterday or today, I haven't
14 had time to play them. It's my understanding that he's
15 returning on the 29th. I will surely, way in advance of the
16 29th try to play them those CDs. And Mr. Grim, I believe,
17 gave me that CD yesterday in court.

18 THE COURT: Okay. Would you before the end of
19 business today have someone in your office listen to make sure
20 you can hear it?

21 MR. DOGAN: Yes, Your Honor.

22 THE COURT: Not for content, just to make sure you
23 hear something on there. If we have any technical issues I
24 would like to resolve them while you're all together.

1 MR. DOGAN: Yes, Your Honor.

2 THE COURT: Okay. Then we'll be in recess.

3 (Lunch recess taken.)

4 THE COURT: Thank you. Please be seated.

5 Okay. I think we have Mr. Clarke.

6 MR. STEGE: Yes, we do.

7 THE COURT: Okay. Please call him.

8 MR. STEGE: Mr. Clarke.

9 (Witness sworn.)

10 THE COURT: You may proceed.

11

12

TYLER CLARKE,

13

called as a witness by the plaintiff herein,

14

being first duly sworn, was examined

15

and testified as follows:

16

17

DIRECT EXAMINATION

18

BY MR. STEGE:

19

Q Sir, will you please state and spell your name.

20

A Tyler Clarke, C-L-A-R-K-E.

21

Q How are you employed?

22

A I'm a detective with the Reno Police Department.

23

Q What part of the police department do you work?

24

A I'm currently assigned to the financial crimes unit.

1 Q And how long have you been with financial crimes
2 unit?

3 A Just over five years.

4 Q Do you have a special assignment or a special role
5 within that unit?

6 A As a detective in a financial crimes unit, I have a
7 collateral assignment doing computer and mobile electronic
8 forensics.

9 Q And do you have any specialized training in those
10 areas?

11 A Yes, I have.

12 Q Could you tell us about that training and
13 experience?

14 A I have attended multiple courses sponsored by the
15 United States Secret Service through the Federal Electronic
16 Crimes Task Force. I have attended roughly 4- to 500 hours of
17 specialized training in the area of forensics, computer
18 forensics, and mobile device data collection.

19 Q And how long have you been doing that specialized
20 role or that specialized job?

21 A Around four years.

22 Q And so part of your everyday duties, you examine
23 both mobile devices and computers in a forensics setting?

24 A Yes, I do.