

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 XIII

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

Second Judicial District
State of Nevada

THE HONORABLE CONNIE J. STEINHEIMER, PRESIDING

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No. 64249

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Code No. 4185

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

-oOo-

STATE OF NEVADA,

Plaintiff,

vs.

ERNESTO MANUEL GONZALEZ,

Defendant.

Case No. CR11-1718B

Dept. No. 4

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

AFTERNOON SESSION

THURSDAY, JULY 25, 2013

RENO, NEVADA

COPY

Reported By: BECKY VAN AUKEN, CCR No. 418

Captions Unlimited of Nevada, Inc. (775) 746-3534

3005

APPEARANCES:

For the Plaintiff:

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For the Defendant:

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- and -

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I N D E X

| WITNESSES: | DIRECT | CROSS | REDIRECT | RECROSS |
|----------------------------|--------|-------|----------|---------|
| OFFICER ERICK THOMAS | 5 | 9 | 15 | |
| OFFICER TIMOTHY GINCHEREAU | 16 | | | |
| OFFICER JEAN MARIE WALSH | 28 | 51 | 64 | |
| OFFICER CHRISTOPHER BARE | 66 | | | |
| OFFICER ADAM HOPKINS | 79 | 84 | 87 | 88 |

| <u>EXHIBITS:</u> | <u>MARKED:</u> | <u>ADMITTED:</u> |
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1 RENO, NEVADA, THURSDAY, JULY 25, 2013, 12:30 P.M.

2 -o0o-

3
4
5
6 THE COURT: Please be seated.

7 Counsel, were you able to get some more
8 witnesses?

9 MR. HALL: I did make a phone call and informed
10 my investigator to round up as many as we could to get us
11 through the rest of the afternoon.

12 THE COURT: Okay. Thank you.

13 Is the jury ready?

14 THE BAILIFF: Yes, they are, Your Honor.

15 MR. HALL: Just so the Court knows, I do have two
16 additional witnesses outside right now.

17 THE COURT: Okay. Great. Thank you.

18 Please bring the jury in.

19 (The following proceedings were held in the
20 presence of the jury.)

21 THE COURT: Counsel, will you stipulate to the
22 presence of the jury?

23 MR. STEGE: Yes.

24 MR. HOUSTON: Yes, Your Honor.

1 THE COURT: Thank you. Please be seated.

2 Mr. Stege, you may continue your inquiry.

3 THE COURT: Thank you, Your Honor.

4
5 OFFICER ERICK THOMAS,

6 called as a witness on behalf of the Plaintiff,

7 having been previously duly sworn,

8 continued to testify as follows:

9
10 CONTINUED DIRECT EXAMINATION

11 BY MR. STEGE:

12 Q Sir, have you been able to refresh your
13 recollection on what Bradley Campos was wearing?

14 A Yeah. Based on my report, he was wearing a Vagos
15 vest. This was written immediately after.

16 Q Okay. If you'll put that the down for the
17 duration of your testimony.

18 What became of Mr. Campos? You had officers
19 detain him. What ultimately became of Mr. Campos?

20 A He was eventually -- he was detained inside the
21 casino by two officers, and then eventually they brought
22 him outside, put him in car, and he was eventually
23 released.

24 Q And what was the reason for that?

1 A We didn't have any charges at that time. We
2 could not confirm that he had destroyed a cell phone at
3 that point.

4 Q In fact, wasn't the investigation beginning to
5 focus on the killing of Pettigrew --

6 A Yes.

7 Q -- and the shooting?

8 A Yes.

9 Q And let's talk about -- you mentioned that, I
10 think it was officer Sandy had some subjects detained
11 related to a gun found under a vehicle?

12 A Yes.

13 Q Were those subjects later identified as Billie
14 Dyson, John Schmidt, and Kevin Bouley?

15 A Yes.

16 Q Affiliated with the Vagos?

17 A I believe so, yes.

18 Q And so let's talk a little bit about why you --
19 what information you sought about where the Hells Angels
20 were staying and where they were staying in the casino.
21 Why did you seek that information?

22 A I received information that there might -- from
23 security at The Nugget that there might have been a Hells
24 Angel that was injured and had been helped back to his

1 room at The Nugget.

2 Q Were officers able to locate this person?

3 A No. We could not locate which room they went to.

4 Q What about locating witnesses or attempts to
5 locate civilian or citizen witnesses that had been inside
6 of The Nugget?

7 A I had officers stationed at all the doors trying
8 to get as much information and see if there was any --
9 filter out people who had seen or witnessed the shooting
10 and get their information.

11 Q Is it true that due to the sort of chaotic nature
12 of the situation there were in fact witnesses who ended up
13 leaving?

14 A I'm sure there were, yes.

15 Q And did you make efforts to -- were there
16 concerns about transporting witnesses or how witnesses
17 were transported to the police station?

18 A Yes. We were -- just because of the -- not
19 knowing where all the players were, all the people
20 involved, we wanted to have security when we transported
21 anybody, any of the witnesses.

22 Q What was your concern in terms of what might
23 happen to witnesses?

24 A That they could be intimidated or injured or

1 worse.

2 Q Did you have a situation where witnesses were in
3 fact afraid to speak because of the parties involved, the
4 Hells Angels and Vagos?

5 A There were reluctant witnesses that were -- did
6 show that they were afraid.

7 Q And did you in fact have officers stationed at --
8 at the police station, outside the police station?

9 A Yes.

10 Q And what was the reason for that?

11 A Security, based on we weren't sure if they -- any
12 of the Vagos or Hells Angels were going to show up at the
13 station.

14 Q You were afraid of retaliation?

15 A Yes.

16 Q What about -- did you learn that in fact there
17 were people that had been taken to hospitals, local
18 hospitals?

19 A Yes.

20 Q And did you -- were you aware of any extra
21 security taken by police with respect to that?

22 A Yes. We assigned extra officers to the
23 hospitals -- to the hospital, hospitals where the injured
24 people were taken.

1 Q Would that be just in the room where the injured
2 people are? Or where did you assign those people?

3 A I don't know specifically. They should have
4 been -- I wasn't at the hospital, but they were assigned
5 to watch the injured parties.

6 Q Again, were you afraid of retaliation --

7 A Yes.

8 Q -- due to the Vagos-Hells Angels incident?

9 A Yes.

10 MR. STEGE: Pass the witness.

11 THE COURT: Cross-examination?

12 MR. LYON: Thank you, Your Honor

13
14 CROSS-EXAMINATION

15 BY MR. LYON:

16 Q Good afternoon, Officer.

17 A Good afternoon.

18 Q The Street Vibrations of September of 2011 -- had
19 you worked prior Street Vibrations?

20 A I had worked patrol during the Street Vibrations.
21 I'd never worked the event.

22 Q Okay. On prior years?

23 A Yes.

24 Q And never been a problem between the Hells Angels

1 and the Vagos in prior Street Vibrations occasions?

2 A Not that I know of.

3 Q Okay. And on the evening of September 23rd, you
4 had talked about that you had heard a call through the
5 radio that there was some concern going on at The Nugget,
6 and you had sent Sergeant Walsh over there, or Sergeant
7 Walsh was responding to that concern?

8 A Yes. That was a phone call that I received from
9 the lieutenant.

10 Q And it's your understanding that she did go over
11 to the Nugget?

12 A Yes.

13 Q And actually things had calmed down by the time
14 she had gotten there?

15 A Yes.

16 Q And then sometime later that evening, that's when
17 you got the call that a fight had broken out at The Nugget
18 and shots had been fired?

19 A Yes.

20 Q Now, you said that you had -- when you first
21 responded there was some discussion about a firearm that
22 had been dumped under a van?

23 A Yes.

24 Q Okay. And isn't it true that there were several

1 firearms found throughout the Nugget premises?

2 A Yes. I believe so.

3 Q Outside?

4 A I -- I don't -- at that time I only knew of the
5 one firearm that was found.

6 Q Okay. And then some firearms were found inside?

7 A Yes.

8 Q Okay. Three of them?

9 A Yes.

10 Q One belonging to Mr. Pettigrew?

11 A I believe so.

12 Q And one belonging to Mr. Villagrana?

13 A I believe so.

14 Q And the third, this one that was dumped under the
15 van?

16 A Yes.

17 Q And then you indicated that after being called to
18 that issue, then you were called over to a situation where
19 a Vago had been shot?

20 A Yes.

21 Q And you observed an individual shot in the leg?

22 A Yes.

23 Q And he was surrounded by other Vagos?

24 A Yes.

1 Q And they were -- were they attending to him?

2 A Yes. There were at least two of them that I
3 believe were helping.

4 Q And do you know the identity of that individual?

5 A I don't.

6 Q Do you know him to be Diego Garcia?

7 A I never identified --

8 Q Okay.

9 A -- specifically who he was.

10 Q Okay. And everything was okay with that
11 situation? I think that were your words.

12 A Yes.

13 Q And that's when you entered into the casino?

14 A Yes.

15 Q Now, when you walked in, you said that there were
16 four people that were at gunpoint: two Hells Angels and
17 two Vagos?

18 A Yes.

19 Q And they were on the ground?

20 A Yes.

21 Q Do you know the identity of any of those
22 individuals?

23 A Just Mr. Villagrana.

24 Q Just Mr. Villagrana?

1 Was it in that area that you saw that the
2 witnesses or -- that these individuals were on the ground,
3 was it in the area where Mr. Villagrana was located?

4 A Yes.

5 Q And the two Vagos were in that location as well?

6 A Yes.

7 Q Did the name Mr. Wiggins come up as being one of
8 the Vagos that was in that location?

9 A I heard that name after the fact, but I don't
10 know that he was one of the ones that I saw.

11 Q Now, it's fair to say there were a lot of other
12 Vago members in the casino that night?

13 A Yes, there were.

14 Q And that was of some concern because of the
15 number of Vagos?

16 A Yes.

17 Q But for the most part, most of these other Vagos
18 were just standing there, standing around, correct?

19 A Yeah. They were standing around. They were kind
20 of refusing to leave, but they weren't causing a
21 disturbance.

22 Q Okay. They weren't causing any problems,
23 interfering with the investigation?

24 A No.

1 Q Just standing around, correct?

2 A Uh-huh.

3 Q And I think you said that the only Vago that you
4 had some sort of incident with, or situation, was
5 Mr. Campos?

6 A Yes.

7 Q But he was eventually released because there
8 wasn't any evidence to support the allegations against
9 him. True?

10 A Yes.

11 Q Is that the same with the three individuals that
12 were questioned about this gun?

13 A Yes. They were released also.

14 Q They were released as well. No evidence against
15 them?

16 A No.

17 Q Now, you talked about once witnesses and, I
18 guess, individuals were taken to the police station and
19 the hospital, there was -- you had posted extra units
20 there in fear of retaliation?

21 A Yes.

22 Q Would it be fair to say that there was some
23 uncertainty of what was going to happen that night in
24 light of the events that took place?

1 A Yes.

2 Q Reasonable to worry that the HAs might respond
3 against the Vagos?

4 A Yes.

5 Q You never had any contact with Mr. Gonzalez that
6 evening, correct?

7 A No, I did not.

8 Q Thank you. That's all I have.

9 THE COURT: Anything further?

10
11 REDIRECT EXAMINATION

12 BY MR. STEGE:

13 Q In fact no officers had contact with Gonzalez
14 because he fled; isn't that true?

15 A Yes.

16 Q Nothing further.

17 THE COURT: May this witness be excused?

18 MR. LYON: Yes, Your Honor.

19 THE COURT: Thank you.

20 THE WITNESS: Thank you, Judge.

21 MR. STEGE: The next witness is Officer
22 Ginchereau.

23 /////

24 /////

1 OFFICER TIMOTHY GINCHEREAU,
2 called as a witness on behalf of the Plaintiff,
3 having been first duly sworn,
4 was examined and testified as follows:
5

6 DIRECT EXAMINATION

7 BY MR. STEGE:

8 Q Sir, please state and spell your name.

9 A Tim Ginchereau, spelled T-i-m and then
10 G-i-n-c-h-e-r-e-a-u.

11 Q You're employed by the Sparks Police Department?

12 A Yes, I am.

13 Q Are you a patrol officer?

14 A I am.

15 Q How long have you been on patrol?

16 A Five and a half years.

17 Q All of it with Sparks Police Department?

18 A Yes.

19 Q On September 23rd, 2011, were you on patrol for
20 Sparks P.D.?

21 A Yes, I was.

22 Q Did you hear a call for service at The Nugget?

23 A Yes, I did.

24 Q Where were you when you received that call?

1 A I was on 395 heading southbound at about the
2 Oddie off-ramp.

3 Q So what was the -- in fact, what was the call
4 that you heard?

5 A A fight at The Nugget involving two rival
6 motorcycle groups.

7 Q And did you also hear radio traffic about what
8 was going on at The Nugget?

9 A Yes. I continued on the freeway. I received
10 information that there were weapons involved and that
11 shots were being fired.

12 Q And so what did you do when you got to the
13 Nugget?

14 A As I was getting into the area, there was an
15 officer putting out information on the radio that the
16 suspects involved were heading out the west doors. So I
17 exited the freeway at The Nugget off-ramp and pulled over
18 to the west side of the casino hotel and approached the
19 west doors.

20 Q Then that happened at the west doors?

21 A Initially I saw several Vago members standing by
22 the west doors. I had to arm myself with my rifle, place
23 them at gunpoint, ordered them down to the ground. The
24 three got down. Then two additional Vago members came out

1 of the casino, and I also placed them at gunpoint, proned
2 them out. And then as I was doing that, Officer Sandy and
3 Officer Mutert arrived on scene.

4 Q Did you later identify those people as Billie
5 Dyson, John Schmidt and Kevin Bouley?

6 A I never identified them.

7 Q Okay.

8 A I ended up turning them over to Officer Thelin,
9 who -- I'm not sure what he did after I went into the
10 casino to help the other officers in there.

11 Q So what did you do when you got into the casino?

12 A Once I got -- well, as we were outside -- I was
13 outside, Officer Sandy and Officer Mutert arrived. Their
14 attention was drawn by an employee coming out the west
15 doors, and then they started running after some people,
16 and Officer Mutert yelled at me that there may have been a
17 gun ditched underneath a car near the west doors.

18 Q At this point did you know how many officers were
19 inside of the Nugget?

20 A No. There were radio calls being put out that
21 officers needed assistance on the 11th Street side, that
22 they were being surrounded, and then officers also needed
23 assistance on the inside of the casino.

24 Q So did you follow up the situation of the

1 officers chasing or did you go inside the casino?

2 A No, I went and I located the gun. I found the
3 gun underneath a shuttle van. I noticed that the gun --
4 the magazine of the gun had been ejected out of the gun
5 and set aside -- beside it. I then relayed that
6 information to Officer Thelin, who had arrived. I told
7 him where the gun was. I didn't want to move it until it
8 had been photographed.

9 And then at that time those calls for assistance
10 were coming out. I asked Officer Thelin -- well, first I
11 went back and I handcuffed several of the subjects that we
12 detained. Then I asked Officer Thelin if he was good with
13 holding these guys while I went to go assist the guys
14 calling for help.

15 Q And you left someone in charge of watching the
16 gun that was under the --

17 A Yes.

18 Q -- shuttle van?

19 A Yes.

20 Q So then you went inside the casino?

21 A Right. I proceeded down past the hotel desk,
22 down past Starbucks. I observed several groups of Vagos
23 that were detained by some Reno officers. I think they
24 were Reno SWAT guys.

1 I then headed out the 11th Street door because
2 that's where the calls for help were coming. I exited the
3 11th Street doors, saw large groups of Vagos outside,
4 several officers outside. I was outside for about
5 15 minutes -- or 15 seconds and some calls for assistance
6 came from inside the pit area saying that another fight
7 was imminent if we didn't get officers in there to start
8 handling it.

9 So at that time I turned around, I was joined by
10 Officer Coombs, and we both walked into the pit area where
11 we were flagged down by officers over by Trader Dick's and
12 the Rosie's Cafe area.

13 Q Okay. And what did you observe there?

14 A They had several subjects down at gunpoint. I
15 observed four Hells Angel members all proned out in
16 between two rows of slot machines near Trader Dick's.

17 Q And which officers had those people at gunpoint?

18 A I couldn't tell you.

19 Q Okay.

20 A I then went hands-on with one of the Hells Angels
21 members, handcuffed him. Once I handcuffed him, I did a
22 quick pat search for weapons. I located some knives on
23 him. He also had a backpack. I took those things and I
24 set them on a slot machine nearby, but away from him.

1 I then proceeded to continue on down the line and
2 assist other officers that arrived in handcuffing the
3 various people that had been pruned out by the officers
4 that initially responded.

5 Q Did you eventually take some photographs of some
6 licenses of some Vagos?

7 A Yeah, eventually. After handcuffing and securing
8 those, I heard Officer Bare giving verbal commands near
9 the bathrooms, which is in between Trader Dick's and
10 Rosie's Cafe, so I went over there to assist him. We
11 found multiple Vagos members hiding in the women's
12 bathroom, so we pulled them out of there, kind of lined
13 them up along the tile, and realized we had quite a few to
14 deal with and none of them had been searched and obviously
15 weapons had been involved in this and did a quick pat
16 search.

17 Prior to entering the bathroom I had also noticed
18 two handguns laying on the tile that runs between Rosie's
19 and Trader Dick's.

20 Q In front of the bathroom?

21 A Yes.

22 Q Okay.

23 A Once we pat-searched those Vago members, I
24 initially seated them on a row of slot machines. It was

1 determined that that wasn't a good place for them to be,
2 so we repositioned them a few feet over to the keno area
3 where there's multiple tables and places for people to
4 sit.

5 Q Let me take you back to -- you dealt with a Hells
6 Angel? You said when you first got in there you dealt
7 with a Hells Angel. Was that man injured?

8 A Not the one I initially dealt with. There was
9 one by the bathroom. As I was going to assist Officer
10 Bare in clearing the bathrooms, I noticed he was laying on
11 his side, and there was some blood. And I said, "Do you
12 need medical attention? Are you hurt anywhere?" And he
13 said no. And I helped him sit up, and I go, "Let me look
14 at your face." And he looked up, and I said, okay, he's
15 just got some scratches and didn't need immediate medical
16 attention. So I moved on to clearing that bathroom with
17 Officer Bare.

18 Q Once you have all those Vagos from the bathroom
19 detained, do you take their licenses and photograph their
20 licenses?

21 A Yeah. We received an order over the radio to
22 start releasing people that weren't directly involved in
23 the fight or hadn't witnessed it. Radio communications
24 were an issue inside of the Nugget, so I just decided to

1 grab a camera -- I think I grabbed Officer Mowbray's
2 camera -- and started taking photographs of the subjects
3 that we had pulled out of the bathroom and their IDs so we
4 could later on figure out if they were key players and
5 know who they were.

6 MR. STEGE: Your Honor, may I publish an exhibit?
7 It's the 13 series, I think it's A through J, admitted by
8 stipulation.

9 THE COURT: I'm sorry, what number?

10 MR. STEGE: 13A.

11 THE COURT: 13A through J?

12 MR. STEGE: Through J.

13 THE COURT: Any objection?

14 MR. LYON: No, Your Honor.

15 THE COURT: Exhibits 13A through J are admitted,
16 and you may publish.

17 (Exhibit Nos. 13A through J admitted.)

18 BY MR. STEGE:

19 Q So let's start with C.

20 So these are simply the licenses of the people
21 that you detained. Right?

22 A Yes.

23 Q Is this one of them, that 13C?

24 A Yes.

1 Q Sean Hewitt; is that right?

2 A Yes.

3 Q And all of these people that we're about to look
4 at, they're all Vagos? They were wearing -- how could you
5 tell they were Vagos?

6 A Some of them were wearing the vests with the
7 patches; others -- I'm not really sure if we just asked.

8 Q Okay.

9 A I can't recall for sure, but...

10 Q Well, any indication that -- those people that
11 were in the bathroom, any indication that any of them were
12 Hells Angels?

13 A No.

14 Q 13D is another photograph of Hewitt's license.
15 You also did E. Richard Mamandik?

16 A Yes.

17 Q F. Faulkner?

18 A Yes.

19 Q G is Greg Stocum, and H is a gentleman by the
20 name of Shaw --

21 A Yes.

22 Q -- Mr. Bravo and Mr. Mead; is that right?

23 A Yes.

24 Q What did you do next?

1 A After securing those subjects, photographing the
2 license, it came to our attention that nobody had cleared
3 Trader Dick's. So I went with Lieutenant Thomas and a
4 Reno officer and we went and cleared the Trader Dick's
5 bar, back behind there, made sure nobody was hiding.

6 As I came around the bar, I then observed several
7 civilians standing out amongst the crowd. One female in
8 particular was standing with three Hells Angels members,
9 and she had bloodstained clothing. I asked her if she was
10 with the three Hells Angels and she said she had never
11 seen those guys in her life. I asked her if she had seen
12 what happened and she told me yes.

13 At that time as I began to talk to various people
14 and determine that they were witnesses, we moved them to
15 behind the bar, out of sight, so that there wouldn't be
16 any kind of intimidation or anything like that.

17 Q Did you have a lot of witnesses who stuck around?

18 A I believe that I grabbed four or five
19 individuals. The scene wasn't secured yet, so I moved
20 them back there and I asked them to just be patient; I'd
21 be back to get them started on statements.

22 I then spoke to the bartender and said, "Please
23 keep these witnesses here." At that point the bartender
24 also told me that he had witnessed it.

1 So I then went back on the scene floor. I found
2 a security officer. I don't know who it was. And I asked
3 him to go sit on the witnesses until we could return with
4 statements and finish securing the scene.

5 Q Let's get back to the -- that gentleman you said
6 was bleeding from his face associated with the Hells
7 Angels. You also took a photograph of him; is that right?

8 A No, I did not take a photo of him.

9 Q Let me show you Exhibit 13A. Is this the man
10 that you saw bleeding from the face?

11 A Yes.

12 Q And did you direct or cause a photograph of him
13 to be taken?

14 A I didn't direct a photograph to be taken of him.
15 I believe that officers on scene just took a photograph
16 because he was in the immediate area where the guns were
17 and where the fight had occurred.

18 Q Did you at some point escort these witnesses to
19 transport or help them be transported to the police
20 station?

21 A Yeah. Eventually it was figured out that we were
22 going to get them out of there without exposing them to
23 anybody. So once that decision had been made and the
24 pieces put in place, I escorted them out of the casino and

1 I kept them in an area near the 11th Street side that was
2 out of sight until a unit arrived and was able drive them
3 to the police station.

4 Q And with an extra unit following?

5 A I don't know if there was an escort unit or not.

6 Q Did you also provide transport to a member of the
7 Nugget security to the police station?

8 A Yeah. Later on that night I was tasked with
9 transporting one of the security members to our police
10 station for an interview.

11 Q After doing that what did you do?

12 A I returned to the scene. Then we were asked to
13 check the parking garage, at which point we went up there
14 and we noticed that there were quite a few Vago members on
15 the top floor of the parking garage, and myself and
16 Officer Bare then approached the person up there that kind
17 of made it be known who he was. He was wearing a
18 president patch on his vest.

19 I informed him that we were clearing the parking
20 garage; members that were staying in the hotel could go to
21 the hotel room, others that weren't could get their bikes
22 and leave.

23 He was very cooperative. He turned around and
24 gave the information to the rest of the people up in the

1 parking garage, and they all dispersed.

2 Q Did you do any follow-up investigation on the --
3 this gun under the car outside the casino?

4 A No, sir.

5 Q Was that Sergeant Leary who did that follow-up
6 investigation or directed that investigation?

7 A I'm not sure. I know after clearing the parking
8 garage Officer Sandy and Officer Mutert had two guys
9 detained that had possibly been related to the gun.

10 Q Well, did you in fact interview some subjects
11 about the gun and they stated that they were not involved?

12 A That's correct.

13 MR. STEGE: Pass the witness.

14 MR. LYON: I have no questions, Your Honor.

15 THE COURT: Thank you, sir. You may step down.
16 You are excused.

17 OFFICER JEAN MARIE WALSH,
18 called as a witness on behalf of the Plaintiff,
19 having been first duly sworn,
20 was examined and testified as follows:

21
22 DIRECT EXAMINATION

23 BY MR. HALL:

24 Q Good afternoon. Will you state your name and

1 spell your last name.

2 A Sergeant Jean Marie Walsh, W-a-l-s-h.

3 Q And obviously you're an officer with the Sparks
4 Police Department.

5 A I am.

6 Q And how long have you been so employed?

7 A 23 years.

8 Q What is your current position?

9 A I'm currently the sergeant in traffic.

10 Q All right. How long have you been a sergeant?

11 A Since 2004, so nine years.

12 Q And as a sergeant -- well, sergeant in traffic I
13 think is pretty self-explanatory.

14 But going back to September 23rd of 2011, what
15 were your duties at that time?

16 A I was a patrol sergeant in charge of the swing
17 shift patrol team working swing tens at the time.

18 Q All right. And what types of calls for service
19 would you respond to?

20 A Everything from domestic violence to robberies to
21 homicides to traffic accidents to -- everything. Welfare
22 checks, child family disputes. You name it.

23 Q So Lieutenant Thomas would have been your
24 lieutenant --

1 A Yes, sir.

2 Q -- that evening, and then you're under Lieutenant
3 Thomas?

4 A Yes, sir.

5 Q And then how many officers did you supervise?

6 A My -- a full team for me would have been 10.
7 That night I cannot tell you exactly how many I had on.
8 Probably eight. My minimum was eight.

9 Q And what shift were you working? Did you say
10 swing shift?

11 A Swing shift, which is 2:00 p.m. to midnight.

12 Q All right. And so what did you do during that
13 day in terms of patrolling the Sparks area around the
14 Nugget and Street Vibrations?

15 A We knew that there was going to be a significant
16 number of motorcycle folks in the area for Street
17 Vibrations. I had made contact with Paul Ochs at The
18 Nugget to kind of see how their status was going for the
19 evening. We essentially just kind of kept in contact with
20 him mostly to see kind of how things were going.

21 Q So that would have been the main focus of Street
22 Vibrations in Sparks there at The Nugget?

23 A Was at -- was at The Nugget, yes, sir.

24 Q All right. And were you aware at that time of

1 the Vagos having a national meeting there at The Nugget?

2 A I did not know they had a national meeting there,
3 but I knew that there was a lot of Vagos there.

4 Q All right. You could just tell that from your
5 patrol?

6 A I was told that they had blocked 100 rooms at The
7 Nugget for the Vagos.

8 Q And did you know where the Hells Angels were
9 staying?

10 A I didn't know exactly where they were staying. I
11 knew that there were some at The Nugget. And I had heard
12 from a call for service that there was some at the Holiday
13 Inn down on Nugget Boulevard closer to McCarran. We had a
14 call for service there, and there were obviously Hells
15 Angels present at that location.

16 Q All right. And so if there's a call for service,
17 that means you have to respond because there's a problem?

18 A We responded there because there was a call for
19 service from -- best as I can recall, it was a Hell's
20 Angel who was complaining about the fact that he was
21 catching some grief from a Vago group of people.

22 Q Did you respond or send other officers?

23 A I'm pretty sure I responded. I responded -- I
24 don't know if we ever made contact with anybody there. I

1 don't recall ever talking to anybody there. I think that
2 we drove through, and we may have gotten -- my
3 recollection is a little fuzzy on this, but I think that
4 we got a call saying that he had -- the Hells Angels
5 individual had left.

6 And so I remember driving through the parking
7 lot -- not a long time before the shooting occurred at The
8 Nugget, I drove through the parking lot at that Holiday
9 Inn, and there were a significant number of motorcycle
10 people in the parking lot.

11 Q All right. So if there was a complaining party
12 at that time, that person wasn't there, so there really
13 wasn't anything for you to do?

14 A My best recollection is we never made contact
15 with anybody at the Holiday Inn for that call for service.

16 Q All right. Now, do you recall getting a call for
17 service at approximately 10:00 o'clock, maybe a little
18 after 10:00 o'clock, over at the Oyster Bar area of the
19 Nugget?

20 A We did get a call for service at the Oyster Bar
21 at The Nugget indicating that there was somewhat of a
22 confrontation brewing between the Hells Angels and the
23 Vagos.

24 Q All right. Did you respond by yourself or along

1 with other officers?

2 A I believe there were other officers there. I
3 can't tell you how many. I know that I was there, and I
4 made contact with Mr. Ochs, and I know that I stepped into
5 the casino right -- there's some doors that lead right
6 almost to the Oyster Bar. I stepped inside, and he had
7 kind of indicated to me -- Mr. Ochs had indicated to me
8 that things had kind of resolved themselves and that, you
9 know, one group had kind of walked away from the
10 situation, that there wasn't necessarily an issue anymore.

11 And so I poked my head in and looked around, and
12 the casino itself was extremely busy. I didn't really see
13 anything that gave me any type of concern, so I secured.

14 Q Do you recall what time you got there?

15 A If the call for service was around 10:00, it was
16 very close after that, because I think that because of all
17 of the activity in the area with Street Vibrations, I
18 wasn't far from either one of those calls, the one at the
19 Holiday Inn and then the one at The Nugget. So it was
20 probably within a couple minutes of the call being placed.

21 Q All right. So you don't know exactly what time
22 you --

23 A I don't.

24 Q -- arrived that first time?

1 A I don't.

2 Q All right. Did you walk around a little bit or
3 just put your head in and look around?

4 A I pretty much just poked my head in, looked
5 around, looked at kind of where people were at and what
6 the general demeanor was right in front of the Oyster Bar
7 at that time and then talked with Mr. Ochs for a little
8 bit longer and then I left.

9 Q All right. So you looked into the Oyster Bar.
10 And did you see Hells Angels, at least people that
11 appeared to be affiliated with the Hells Angels by virtue
12 of their attire in that area?

13 A Yes, sir.

14 Q All right. And then did you see Vagos outside
15 the -- I guess they have a little fence or a railing?

16 A I didn't see any Vagos at that time, or I didn't
17 notice. I don't recall seeing any Vagos at that time. I
18 know there were Hells-Angels-affiliated people there at
19 the bar near the oyster room, but I don't recall seeing
20 any Vagos.

21 Q So when you got there you didn't see a lot of
22 Vagos?

23 A I didn't, no. I didn't notice them. Or I don't
24 recall noticing them.

1 Q All right. And you didn't walk in and go walk
2 around?

3 A I did not.

4 Q So you were relying on Mr. Ochs telling you that
5 he thought the matter had been pretty much resolved?

6 A I was relying on him saying that, yes.

7 Q All right. And you've probably known Mr. Ochs
8 for a while; is that right?

9 A I have known him for a long time, yes.

10 Q Because he used to work for Sparks?

11 A He used to work for the City of Sparks as a
12 lieutenant.

13 Q Did you work under him?

14 A Yes, I did.

15 Q Now, a short time later did you get a call for
16 service after -- I'm assuming that there was a call over
17 the radio saying: Shots fired. Get down here
18 immediately.

19 A Essentially the first radio call about the shots
20 fired was that there was a large fight inside the Nugget
21 with -- between the Hells Angels and the Vagos near Trader
22 Dick's.

23 I happened to be kind of in a restricted area
24 right there by the parking garage by the cinema, and so I

1 immediately got myself turned around and started heading
2 towards the 11th and Victorian Street doors of the Nugget.
3 About the time I pulled up and started to park my car
4 was -- you know, the dispatch came out and said there's
5 shots fired inside of the Nugget.

6 Q So what did you do? Did that cause you to, I
7 guess, heighten your sense of preparedness?

8 A Essentially, you know, that's now an active
9 shooter for us, and I went to the back of my car and
10 loaded my AR-15 and kind of made up my mind that we were
11 going to go in because the casino -- in my previous
12 contact, you know, an hour or so before, the casino was
13 packed with not just motorcycle people but with normal
14 everyday citizens. So at that point I made the decision
15 that we were going to go in. I was going to wait for one
16 more person.

17 We were somewhat busy. It was a Friday night,
18 and we were somewhat busy. I knew that one officer was
19 going to be relatively quick to the area because of his
20 last location, but I decided that we were going to go in
21 and try and stop whatever was going on once that other
22 officer showed up.

23 Q Now, you indicated that you parked on the 11th
24 Street and Victorian -- on the corner of 11th Street and

1 Victorian; is that right?

2 A Correct.

3 Q Would that be the entrance where you come in by
4 the showroom past the Branding Iron?

5 A That's correct, the roof garden entrance right
6 there by the Branding Iron display.

7 Q All right. So you had your AR-15, which is a
8 rifle; is that right?

9 A It's an assault rifle, yes, sir.

10 Q And was there another officer that responded to
11 make entry with you?

12 A Officer Gamwell showed up probably maybe
13 20 seconds after I did and we essentially went in through
14 those doors.

15 Q All right. So what did you observe when you
16 entered the casino and what did you do?

17 A When we first entered the casino, the information
18 from the radio call was that the fight was in front of
19 Trader Dick's. But while I was outside, people were
20 yelling at me kind of a lot, and I picked up that somebody
21 was shot in the poker room. I don't know where I picked
22 that up from. I don't know why I picked that up.

23 So initially I just went straight to the poker
24 room. And there was a guy there, obviously a Nugget

1 employee to me, and I said, "Do I have any victims in
2 here?" And he says, "No, we're good."

3 So essentially that area of the casino right
4 there by the u-shaped bar and Rose Ballroom and kind of
5 along the north side of the casino, it was almost like
6 business like normal. You know, there wasn't a lot of
7 people yelling at me at that point. They were pointing.
8 So we just worked our way around the u-shaped bar in front
9 of the steakhouse because I knew that's where the
10 confrontation was supposedly taking place from the radio
11 transmission.

12 We worked our way around, and as I got closer I
13 could hear more yelling and screaming. And then I kind of
14 came around a corner and I noticed that there was a lot of
15 Hells-Angels-affiliated people kind of in one area. And
16 as I continued to move across I could see now a subject
17 with a gun in his hand, and I immediately put him at
18 gunpoint and told him to drop the gun, put the gun down.

19 So that subject -- and there was a lot of yelling
20 going on. There was a guy over kind of off to my
21 right-hand side screaming at me to kill him. He wanted me
22 to kill the guy with the gun.

23 And essentially the gentleman with the gun, he
24 looked at me, and his hand is kind of like this

1 (indicating) -- do you mind if I stand up?

2 Q Sure.

3 A If I'm him, he's like this (indicating) with the
4 gun in his hand. And he looks at me, and then he looks at
5 the guy yelling at me, and then he puts the gun down, to
6 the point where -- he put it down -- there's like -- the
7 banks of slot machines have kind of a -- kind of like a
8 u-shaped top. And so it -- when he put the gun down, I
9 couldn't -- his hand disappeared and then his hand came up
10 empty. So he put the gun down essentially where I
11 couldn't see it.

12 So after we kind of get the gun out of his hands
13 we put that gentleman, and there was another gentleman
14 that was next to him wearing Hells Angels attire and I
15 think a third gentleman that was close by, but I'm not a
16 hundred percent sure about that, we put them all down on
17 the floor, "Get on the floor," and they essentially
18 complied.

19 After that I was really concerned about where
20 that gun was because there was still people standing
21 around. So I started to move around kind of in a south
22 direction, kind of towards Rosie's coffee shop, and I
23 noticed now laying on the floor in between two banks of
24 slot machines is a guy with a gunshot wound or what I

1 thought was a gunshot wound. And he was laying on the
2 ground, and there were people around him.

3 So essentially I kind of -- I really didn't want
4 that gun where it was at, so I reached over and grabbed
5 it. And I didn't really have anything to do with it, so I
6 stuck it between my feet.

7 Q You set it on the ground?

8 A I set it on the ground in between my feet.

9 Q And at that time were you standing on the tile?

10 A I was standing on the tile.

11 Q Okay.

12 A So --

13 Q And is this about across from the bathrooms
14 there?

15 A It was almost essentially right in between where
16 the women's bathroom enters and where the men's bathroom
17 enters. It was very close in that proximity. I might
18 have been a little bit closer to the women's entrance.

19 Q In fact there was a little video that shows you
20 come in with your AR along with Officer Gamwell? Do you
21 recall looking at that --

22 A Yes.

23 Q -- when you testified on a previous occasion at
24 the grand jury?

1 A Yes, sir.

2 Q Now, this person that was on the ground, was he
3 on his stomach or back?

4 A The person with the gunshot wounds I believe was
5 on his stomach. That's the best I can remember.

6 Q Was anybody tending to him at that time?

7 A There were at least two or three people down on
8 the ground with him, and they were getting kind of
9 animated about the fact that he needed to get help.

10 Q And who were those people that were tending to --
11 we know it's Pettigrew so I'm just going to refer to him
12 as Pettigrew.

13 A Right. There was a girl there that -- I didn't
14 know who she was. She could have been his girlfriend for
15 all I knew. She was there. And then there was another
16 gal there that, just in my very quick assessment, I'm like
17 that lady doesn't really fit with the rest of the
18 clientele in this particular area. And I knew that she
19 had medical experience. I just could tell by the way she
20 was acting that she had medical experience. So I kind of
21 threw a pair of gloves to her, and I took a pair of
22 gloves, and we continued to just try and keep everything
23 under control.

24 At some point in time that same lady comes up

1 with a gun, and she's holding it like this (indicating).
2 And she shows it to me and she goes, "Would you like
3 this?" And I said, "Yes, I would. Please put it down on
4 the ground." And she sticks it on the ground, and I
5 reached over with my foot and I slid it across the floor
6 kinda sorta next to the other gun that I had there in
7 between my feet.

8 Q Do you know where she retrieved that gun from?

9 A I can only make an assumption on that. But the
10 gun was bloody, and I -- I didn't really see where she got
11 it from. I thought that she kind of slid it out from
12 underneath Pettigrew, but I wasn't sure about that. It
13 just appeared with her. I assumed, I'm guessing, that she
14 got it from underneath Pettigrew.

15 Q All right. So what did you tell those people to
16 do with Pettigrew, if anything?

17 A I told them that he wasn't going to get any
18 medical assistance in this chaotic situation, that medics
19 were never going to come in here with how dangerous that
20 situation was. So I said, "If you want him to get medical
21 attention you better pick him up and we're going to go to
22 a door."

23 So a couple other people wearing Hells Angels
24 attire kind of jumped -- they appeared. They got there

1 somehow. They kind of came in from kind of the Rosie's
2 area, but I'm not sure if they came from further away or
3 from close; they just were there.

4 And we proceeded -- well, I didn't. They
5 proceeded to pick him up, and then I directed them -- I
6 was running cover because I was kind of concerned that a
7 Vago might try and help his current condition out a little
8 bit by, you know, being violent toward him. So I was
9 concerned about that, so I ran cover. Essentially the AR
10 was up. I was looking for people who might try to attack
11 this gentleman further.

12 And essentially I took him in the same
13 direction -- I took him out, I'm sorry, the same direction
14 we came in, and we ended up putting him down right there
15 kind of in between where the poker room door goes and the
16 Branding Iron display. So it was kind of north of the
17 entrance to the ballroom and kind of in a hallway, almost,
18 that was kind of quiet and somewhat protected. And that's
19 where they put him down, and we started trying to get
20 medics in there to get him taken care of.

21 Q Did anybody come in towards Pettigrew while you
22 were at that location?

23 A I don't know where this gentleman came from, but
24 there was a Vago gang member -- sorry, a Vago person

1 that -- I didn't notice him until one of our detectives
2 had come in. He was in plain clothes, I think. But
3 Detective Danny James came walking in and he caught my
4 eye, and then he motioned over with his head to this guy
5 that was standing probably 20 feet from us, and he was
6 standing up against the wall just watching, and he was in
7 Vago attire.

8 And Detective James immediately put that guy at
9 gunpoint, and so I'm like, okay, I'll put you at gunpoint
10 too. He told me later -- I'm sorry. We secured that guy.
11 He ended up, you know, going away with a Reno officer.
12 But he was sergeant-at-arms of the Las Vegas Vago group,
13 and Danny James was told, "Hey, that guy can be a little
14 bit of trouble if he gets back into the main portion of
15 the casino." So that's why he keyed on him, and I just
16 was kind of working off his lead.

17 Q Did that person have any weapons on him?

18 A He had at least three knives that I found on him
19 at the time. I think I found more later when we were
20 dealing with him on the secondary issue with the Reno guy.

21 Q Now, did you respond back to the area where
22 Pettigrew had gone down?

23 A After I got Pettigrew placed there and I could
24 tell that the citizens were kind of giving him some

1 medical attention, I went back, because when I had left
2 that area there was three cops there and hundreds of
3 motorcycle people around. So I did not feel comfortable
4 leaving those folks there with the number of motorcycle
5 members that were around.

6 Q So those people, could you identify them with any
7 particular group?

8 A They were -- both Hells Angels and Vago members
9 were in that -- in that general vicinity of the -- of, you
10 know, Trader Dick's and Rosie's and that general area.

11 Q And then the one individual that we just talked
12 about that you had taken the knives off, that was an
13 individual by the name of Hugg or Hogg?

14 A I believe so. I know that he was identified, but
15 I'm not sure -- that sounds right.

16 Q If I showed you a photograph --

17 A Yes, I would recognize that.

18 Q I'd direct your attention to 132, the lower
19 right-hand corner.

20 A Yeah.

21 Q That's the person?

22 A Yes, sir.

23 Q Now, when you were tending to Pettigrew, did you
24 make contact with any Vagos at that location at that

1 initial -- at the time of the initial appearance at that
2 location?

3 A Before we moved Pettigrew we were still trying to
4 get everyone to do what we told them to, get on the
5 ground, and secure that area.

6 There was a gentleman who was sitting kind of on
7 his back kind of underneath one of the slot machine areas,
8 and he started to sit up and started to get up, and I
9 said, "Get on the ground." And he essentially says to
10 me -- and excuse my language -- "Fuck you, bitch."

11 And I was like, that's not gonna work. And so I
12 stepped towards him and essentially tackled him and said,
13 "You need to stay on the ground."

14 And we handcuffed him first. Everybody else was
15 still just laying on the ground, not handcuffed. He was
16 the first one we handcuffed. And he -- you know, once I
17 tackled him, he kind of didn't -- he didn't really give
18 much resistance after that. But Officer Hopkins was
19 there, and we ended up handcuffing him pretty quickly, and
20 he stayed there.

21 Q All right. Who was that?

22 A His name was Robert Wiggins.

23 Q I have a series of photographs which have been
24 marked as 15A through G. They've been admitted.

1 I'll show you these photographs and ask you if
2 you recognize these photographs.

3 THE COURT: 15A through G, are you stipulating to
4 their admission?

5 (Exhibit Nos. 15A through G admitted.)

6 MR. LYON: Yes, Your Honor.

7 THE COURT: Okay.

8 THE WITNESS: This is Mr. Wiggins. That is --
9 BY MR. HALL:

10 Q I'll go ahead and publish them. Why don't you
11 thumb through them real quick and then we'll put them up
12 on the screen.

13 A Okay.

14 Q Let me show you what's been marked for
15 identification as 15A.

16 This is Mr. Wiggins?

17 A Yes.

18 Q This is the guy that was making some comments to
19 you using a vulgarity --

20 A Yes.

21 Q -- when you asked him to stay where he was?

22 A Yes, sir.

23 Q Did he indicate that he was hurt at all?

24 A No, sir.

1 Q Did you ask him if he was hurt at all?

2 A I did.

3 Q Did you inspect him to see if he had any physical
4 injuries?

5 A You know, other than what was apparent, you know,
6 I didn't take his shirt off or anything, but he was
7 handcuffed and sat there for quite some time and then
8 moved to the location you see him there. And in another
9 photograph you'll see him unhandcuffed.

10 He never indicates that he is injured or needs
11 any medical attention. He never tells me that he was
12 hurt. And I believe I asked him specifically was he hurt
13 and asked him if he needed medics and he said no.

14 Q Do you see him rubbing his arm or rubbing his
15 head or any indication that he was trying to nurse a
16 wound?

17 A I did not see that, no.

18 Q And he had his glasses on when you saw him?

19 A I believe so.

20 Q Okay. You didn't see any physical injuries?

21 A I did not.

22 Q He wasn't bleeding anywhere? He had his shoes
23 on?

24 Did his clothes appear to be roughed up or

1 anything like that? Torn?

2 A They weren't torn. He seemed like he was kind of
3 just laying on the floor on his back when I got there and
4 then started to get up.

5 Q So then there's -- some personal information is
6 gathered. And I'm referring to a little notepad in 15B.
7 You have another photograph of Mr. Wiggins, 15C. He
8 seemed comfortable and at ease? Would that be a fair
9 description of his demeanor at this point?

10 A At this point, yes, sir.

11 Q All right. During the course of the evening did
12 you have an opportunity to have any conversation with him
13 or talk to him any further?

14 A We were trying to get whatever statements that we
15 could from the people that we had kind of secured in the
16 main scene. And I went up to him and asked him if he had
17 seen anything or if, you know, he knew anything about the
18 fight or wanted to give a statement about the fight or the
19 incident. And he said, "I don't know anything. I didn't
20 see anything." You know, "No, I don't" -- you know, "I
21 was just," you know, "laying low," or something along that
22 line or "protecting myself" or something like that he
23 said.

24 But he never says that -- anything that he's

1 involved or he's -- he never really says anything. He
2 says, "No, I don't really have any statement for you."

3 Q Did he appear to be afraid?

4 A No.

5 Q He didn't make any statements about he was in
6 fear of anything from anybody?

7 A No.

8 Q When you arrived on scene, Pettigrew was right
9 there on the ground, right?

10 A Yes, sir.

11 Q All right. And where was -- where was Wiggins in
12 relationship to Pettigrew?

13 A They were right next to each other almost. It
14 was probably -- I could reach out and touch both of them.
15 You know, he was over here (indicating), Pettigrew was
16 over here (indicating), and Wiggins was over here
17 (indicating). They were in very close proximity because
18 they were right in between the same bank of slot machines.
19 They were essentially right there together.

20 Q All right. And where was Villagrana, the guy
21 with the gun in his hand?

22 A Villagrana was standing kind of in front or to
23 the side maybe of the bank of slot machines that was on
24 the north side of where Pettigrew was laying. So he

1 was -- if this were the area that was void, you know,
2 where the seats are for the slot machines, Villagrana was
3 standing -- there was a pole that was right there, a big
4 pole that sits there, and he was right here, essentially
5 (indicating).

6 Q So let's just say that I'm Wiggins. So how far
7 am I from Villagrana?

8 A You're probably where that coffee pot is sitting.

9 Q So I'd be about right here (indicating) --

10 A Yeah.

11 Q -- four or five feet from Villagrana when you
12 arrive?

13 A Yes.

14 Q All right. Thank you.

15 I have no further questions.

16 MR. HOUSTON: Thank you, Your Honor.

17
18 CROSS-EXAMINATION

19 BY MR. HOUSTON:

20 Q Good afternoon, Officer. How are you?

21 A Good.

22 Q Officer, I want to go back with you a little bit
23 in reference to the first time that you arrived at The
24 Nugget. Approximately what time was that?

1 A I believe it was around 10:00 o'clock, but I'm
2 not really sure. It might have been a little bit earlier.
3 It seems, in my recollection of my day, that it was a
4 little bit earlier than that, but there would be a call
5 for service that would indicate the exact time. To be
6 honest with you, I don't know --

7 Q Sometime around 10:00?

8 A Yes.

9 Q And the call was primarily due to -- was it like
10 a uniformed officer's presence was required or was it a
11 disturbance report?

12 A No. In my recollection it was more of a, you
13 know, they would like a uniformed presence inside the
14 Nugget because, you know, the two groups had kind of
15 merged or gotten closer and there apparently -- I didn't
16 see any of this, but just from what the call kind of said,
17 that there was a disturbance kind of between the two
18 groups.

19 Q Okay. And did you -- you didn't have any
20 information on that as far as what had happened to create
21 that disturbance?

22 A No, sir.

23 Q Okay. Now, you get there and you meet with the
24 gentleman from the Nugget. True?

1 A Yes, sir.

2 Q Now, you and he then kind of walk down to this
3 area called the Oyster Bar, right?

4 A What happened is he met me outside --

5 Q Right.

6 A -- kind of right there on the north curb line.
7 Mr. Ochs kind of told me, "Yeah, they were kind of jawing
8 back and forth, but I think we've got them separated. I
9 think, you know, there's" -- things have calmed down.
10 So essentially there's a set of doors that --
11 it's kind of on the -- as far as the casino entrances,
12 it's the northwest corner of the casino. There's a set of
13 doors that kind of open up right into where the Oyster Bar
14 sits.

15 Q Okay.

16 A And I'm not even sure if I really made it all the
17 way into the building. You know, the doors opened up, I
18 kind of took a look around, there didn't seem to be any
19 issue at the time, and Mr. Ochs had kind of, you know,
20 said that he was comfortable with how things were going at
21 the time.

22 Q All right. So you don't remember walking around
23 inside the casino at all with Mr. Ochs?

24 A I --

1 Q You could have, but you're not sure?

2 A I might have a little bit, but I think earlier in
3 the night I may have walked around more because -- it was
4 a focus of attention for the evening, and I know that, you
5 know, we were concerned about the two groups being in the
6 same area. But that specific incident -- all I really
7 remember is, you know, I know I poked my head in the door
8 and kind of took an assessment and I kind of felt that
9 maybe my presence there might ramp things up more because
10 neither one of these groups are very law enforcement
11 friendly as a general rule. So I didn't want to add any
12 fuel to whatever little fire might be there. So --

13 Q And when you say they're not law enforcement
14 friendly, do you also include in that that they don't
15 necessarily like to talk to police or report things to
16 police?

17 A They don't necessarily like to talk to us.

18 Q Okay. And that just comes to mind because of
19 your conversation with Mr. Wiggins. You identified him as
20 a Vago, correct?

21 A He was wearing Vago attire, yes.

22 Q All right. It wouldn't be unusual for him to not
23 want to talk to law enforcement --

24 A It --

1 Q -- in your experience?

2 A They tend to, in my opinion, talk to us when they
3 want to --

4 Q Right.

5 A -- when they think that it can help them -- if
6 they have something that they think, you know, we can, you
7 know, do for them, then they talk to us.

8 Q Right.

9 A But in normal cases, you know, they're a little
10 evasive.

11 Q Well, if they don't want to be a witness, for
12 instance?

13 A Perhaps.

14 Q Pretty evasive?

15 A Perhaps.

16 Q Okay. So anyway, when you're sticking your head
17 in there, you don't get that sixth sense: I'd better stay
18 here; there's going to be a problem?

19 A I -- I don't.

20 Q You felt comfortable leaving?

21 A There -- I did.

22 Q Okay. Go back, then, to the second call.

23 Apparently you got that call -- and I'm not holding you to
24 a time -- but sometime after 11:00?

1 A Yes, sir.

2 Q And you show up and Richard -- Officer Gamwell
3 shows up pretty much 20 seconds after you?

4 A Shortly thereafter.

5 Q Now, on the video it appears you're walking up
6 initially alone. Were you alone?

7 A No.

8 Q Okay. Was Officer Gamwell with you?

9 A Yes.

10 Q And when you enter, the first thing you come upon
11 is a group of Vagos and HAs that you put on the ground?

12 A There was more HAs in that particular area. I
13 don't think I saw a Vago in that -- right where the group
14 of slot machines were placed until I kind of came around
15 and saw Wiggins on the floor.

16 Q Okay. And going back up now to when you're
17 starting to walk toward Mr. Wiggins, there was -- you say
18 that you see Mr. Villagrana, and Mr. Villagrana has a
19 firearm?

20 A Yes.

21 Q And there's apparently someone in the crowd being
22 pretty vocal about "shoot him," referring to
23 Mr. Villagrana?

24 A Yes.

1 Q And was it vocal to the point that you finally
2 told them to shut up?

3 A Yes.

4 Q When you see Mr. Villagrana and he has the
5 firearm and he looks at you and then looks at the person,
6 at that point you have your firearm pointed at
7 Mr. Villagrana, correct?

8 A Yes.

9 Q And if Mr. Villagrana had turned with that
10 firearm toward that person, would you have taken any
11 action?

12 A I would have shot him.

13 Q All right. Because that was your goal, to
14 protect the public or that person, right?

15 A Correct.

16 Q Sometimes people don't leave you a choice, do
17 they?

18 MR. HALL: Objection --

19 THE WITNESS: No.

20 MR. HALL: -- argumentative. I move to strike.

21 THE COURT: Sustained.

22 BY MR. HOUSTON:

23 Q When you saw Mr. Wiggins on the ground, he
24 was pretty close to Mr. Pettigrew?

1 A Yes.

2 Q And did Mr. Wiggins indicate to you that he
3 simply wanted to get out of there, he wanted to go?

4 A He didn't indicate that to me. He didn't say
5 that to me. He just tried to stand up.

6 Q Right. Did it appear to you, by trying to stand
7 up, that he was trying to leave?

8 A No. It appeared to me like he wasn't doing what
9 I told him to.

10 Q Which was to lay down?

11 A Right.

12 Q Right. But he was trying to stand up?

13 A It appeared to me that he was trying to stand up,
14 yes.

15 Q Pretty close to a body, correct?

16 A Well, he was close to a person who had been shot.

17 Q Right. Would you think it unusual that he would
18 want to stand up away from that?

19 A I think if I have someone with an AR-15 pointed
20 at me telling me to get on the ground, I'm going to get on
21 the ground.

22 Q Unless you're more scared of something else,
23 right?

24 MR. HALL: Objection. Speculation.

1 THE COURT: Sustained.

2 MR. HALL: Argumentative.

3 MR. HOUSTON: It may be speculative, Your Honor,
4 but I don't think it's argumentative.

5 THE COURT: It doesn't matter.

6 MR. HOUSTON: But I'll accept either way.

7 BY MR. HOUSTON:

8 Q Officer, when you've got the AR-15 pointed at
9 Wiggins -- and he finally does honor your command,
10 correct?

11 A No. I have to tackle him.

12 Q Oh, I'm sorry. You did say that.

13 When you say "tackle him," I mean, I'm
14 envisioning a full-on tackle meaning he's gotten up,
15 you've jumped him and knocked him to the ground.

16 A Not --

17 Q Maybe that's just --

18 A Not necessarily. Essentially he's kind of trying
19 to get himself into a sitting position and he's pushing
20 himself up. He's kind of turned a little bit --

21 Q Okay.

22 A -- and he's pushing himself up on one arm, and
23 I'm like, "Stay on the ground," and he said what he said,
24 and -- because at that point in time there wasn't anybody

1 else in charge except for me, so I wasn't going to let him
2 do anything other than what I wanted him to do.

3 Q Okay.

4 A So I took a step forward and I just kind of
5 grabbed him. And he's still, you know, kind of down on
6 his butt and his knee, and he's pushing, trying to push
7 himself up, and I kind of just put my body weight on him.
8 So I didn't do the whole, you know, Terry Tate Office
9 Linebacker thing, you know -- I'm not that big --

10 Q Right.

11 A -- and dump him. I essentially just pushed him
12 back down on the ground.

13 Q All right. And once you pushed him back down on
14 the ground, that's when he gets handcuffed?

15 A We -- yes. We get him handcuffed right then and
16 there, and that's -- yes.

17 Q All right. And during this -- now, is
18 Mr. Wiggins trying to get up before you've retrieved both
19 handguns or is that afterwards, if you know?

20 A The video might show something different, but my
21 recollection is that that happens afterwards, but I'm --
22 to be honest you, I'm not a hundred percent sure which one
23 comes first.

24 Q All right. Now, as you've stated, Mr. Villagrana

1 puts a handgun down somewhere outside of your vision. And
2 was that, do you think, on top of a slot machine? Or what
3 do you think?

4 A Yes. Essentially the slot machines, they have
5 kind of an angle to them so that people can see them that
6 are sitting there.

7 Q Right?

8 A And then there's like a -- I don't know, like a
9 decorative centerpiece thing that kind of rises up and
10 comes to like a U shape. So essentially he reaches over
11 and sticks it down, and I believe it's on a slot machine.
12 I think it was kind of even on the face, so it might have
13 even slid down a little bit. It was on one of those slot
14 machines when I come around.

15 Q Okay. And, now, how do you, then, again, come
16 into possession of that firearm?

17 A I reach over and grab it.

18 Q All right. And when you pick it up, you pick it
19 up and you put it down on the floor? In other words, you
20 just go down and set it on the floor between your feet?

21 A Yes.

22 Q Then you also observed there's a person who
23 appears as though they have some medical training, and
24 that person, along with others, appear to be rendering aid

1 to Mr. Pettigrew, correct?

2 A Correct.

3 Q And this one lady actually retrieves a firearm
4 from somewhere in the neighborhood of Mr. Pettigrew,
5 holding it by the handle, and then essentially gives it to
6 you or puts it on the floor?

7 A I asked her to put it on the floor.

8 Q Does she slide it over to you on the floor --

9 A No, she --

10 Q -- or she just leans over?

11 A She sticks it right on the floor and pulls her
12 hand away, and then I reach over with my foot and I slide
13 it across the floor next to the other gun.

14 Q And no question it was from the vicinity of where
15 Mr. Pettigrew was laid out on the ground?

16 A There wasn't really any question in my mind,
17 although I can't tell you exactly where she got that gun
18 from.

19 Q Okay. When she handed you that gun at that
20 point, is that when the medics came in?

21 A No.

22 Q Okay. How long after that is it before the
23 medics come in?

24 A The medics kind of take a long time because they

1 get -- we have multiple gunshot victims, and there's a
2 couple victims that are by the doors that run directly
3 underneath the freeway on what I call 11th Street.

4 They've changed the name of the street, so -- it's
5 11th Street to me. And they went there first and then
6 came to where Mr. Pettigrew was, but we had moved him.

7 Q Right.

8 A And we were probably there five minutes --

9 Q And then --

10 A -- or so.

11 Q I think that's when you said that you said, look,
12 medics aren't going to come here; if you want him to get
13 medical help you guys are going to have to --

14 A Well, essentially that happens right after we
15 kind of get Wiggins handcuffed and the guns -- or whatever
16 guns that are there, the two guns, are now kind of away
17 from everybody, and I tell them, "If you want your friend
18 to get help, you'd better pick him up and let's go."

19 Q What do you do with the two guns on the ground
20 when the folks pick up Mr. Pettigrew and carry him off?

21 A Essentially I left them there. There were
22 officers there.

23 Q Okay.

24 A There was -- Officer Gamwell was there, Officer

1 Bare was there and Officer Hopkins was there.

2 Q And at that point is that pretty much your -- did
3 you have additional involvement at that scene after you
4 had taken or watched the other folks take Mr. Pettigrew to
5 where he could receive medical assistance?

6 A Essentially after that it was -- you know, my job
7 was kind of try and figure out what we were doing with
8 these people inside the scene, whether or not we could
9 figure out who was involved, trying to document who was
10 there. We started taking photographs of their IDs and
11 them to try and document who was there.

12 And that kind of -- you know, trying to get the
13 witnesses from the Nugget to someplace where they would --
14 could talk to us, that was essentially kind of the rest of
15 my evening.

16 Q All right. Thank you very much, Officer.

17 MR. HALL: Just very briefly.

18
19 REDIRECT EXAMINATION

20 BY MR. HALL:

21 Q Do you know how long it took for you to get
22 from -- you don't know when Pettigrew was shot, is that
23 right, exactly?

24 A I don't.

1 Q Okay. But Cesar Villagrana and several other
2 Hells Angels were right there close to Pettigrew?

3 A Very.

4 Q And right -- I mean, just within feet is Wiggins?

5 A Yes.

6 Q All right. And when you got there, were they
7 saying anything to Wiggins?

8 A Not that I could hear.

9 Q So they're just standing there. And were there a
10 lot of Vagos in the surrounding areas?

11 A No. All the Vagos except for one -- one
12 somehow -- there was one in the scene that I don't know
13 where he was when I first walked in. He ended up kind of
14 being kind of detained by us. I don't know where he was.
15 But there was, I don't know, 50 or so Vagos in Rosie's
16 coffee shop kind of watching, and that coffee shop is
17 probably 25 feet or so.

18 Q Did you have Vagos in the bathroom?

19 A I didn't know it, but the video shows yes.

20 Q All right. Thank you. I have no further
21 questions.

22 MR. HOUSTON: I have nothing further either.
23 Thank you.

24 THE COURT: You may step down.

1 May this witness be excused?

2 MR. HALL: Yes.

3 MR. HOUSTON: Yes, Your Honor.

4 MR. STEGE: Next officer, Officer Bare.

5
6 OFFICER CHRISTOPHER BARE,
7 called as a witness on behalf of the Plaintiff,
8 having been first duly sworn,
9 was examined and testified as follows:

10
11 DIRECT EXAMINATION

12 BY MR. STEGE:

13 Q Please state and spell your name.

14 A Officer Chris Bare, B-a-r-e.

15 Q And you are a police officer with the Sparks
16 Police Department?

17 A Yes, sir.

18 Q And what is your current assignment?

19 A I'm a K-9 handler.

20 Q How long have you been a K-9 handler?

21 A Over three years now.

22 Q Were you on duty on September 23rd, 2011, as a
23 K-9 officer?

24 A Yes, sir, I was.

1 Q And did you respond to the Sparks Nugget?

2 A Yes, sir, I did.

3 Q And when did you respond?

4 A It was a little bit before 11:30 at night, p.m.

5 Q Were you one of the -- in the first group of
6 officers that responded?

7 A Yes, sir.

8 Q And when you responded, where did you go?

9 A I parked my vehicle on the southeast corner of
10 the Nugget and met up with two other officers who arrived
11 around the same time that I did.

12 Q Which officers was that?

13 A Officers Hopkins and Officer Harris.

14 Q And which doors -- which side of the building did
15 you enter the Nugget?

16 A Through those southeast doors that are right on
17 the corner there.

18 Q And where did you go from there?

19 A As I pulled up, I saw that there was a lot of
20 people running out of the casino yelling, and they
21 appeared agitated. I waited for Officer Hopkins and
22 Officer Harris because they had -- they were getting their
23 rifles out of their patrol vehicles. Then I got my K-9
24 out of my vehicle and then we entered the casino and

1 started trying to make our way through the crowd that was
2 running out of the casino.

3 Q And what was the crowd doing as they were running
4 out of the casino?

5 A There was a lot of screaming, a lot of yelling.
6 When they saw that we were on scene and coming up to the
7 doors, they started pointing inside the casino in a
8 direction further to the interior of the casino floor.

9 Q So you proceed to that area?

10 A Yes, sir.

11 Q What did you see in the casino?

12 A I made my way maybe around 20 yards or so into
13 the casino with Officer Hopkins and Harris, and there was
14 still a lot of commotion and yelling and people running
15 around, but I did notice that there was a large group kind
16 of to our front in between some gaming machines that were
17 engaged in what looked like to me a large fight, fist
18 fight.

19 Q And is this in the area of the Horseshoe Bar?

20 A I believe it was a little bit further south from
21 the Horseshoe Bar but kind of in that general area of the
22 casino.

23 Q And what were these people doing?

24 A It was hard to tell with so many people running

1 around and yelling and screaming, but they definitely were
2 throwing blows, kicking. I saw people kicking other
3 people that were on the floor.

4 Q And could you identify -- the people who were
5 doing the kicking, could you identify what group they were
6 with, Vago or Hells Angels affiliation?

7 A No, sir, I couldn't, like, pinpoint who was --
8 there was so much commotion and people, I couldn't tell
9 who was doing what.

10 Q And in fact at one point in your report you
11 called the situation fluid and unstable?

12 A Yes, sir.

13 Q What do you mean by that?

14 A Just -- it wasn't a typical situation that we
15 would encounter daily during our patrol work due to the
16 high -- how many people were present and running around,
17 and people were just moving constantly. It especially
18 seemed like the people that were engaged in the fight,
19 when they noticed that we were there, people started
20 running away from the fight or trying to disengage from
21 the fight, and it appeared that they -- or it seemed to me
22 that they were trying to appear like they weren't doing
23 anything wrong or they weren't the ones that were involved
24 in the fight.

1 Q And with you is two other officers, right?

2 A Yes, sir.

3 Q And how many other people are there in this
4 big -- this brawl that's going on or this fight you're
5 talking about?

6 A In the fight, actually engaged in the fight, I
7 would say no more than maybe 10 or 15 people, but there
8 was hundreds of people present. A lot of people were
9 gathered around watching what was going on. I could see
10 the emblems associated with motorcycle colors present on a
11 lot of the people that were there. I could -- what
12 appeared to be just normal people that were -- or civilian
13 people that were in the casino were present. There was
14 actually still people that were playing the machines while
15 all of this was going on.

16 Q And so what did you do when you came upon this
17 group? What did you and the other officers do?

18 A We started yelling for -- obviously for them to
19 stop, get down on the floor. My police K-9 started
20 barking and lunging at them on the leash.

21 Once we started giving the commands, a lot of
22 people started running away from the area of the fight.
23 Some of them got down on the ground like we were telling
24 the them to. Only a few.

1 Q Did you order your dog to -- your K-9 to start
2 barking?

3 A Yes, sir.

4 Q And how did you do that?

5 A There's a command I give her that alerts her and
6 lets her know that she's on alert, she's looking for
7 aggressive behavior, and she knows that when she sees that
8 kind of activity, to start barking.

9 Q And what was the reaction when your K-9 started
10 barking?

11 A People -- the immediate reaction was people gave
12 us a wide berth. It kept people at bay, away from us,
13 because there was a lot of people that were milling
14 around, trying to get out of the casino, surrounding us,
15 and when she started barking they kind of separated out a
16 little bit and gave us a little bit more room.

17 Q So what did you do next?

18 A Once we got that situation calmed down a little
19 bit my attention was drawn further into the casino, which
20 would have been near the Trader Dick's Bar, I believe it's
21 called, where I noticed Sergeant Walsh was, what appeared
22 to me, by herself inside the casino. She had her rifle.
23 She appeared to me to be in distress or stressed and
24 agitated and yelling commands.

1 Q So what did you do with the group of people you
2 had there on the scene --

3 A I asked --

4 Q -- on the ground?

5 A I asked Officer Harris if he would be okay right
6 there since things had calmed down quite a bit at that
7 location. He said he would be okay for a few minutes.
8 And then I told Officer Hopkins that I intended for us to
9 move further into where Sergeant Walsh was.

10 Obviously there had been a report that shots had
11 been fired that wasn't occurring where we were at right
12 then, and based on what I saw going on with Sergeant
13 Walsh, I was concerned for her safety and the safety of
14 the people that were still further inside the casino, so I
15 wanted to move to her location to try and make sure
16 everything was going to be okay there.

17 Q So let me back up to when you come upon this
18 group fighting. How long did you see them fight before
19 you intervened or before you were able to gain control?

20 A It was probably only a few seconds. I know that
21 it seemed like a lot longer, and I realize that that's due
22 to the -- I was stressed out. But it was probably only a
23 few seconds that that actually went on for.

24 Q I'd like to direct your attention to the screen

1 in front of you. And this is part of the video which has
2 previously been admitted by stipulation. This is the
3 Horseshoe Bar video. I'd like for you to watch this
4 video, please.

5 (Video played)

6 BY MR. STEGE:

7 Q Did you just see yourself in that video?

8 A Yes, sir.

9 Q And are you up in the top-right corner there?

10 A Yes, sir.

11 Q And who is the person in the middle there, that
12 police officer in the middle?

13 A That's Officer Hopkins.

14 Q Are these some of the people that you saw
15 fighting?

16 A Yes, sir.

17 Q What are you guys doing here?

18 A Trying to control the crowd. I was trying to
19 broadcast on my radio to request more officers to come and
20 help, but I couldn't get a radio signal out of the casino.

21 Q As you see it now, were you able to tell the
22 affiliation of some of those people lying on the ground?

23 A I see what I recognize to be Vagos motorcycle
24 group colors on some of the jackets.

1 Q Of the people prone out?

2 A Yes, sir.

3 Q We now saw you walk towards a direction. Is that
4 when you went towards Sergeant Walsh?

5 A Yes, sir.

6 Q Now, could you hear her, from where you were,
7 yelling out commands?

8 A No, sir.

9 Q How could you tell she was in distress?

10 A I could see her -- looked like she was yelling.

11 Q Okay.

12 A And just the look on her face, she looked like
13 she was in distress.

14 Q Needed help from other officers?

15 A Yes, sir.

16 Q So what happened when you got over to where she
17 was?

18 A As I approached, we did more of the same that we
19 had been doing, yelling commands at people, because it was
20 pretty chaotic over there too. My police dog continued to
21 bark. And at one point I saw a handgun slide across the
22 floor.

23 Q And what became of that handgun? Were officers
24 assigned to watch that handgun after the incident -- after

1 things were under control there?

2 A I believe Officer Hopkins watched the handgun,
3 but I kept going to Sergeant Walsh.

4 Q Did you see Sergeant Walsh having to deal with
5 someone?

6 A Yes, sir.

7 Q And what did you see her try to do?

8 A She was -- by the time I got to her she was in a
9 verbal argument or an argument with somebody that was kind
10 of -- they were on the floor, but they were half seated
11 up, had pushed themselves up to a half-seated position,
12 and that person was arguing back with her.

13 Q What was the man saying?

14 A Sergeant Walsh was directing him to lay on the
15 floor and put his hands behind his back or something along
16 those lines, and he was yelling expletives at her and
17 refusing to comply.

18 Q Although it's generally impolite, will you please
19 repeat the expletives the man was saying.

20 A The one that I specifically remember was that he
21 yelled, "Fuck you."

22 Q What was he -- can you tell if he was affiliated
23 with either the Vagos or Hells Angels?

24 A I -- I think I had it in my report, that I noted

1 it at the time, sir, but I don't remember sitting up here
2 right now.

3 Q If you saw a picture of that man, would you
4 remember -- would you recognize him?

5 A I believe so, sir.

6 Q Showing you previously admitted Exhibit 15C. Do
7 you recognize this man?

8 A That may be him, sir. I can't be a hundred
9 percent sure.

10 Q So what happened after Walsh is yelling or in
11 this argument with the man? What happens next?

12 A I believe it was Officer Hopkins and Sergeant
13 Walsh started struggling with him on the floor, trying to
14 get him handcuffed. While I -- once they started doing
15 that, I was trying to watch to make sure nobody came up
16 behind us. And then they finally got him handcuffed.

17 Q Do you have a copy of your report there with you?

18 A Not with me, sir.

19 Q Would it refresh your recollection on the
20 affiliation of the man if you were to see your report?

21 A Yes, sir.

22 MR. STEGE: May I approach the witness?

23 THE COURT: Yes, you may.

24 /////

1 BY MR. STEGE:

2 Q Sir, if this refreshes your recollection, please
3 let us know, and then we'll take your answer.

4 A It does, sir.

5 Q What was the affiliation of the man yelling at
6 Walsh?

7 A He had Vagos colors, motorcycle group colors.

8 Q How was it that Sergeant Walsh was able to gain
9 control over this man?

10 A Officer Hopkins and she struggled, wrestled
11 around with him for a few seconds on the floor, and they
12 were able to get his hands behind his back and handcuff
13 him.

14 Q Was your dog -- the K-9 still barking to sort of
15 make space for the officers and control the --

16 A Yes, sir. When they started struggling with him,
17 she focused on him and -- but it didn't deter him at all.
18 He didn't appear to be afraid of the police dog. So I
19 kind of pulled her back just so there wouldn't be any
20 contact.

21 Q When you say "focused," I mean, is the K-9
22 barking at what's going on?

23 A Yes, sir. She's trained if I, or usually other
24 officers, if they get in a struggle with somebody, then

1 she's been trained to watch that and be alert.

2 Q What did you do next?

3 A I directed the -- there was a couple Nugget
4 security guards present, and I started asking them to
5 help. There was quite a few people that were compliant
6 and laying on the floor, and I asked security to help
7 handcuff some of those subjects that were laying around on
8 the ground.

9 I noticed that there was somebody that appeared
10 injured nearby, and there were several civilian people
11 that looked like, to me, they were trying to give --
12 render first aid to.

13 Q And did Sergeant Walsh ultimately deal with that
14 situation, the injured person?

15 A I believe she did. With everything going on, my
16 main focus was -- at that point I was trying to keep the
17 officers that we had safe by using the dog to kind of
18 position myself between -- there were a lot of people who
19 were like milling around and gathering and us. I didn't
20 know what their intentions were, so I was trying to keep
21 myself placed between Sergeant Walsh and those people. So
22 I wasn't really too focused on the interior of like our
23 little perimeter that we had set up. I was more focused
24 on trying to watch what was going on around us.

1 Q And getting control of the situation?

2 A Yes, sir.

3 Q Pass the witness.

4 THE COURT: Cross?

5 MR. LYON: No questions, Your Honor.

6 THE COURT: Thank you. Sir, you may step down.
7 You are excused.

8 THE WITNESS: Yes, Your Honor.

9
10 OFFICER ADAM HOPKINS,
11 called as a witness on behalf of the Plaintiff,
12 having been first duly sworn,
13 was examined and testified as follows:

14
15 DIRECT EXAMINATION

16 BY MR. HALL:

17 Q Sir, would you state your name and spell your
18 last name.

19 A Adam Hopkins, H-o-p-k-i-n-s.

20 Q What is your occupation, sir?

21 A I'm a police officer with the Sparks Police
22 Department.

23 Q And how long have you been so employed?

24 A Six years.

1 Q And what are your duties as a Sparks Police
2 officer currently?

3 A My current assignment is patrol.

4 Q Drawing your attention back to September 23rd,
5 2011, were you patrol at that time?

6 A I was.

7 Q Did you have an opportunity to respond to the
8 Nugget?

9 A I did.

10 Q All right. Can you tell us what happened or what
11 your observations were upon arrival in the area that you
12 responded to, the area of the Nugget where you parked?

13 A I responded to the east side of the Nugget. I
14 met up with Officers Bare and Harris. We were responding
15 to a possible shooting at The Nugget. And at that time
16 Officer Harris and I deployed our assault rifles, and
17 several subjects were exiting the Nugget. They were --
18 some were running, some were walking. Seemed very
19 confused at the time. We weren't sure what exactly was
20 happening inside the Nugget.

21 And we then entered from the southeast doors.
22 And as we made entry into the Nugget, there were several
23 subjects, and their behavior was varied. Some people were
24 still gambling, other people were running throughout the

1 casino; there were subjects hiding underneath the machines
2 as we were entering.

3 Q So did you enter together kind of like a team?

4 A Yes. We entered as a team because we were trying
5 to assess any threats inside the casino.

6 And we initially entered and we came upon a group
7 of subjects, and that group -- we left Officer Harris
8 there to address that group, because we were still looking
9 for any possible lethal threats at the time, and we didn't
10 assess anybody in that group as a lethal threat.

11 After we left Officer Harris with that group,
12 Officer Bare and I observed Sergeant Walsh near Rosie's
13 Cafe, and we began to head to her to assist her.

14 Q So when you entered, I guess the first bar that
15 you would come to would be the Horseshoe Bar?

16 A Yes.

17 Q Do you know where the Horseshoe Bar is?

18 A Yes.

19 Q You've been in the Nugget before?

20 A I have.

21 Q Did you see the fight that was going on there?

22 A I did not.

23 Q Okay. So when you got in, everybody scattered?

24 A Everybody was scattered.

1 Q People were running?

2 A Yes, they were.

3 Q Did you see Vagos running?

4 A Yes, I did.

5 Q Okay. Did you see any guys beat up at that
6 location?

7 A Not that I recall.

8 Q Okay. So you were -- kind of identified Sergeant
9 Walsh pretty early on from that point?

10 A Yes, I did.

11 Q Okay. And did you go directly to that location?

12 A Yes. Officer Bare and I moved together to
13 Sergeant Walsh.

14 Q What happened when you got to Walsh's location
15 there near the bathrooms?

16 A There was a subject -- well, there were several
17 subjects running into the bathrooms; there were subjects
18 coming out of the bathrooms. I mean, it was very chaotic.
19 We were still trying to figure out what exactly was going
20 on.

21 There was a male subject who was giving Officer
22 Bare some difficulty. He wasn't cooperating with Officer
23 Bare, and I then had to address him as a possible lethal
24 threat so I aimed my weapon at him to see if I could

1 get -- gain compliance by doing so. At that time, after I
2 had done that, he finally complied so that we could
3 continue assessing the rest of the situation.

4 That's when I started noticing the victim laying
5 on the ground and the -- there were so many people in the
6 Nugget when I went in there. I couldn't tell much more
7 than he was down and that he was bleeding. I didn't --
8 couldn't see any of his injuries or anything like that.
9 And there were civilians providing him medical treatment.

10 Q Did you make contact with anybody in that area?

11 A In that area? Other than the subject we had to
12 address at the bathroom, Sergeant Walsh began addressing
13 another subject near one of the machines. That subject
14 was not cooperating with her. And then due to that
15 uncooperative behavior, I began heading over there to
16 assist her with that subject.

17 Q Who was that?

18 A I'm not sure of his entire name. I know his last
19 name was Wiggins.

20 Q All right. So tell me about your contact with
21 this guy.

22 A Wiggins was not -- he was uncooperative with
23 Sergeant Walsh. I could tell she was having an issue with
24 him, so I moved over to assist her. He was verbally

1 belligerent to us, using profanities towards us, and he
2 was not complying with her commands and -- to the point
3 where we had to handcuff him.

4 Q Did you have any contact with him after that?

5 A I did not.

6 Q All right. Did you see any injuries on him?

7 A I did not.

8 Q Did you ever hear him complain of any injuries?

9 A Not that I recall.

10 Q Did you ever hear him say anything other than use
11 profanity against you and your fellow officers?

12 A No. All he did was use profanities and be
13 uncooperative.

14 Q How would you describe his demeanor?

15 A Angry and belligerent towards us like we had done
16 something wrong by being there.

17 Q Nothing further. Thank you.

18 THE COURT: Cross?

19 MR. HOUSTON: Yes, Your Honor

20
21 CROSS-EXAMINATION

22 BY MR. HOUSTON:

23 Q Good afternoon, Officer.

24 Officer, you indicated that you arrived at The

1 Nugget. Were you pretty early on as far as the entry
2 team?

3 A Yes.

4 Q And when you entered, you said that you were
5 assessing for lethal threat.

6 A Yes.

7 Q What's a lethal threat?

8 A Well, for me it's someone who's pointing a gun at
9 people --

10 Q Okay.

11 A -- or could potentially point a gun at someone.
12 At that time. Like I said, we were responding to a
13 possible shooting or what we thought was a shooting.

14 Q And as you're assessing this lethal threat, if
15 you come upon someone that is pointing a gun at someone,
16 what's your course of action?

17 MR. HALL: Objection. Relevance.

18 MR. HOUSTON: He brought it up.

19 MR. HALL: In what context?

20 MR. HOUSTON: When he was asking about
21 assessing --

22 THE COURT: No, no, no, I don't think that's -- I
23 don't know what the objection was. In what context?

24 So you want to go into what area of the direct

1 examination?

2 MR. HOUSTON: I was simply asking him in
3 reference to his statement he was assessing for lethal
4 threat, what that meant and what the response was.

5 THE COURT: You can ask that question.
6 Overruled.

7 BY MR. HOUSTON:

8 Q All right, Officer. I'm sorry. Go ahead.

9 A Could you repeat the question?

10 Q Oh, boy.

11 A Well, there was a lot of --

12 Q Yes.

13 MR. HOUSTON: Can you read back, please.

14 (Whereupon, the record was read by the reporter.)

15 MR. HALL: That was my objection, was there
16 anybody pointing a gun at somebody that he was assessing.

17 THE COURT: Yes. I don't know.

18 Did you come across that?

19 THE WITNESS: Did I come across anybody wielding a
20 gun?

21 THE COURT: Yes.

22 THE WITNESS: No, I did not.

23 THE COURT: Okay. I'm going to ask you to ask a
24 different question.

1 BY MR. HOUSTON:

2 Q All right. So when you're walking around and
3 you're assessing for a lethal threat, you come upon the
4 scene of Mr. Wiggins, correct?

5 A Yes, I did.

6 Q And I didn't hear you classify him as a lethal
7 threat. True?

8 A That is true.

9 Q All right. And Wiggins seemed angry and
10 belligerent as though you guys had done something?

11 A No, as if we shouldn't be there, like we were
12 interfering in something. He was angry about our presence
13 there.

14 Q Angry about your presence. Did he ever voice to
15 you that he may have been angry that it took so long for
16 you to get there?

17 A He didn't -- he wasn't specific. That I recall,
18 he wasn't specific.

19 Q Thank you very much.

20 THE COURT: Anything further?

21
22 REDIRECT EXAMINATION

23 BY MR. HALL:

24 Q He didn't say, "Thank God you're here. I was

1 scared to death," did he?

2 A No, he did not.

3 Q He didn't say anything like that?

4 A No.

5 Q He was like eff you, eff you, I'm not doing
6 anything. That's what he was saying. Right?

7 A Similar to that, yes.

8 Q Yeah. Nothing further.

9
10 RECROSS EXAMINATION

11 BY MR. HOUSTON:

12 Q Did he say it just like Mr. Hall?

13 Nothing further. Thank you.

14 THE COURT: Okay. You may step down. You are
15 excused.

16 THE WITNESS: Thank you.

17 MR. HALL: Your Honor, may we adjourn for the
18 day?

19 THE COURT: Oh, my goodness.

20 Ladies and gentlemen of the jury, it's great that
21 we're recessing for today. We're on a plan. We're making
22 good time. We really are.

23 The situation is, however, that we are not going
24 to be having the trial tomorrow morning for you to attend.

1 So although I know you will be very disappointed, you are
2 going to be off tomorrow morning. Now, I'm only doing
3 this because we have other business to attend to and so
4 that we can keep this schedule moving forward in a good
5 manner and because I believe that we're right on schedule.
6 So we are making progress, and we are on schedule to still
7 resolve the case in the amount of time I told you before.

8 So that being said, we will probably be holding
9 court next Friday, so do not assume that we will be dark
10 next Friday. I don't think we will be. And I would not
11 anticipate that we would be dark any other day between now
12 and the end of two weeks from now, which would be the end
13 of the three weeks we started with.

14 So that being said, you are not going to have to
15 be here tomorrow morning, but you will be required to be
16 back on Monday morning, and we'll begin hearing testimony
17 again at that time.

18 Now, as you take this recess, it may be more
19 difficult for you to, over the weekend, follow the
20 admonition I've been giving you at all the breaks. You
21 may get questioned, you may -- people may want to know
22 what you're doing, how's it going. And if that were to
23 happen and you began discussing what you're seeing and
24 hearing, you would allow someone who never saw the

1 evidence to start influencing your decision about it. And
2 that's why you can't do these things. You cannot be
3 influenced in any way by anyone other than each other
4 while you're deliberating and based on what you all saw
5 and heard at the same time.

6 Now, also, I want to be sure that you follow the
7 admonition with regard to any investigation, looking
8 anything up, and stay far away from the news media
9 reports. Don't look at the local paper. Do not look at
10 local news. Do not do anything like that because you do
11 run the risk of violating the admonition that I've been
12 giving you.

13 The last thing is you know I keep telling you
14 don't form or express any opinion. Sometimes it's easy
15 not to express an opinion, but sometimes it's very
16 difficult not to start forming opinions. But that would
17 be premature. You've not heard all the evidence, you
18 don't know where it all fits, and you must follow that
19 admonition too.

20 So think about something completely different
21 than this trial during the break, and enjoy your three
22 days off.

23 We will see you on Monday morning at 7:30.
24 During this break that we are about to take, you are

1 admonished that you may not form or express any opinion
2 regarding the ultimate outcome of this case.

3 Further, you may not speak of the case to anyone
4 or allow anyone to speak of it to you or in any manner
5 attempt to influence you with regard to it. Should any
6 person make such an attempt, report it to me immediately.

7 When I say speak of the case, this includes
8 discussing the case in internet chatrooms, through
9 internet blogs, internet bulletin boards such as Facebook,
10 Twitter, emails, or text messages.

11 Do not read, listen to, or view any news media
12 accounts or any other accounts regarding this trial or
13 accounts regarding anyone associated with the trial,
14 including any online information. Do not research on any
15 of the parties, groups, or law involved in this case,
16 including consulting dictionaries, searching the internet,
17 or reference materials.

18 Do not make any investigation about the case on
19 your own. Thus, you may not go to the Sparks Nugget in
20 person or through the internet.

21 I'll see you back on Monday. Thank you.

22 (The following proceedings were held in
23 open court, outside the presence of the jury.)

24 THE COURT: Please be seated.

1 Okay. Counsel, it's my understanding that there
2 is a motion in limine regarding expert witnesses.

3 And it's my understanding, Mr. Houston, you're
4 withdrawing your experts.

5 MR. HOUSTON: That's correct, Your Honor.

6 THE COURT: Is that both? Let's see --

7 MR. HOUSTON: Yes, Your Honor it is. Mr. McCann
8 I believe it is --

9 THE COURT: Mr. McCann and Ms. Peters are
10 withdrawn?

11 MR. HOUSTON: Yes, Your Honor.

12 THE COURT: Therefore your motion in limine is
13 withdrawn?

14 MR. HALL: Yes.

15 THE COURT: Okay. And is there anything else?
16 Counsel, do you have any issues that we should resolve now
17 before next week?

18 MR. LYON: Just the witness list for Monday, if
19 we could.

20 THE COURT: Okay. Anything -- any other -- any
21 legal issues? Anything going on?

22 MR. HOUSTON: No, Your Honor.

23 THE COURT: Okay. At what point do you think
24 you'll be ready to discuss jury instructions?

1 MR. HOUSTON: Did the Court want to -- I'm
2 presuming you mean, then, before we start the defense
3 or --

4 THE COURT: I'm just wondering if there's -- if
5 that would be available to do that at some point before
6 just to preliminarily discuss them? Or have you all met
7 and discussed and conferred with regard to your proposed
8 instructions?

9 MR. HOUSTON: No, we haven't.

10 THE COURT: Okay. I just want to get an idea.
11 I'd like you all to talk about an idea based on the
12 schedule. We will have afternoons to do that, but I still
13 kind of want to have an idea.

14 MR. HOUSTON: Maybe we can give the State a call
15 tomorrow and we'll try to set up a time where we can get
16 together and see if we can come with perhaps a joint
17 recommendation as far as a set of instructions.

18 THE COURT: That would be wonderful, at least in
19 terms of the general questions instructions you may have
20 both asked. I do have a set of instructions I can use for
21 all the general issues.

22 Counsel approach.

23 (A sidebar was held off the record.)

24 Court's in recess.

(Proceedings adjourned.)

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STATE OF NEVADA,)
COUNTY OF WASHOE.)

I, BECKY VAN AUKEN, Certified Shorthand Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the above-entitled Court and took stenotype notes of the proceedings entitled herein, and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said proceedings.

DATED: At Reno, Nevada, 07/31/2013.


BECKY VAN AUKEN, CCR No. 418

51

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

- 000 -

STATE OF NEVADA,

Plaintiff,

VS.

ERNESTO MANUEL GONZALEZ,

Defendant.

Case No. CR11-1718B

Dept. No. 4

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

MORNING SESSION

MONDAY, JULY 29, 2013

RENO, NEVADA

COPY

Reported By: BECKY VAN AUKEN, CCR No. 418

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I N D E XWITNESSES:PAGE**RICHARD NICKERSON**

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1 RENO, NEVADA, MONDAY, JULY 29, 2013, 7:30 A.M.

2 -o0o-

3
4
5
6 THE COURT: Please be seated.

7 Is there anything, counsel, that you need to
8 bring up outside the presence of the jury this morning?

9 MR. STEGE: No, Your Honor.

10 MR. HOUSTON: No, Your Honor. Thank you.

11 THE COURT: Okay. Then go ahead and bring the
12 jury in.

13 (Whereupon, the following proceedings were
14 held in open court, in the presence of the jury.)

15 MR. HALL: There is something, Your Honor. Can
16 we approach?

17 (A sidebar was held off the record.)

18 THE COURT: Good morning, ladies and gentlemen.
19 Welcome back. I hope you all had a nice weekend. We're
20 going to check on something real quick and then we will be
21 able to start.

22 Counsel, you may proceed.

23 /////

24 /////

1 RICHARD NICKERSON,
2 called as a witness on behalf of the Plaintiff,
3 having been first duly sworn,
4 was examined and testified as follows:
5

6 DIRECT EXAMINATION

7 BY MR. STEGE:

8 Q Good morning. Please state your name and spell
9 it for us.

10 A Richard Nickerson, N-i-c-k-e-r-s-o-n.

11 Q And you are in the San Jose Vagos; is that true?

12 A Yes.

13 Q How long have you been in the San Jose Vagos?

14 A Fours years and a few months.

15 Q So prior to September of 2011 how long had you
16 been in the Vagos?

17 A Three years, two years.

18 Q And so you know the other people in the San Jose
19 Vagos; isn't that true?

20 A Yes.

21 Q For example, you know Diego Garcia?

22 A Yes.

23 Q What's his nickname?

24 A Boo Boo.

Q And who's the president of the San Jose Vagos?

A Cesar.

Q Cesar Morales?

A Yes.

Q What's his nickname?

A Doesn't have one.

Q Who's the vice president of the San Jose Vagos?

A Rigo.

Q Do you recognize anyone else in Exhibit 137 from the San Jose Vagos?

A Yes.

Q Who else?

A Romeo and Brian.

Q Brian Marquez?

A Yes.

Q What's Brian's role in the San Jose Vagos?

A He's just a member.

Q You just referred to Romeo. Are you referring to Ernesto Gonzalez?

A Yeah.

Q So then we could put under Cesar Morales "San Jose," right?

A Correct.

Q In fact, we could also put a president sticker

1 next to him since he's the president of that chapter; is
2 that right?

3 A Uh-huh.

4 Q We can put a "San Jose" under your name as well,
5 right?

6 A Yes.

7 THE COURT: Counsel, the exhibit is being
8 modified. Do you have any objection?

9 MR. HOUSTON: No, Your Honor.

10 THE COURT: Okay.

11 BY MR. STEGE:

12 Q We can put it under your name here, right? This
13 is you?

14 A Yes.

15 Q A "San Jose" under Romeo? That's accurate?

16 A Yeah.

17 Q A "San Jose" under Brian Marquez?

18 A Yes.

19 Q A "San Jose" under Diego?

20 A Yeah.

21 Q We could call -- and you said Rigo is the vice
22 president?

23 A Yes.

24 Q When did Ernesto come into the San Jose Vagos?

1 A I don't recall, to be honest with you.

2 Q Well, how long have you known him?

3 A Four years and a few months.

4 Q How long prior to September of 2011 did you --
5 I'm sorry, September of 2011 did you know Ernesto?

6 A A couple years.

7 Q And isn't it true he's -- you called him your
8 best friend?

9 A He's my brother.

10 Q And you called him your best friend?

11 A Yes.

12 Q Now, you are aware that there was -- there's a
13 rivalry between the Vagos and the Hells Angels; is that
14 true?

15 A Not up until that time.

16 Q Well, in fact there was a rivalry between the San
17 Jose Vagos and the San Jose Hells Angels?

18 A Not up until that time.

19 Q Isn't it true that you told the police that you
20 yourself had fought with them?

21 A I said I've had run-ins with them in the past
22 before I ever became a Vago.

23 Q Well, didn't you say --

24 A I said they don't like me much. What I was

1 referring to is behind this incident.

2 Q Didn't you say that you fought six or seven of
3 the HAs --

4 A I said I had a difference with six of them in the
5 past behind -- a long time ago behind drugs when I was
6 using.

7 Q And -- but you had --

8 A My disrespect. My disrespect with them.

9 Q So you yourself have had fights with them?

10 A I hadn't had physical. We had verbal.

11 Q And didn't you also have a run-in with them at an
12 Easy Rider Show in Sacramento?

13 A No, there was -- one of the members that I was
14 with happened to be confronted and asked about -- I don't
15 know what for sure. But there was an incident, and then
16 what happened was sat down and talked it out like we
17 normally do.

18 Q Well, didn't you tell the police that in fact you
19 had been surrounded by a large group of Hells Angels?

20 A Well, there was only maybe 20 of us up in
21 Sacramento at the time and there was a lot of them with
22 their booths.

23 Q In fact, I think you said that you were
24 outnumbered a hundred to one?

1 A About eight to one.

2 Q And that was in this Sacramento Easy Rider Show?

3 A Yes.

4 Q And when was that?

5 A A couple years back. I don't recall.

6 Q And so it's fair to say you guys didn't get along
7 with the San Jose Hells Angels?

8 A No, we did. We coexisted. They respected us; we
9 respected them. We stayed out each other's way.

10 Q You did get along, though, with the Mongols,
11 right? The Vagos get along with the Mongols?

12 A We get along with about everybody.

13 Q In fact the Vagos in 2011 were in expansion mode;
14 isn't that true?

15 A Pardon?

16 Q In expansion mode? They were adding people to
17 the Vagos?

18 A Well, I don't know about that. But there's
19 always new people coming, always people going too.

20 Q And how many people were in the San Jose group?

21 A When?

22 Q In 2011 leading up to this.

23 A I don't recall, to be honest with you. I'd have
24 to really think about it. I don't recall because I'm not

1 up on dates and exactly who comes and who goes.

2 Q And let's talk about the Hells Angels. You knew
3 Jethro Pettigrew; isn't that true?

4 A Yeah.

5 Q And how well did you know him?

6 A I knew him where we seen each other and we'd say
7 hello, and that's basically, you know, it.

8 Q And you knew Bob Vieira from the San Jose Hells
9 Angels?

10 A Yes.

11 Q Who else did you know in the San Jose Hells
12 Angels?

13 A Well, a lot of them have come and gone,
14 transferred away. I knew some of the older ones.

15 Q So at the time this happened, the event we're
16 about to talk about, you knew Pettigrew and Vieira?

17 A Yes.

18 Q Are they any of the two that you have had fights
19 with in the past?

20 A No.

21 Q Let's move forward to coming out to the Street
22 Vibrations in September of 2011. Who did you ride up here
23 with?

24 A Ernesto -- oh, boy. I'm trying to remember, give

1 me a minute here. Cesar, Diego. A couple of the guys
2 from Sacramento. I don't remember exactly.

3 Q In fact do you remember stopping in Applegate,
4 California?

5 A I remember stopping there, yes.

6 Q And what happened there in Applegate?

7 A Two of the guys got pulled over, so we pulled
8 over to a gas station and waited for them to come up with
9 us. And then a few police officers came up and took our
10 pictures and let us go.

11 MR. STEGE: May I approach the witness, Your
12 Honor?

13 THE COURT: You may.

14 BY MR. STEGE:

15 Q Showing you Exhibits 10A through 10J.

16 MR. HOUSTON: Your Honor, we have no objection to
17 any of the pictures from the State.

18 THE COURT: Okay. Are you offering 10A through
19 J?

20 MR. STEGE: Yes, your Honor.

21 THE COURT: They're admitted.

22 (Exhibit Nos. 10A through 10J admitted.)

23 MR. STEGE: And may I publish them?

24 THE COURT: You may.

1 BY MR. STEGE:

2 Q Directing your attention to the screen in front
3 of you, do you recognize the person depicted in 10A?

4 A Yes.

5 Q Who's that?

6 A Ernesto.

7 Q And do you remember this to be taken at that
8 Applegate gas station we were just talking about?

9 A Yes.

10 Q Who's this guy right here?

11 A Angel.

12 Q Who's Angel?

13 A He was a member of the San Jose Vagos at the
14 time.

15 Q Isn't Angel Diego Garcia's brother?

16 A Yes.

17 Q Let's look at 10C. Who's in this photograph?

18 A Same people.

19 Q Can you tell who the person is with their back to
20 us?

21 A That's me.

22 Q Who are the people in 10D?

23 A Cesar and Rigo.

24 Q Could you point -- in fact, if you touch that

1 monitor, you can actually draw on people like John Madden
2 does. If you could draw a circle for us around Rigo.

3 A Him (indicating).

4 Q And who's the other guy?

5 A Cesar.

6 Q Cesar Morales on the left?

7 A Yes.

8 Q I'll direct your attention to 10F. Who are the
9 folks in 10F?

10 A Diego and Angel.

11 Q Diego on the left?

12 A Correct.

13 Q His brother Angel that he's hugging there?

14 A Yes.

15 Q Who's the -- can you tell who this gentleman is
16 here with the water bottle?

17 A I believe it's Rigo.

18 Q Who is the person in 10H?

19 A Not sure.

20 Q Let's look at 10J. Who are these folks?

21 A Myself, No Neck and Manny.

22 Q Is No Neck the guy on the right?

23 A Yes.

24 Q And what group of Vagos is he with?

1 A Sacramento, I believe.

2 Q What about the fellow on the left?

3 A San Jose.

4 Q What's his name?

5 A Manny.

6 Q Do you know his last name?

7 A No.

8 Q Who else was in that group that you had come up
9 that wasn't in those photos?

10 A I really don't recall. It's been a lot, and I go
11 on a lot of different rides, and it's hard for me to
12 separate them. A few states and stuff, you know. I don't
13 know.

14 Q Let's move forward.

15 You come to the Nugget, right?

16 A Yes.

17 Q And you check into a room?

18 A Uh-huh.

19 Q Who did you check into a room with?

20 A With Ernesto.

21 Q In fact, what time do you think you checked in?

22 A I'm not one for keeping up on time. It was in
23 the evening. I'm not too sure about that.

24 Q And the two of you checked into the room?

1 A Yes.

2 Q And you left your bags in the room?

3 A Yes.

4 Q Up until this point did you know that Ernesto had
5 a gun?

6 A No.

7 Q I'll direct your attention again to the monitor
8 video called "Shooter Into Room." Do you recognize those
9 people?

10 A Yes.

11 Q Who's that?

12 A Ernesto and myself.

13 Q Checking into the room?

14 A Yes.

15 Q And so what do you do after checking into the
16 room?

17 A We dropped off our stuff, went downstairs, hung
18 around, waited for the rest of the guys. Then we went and
19 got something to eat. Well, yeah, we went downstairs, and
20 then we were hanging around for a while, and then -- well,
21 I don't know. Somebody come up and asked could we go talk
22 to some guys because there was an incident.

23 Q Now, prior to this did you attend some meetings,
24 some Vago meetings, in the conference area of the hotel?

1 A Yes.

2 Q And Tata was at those meetings?

3 A Yes.

4 Q Let's talk about -- who's Tata?

5 A The international P.

6 Q Do you see him on 132?

7 A Yes.

8 Q Is this him here (indicating)?

9 A Uh-huh.

10 Q So I can put an international president sticker
11 under his name, right?

12 A Be fair to say, yes.

13 Q And in the international -- so it's fair to say
14 that Tata is -- he's the lead Vago in the world; is that
15 right?

16 A I wouldn't say that. But he holds a position of
17 higher ranking, yes.

18 Q So he sort of calls the shots for the Vagos?

19 A No.

20 Q Well, under him you have Jimbo, right? He's the
21 international vice president?

22 A I believe so, yes.

23 Q And in fact Tata was running some of the
24 meetings?

1 A Yes.

2 Q And he was elected or voted in by the Vagos to be
3 the international president?

4 A Correct.

5 Q Do you know Dragon Man?

6 A Yes.

7 Q Who's Dragon Man?

8 A The one to the left of him.

9 Q What's his position in the Vagos?

10 A I believe he's an SA. I'm not sure how high
11 though.

12 Q What's an SA?

13 A Security.

14 Q And is SA short for sergeant-at-arms?

15 A Yes.

16 Q Isn't it true he's the international
17 sergeant-at-arms?

18 A He may be now, yes.

19 Q In 2011 isn't it true that that's what he was?

20 A I don't recall if he had became that then or not
21 because, like I said, I don't keep up with the politics
22 too much.

23 Q You do not keep up with politics?

24 A I try not to.

1 Q Well, after this incident you were keeping up
2 with the politics, weren't you?

3 A Yes.

4 Q But it's fair to say that Dragon Man is closely
5 affiliated with Tata?

6 A Yes.

7 Q And so you went to these meetings, right?

8 A Uh-huh.

9 Q And isn't it true that Tata ran some of these
10 meetings?

11 A He didn't run it, but he spoke at it.

12 Q And wasn't -- and during these meetings didn't
13 they mention an incident on the 99?

14 A I don't recall that being a topic there, no.

15 Q You had heard about this incident on the 99 where
16 there was a conflict between some Vagos and some--

17 A Not until after the fact. Not until after this
18 other incident.

19 Q So your testimony is that no one mentioned the 99
20 in the meetings?

21 A Not that I recall. Not that I recall. But it's
22 been a while. Like I said, you know, I don't know --
23 dates and times don't stay with me.

24 Q So -- but it is possible, then, that it was

1 mentioned; you just don't remember it as you sit here
2 today?

3 A I don't recall it.

4 Q Let's go back to when you were checking in. Did
5 you notice any Hells Angels in the hotel?

6 A Yeah.

7 Q And it's fair to say that that caused some
8 friction, right?

9 A No.

10 Q Well, you did call the Nugget, in the prior
11 statement, the Vagos' hotel?

12 A No. They told us we'd get discounts, a group
13 discount, if we mentioned that we were Vago is why we
14 mentioned we're a Vago.

15 Q Well, you didn't tell the police in an interview
16 after this incident that it was disrespectful for Jethro
17 to be in the hotel because --

18 A Well, that's how some people felt.

19 Q Okay.

20 A That's how some people felt, yeah.

21 Q And probably a good number of Vagos felt that
22 way?

23 A I can't speak for them. I can only speak for the
24 ones that I talked to.

1 Q But you were talking to the San Jose Vagos,
2 right?

3 A Yes.

4 Q And they felt that way?

5 A No. No. We coexist in San Jose. We get along.
6 In the time that there's been -- there's been no issues up
7 until that moment.

8 Q But you would never say that they were your
9 friends in San Jose, would you?

10 A No.

11 Q And so you --

12 A But I wouldn't say they were my enemy either.

13 Q At the time, though, checking in, it was seen by
14 some people as disrespectful for them to be at your run --

15 A No --

16 Q -- your hotel?

17 A -- because they were there the year before, and
18 their booth was and outside. As a matter of fact, me and
19 most of the San Jose charter stopped by and said hello and
20 shook their hands the year prior to that. That evening we
21 shook hands with them, too, as well.

22 Q But it's true that before this was set up, that
23 the Vagos and the Hells Angels agreed to stay in different
24 parts of Washoe County?

1 A Well, I don't know. That's politics, and I don't
2 get -- I'm not up there where I know anything about that
3 kind of stuff. I can't speak for that.

4 Q But it was only the San Jose Hells Angels that
5 you saw in the hotel?

6 A Yes.

7 Q So after these -- the meetings you went
8 downstairs?

9 A Yes.

10 Q And what were you doing downstairs?

11 A Chasing women like I do, with my brother Romeo.

12 Q Okay. But you were hanging out down on the
13 casino floor?

14 A Uh-huh.

15 Q And you mentioned that you heard of a problem.

16 A Yes.

17 Q And what was the problem?

18 A Some drunken fool from our club shot his mouth
19 off and started up some hornet's nest.

20 Q So you were asked to go over and talk to --

21 A Because it was San Jose, they asked if we could
22 go talk to some of them, yeah.

23 Q And in fact you were aware that it went all the
24 way up to the national people to come down and try to

1 squash this?

2 A Yes.

3 Q And who came down to squash this?

4 A I don't believe -- I really don't remember
5 because there was a lot of people on the floor that night.

6 Q But you would agree --

7 A I'm trying to remember. I mean, there was 3-,
8 400 guys there that night. It's hard to say.

9 Q 3- or 400 Vagos?

10 A Yes.

11 Q How many in this Hells Angel -- the San Jose
12 Hells Angels group?

13 A I have no idea. I didn't take an intel on them.
14 Do you know what I mean?

15 Q Well, it was a small amount, right?

16 A I would say 20, 30, 40 guys inside the -- in the
17 bar area.

18 Q Who did you recognize besides Jethro and Bobby V.
19 from the Hells Angels?

20 A From where? On the pictures, or what?

21 Q Well, when you saw these Hells Angels --

22 A I seen some of the other members that were there
23 from San Jose.

24 Q Like who?

1 A Cesar was there.

2 Q Cesar Villagrana?

3 A Yes.

4 Q And who else?

5 A Some of their guys. I don't know their names, to
6 be honest with you. Like I said I -- I'm not real close
7 to them.

8 Q You would agree someone like -- you know who
9 Cocky Rocky is, right?

10 A I don't know.

11 Q Rocky Siemer?

12 A I don't know. I honestly -- you show me a
13 picture, then I could tell you.

14 Q The president of the Nomads?

15 A No.

16 Q You don't know him?

17 A No.

18 Q Well, you would agree someone -- the president of
19 the Nomads is someone who has authority over the club,
20 right, and respect?

21 A On Nomads, yes.

22 Q And you would agree someone like Tata or Jimbo or
23 people in international have authority over being able to
24 quash things?

1 A They have a voice. They have a voice. But it
2 goes to a group. It's a group thing. A lot of things
3 are.

4 Q Well -- so what's the reason, then, to call in
5 national -- an international to quash things?

6 A Why do we have a President of the United States?
7 Same logic.

8 Q Right. He's the guy who can call the shots.

9 A To a degree. But not without the people.

10 Q Okay. So you were there, or you knew that people
11 from national and international came down?

12 A Yes.

13 Q Do you know Top Hat, William Pizell?

14 A I believe so, yes.

15 Q Do you recognize this guy here (indicating)?

16 A I've seen him around, yes.

17 Q Is that Top Hat?

18 A I believe so.

19 Q And it's true he's a Nomad?

20 A I don't know his standing. I mean, I don't see
21 that many that often. If I'm at a run or something, then
22 I bump into some people. Sometimes we talk; sometimes we
23 don't.

24 Q Well, you know what a Forever Nomad is, right?

1 A Yes.

2 Q What's a Forever Nomad?

3 A Been with the club awhile.

4 Q Someone who's been in the club for how many
5 years?

6 A 15, 20 plus.

7 Q Someone who's respected?

8 A Respect is earned. That depends on the
9 individual.

10 Q Well, if he's been in the club for 20 years he's
11 able to earn --

12 A I don't know him that well, though.

13 Q And you can't stay in the club if you don't have
14 respect, right, if you're not respected?

15 A Well, I don't know about that. It varies. It
16 depends on whose charter and who their P is and how that
17 works.

18 Q Did you see Top Hat there that night?

19 A I'm trying to recall. I don't recall seeing him.
20 But, like I said, there was quite a few members on the
21 floor.

22 Q And who was the guy they were having -- that you
23 said was running his mouth?

24 A Jabbers.

1 Q Well, didn't you tell the police that you didn't
2 know who it was?

3 A No, I don't recall saying that. I found out
4 afterwards that he's the one who -- you know, I wasn't
5 there when the incident started, ignited. I was asked to
6 go speak to the Hells Angels, and that's what I did.

7 Q So at the time this happened you didn't know who
8 it was?

9 A I wasn't sure on it, no.

10 Q And so people weren't telling you about it,
11 telling you Jabbers or the person by name?

12 A No, because, you know -- they weren't saying --
13 they just said that one of the brothers is drunk and he's
14 shooting his mouth off.

15 Q And this is coming from --

16 A A group --

17 Q -- Cesar and Rigo and that -- was telling you
18 that?

19 A No, it was a group that -- we were standing
20 around talking, and that's when, you know, they asked, "Do
21 you know, Ricky," and I walked over, and that's when I
22 talked to Bob.

23 Q And in that group were San Jose Vagos, right?

24 A Well, I was around my brothers most of the night.

1 Yes.

2 Q And you're referring to your -- the San Jose --

3 A Yes.

4 Q -- people as your brothers?

5 A Yes.

6 Q So you were around them most of the night?

7 A Yes.

8 Q And I think you said before you don't really
9 socialize with a lot of people outside of your San Jose
10 group.

11 A I do, but not that often, yes.

12 Q But you don't know who Top Hat is, you don't know
13 who Dragon is, you didn't know who Jabbers was?

14 A Do you know who the DA is in San Jose?

15 Q In Sante Fe?

16 A Yes.

17 Q Yes.

18 A I don't. Have you ever had the fortune to work
19 with him or introduce yourself to him? I haven't.
20 There's a lot of brothers around the world that I haven't
21 met yet even.

22 Q Right. And so that's why you were hanging out
23 with the guys?

24 You do know the San Jose guys?

1 A Correct.

2 Q Who did not mention Jabbers by name?

3 A No.

4 Q And was it your P who asked you to go and talk
5 to --

6 A I don't recall who it was. I don't. I really
7 don't recall who it was.

8 Q So where did you go?

9 A I went over to a bar up and around the corner of
10 the place, and my P was talking to Jethro, and so was my
11 VP. And I walked up to Bob and said, "Bob, let's try to
12 keep this calm and peaceful." And he said, "Yeah, Rich."
13 He said, "I'll do my part and you do your part." Good
14 enough. We shook hands. Everything was good. Shortly
15 after that we left to go get dinner.

16 Q So Rigo and Cesar were talking to Jethro?

17 A Yes.

18 Q And you went over and shook hands with Bob
19 Vieira?

20 A Yes.

21 Q Who else was with Rigo and Cesar?

22 A I -- the only one that I can recall is that me
23 and Romeo were together, and he was off to a side just
24 hanging out with a couple other guys from LA. I don't

1 remember who it was. But we tried to keep it a low-key
2 thing. We didn't pipe up and blow it up into something
3 stupid.

4 Q And in fact you were worried about it blowing up
5 into something stupid?

6 A I was just concerned. Yes, I was.

7 Q And other people were worried about the same
8 thing?

9 A In a manner of speaking, yes.

10 Q Because it could cause problems?

11 A Well, it could cause problems in San Jose, which
12 it has now.

13 Q And it could cause problems throughout the world
14 of the Vagos?

15 A No. When things happen, it usually happens in
16 those charters and those areas. It doesn't spread like
17 that.

18 Q It would be bad for politics if there were a
19 brawl in the Nugget?

20 A It would be bad period. No one wins.

21 Q And so that's the reason why this group went over
22 to talk to Jethro?

23 A Correct.

24 Q In fact, that was a widely held view: We need to

1 squash this?

2 A Correct.

3 Q And did you talk to anyone who said, "We should
4 not squash this. Let it go"?

5 A The only one that would -- kept insisting, I
6 guess, would be the drunk idiot, Jabber.

7 Q But at the time you didn't know his name?

8 A No. I didn't even know his position that he
9 held.

10 Q Did you even talk to him that night?

11 A Yeah, I talked to him that night.

12 Q And so you go over, and your P your VP -- isn't
13 it true that Cocky Rocky was there as well?

14 A I don't recall. Like I said, I'm not around, you
15 know, that much.

16 Q And you would agree that the P of your club -- I
17 mean, you send the P because he's the guy who can call the
18 shots for the San Jose --

19 A Well, it falls on his bottom. You know what I
20 mean? Yeah.

21 Q In fact you called them your -- the San Jose
22 crew, which is you, Rigo, Diego, Cesar, Romeo --

23 A I wouldn't say crew. My brothers. My charter.

24 Q So Rigo and Cesar go over there, and you shake

1 hands with --

2 A They were talking to Jethro, and I talked to Bob,
3 yeah.

4 Q And from there where do you go?

5 A I went over to -- well, we talked to them and we
6 agreed that everything's gonna be good. Then we --
7 sometime we hung around the Vic and went over to the
8 In-N-Out because somebody likes their French fries.

9 Q Now, was that the only time you went down to that
10 bar where Jethro was while Jethro was there?

11 A I don't recall, to be honest with you. I was all
12 over the casino. Who knows.

13 Q Well, isn't it true that -- well, how many Vagos
14 were outside that bar there when you got there?

15 A I would say maybe 40, 30.

16 Q And the tension, it's fair to say, was high?

17 A It wasn't high because, you know -- it was
18 noticed and it was an issue that had to be worked out, and
19 it got worked out.

20 Q In fact there were a bunch of Vagos staring into
21 or looking into the bar where these Hells Angels were?

22 A There were some looking that way, yes.

23 Q They would be in the group of people that saw it
24 as disrespectful for the HAs to be in their hotel?

1 A No, it's not so much that; it's just they wanted
2 to make sure nothing was happening.

3 Q So at some point do you end up down outside of
4 Trader Dick's?

5 A I'm not sure what Trader Dick's is.

6 Q It's a bar right where this all broke out.

7 A There's a few bars in there. I'm not sure.
8 Because I don't drink and -- you know what I mean? I
9 don't know which names are what. It doesn't stand out to
10 me that much.

11 Q Well, where were you when this all started?

12 A Over by the dance floor area.

13 Q Okay. And so you were hanging out in that
14 general area right before this happened, right?

15 A Correct.

16 Q With?

17 A Ernesto.

18 Q And?

19 A Few of the guys from San Jose.

20 Q Cesar?

21 A Yes.

22 Q Rigo?

23 A Yes.

24 Q Diego?

1 A Yes.

2 Q Brian Marquez?

3 A He was in and out, yeah.

4 Q You were all hanging out there?

5 A Yeah.

6 Q Did you see Jabbers there?

7 A I don't remember if we seen him there or if it
8 was over by another bar a ways off. I don't recall.

9 Q And did you see Jimbo come by?

10 A I don't recall. I seen him through the weekend,
11 but I don't remember when, what time.

12 Q And Jimbo is the international vice president?

13 A Yes.

14 Q The guy right under Tata?

15 A Yes.

16 Q So kind of like --

17 A Pardon?

18 Q Kind of like the Joe Biden to Barack Obama?

19 A Kind of.

20 Q Did you see Dragon down there?

21 A I seen Dragon sometime in the evening. I'm not
22 sure what time it was. Once again, I don't keep a watch.
23 I don't keep up with time.

24 Q And so tell me your perspective of what you see

1 when this all starts.

2 A Well, it was supposed to be negotiated where it
3 was all calm and done, and that's why everyone -- we were
4 told it was all over and they were gonna sit down and talk
5 and work it out. And, like I said, what I know of Bob and
6 Jethro and those guys, they're a man of their word. And
7 we left it at that, so we went to go eat.

8 Q And eventually there was a group standing there
9 along the tile walkway?

10 A When you're saying these places, I'm not
11 familiar -- that familiar with the names of these places,
12 and I don't want to comment --

13 Q Do you recognize this area here?

14 (Video played.)

15 THE WITNESS: I know it's in the casino by the
16 dance -- yeah, yes.

17 BY MR. STEGE:

18 Q Do you recognize this as the area where the fight
19 broke out?

20 A Yes.

21 Q Do you recognize that to be Ernesto there on the
22 left-hand side of the screen?

23 A Yeah. He was looking to find out where this
24 blonde went that we were talking to earlier.

1 MR. STEGE: For the record, we're playing Camera
2 45 at 22:56 hours.

3 BY MR. STEGE:

4 Q Let's move here to 23:17. Do you recognize any
5 of the people -- it's also to your right if you're having
6 trouble seeing. Do you recognize anyone in this?

7 A I see Rigo, I believe, and I believe it's Boo
8 Boo. The rest of them I can't make out good.

9 Q So this is Boo Boo, Diego Garcia?

10 A Yes.

11 Q How about this the guy here?

12 A Looks like Romeo.

13 Q What about this guy here?

14 A It's kind of fuzzy.

15 Q Okay. Isn't that Greg Fearn?

16 A Pardon?

17 Q Is that Greg Fearn?

18 A Who's -- who?

19 Q Greg Fearn.

20 A Who's that?

21 Q The guy you were sitting outside with prior to
22 court.

23 A Yeah, well -- oh, I'm sorry. Yeah. I -- see,
24 yeah -- I can't -- I can't make that out.

1 Yes. Now I can see it. Yeah. He's right there,
2 yeah.

3 Q Let's look now at 23:20. Do you recognize anyone
4 here? We've got Boo Boo right here in the middle, right?

5 A Yeah. Looks like him, yeah.

6 Q Romeo off to the left?

7 A Looks like him, yes.

8 Q Who's that?

9 A I think it's Rigo.

10 Q So at this point where are you?

11 A Hanging around here somewhere. I must be over
12 here by the -- behind where the camera -- this side of
13 Rigo, I think. I don't know. I don't know what time this
14 was taken.

15 Q So -- well, it's 23:21 hours. You've got Rigo in
16 the middle of the screen there next to Diego. Isn't that
17 true?

18 Let's pause here at 23:23:50 hours. On the right
19 we have who?

20 A On the right it looks like Cesar.

21 Q This guy right here?

22 A Yeah.

23 Q Cesar Morales?

24 A Yeah. And then Greg's over --

1 Q This is Ernesto, right?

2 A Yes. Yes.

3 Q Fearn?

4 A Yes.

5 Q Diego, right?

6 A Well, I don't know. It looks like a white guy
7 there, to be honest with you, and he's Spanish. I can't
8 tell you --

9 Q So you're not sure about that. And this is that
10 same guy you said was Rigo; isn't that true?

11 A I believe so, yes.

12 Q Let's move forward here to 23:25. And to orient
13 you, this is right before the fight breaks out. Do you
14 see Jethro in this at 23:25:20?

15 A I'm not too sure. I think he's in the front, but
16 I can't tell. The graphics are really bad here.

17 Q Is this Diego?

18 A I can't see that, if it's Diego.

19 Q Is this Fearn?

20 A I believe so from his hair, yes.

21 Q Rigo?

22 A I believe so.

23 Q Ernesto?

24 A Looks like him, yes.

1 Q Who's this right here at 23:25:23? In fact, I'll
2 play it so you can maybe see his face a bit better.

3 A That's Brian.

4 Q Brian Marquez, a San Jose Vago?

5 A Yeah.

6 Q I want you to watch and tell me if you recognize
7 this man right here.

8 A I couldn't see who it was.

9 Q Isn't that Brian Marquez?

10 A Where?

11 No, Brian is walking back and forth there, yeah.

12 Q Brian here?

13 A Yeah.

14 Q Cesar Morales right here?

15 A Can you back it up? I couldn't see.

16 Q Yes, sir.

17 A It looks like him.

18 Q So here at 23:25:08 is Cesar, Brian Marquez,
19 Ernesto, Rigo, Boo Boo. Right?

20 A I would say it looks like Cesar. That's Brian.
21 That's Rigo. And Romeo is there. But, like I said -- I
22 think that's Boo Boo. I think it is Boo Boo.

23 Q And the man with the gloves on the left-hand
24 side?

1 A I didn't notice the gloves, but, yeah. Looks
2 like him, yeah.

3 Q And so where are you right before this breaks
4 out?

5 A At a bar across, getting a bottle of water.

6 Q Prior to this, when was the last time you had
7 talked to these guys, Rigo, Cesar --

8 A A few minutes --

9 Q -- Brian?

10 A A few minutes before this happened.

11 Q And so why don't you tell us what happened.

12 A Well, Romeo and Cesar come walking back from the
13 bar, and I told Romeo, "I see you hanging on the P's leg.
14 Where's my water?"

15 Q Okay.

16 A He said, "Aw, Richie, I forgot." I said, "Don't
17 worry. I'll go get it." And I walked over to the bar and
18 stood in line, and I'm standing there, standing there,
19 standing there waiting.

20 Q I hate to interrupt you, but what did you mean,
21 "You're hanging on the P's leg"?

22 A Because he was hanging out with him. Because
23 usually me and him are out chasing women. That's how he
24 got his name, Romeo.

1 Q Right. And so P is -- you use that for a
2 president?

3 A Yes.

4 Q So he was hanging out with the P --

5 A Yeah.

6 Q -- Cesar?

7 A Just a slang term. Yeah.

8 Q Okay. So you go over and you're waiting for your
9 water?

10 A Yeah. I'm standing in line. I was there for a
11 while. I don't know -- I don't know what time, how long
12 it was. But there was a pretty good line, as you can see
13 in the video.

14 And then all of a sudden I hear, "Not in my bar."
15 And then I hear Jethro say, "You want shot, motherfucker?"

16 Q Okay.

17 A And I turned to see what's going on, and next
18 thing I know there's a crowd of people running everywhere
19 and you're hearing gunshots.

20 Q And up until -- well, what did you see Ernesto
21 do?

22 A I didn't see him at the time. Yeah. Like I
23 said, I heard gunshots and I tried to see what's going on.
24 And then the next thing I know the crowd's gone and I'm

1 the only one standing on the floor and I'm like, oh, this
2 is not good.

3 Q What did you do?

4 A To the left. And then I got myself into some
5 like little cubbyhole thing, and my knee was messed up at
6 the time. I couldn't hop over the thing, and I didn't
7 want to be around where Cesar -- the guy Cesar from the
8 HAs was shooting the gun.

9 Q You took off?

10 A I went up around the slot machines, come up
11 around the back side of it, yeah.

12 Q And you said you saw Cesar Villagrana shooting?

13 A Yeah.

14 Q Who was he shooting?

15 A At anybody and everybody.

16 Q Well, did you see him shooting at Diego?

17 A I didn't see that because there was -- there was
18 a lot of people. And, like I said, I didn't see anything
19 until I heard him say, "Not in my bar." And then when I
20 turned around there was all kinds of people that was -- my
21 view was blocked.

22 Q Well, to clarify, it was the bartender who
23 yelled, "Not in my bar"?

24 A Yeah.

1 Q And you're --

2 A He didn't yell it. He said, "Not in my bar."
3 Because I'd just got to the counter to order a bottle of
4 water.

5 Q Okay. It was the bartender who said that, and
6 your testimony is Jethro said, "You want to get shot"?

7 A I heard him yell, "You want shot, motherfucker?"

8 Q And you saw Cesar shooting -- Villagrana shooting
9 in the casino?

10 A Yes.

11 Q Did you see Diego Garcia shooting in the casino?

12 A No.

13 Q Now, you testified before you had come up here
14 with that group, including Diego and Romeo?

15 A Yes.

16 Q Did you know that Ernesto had a gun?

17 A No.

18 Q And to this day do you know if Ernesto had a gun?

19 MR. HOUSTON: Your Honor, I'm going to object.

20 That assumes a fact not in evidence. There's been no
21 proof that Mr. Gonzalez had a gun prior to this incident
22 occurring --

23 MR. STEGE: He takes it out of his pocket --

24 THE COURT: The witness said he didn't know about

1 it, so...

2 THE WITNESS: I had no knowledge of any gun.

3 BY MR. STEGE:

4 Q I'm sorry?

5 A No.

6 Q And did you know if Diego Garcia had a gun?

7 A No.

8 Q You were asked by police if you knew about
9 Ernesto having a gun, right?

10 A I don't recall. They said a lot of things that
11 weren't true in my opinion.

12 Q Well, didn't in fact that -- you say that "I'm
13 surprised he had a gun, very surprised"?

14 A I don't recall. You know what I mean?

15 Q Then you were asked by officers, "Would you tell
16 us if he had a gun?" And your answer was, "Probably not."

17 A I don't recall that. It's been a while. Like I
18 said, you know, a lot of days have passed since then.

19 Q And so you get out of there, right?

20 A Uh-huh.

21 Q And where do you go?

22 A Up to one of the parking levels.

23 Q Where do you go from there?

24 A We stayed there for a while. Then once they said

1 everybody go back into their rooms, I went up to the room,
2 got my personal belongings out of it and went over to
3 another side of the hotel and stayed where the rest of the
4 club was, my part of -- my chapter.

5 Q Why did you not stay in the room that you and
6 Ernesto had checked into?

7 A Because I heard -- I seen security herd all them
8 people up there, and I knew there was Angels up on that
9 floor. To avoid any conflict in the future.

10 Q Well, you knew that Dragon Man was staying on
11 that floor, didn't you?

12 A I was told somewhere he was, but I didn't know
13 what room. I had not been to his room.

14 Q And did you see Dragon on the floor that you were
15 staying on?

16 A Yes. Yes, I did sometime.

17 Q When did you see him on your floor?

18 A I don't remember, but it was sometime in the
19 evening there, yeah.

20 Q In the evening before you go down into the
21 casino?

22 A I don't remember if it was before or after.

23 Q What wing of the -- what tower of the hotel were
24 you staying in?

1 A I'm not sure, but I think it was the west wing,
2 because Ernesto made all the arrangements.

3 Q So you didn't see Dragon after that --

4 A I don't recall. I don't recall.

5 Q -- on the floor?

6 So your testimony is you heard there were a lot
7 of Hells Angels on your --

8 A Yeah.

9 Q -- floor?

10 A Yeah.

11 Q And so you checked out?

12 A I didn't check out. I went and stayed in my
13 brother's room, Mario.

14 Q And who's Mario?

15 A One of my San Jose members.

16 Q And did you leave Ernesto's stuff in the room?

17 A Yes, I did. I didn't know where he was or what
18 had happened or anything.

19 Q So your testimony is at the time you leave the
20 room, you take your stuff to go stay with Mario --

21 A Uh-huh.

22 Q -- you did not know that Ernesto was the shooter?

23 A No.

24 Q When did you find out that he was the shooter?

1 A Not until the police showed up. They told me
2 that we're here because we believe that -- somebody said
3 something about it. You know what I mean?

4 Q So you're talking when the police showed up to
5 your home --

6 A Yes.

7 Q -- on November 3rd of 2011?

8 A Whenever it was. I don't know the date.

9 Q You didn't know that he was the shooter until
10 then?

11 A I didn't know he was being accused of it, no.

12 Q Okay. So you leave the room. What happens to
13 Ernesto's stuff?

14 A I left it there. I didn't know where he was at.

15 Q Okay.

16 A The only thing I knew was that Diego was shot,
17 and I knew that from after the incident. And they got him
18 to the hospital, and I was told to go up to the room -- or
19 to Mario's room.

20 Q So you talked to -- after the shooting happened
21 that night you talked to Cesar Morales?

22 A Yes.

23 Q Rigo?

24 A Yeah.

1 Q Brian Marquez?

2 A Yeah.

3 Q Mario?

4 A Yes.

5 Q You were staying with him?

6 A Yeah.

7 Q So you didn't talk to -- you wondered where Romeo
8 was, right?

9 A Well, we were trying to do a head count and find
10 out who was around and who wasn't.

11 Q Make sure no one was shot?

12 A Yes.

13 Q And so where was Romeo?

14 A I don't know.

15 Q Well, you were worried about him, right?

16 A Right.

17 Q And so do you know where he spent the night?

18 A No, I don't.

19 Q When is the next time you see him?

20 A The next day.

21 Q And what happens the next day?

22 A We went over to the motorcycle shop here in -- I
23 think it was in Reno or Sparks, not far from the casino --
24 and we had a meeting over there and said, you know, it's

1 best that we leave our bikes here so nothing happens to
2 them.

3 Q Well, didn't you previously state that you left
4 them at a bike shop in Carson City?

5 A If I said Carson City, it was by mistake. I'm
6 not familiar with the area that well. But it was within
7 five minutes, ten minutes tops, from the casino.

8 Q So you left your bike here?

9 A Yes.

10 Q Who else left their bike here from the San Jose
11 group?

12 A Diego. Let's see. Quite a few of the guys.

13 Q In fact --

14 A Rigo, Cesar.

15 Q -- you all drove out of here in a car?

16 A Yes.

17 Q Driven by the defendant?

18 A Yes.

19 Q And up until this point your testimony is they
20 didn't tell you he was the shooter?

21 A No.

22 Q But you drove to San Jose in that car?

23 A Yes.

24 Q And what happened when you got to San Jose?

1 A We dropped people off, and then me and Ernesto
2 went down south, kinda hoped things cooled off. And then
3 a few days later we come up this way back up towards our
4 town, our house. And I was sleeping, and he woke me up
5 and said, "Hey, you gotta get out."

6 Q Didn't you tell the police that he drove you to
7 San Jose, dropped you off --

8 A Yes.

9 Q -- and said, "You gotta get out of here. It's
10 for your best interest"?

11 A That's what I was trying to tell you, yeah.

12 Q Okay. You didn't tell the police that you drove
13 down south and then --

14 A Nobody asked me. You know, like I said, when
15 they showed up -- it's been a long time, you know?

16 Q So he dropped you off, said, "You gotta go"?

17 A Yeah.

18 Q And --

19 A He woke me up said, "You gotta go, bro." I said,
20 "What's going on?" He said, "I don't wanna talk about it.
21 You just gotta go."

22 Q So your best friend didn't tell you that he had
23 done the shooting?

24 A No. No.

1 Q And he didn't tell you about the gun?

2 A No.

3 Q And it's fair to say you were with him starting
4 that next morning and driving to San Jose?

5 A Yeah.

6 Q And you said you drove down south. Where did you
7 guys drive?

8 A Down -- somewhere down by Anaheim. Yeah.

9 Q And what happened to Rigo and --

10 A We met up with them down there.

11 Q Where did you guys stay?

12 A We stayed at a hotel. I don't recall the name of
13 it. But we had a meeting and said, you know, it's best
14 that we stay out of San Jose for a while -- because it was
15 Jethro, a San Jose member -- to get things cooled down to
16 where they could work things out.

17 Q And do you know what happened to the gun?

18 A I didn't know of any gun.

19 Q So he didn't even tell you that he had a gun?

20 A No. No. He didn't have a gun when we drove up
21 there.

22 Q And he didn't have a gun afterwards?

23 A No. Not to my knowledge.

24 Q You stayed in hotel rooms --

1 A I stayed in hotel rooms with him and I've spent a
2 lot of time with him, yes.

3 Q In fact you've been out of the country with him,
4 right?

5 A A time or two, yes.

6 Q And did you know he had a holster sewn into the
7 inside of his vest?

8 A I don't recall it being put in the there, no.

9 Q I'd like to show you -- well, your testimony is
10 you don't know what happened to -- that Ernesto's stuff
11 was left in the room, right?

12 A To the best of my knowledge, yes.

13 Q And you hadn't seen Dragon Man since earlier in
14 the evening?

15 A I don't recall when's the last time I seen Dragon
16 Man.

17 Q Let's look at video called "Room 1604 0200."

18 (Video played.)

19 BY MR. STEGE:

20 Q Let's look at 2:04:36. Do you recognize --

21 A Yeah, me and Dragon.

22 Q That's you and Dragon, right?

23 A Yeah.

24 Q Two o'clock in the morning?

1 A Yeah.

2 Q And do you recognize this to be the hotel or the
3 hallway outside of the room you guys checked into?

4 A Yes.

5 Q So you were incorrect when you said before you
6 didn't see him?

7 A Yeah. I don't -- like I said, I didn't remember
8 seeing him. But I did have a brief conversation outside
9 our room when I was going to pick up my stuff.

10 Q In fact is that Mario with you there?

11 A I can't -- no, no. That's not Mario.

12 Q Who's that?

13 A Mario is short.

14 I'm not sure. I can't make it out. I can barely
15 make out me. The only reason I know it's me is because of
16 the limp.

17 Q Okay. How about now?

18 A I think it's Pete. I'm not sure.

19 Q Who's Pete?

20 A One of the brothers said he'd go over with me
21 because -- he told me, you know, "I'll walk over with you,
22 Rich." I bumped into him. He said he'd come over with me
23 to get my stuff.

24 Q Directing your attention to 2:05 here, 56, what's

1 Dragon doing?

2 A Talking to someone.

3 Q And Dragon didn't go stay with Mario, did he?

4 A No.

5 Q He stayed on that floor; isn't that true?

6 A Correct.

7 Q And it's true, in fact, that that guy you were
8 with took Ernesto's belongings out of the room?

9 A No.

10 Q That's not Ernesto's duffel bag?

11 A No. That's mine, I believe.

12 Q Well, what did Ernesto's duffel bag look like?

13 A I don't remember.

14 Q Well, didn't he have a black duffel bag with
15 dark-colored stripes on it?

16 A I don't recall.

17 Q Would it refresh your recollection to see you
18 guys go into the room?

19 (Video played)

20 BY MR. STEGE:

21 Q Looking here at -- "Shooter Into Room 1917" is
22 the name of this video at 19:17 hours. That's his duffel
23 bag there, right, on the left hand?

24 A I believe so.

1 Q Isn't that the same duffel bag carried out by
2 that guy whose name you don't know?

3 A I don't know. Can I see that again?
4

5 (Video played)

6 THE WITNESS: I can't make it out because the
7 helmet is in the way. Yeah, I can't make that bag out.
8 BY MR. STEGE:

9 Q All right.

10 A The bag looks larger than what Ernesto -- yeah,
11 see, that's -- no, that's not Ernesto's bag.

12 Q Now, what about phone calls after this incident?

13 A I had received a few from Ernesto.

14 Q Right. Didn't you tell the police that after he
15 dropped you off -- well, let me ask you this: When did he
16 drop you off?

17 A I don't recall the date. I really don't.

18 Q The how many days after this?

19 A It was a couple.

20 Q But you didn't tell the police that; you told
21 them that he drove you to San Jose and dropped you off.

22 A Yeah, I told them that he dropped me off. That's
23 what he did.

24 Q But you left out the going down south part to the

1 police?

2 A Yeah.

3 Q And so you told them that once he dropped you
4 off, you had no more communication from him?

5 A I received a call saying, "I'm going to jail."
6 And I said, "For what?" He said, "I'll call you later."

7 Q So between being dropped off and him telling you
8 he's going to be arrested or was arrested, there's no
9 calls?

10 A Not to my knowledge. I'd speak with him a lot in
11 the past and, you know -- I don't know.

12 Q But you told police it was none; isn't that true?

13 A Pardon?

14 Q You told the police there was no calls --

15 A The only call -- the call I remember is when he
16 called me and said, "Hey, bro, I want to let you know I'm
17 getting arrested." I said, "For what?" And he said, "I
18 gotta go. I'm just getting arrested."

19 Q You did tell the police that this incident was
20 about disrespect, about the HAs being in your hotel?

21 A I don't recall that. But that's what escalated
22 the thing is they felt that -- Jabbers, the drunken idiot,
23 felt that he was disrespected. If I mentioned it, that's
24 what I was referring to.

1 Q So you didn't mention that it was disrespect for
2 them --

3 A I don't recall. But that's how Jabbers felt.

4 Q Didn't you tell the police that you probably
5 would lose your patch for talking to the police?

6 A Well, that's why I didn't want to talk to
7 them. I said, "We don't do interviews and we don't talk
8 to police."

9 Q So talking to the police is seen as a violation
10 of the Vago rules?

11 A Well, it's just not meant to be.

12 Q And if you do that, you can lose your patch?

13 A Well, I don't know. I don't know that much about
14 the politics, and I didn't want to take the chance.

15 Q But you did tell the police that you'd probably
16 lose your patch --

17 A I said I could probably lose my patch for even
18 saying hello to you guys like this, yeah.

19 MR. STEGE: Pass the witness.

20 THE COURT: Questions?

21 MR. HOUSTON: Thank you, Your Honor.

22 /////

23 /////

24 /////

CROSS EXAMINATION

BY MR. HOUSTON:

Q Good morning, Mr. Nickerson. How are you?

A Pretty good.

Q Sir, I want to go to an area that you had brought up concerning you took a trip down to Anaheim. Isn't it true you took the trip to Anaheim because the San Jose Vagos were very concerned over what Jabbers had caused?

A Yes.

Q You've also testified that before this incident on the evening of September 23rd, the Vagos from San Jose and the Vagos from -- or, excuse me, the Hells Angels from San Jose got along?

A Correct.

Q After this incident that you have testified was created by the drunken fool, the Vagos from San Jose and the Hells Angels from San Jose didn't get along, true?

A Very true.

Q It would be a fair statement, wouldn't it, that this whole problem created animosity between the two groups?

A Yes.

Q It didn't help the Vagos as far as a group, did it?

1 A No.

2 Q Were you also worried personally about any sort
3 of retaliation possibility?

4 A I was concerned, yes.

5 Q And is that what was really being discussed when
6 you were down in Anaheim?

7 A Yes.

8 Q And the fact that you went to Anaheim was so
9 things could cool down for a while. True?

10 A Correct.

11 Q Wasn't the hoped-for result that there could be
12 some sort of a meeting arranged and talk this thing out?

13 A That's what we were told, yeah.

14 Q Okay. Now, I want to go back to the beginning of
15 this trip. And you've indicated, I believe, on your
16 direct examination that you'd been a Vago for about three
17 years. Is that true?

18 A At what time?

19 Q Well, prior to September 23rd.

20 A Yeah. I'd say a couple years, yeah.

21 Q And you also, as a Vago, had met Ernesto
22 Gonzalez. True?

23 A Correct.

24 Q And I think, as the State has established, you

1 considered Ernesto Gonzalez a friend and your brother?

2 A Yes.

3 Q When you two rode up together, you've also
4 indicated that you didn't believe that he had any kind of
5 firearm. True?

6 A Correct.

7 Q As a member of the San Jose charter, obviously
8 there are other folks that are members of the San Jose
9 charter. True?

10 A Yes.

11 Q Now, we saw some people on the video, some of
12 whom were from the San Jose charter, right?

13 A Yes.

14 Q And we saw others on the video that were not from
15 the San Jose charter, correct?

16 A Correct.

17 Q When you arrived, I believe you stated you
18 checked into the hotel and then you went downstairs.

19 A Correct.

20 Q And I think you stated that one of the goals was
21 you and Mr. Gonzalez were going to meet girls.

22 A Yeah. We always do.

23 Q All right. And that's -- his nickname with the
24 group is Romeo. True?

1 A Yes.

2 Q And is that related to the fact that that seems
3 to be one of his interests?

4 A Yes.

5 Q When you went downstairs, you kill some time
6 until this meeting that's to take place around
7 8:00 o'clock, right?

8 A Yes.

9 Q And then you go upstairs for this meeting. And
10 about how long does that meeting last, if you know?

11 A I don't. I'm not good with time. I don't keep
12 up with time.

13 Q All right. And you were with Mr. Gonzalez?

14 A Yes.

15 Q And during the course of the meeting were social
16 events discussed and where to go and what time things were
17 going to take place?

18 A Yes.

19 Q When you left the meeting, did you leave -- you
20 left with Mr. Gonzalez, correct?

21 A Yes.

22 Q And you and Mr. Gonzalez then go downstairs?

23 A Correct.

24 Q Normal activities at that point?

1 A We were -- we were -- right before all this
2 happened we were talking about going over to the craps
3 table and hanging out because there was some girls over
4 there, and we were going to try to get next to them.

5 Q Okay. Now, did you leave this 8:00 o'clock
6 meeting on the second floor pretty promptly?

7 A We passed, talked to a few people, but I don't
8 recall how long it took us to get downstairs. You know
9 what I'm saying?

10 Q Did you attend some secret meeting after the
11 8:00 o'clock meeting where it was agreed that Mr. Gonzalez
12 was going to kill Mr. Pettigrew?

13 A No. No. There was no meeting.

14 Q And you're in the San Jose charter, right?

15 A Correct.

16 Q So if someone had said to the police that the
17 entire San Jose charter was there when it was agreed
18 Mr. Gonzalez was going to kill Mr. Pettigrew, that
19 meeting, as far as your knowledge, wouldn't include you
20 and it wouldn't include Mr. Gonzalez, correct?

21 A Could you repeat that, please?

22 Q In other words, you never attended a meeting
23 where Mr. Gonzalez stepped up and said, "I'll shoot
24 Mr. Pettigrew," did you?

1 A Yeah, there was never a meeting like that.
2 Never.

3 Q And you were with him, correct?

4 A Yes.

5 Q All right. Now, the San Jose Vagos, you've
6 testified, coexisted with the San Jose Hells Angels.
7 True?

8 A Yes.

9 Q And you've also testified there were no problems
10 between the two groups.

11 A Correct.

12 Q If I told you that Mr. Gonzalez was volunteering
13 to shoot Mr. Pettigrew because he was very upset with
14 Mr. Pettigrew, do you know anything about that?

15 A No.

16 Q Would that be true to your knowledge?

17 A No.

18 Q If I told you that the San Jose Vagos were not
19 allowed to open a charter because of Mr. Pettigrew, would
20 that be true?

21 A No.

22 Q Mr. Gonzalez wanted to start a charter in his
23 country of Nicaragua, correct?

24 A Yes.

1 Q And did you ever travel with him to Nicaragua?

2 A Yes.

3 Q Did you travel with him when he went down to bury
4 his mom?

5 A Not when he buried his mother, no.

6 Q When Mr. Gonzalez and you leave the 8:00 o'clock
7 meeting and you go downstairs, everything is pretty normal
8 until sometime around 10:00 o'clock, right?

9 A Correct.

10 Q And is that when you start to hear there's a
11 problem created, I believe you classified him, by "the
12 drunken fool, Jabbers"?

13 A Yes.

14 Q You've also indicated that you were asked as a
15 San Jose Vago to go in and talk to a San Jose Hells Angel,
16 right?

17 A Yes.

18 Q Would it be true the reason you would be asked as
19 a San Jose Vago to talk to a San Jose Hells Angel is
20 because you guys got along?

21 A That would be correct.

22 Q And in fact who did you speak to?

23 A Bob Vieira.

24 Q And Bob Vieira is a long-time Hells Angel,

1 correct?

2 A 35-, 40-year member.

3 Q And would it be a fair statement -- and I don't
4 want to put words in your mouth, but is it a fair
5 statement to say that you like and respect Bob Vieira?

6 A Yeah.

7 Q Fair to say --

8 A He's a man of his word. He's a man of his word.
9 He's a good man.

10 Q And collectively, as a group, is that important
11 to be a person of your word --

12 A Yes.

13 Q -- as a Vago?

14 A Yes, it is.

15 Q Is it important also to show respect to others?

16 A Yes.

17 Q And you respected Mr. Vieira, correct?

18 A Yes.

19 Q You also respected Mr. Pettigrew?

20 A Yes.

21 Q Would you, based upon that, have participated in
22 any sort of plan to assassinate Mr. Pettigrew?

23 A No. No. There was never a plan. There was
24 never a plan.

1 Q When you talk about your efforts sometime around
2 10:00 o'clock, was that to keep things quiet, to keep the
3 peace?

4 A Yes.

5 Q When you completed your conversations with
6 Mr. Vieira, you've also indicated others were talking with
7 Mr. Pettigrew. True?

8 A Yes.

9 Q And were the others talking to Mr. Pettigrew in
10 part also San Jose Vagos?

11 A Yes.

12 Q Did that make sense to you because the San Jose
13 Vagos and the San Jose HAs got along?

14 A There was -- yeah, there was a rapport where
15 there wasn't no problems. Yes.

16 Q When you leave HAs at approximately -- sometime
17 after 10:00 o'clock, what do you and Mr. Gonzalez do?

18 Excuse me. I think you said you went to the
19 In-N-Out Burger. Correct?

20 A When we left, we went to the In-N-Out Burger,
21 yes. And on the way back we stopped at the bar because
22 there was a couple girls there, and then we came back to
23 the casino.

24 Q Okay. Did Mr. Gonzalez seem preoccupied, like he

1 had to hurry to get back to the casino?

2 A He had his eye on some blonde.

3 Q Okay. When you get back to the casino, is this
4 when you and Mr. Gonzalez are talking to different girls?

5 A Yes.

6 Q And at one point you actually are separated
7 because Mr. Gonzalez is looking to go talk to this special
8 person that he met?

9 A Yes.

10 Q Now, when you see Mr. Gonzalez again, is this
11 when you had the conversation about, "Oh, you're hanging
12 on the P's leg. Where's my water"?

13 A About then, yes. Yes.

14 Q Okay. And you were referring to the fact that he
15 was supposed to go get you a water and --

16 A Well, it just -- we were together so much, if I
17 get something to drink, I grab him something to drink. If
18 he'd grab -- same thing; he would usually grab me
19 something to drink. But he came back and walked with the
20 president of my charter, and they both had something to
21 drink. And that's when I made the comment, "Oh, I see.
22 You're hanging on the P's leg, huh?"

23 Q Now, does that mean you're sort of like
24 brown-nosing the P?

1 A Yeah.

2 Q Mr. Gonzalez drinks water as well?

3 A Yes.

4 Q So I think it was your testimony that
5 Mr. Gonzalez -- and you were looking kind of at the video
6 at that point. It was pretty close to the time the fight
7 started -- told you, "Don't worry about it. I'll go over
8 and get your water"?

9 A Yeah. But I told him, "Never mind. I'll get
10 it."

11 Q Okay. So Mr. Gonzalez, right before the fight
12 had started, volunteered to go get in the long line at the
13 bar to get you the water?

14 A Yeah, he did.

15 Q Volunteered to step out of the position he was
16 in, standing there on the video, to go over to the bar?

17 A Yeah.

18 Q But for you saying, "I'll get it myself," he
19 would have actually been across the way in the bar lined
20 up --

21 MR. STEGE: Objection. Speculation.

22 THE COURT: Sustained.

23 THE WITNESS: Yes, he would have got it --

24 THE COURT: I sustained the objection.

1 BY MR. HOUSTON:

2 Q What that means is you can't answer that
3 question. I'm sorry.

4 A No problem.

5 Q So the fact remains that Mr. Gonzalez stood where
6 he stood and you went over to the bar and got the water?

7 A Yes.

8 Q And you were pretty far out of placement as far
9 as when the fight broke out, correct?

10 A Yes.

11 Q When the fight broke out, we see on the video
12 several individuals that had had conversations with
13 Mr. Pettigrew now actually fighting with HAs. Is that
14 something that would be unusual when a fight breaks out?

15 A Repeat that.

16 Q On the video we see certain Vago members that
17 have talked to Mr. Pettigrew involved in the fight once
18 Mr. Rudnick is punched. Would that be something unusual
19 for Vagos to get involved if one of their members is
20 punched?

21 A No. It's a reaction. Basically, you know, if he
22 just jumps in, I'm not going to let you get hit.

23 Q Would it be unusual, once Mr. Pettigrew and
24 Mr. Villagrana pull guns and start shooting Vagos, for

1 Vagos to get involved?

2 A Yeah.

3 Q Would it be a situation where Vagos might want to
4 protect one another?

5 A Definitely.

6 Q Did you see any Vago pull a handgun that night?

7 A No.

8 Q When the fight broke out, it's a fair statement
9 that you lost sight of Mr. Gonzalez?

10 A Yes.

11 Q I think you testified that you had a bad leg and
12 you couldn't really hop over the bar --

13 A Right.

14 Q -- is that true?

15 A Right.

16 Q Were you worried also being shot?

17 A Yeah.

18 Q And in fact would it be a fair description of the
19 circumstances of that night at that point to be a melee?

20 A Yes.

21 Q Chaos?

22 A Yes.

23 Q You indicated that you heard Mr. Pettigrew scream
24 something about -- and pardon the expression -- "Do you

1 mother fuckers want to get shot" or something like that.

2 A Correct.

3 Q And that was before he actually hit Mr. Rudnick,
4 correct?

5 A I don't know. I didn't know when he hit him or
6 when he didn't hit him. I just heard that, and that's
7 what turned me around.

8 Q Okay. And that certainly got your attention,
9 correct?

10 A That got my attention.

11 Q After all of this is over, after this fight has
12 ended, you make your way back up to a room, correct?

13 A Yes.

14 Q And as I understand it, you didn't necessarily
15 want to go back over to your room right away because you
16 were concerned there may be HAs on the floor?

17 A Well, my P told me to come over and stay in
18 Mario's in the other wing. That way less problems would
19 happen.

20 Q Okay. Fair statement to say that you at that
21 point, along with the other Vagos, were worried about
22 retaliation?

23 A I was concerned on it, yes.

24 Q And you at some point, as we know from the video,

1 wind up going back to your room to get your things,
2 correct?

3 A Correct.

4 Q Now, you don't get a chance to talk to
5 Mr. Gonzalez until the next day, right? Or if you know,
6 if you talked --

7 A Yeah, I don't recall. But I didn't talk to him
8 for a while, yeah.

9 Q Then you and Mr. Gonzalez and some other folks
10 decide you're going to leave your bikes here and drive
11 down?

12 A Correct.

13 Q And you left your bikes here, as I understand it,
14 because you just thought that was the better thing to do?

15 A Better thing to do, yeah.

16 Q Did anybody suggest it was time for the Vagos to
17 all get together and ride back to San Jose in triumph
18 because we've killed the president of the Hells Angels?

19 A No. No.

20 Q In fact the mood was totally different than that,
21 wasn't it?

22 A Complete opposite. Complete opposite.

23 Q Fair statement to say that you and the Vagos you
24 spoke to actually respected Mr. Pettigrew, correct?

1 A Yes.

2 Q Fair statement to say that you actually, in your
3 way, mourned the loss of Mr. Pettigrew?

4 A He was a good man. And it's an unfortunate
5 incident. He wasn't a troublemaker. And like I said,
6 whenever I'd see him he'd wave, shake hands. You know, he
7 wasn't -- he was an all right guy.

8 Q What caused this whole thing that night, if you
9 know?

10 A A drunken fool.

11 Q By the name of Gary Rudnick?

12 A Yeah. I guess I know him as Jabber.

13 Q Jabbers. I think we've got a --

14 A Yeah.

15 Q -- a little moniker underneath his photo there
16 that says "Jabbers." Is that him?

17 A Yes.

18 Q Are you aware of whether or not there were
19 efforts taken that night by a number of Vagos to calm this
20 situation down?

21 A Yes.

22 Q Are you aware that Mr. Rudnick continued to
23 irritate it?

24 A Yes. That's what I was told. He continued --

1 while we were out to dinner, I guess he did some more
2 things. I don't know what he did. I wasn't around that
3 much. But, yes, he kept pushing and pursuing the issue.

4 Q He was the vice president of the Los Angeles
5 charter, correct? Mr. Rudnick?

6 A That's what I'm told, yes.

7 Q As a vice president, he holds a certain rank
8 that -- he's above other patch holders. True?

9 A Yes.

10 Q And, for instance, because of the politics, if
11 Mr. Rudnick had told Mr. Garcia to put on his gloves, he
12 kind of would have had to do it, wouldn't he?

13 A Yes.

14 Q Was Mr. Rudnick very vocal that night as far as
15 his displeasure with the Hells Angels?

16 A Very.

17 Q That wasn't shared by the majority of the Vagos,
18 was it?

19 A No. Only Rudnick, or Jabbers.

20 Q When Mr. Rudnick was voicing his displeasure --
21 you've been asked a lot of questions about is it a sign of
22 disrespect that the HAs were staying at The Nugget Hotel,
23 correct? Do you remember those questions?

24 A Yeah, I do recall that.

1 Q You'd actually been to Street Vibrations before,
2 hadn't you?

3 A Yes.

4 Q Had you seen Hells Angels at Street Vibrations
5 before?

6 A The year prior to that, like I said, they had
7 their booth right outside the hotel where we were staying.
8 All of us -- Ernesto -- we all shook Bob's hand and
9 Jethro's hand and a couple other guys' hands. Mark also,
10 out of their charter. We shook their hands, said hello,
11 and we went on about our business.

12 Q Did it bother you in any way that the Hells
13 Angels were at The Nugget?

14 A No. No.

15 Q And in fact you'd agree --

16 A I live with them in the same city. We have no
17 problems. And if we do, it's worked out.

18 Q You would agree with me that there didn't appear
19 to be anybody else in your group, Mr. Gonzalez in
20 particular, expressing displeasure that the HAs were
21 there?

22 A No. No. Romeo wasn't, no. He was the one
23 trying to get Jabber to calm down for a while.

24 Q Nobody could seem to calm Jabbers down that

1 night, correct?

2 A No. He was a drunken fool.

3 Q Thank you. I have nothing further.

4 Thank you sir.

5 THE COURT: Redirect?

7 REDIRECT EXAMINATION

8 BY MR. STEGE:

9 Q Mr. Houston just pointed out that Jabbers, as a
10 vice president, could tell Boo Boo to put on gloves,
11 right? That was your statement?

12 A Yeah, he could.

13 Q Because Jabbers is a VP, and he can tell members
14 of other chapters who are below him what to do?

15 A If he's the VP, yes.

16 Q And same goes for a P. A P of a club can tell
17 someone from another city what to do, right?

18 A Yes. To a degree yes.

19 Q Well, to what degree? To the effect of putting
20 on gloves?

21 A Yes.

22 Q Right?

23 A Yes.

24 Q To the effect of doing just about anything,

1 right?

2 A Well, within reason.

3 Q And so, for example, Cesar Morales can tell -- as
4 a P of San Jose can tell a patch holder from another club
5 what to do?

6 A To a degree.

7 Q Now, you admitted that this was bad for politics
8 after, right?

9 A Yes.

10 Q It caused problems specifically for the San
11 Jose --

12 A Yes.

13 Q -- Hells Angels?

14 A Yes.

15 Q Or between Hells Angels --

16 A Between their club and our club, yes.

17 Q In San Jose?

18 A Yes.

19 Q So that would be something that would want to be
20 avoided, right?

21 A If at all possible, yes.

22 Q And that's because you do know that the Vagos and
23 Hells Angels are rivals?

24 A That's what they're saying. That's what they're

1 blowing it out to be, yes.

2 Q Well, in 2011 they were rivals, right?

3 A Where?

4 Q How about Santa Cruz?

5 A I don't know what happened in Santa Cruz. I
6 wasn't there.

7 Q Santa Cruz is pretty close to San Jose, right?

8 A It's 30 miles away.

9 Q Just over the hill?

10 A Yeah.

11 Q And so you are aware, then, that there was a
12 conflict between Hells Angels and Vagos in Santa Cruz in
13 2011?

14 A Yes.

15 Q So they're rivals there, right?

16 A If you want to word it like that, yes.

17 Q And they're rivals north of San Jose as well;
18 isn't that true?

19 A No.

20 Q What about Lake County? You're aware of -- that
21 they're rivals in Lake County?

22 A Not to my knowledge.

23 Q You're aware that the Vagos and Hells Angels are
24 rivals, say, in Southern California?

1 A They coexist down there too.

2 Q Well, what about Oildale? Do they coexist there?

3 A I haven't been in Oildale or whatever you're
4 saying.

5 Q But you've heard of --

6 A I can only speak of my experience in the places
7 I've been. That's all I can speak of.

8 Q But in general terms they're rivals, right?

9 A No.

10 Q So that's not why they stay in separate hotels
11 when they have runs in the city?

12 A That's just to avoid conflict because of people
13 like loudmouth Jabbers getting drunk and shooting his
14 mouth off and a personal vendetta escalated into this.

15 Q To avoid conflict?

16 A Correct.

17 Q Because they have a history of conflict?

18 A No.

19 Q Oildale --

20 A When you mix liquor and asshole, you get a person
21 like Jabbers as a result.

22 Q Oildale, Orange County, Kern County, Lake County,
23 Santa Cruz; conflict, right?

24 A I can't say that. I can't speak for that.

1 Q What about Arizona? Conflict there, right?

2 A There's been a problem there, yes.

3 Q So --

4 A In one town, yes.

5 Q But your claim today is, well, San Jose, we get
6 along, right? We get along?

7 A We coexist.

8 Q And you wouldn't want anything to blow up, right,
9 because it would be bad for politics?

10 A It would be bad, yes.

11 Q In fact your concern driving back, you told the
12 police, was that you'd get shot off your bikes.

13 A I said who knows what would have happened. I
14 could get shot off my bike. Not that someone's going to
15 do it, but it could happen.

16 Q And in fact you were concerned that the Hells
17 Angels were carrying weapons, right?

18 A I was concerned, yeah.

19 Q Even before this you were concerned that they
20 were carrying weapons?

21 A No, afterwards I was concerned.

22 Q Well, you told the police that you thought that
23 that cooler that was being carried --

24 A Yeah, I was told after the fact that they had a

1 cooler full of guns. I was told that, yes.

2 Q So you would be aware that a conflict with the
3 Hells Angels could escalate into deadly violence, into
4 weapons?

5 A It could happen.

6 Q Right. Because they're kind of known to carry
7 weapons or things are known to get --

8 A No, I wouldn't say that. You know, you guys blow
9 it into something that it's not. It's pretty simple,
10 pretty plain. We don't -- they don't need guns; we don't
11 need them. We coexist. Like I said, if there's a
12 problem, then it's mine and your problem. It's not a club
13 thing.

14 Q Well, so none of those --

15 A It needs to be worked out.

16 Q -- Arizona, Orange County, any of those ones I
17 mentioned were not weapons?

18 A I can't speak for them. They're not my charter.
19 I don't know what happens in their business.

20 Q So you said you guys don't need to carry guns?

21 A No, we don't.

22 Q And you never knew Ernesto to carry guns?

23 A No.

24 Q Now, when you went to Nicaragua did he carry a

1 gun?

2 A Not with me, no.

3 Q And didn't you tell the police that if he had a
4 gun, he would have told you?

5 A Correct.

6 Q Why did you tell the police -- so then he must
7 have picked up a gun just for this fight.

8 A Not to my knowledge. I don't know where -- if he
9 had one, where it came from.

10 Q You told the police, "Well, someone must have
11 handed it to him."

12 A No, I said he probably picked it up off the
13 floor. There's a lot of things I didn't say that they
14 said I did say.

15 Q I'd like to direct your attention to page 27 of
16 the transcript of your interview with the police.

17 MR. STEGE: If I can approach witness.

18 THE COURT: Do you have that, Mr. Houston?

19 MR. HOUSTON: Yes, Your Honor. Thank you.

20 THE COURT: You may approach.

21 BY MR. STEGE:

22 Q You just stated that you told the police that he
23 must have picked it up off the floor.

24 A I don't know where it came from is what I was

1 saying. I don't know.

2 Q I'd like to hand you that there. If you'll go
3 down towards the bottom, it's about 24. Doesn't it say,
4 "I'll be honest, I'm surprised that he had a gun, very
5 surprised?"

6 A That's because they were saying that he shot
7 Mr. Pettigrew.

8 Q "If you look on that film, I think you will find
9 somebody hand him one. Do you know what I mean?"

10 A Well, I might have said that, but --

11 Q Is that what it says?

12 A What I was implying is he didn't come there with
13 one. If he had one, somebody had to hand it to him is
14 what I was implying.

15 Q Okay. That's what the transcript --

16 A I can only speculate. You know what I mean? I
17 have no knowledge of it.

18 Q So you knew this would cause problems, so
19 San Jose would want to do everything they could to avoid
20 problems in San Jose, right?

21 A Yes.

22 Q If, as you claim, things are peaceful in San
23 Jose.

24 A Yes.

1 Q Isn't it true that the Santa Cruz -- the conflict
2 in Santa Cruz had caused tension in San Jose?

3 A But it was talked and worked out.

4 Q So --

5 A It raised the tension is all it did.

6 Q Right. So there was tension?

7 A It raised tension on that matter, but it was
8 nothing. It was talked out and done and there was nothing
9 more of it.

10 Q So you guys would want to -- especially the San
11 Jose HAs, you guys would want to keep things peaceful with
12 them?

13 A We want to keep peace with everybody.

14 Q And prevent problems with them?

15 A If possible, yes.

16 Q And so that's why you would send the president,
17 the vice president and respected members --

18 A Correct.

19 Q -- in your club to talk --

20 A Someone with credibility, yes.

21 Q And so you said yourself Jethro was well
22 respected, right?

23 A Yes.

24 Q You knew him? You'd shook hands with him?

1 A I've shaken hands with him and said hello a few
2 times here and there, yes.

3 Q You've talked to him?

4 A Yes.

5 Q Did you know he has a prosthetic leg beneath the
6 knee?

7 A Yes.

8 Q You knew that at the time?

9 A That happened when he was much younger, yes.

10 Q All right. So at the time this happened, you
11 knew Jethro was missing part of his leg?

12 A I knew that, yes.

13 Q And the other San Jose guys knew that too?

14 A I don't know what they know. You know?

15 Q Well, you guys hang out --

16 A Yeah, but it's not something where you sit around
17 and say that guy's got this or that guy's got that.
18 That's not my place to point out somebody's dis- -- you
19 know, disadvantage or advantage.

20 Q When this thing started you were afraid of
21 getting shot, right?

22 A Well, after this -- after this thing had
23 happened, after the shooting --

24 Q Well, inside there, inside the casino you were

1 afraid you --

2 A No, not until after the shooting had happened.
3 That's when my concern of being shot was --

4 Q I thought you were ducking behind the cubbyhole.

5 A Because I heard him yell, "You want shot, you
6 motherfucker?" Then I heard the bang, bang, bang, and I
7 turned around, and the only thing I seen was Cesar, which
8 you guys showed on the news. That's more like what I
9 seen.

10 Q Right. So at the time you hear Jethro say, "You
11 want to get shot, motherfucker," you don't know if he'd
12 already been hit in the back of the head?

13 A I didn't -- yeah, I don't know anything. I don't
14 know how it escalated there.

15 Q Or if Cesar Morales had already hit a guy across
16 the head with a bottle?

17 A I had no knowledge of anything going on there.
18 My back was turned to it.

19 Q And when you turned, you hear Jethro --

20 A I heard someone say, "You want shot,
21 motherfucker?" And I believed it to be Jethro.

22 Q Once the shooting starts, it's fair to say that
23 the citizens, the non-Vagos and non-HAs in that casino,
24 were terrorized, right?

1 A Yes.

2 Q They were running everywhere?

3 A Yes.

4 Q Frightened?

5 A Yes.

6 Q Getting on the ground?

7 A I believe so, yes.

8 Q And I think it was pointed out, well, you're

9 always together with Cesar, right?

10 A With Ernesto, yes.

11 Q I'm sorry, with Ernesto.

12 A Yes.

13 Q You guys were trying to get women, right?

14 A Yes. We always are.

15 Q Do you know why the Hells Angels called the

16 police that night?

17 A No. I don't know.

18 Q After you guys dropped off your bags, how many

19 times did you go into the room?

20 A I don't recall. Maybe twice, once. I don't

21 remember. Honestly, I don't remember.

22 Q After you got your stuff and Ernesto's stuff out

23 of the room, did you go back to that room?

24 A I honestly don't remember. I don't. It's been a

1 while.

2 Q Let's look back at Camera 45. Start here at
3 22:56:52. I want you to look for yourself and let us know
4 if you see yourself.

5 A I don't see myself, but I believe I was over here
6 talking to a brunette that was inside the little bar right
7 there in a booth.

8 Q So you're off the screen here? Is that your
9 testimony?

10 A I can't see me, but this isn't that clear.

11 Q Well, it's clear enough to show Ernesto right
12 here, right?

13 A Yes.

14 Q So you think you're off over here with a
15 brunette?

16 A Yeah, I believe. I think so. It's been a while.
17 That's one of the guys from Missouri.

18 Q At 22:58:12, that's Ernesto right there in the
19 bottom right?

20 A Yes.

21 Q Where are you?

22 A I'm not sure. I still think I'm over there in
23 that other bar by the dance floor.

24 Q Let's jump ahead a little bit. Let's go to

1 23:04:37. Do you see yourself here?

2 A Not yet.

3 Q Let's move up to 23:12:45. Do you see yourself
4 here?

5 A Yeah, I believe so.

6 Q Where are you?

7 A Next to Rigo.

8 Q Would you circle yourself?

9 A I just walked through right there (indicating).

10 Q That's you there?

11 A I believe so. The graphics aren't that good, but
12 I believe so.

13 Q Is that you?

14 A Yes.

15 Q How about 23:17:29? Where are you?

16 A Let's see. I don't see me anywhere. I believe
17 this is when I went over by the crap tables where the
18 girls were.

19 Q How about here at 23:21?

20 A I don't see me.

21 Q Where are you right here?

22 A I'm not sure. I'm not sure when this was --
23 yeah, I'm not sure. It's been a while. I don't recall
24 exactly where -- like I said, we were just walking around

1 and stuff.

2 Q You were walking around with Ernesto is your
3 testimony?

4 A I don't recall where I was at that moment.

5 Q What about 23:23:50? Where are you now?

6 A I don't recall.

7 Q Well, we have --

8 A I think I'm over here behind where Ernesto and
9 them are standing over by the crap tables.

10 Q Here you've got Ernesto, Cesar --

11 A I see Rigo and Ernesto and Boo Boo, but -- I
12 think that's Cesar. Your graphics are pretty bad.

13 Q Cesar right here (indicating)?

14 A I believe. And then there's Greg, yeah.

15 Q So you testified that you, after the shooting,
16 left your bikes here, didn't want to get shot off your
17 bikes. You didn't wear your vests in the car, did you?

18 A No.

19 Q No colors, right?

20 A We're not allowed to have our vest in a car. No.

21 Q But in fact Tata -- or an order had come down,
22 don't wear your colors after this on the way home?

23 A I didn't get that. It's just -- you're not to
24 wear your vest when you're in a car.

1 Q And in the car is you, the defendant, Cesar
2 Morales. Who else?

3 A I don't remember who all was in the car. There
4 was a couple guys from San Jose, but I don't remember who
5 it was.

6 Q And you guys went and hung out in Anaheim?

7 A We went down to Anaheim to hope things cooled
8 down and national can get things worked out.

9 Q And how many days would you say it was later that
10 you were dropped off in San Jose?

11 A I don't recall. It's been a while.

12 Q And during this entire time Ernesto Gonzalez did
13 not mention shooting Jethro Pettigrew?

14 A No.

15 Q He did not mention that he was afraid Jethro was
16 going to kill somebody?

17 A No.

18 Q He did not mention that he had to save a brother
19 from Jethro?

20 A Wasn't in our discussion, no.

21 Q He did not mention having a gun during the entire
22 time after this that you were together?

23 A No.

24 Q He did not mention a fellow by the name of Robert

1 Wiggins during this trip, did he?

2 A No.

3 Q In fact do you know who Robert Wiggins is?

4 A I'm not sure.

5 Q Ernesto is your best friend. Have you ever heard
6 him mention Wiggins' name?

7 A I don't recall.

8 Q Have you ever yourself called, on the telephone,
9 Tata?

10 A Pardon me?

11 Q Have you ever called Tata --

12 A Yes.

13 Q -- on the phone?

14 Nothing further.

15 MR. STEGE: Thank you, Your Honor.

16 THE COURT: Mr. Houston?

17 MR. HOUSTON: Thank you, Your Honor.

18
19 RECROSS EXAMINATION

20 BY MR. HOUSTON:

21 Q Mr. Nickerson, you were asked by the prosecutor a
22 moment ago some questions in reference to your statements
23 to police regarding a firearm. Do you recall that a few
24 minutes ago?

1 A Correct.

2 Q Wasn't that in the context of you telling the
3 police that Mr. Gonzalez is not a violent person?

4 MR. STEGE: Objection, Judge.

5 MR. HOUSTON: That's the context.

6 THE COURT: Sustained.

7 THE WITNESS: No, what I told --

8 THE COURT: No, I sustained the objection.

9 BY MR. HOUSTON:

10 Q What that means is you can't answer. I'm sorry.

11 So you also said something else, and I want to
12 clarify this. You indicated if there was a conflict, it
13 wasn't between clubs; it was between individuals. True?

14 A Yes.

15 Q And that's been your perception of any issues
16 concerning the HAs and the Vagos wherever they may be,
17 correct?

18 A Correct.

19 Q You've never received any notice that there's
20 some kind of declared hostilities club against club, have
21 you?

22 A No. No. No.

23 Q If it's individual against individual, then
24 that's usually something that's worked out between

1 individuals, correct?

2 A Correct.

3 Q If there are issues between the clubs, I believe
4 you've indicated the way that's handled is people get
5 together and talk it out.

6 A We work it out, yes.

7 Q And that's how it's done, correct?

8 A Correct.

9 Q It's not done by shooting people such as Jethro
10 Pettigrew, is it?

11 A No.

12 Q Thank you. I have nothing further.

13
14 FURTHER REDIRECT EXAMINATION

15 BY MR. STEGE:

16 Q This is individuals. Individuals work things
17 out?

18 A Well, in San Jose there's been no issues, and
19 that's because we have a line of communication. We didn't
20 disrespect them and they didn't disrespect us. We have
21 mutual respect.

22 Q Okay. So the individual that we're going to see
23 smashing a bottle over the face of Chris Knowlton is who?

24 A Where's the bottle?

1 Q Top right of your screen. You previously
2 identified that as Cesar Morales, right?

3 A I can't tell. His back is to it. I can't -- I
4 can't tell.

5 Q He's the guy who just walked off the screen
6 there. That individual (indicating).

7 A No, that was Brian --

8 Q That's Brian Marquez, right, that individual from
9 San Jose?

10 A Yes.

11 Q All right. What did that individual do?

12 A Somebody hit somebody with a bottle. I can't --
13 I can't see. Your clarity is not that good.

14 Q That's not Cesar Morales is your testimony?

15 A I can't tell if it is or not. Your camera isn't
16 that good.

17 Q So that's how those individuals work out their
18 problems?

19 A Well, at that moment, yes, I believe so.

20 Q Nothing further.

21 THE COURT: May this witness be excused?

22 MR. HOUSTON: Yes, Your Honor.

23 MR. STEGE: Yes.

24 THE COURT: You may step down. You are excused.

1 THE WITNESS: Am I done, done?

2 THE COURT: You're excused.

3 THE WITNESS: Thank you.

4 THE COURT: While we're taking this break, if you
5 want to stand and stretch, ladies and gentlemen, go ahead
6 and do it, if you need to move around a little bit.

7
8 GREG FEARN,

9 called as a witness on behalf of the Plaintiff,

10 having been first duly sworn,

11 was examined and testified as follows:

12
13 DIRECT EXAMINATION

14 BY MR. STEGE:

15 Q Sir, please state and spell your name.

16 A Gregory Fearn. Last name is F-e-a-r-n.

17 Q You are in the Vagos; is that correct?

18 A Yes.

19 Q Out of Lake County?

20 A Yes.

21 Q Where is Lake County?

22 A California on the -- towards the West Coast.

23 Q That's north --

24 A Clearlake.

1 Q -- of the Bay Area?

2 A Yes.

3 Q And how long have you been a Vago?

4 A Just less than 10 years.

5 Q And who is the president of your -- the Lake
6 County chapter?

7 A I am right now.

8 Q Back in 2011 who was the president?

9 A When?

10 Q Prior to the Nugget shooting.

11 A I was president at the time of the Nugget
12 shooting.

13 Q And you drove up here in a group, right? A group
14 of other Vagos drove up here?

15 A A couple of my other members, yes.

16 Q And you were aware that of all the Vagos were
17 staying at The Nugget?

18 A Yes.

19 Q And you are aware that the Hells Angels were
20 staying in downtown Reno at the Silver Legacy?

21 A No, I didn't know exactly where they were. But I
22 knew they come to Street Vibes every year.

23 Q And you knew that -- prior to coming down here
24 that there was a meeting where they decided to sort of

1 stay apart, right?

2 A Normally we do. They were in the casino where we
3 were at.

4 Q Right. But the general rule when you go on runs,
5 you guys have an agreement to stay apart, stay in
6 different parts of wherever the run is?

7 A Normally, I guess.

8 Q And in fact that's the way it was in 2011 with
9 the exception of the San Jose Hells Angels?

10 A Yes.

11 Q And when you were checking in, did you see the --
12 these Hells Angels?

13 A At the time I checked in, I did not see them.

14 Q Did you learn, though, that they were there?

15 A Yes.

16 Q And this was -- caused some tension between the
17 Vagos and the Hells Angels?

18 A No. We didn't have an issue with them at that
19 point, no.

20 Q Well, because they're rivals.

21 A So?

22 Q Okay. But you admit that they're rivals? Hells
23 Angels and Vagos are rivals?

24 A We get along together --

1 MR. LYON: Your Honor, I object to the leading
2 nature of these questions.

3 THE COURT: Okay. Your answer to the last
4 question? What was your answer to the last question?

5 THE WITNESS: About being rivals?

6 THE COURT: Yes.

7 THE WITNESS: They're another club, but we have
8 no issues with them at this point.

9 THE COURT: Okay. You may proceed.

10 BY MR. STEGE:

11 Q Did you have issues with them in 2011?

12 A At the casino?

13 Q Prior to this.

14 A No.

15 Q You had no problems?

16 A No, I did not particularly.

17 Q What about not -- and not even in Lake County?
18 There weren't problems between Vagos and Hells Angels in
19 Lake County?

20 A There was one incident in a casino.

21 Q In fact there were two incidents.

22 A I wasn't P at that time and I wasn't there.

23 Q Okay. So you had a prior incident between Hells
24 Angels and Vagos in 2011 before our case happened?

1 A That was an isolated incident. It wasn't, it
2 wasn't a group of Vagos or anything.

3 Q It was a group of Hells Angels thumping on a
4 Vago, wasn't it, inside a casino?

5 A They had tattoo convention going on.

6 Q Right.

7 A So they were there, yes.

8 Q Konocti Vista is the name of the casino, right?

9 A Yes.

10 Q So within Lake County there was a rivalry between
11 Hells Angels and Vagos?

12 A No.

13 Q There wasn't an incident prior to the casino
14 involving some Hells Angels and Vagos in Lake Port, the
15 town of Lake Port?

16 A One of our guys got hit on the street. Again, I
17 wasn't there.

18 Q By a group of Hells Angels?

19 A There was a few of them. I don't know how many
20 exactly.

21 Q From Sonoma County?

22 A I think so.

23 Q But you said --

24 A I never met 'em.

1 Q But on September 23rd you had no problems with
2 them is your testimony today?

3 A No. I had no issue at all.

4 Q Is it fair to say that there was tension between
5 the two groups on the 23rd as you were checking in, as
6 people are doing their business?

7 A We didn't have any issues at all.

8 Q And did you go to the meetings in the conference
9 area?

10 A Upstairs?

11 Q Yes.

12 A Yes.

13 Q And Tata spoke? Rocky Siemer spoke at these
14 meetings; is that right?

15 A I saw rocky, yes.

16 Q And who's rocky?

17 A He's one of the national P's.

18 Q Of the Nomads, right?

19 A I guess so, yes. He's been in a long time.

20 Q And Tata is the leader, the international P?

21 A Yes.

22 Q Dragon Man is the international sergeant-at-arms?

23 A Yes.

24 Q And so they have control or they can give orders

1 to other people in the club, people beneath them?

2 A If they wish, yeah.

3 Q And when we get down to the club level, a P of
4 one club or one charter can tell a patch member of another
5 charter so they can issue orders to them, right?

6 A They have respect in the club, yes.

7 Q Now, what were you doing that night after the
8 meetings?

9 A Just socializing downstairs. We had some friends
10 there, and we were socializing and mingling in the casino.

11 Q And what particular part of the casino were you
12 in?

13 A We were around the Horseshoe Bar, and then there
14 was a bar down -- I don't know what north or south is
15 there, but a low bar down where they had been playing
16 music and whatnot.

17 And then I just mingled around. And then I was
18 up towards -- I think it's a restaurant and the restrooms,
19 and we were socializing, and some friends had come through
20 and whatever.

21 Q And at some point a group of Hells Angels comes
22 through, right?

23 A Yeah. That was kind of a surprise.

24 Q Up until that point you didn't know what was

1 going on with the Hells Angels, did you?

2 A No, I didn't.

3 Q You didn't know that there -- if there had been a
4 conflict earlier in the evening at another part of the
5 casino?

6 A I wasn't involved. I didn't hear that. I wasn't
7 there.

8 Q Do you know where the Oyster Bar is in the --

9 A It was on -- if Trader Dick's is here
10 (indicating), I think it was over on the other end of the
11 casino, and I wasn't even down there.

12 Q So you weren't down there at all?

13 A No.

14 Q And you didn't hear anything about what was going
15 on down there, did you?

16 A No.

17 Q And it's fair to say you were socializing, having
18 some drinks?

19 A Yes.

20 Q And so you wandered over here in front of Trader
21 Dick's?

22 A Yes.

23 Q Did you know any of the guys there in front of
24 Trader Dick's?

1 A A few of them.

2 Q Who did you know?

3 A Ernesto.

4 Q Who else?

5 A Cesar; San Jose.

6 Q Cesar Morales, the president of San Jose?

7 A Yes.

8 Q And when you talk about Ernesto, you're talking
9 about the defendant, Ernesto Gonzalez?

10 A Yes.

11 Q Who else did you know there?

12 A I'm not too good on names.

13 Q Do you know a fellow who goes by Boo Boo?

14 A Diego. I didn't know him by Boo Boo. I didn't
15 know that.

16 Q Diego Garcia from San Jose?

17 A Who?

18 Q Diego Garcia from San Jose? Is that who you're
19 talking about?

20 A Diego, yes.

21 Q From San Jose?

22 A I've met him before.

23 Q Okay.

24 A He's come to Lake County before.

1 Q How well do you know this group that you're
2 standing around with?

3 A Not personally. I just met them on runs or
4 whatnot, and we socialize.

5 Q Was anyone in that group talking about a fellow
6 by the name of Jabbers?

7 A I had heard earlier that there was some issues
8 with Jabber.

9 Q But didn't you just say you had no idea what was
10 going on down at the Oyster Bar?

11 A I didn't know.

12 Q So now you're saying that you had heard --

13 A No, no, no. That was earlier in the evening that
14 there was some tension there that I'd heard.

15 Q Okay. So you did know --

16 A It wasn't from the Oyster Bar, but -- I don't
17 know. I didn't even know anyone was down at the Oyster
18 Bar.

19 Q Did you even know the Hells Angels were down at
20 the Oyster Bar?

21 A Not at that point in time I didn't.

22 Q And I think you said when the Hells Angels came
23 walking through, you were surprised.

24 A Yes, I was.

1 Q You were surprised to see Hells Angels there?

2 A Not necessarily there. They'd been outside.
3 They had their booth outside like they've done the year
4 before, and that's the way it was. And at the time --

5 Q In what sense were you surprised?

6 A Just that they showed up, they were coming
7 through our way or whatever. So basically the whispering
8 was stand back and let them walk through, and that's what
9 we did.

10 Q And you witnessed a confrontation?

11 A Yes. As soon as -- I'm not sure who it was --
12 maybe Jeffrey, I guess, turned and faced one of our guys,
13 and I assume that that was Jabber, and they immediately
14 had a conversation that heated up.

15 Q And you don't know -- you didn't know who Jabbers
16 was before this, did you?

17 A I didn't know him personally, no.

18 Q And you didn't know Jethro Pettigrew?

19 A No. That was the first time I'd ever seen him.

20 Q And did you know anyone else in that Hells Angels
21 group?

22 A No, I did not.

23 Q And it was a very heated exchange is what you
24 said?

1 A Yeah. Very quick and very heated between the
2 two.

3 Q And what did they say?

4 A I didn't hear what they said. It was noisy in
5 there, and there was a couple people from them. I just
6 said that I know that the conversation was heated up, and
7 within moments a punch was fired.

8 Q But you could not hear what they were saying?

9 A No.

10 Q How far away would you say you were?

11 A A couple of people away. My hearing is not
12 perfect, but it's very noisy in the casino. It's not
13 quiet in the casino.

14 Q Who throws a punch?

15 A Jeffrey did.

16 Q And what happens after he throws a punch?

17 A I think Jabber went down, everybody went down,
18 and he backed up reached in his bag and pulled a gun out.

19 Q What did he do with that gun?

20 A He fired it two, three times.

21 Q Who did he fire it at?

22 A At the guys in front of him where Jabber was. I
23 was on the other side of kind of a planter. I think there
24 was a divider, a planter, that was there, and everyone

1 disappeared behind it. I didn't see that he hit anyone,
2 but I seen him fire the shots.

3 Q And do you know -- you said you know Diego from
4 San Jose. Did you see him --

5 A I didn't see him at that point. At the time that
6 took place I think he was on the other side somewhere
7 there. I wasn't paying attention to him.

8 Q Well, you had some violence directed at you;
9 isn't that true? You were --

10 A What?

11 Q -- hit by Jethro?

12 A Say that again, please.

13 Q Jethro pistol-whipped you in the face, didn't he?

14 A He was on -- excuse me, he was on the other side.
15 He fired two or three rounds and then he come around to me
16 and hit me in the face, and I turned, and he hit me a
17 second time with the pistol.

18 Q And what happened after that?

19 A Well, at that time I turned around to back off
20 from the situation. I didn't figure I needed to be there
21 in front of his gun because he'd just fired it. And I was
22 kind of concerned that some people may have been hurt. I
23 didn't see anyone that was hit. Everybody was down on the
24 floor.

1 Q Concerned about Vagos or just --

2 A Also --

3 Q -- grandmas playing quarters?

4 A Also my friends that were there from Lake County.
5 There was some girls there, my daughter was there, and
6 they had just gone in the bathroom before all this took
7 place --

8 Q What about --

9 A -- and I was concerned about that.

10 Q What about the Washoe citizens who were there
11 playing their gambling or --

12 A I was concerned about everybody. Even them.

13 Q Okay.

14 A And then I walked around to the back side of --
15 eventually I worked back behind the playing tables or
16 whatever, and people were trying to get up, and as I
17 walked around I'd tell them, "Get on the floor and stay
18 down. You don't want to be up in the middle of this."

19 And then I worked around the other side. I was
20 concerned about my daughter and friends in the restroom,
21 and I thought, well, maybe I can go around the other way
22 and make sure they don't come out of the bathroom.

23 Q Did you hear any more shots?

24 A Yes. There was quite a few shots. I don't know

1 exactly how many, but there was quite a few shots that
2 were fired randomly. And even Pettigrew was flying his
3 pistol all over the casino --

4 Q Who else --

5 A -- before I --

6 Q -- had a gun?

7 A I didn't see anyone else with a gun. By the time
8 I left there Pettigrew or Jeffrey or whatever was the only
9 one I saw with a pistol. When I went around, I didn't
10 see -- I didn't know who was firing all the rounds, but I
11 knew he was still up, shooting.

12 Q So you don't know if Diego Garcia had a gun?

13 A No, I don't. I never saw that.

14 Q You don't know if Ernesto had a gun?

15 A I didn't even know he had a gun. I never saw it.
16 I never even saw him after the action took place.
17 Everyone kind of was disappearing.

18 Q Now, did you hear on the way up -- well, at the
19 meetings that there had been some conflict on the 99 in
20 California between HAs and Vagos?

21 A In the casino early on there was some rumors
22 about some conflict. I didn't know any details of it or
23 what really took place there, just that there was
24 something going on when they came up.

1 Q I'd like to direct your attention here to some
2 evidence in the case that's Camera 45. Let's start at
3 23:24 and 40 seconds. Do you recognize anyone in the
4 screen in front of you?

5 A Myself. This picture is not very good, I'm
6 sorry.

7 Q If you look up to the right on the TV, it may
8 assist you.

9 THE COURT: There's a big screen.

10 THE WITNESS: Looks like Ernesto off to my right.

11 BY MR. STEGE:

12 Q All right. So I'm going to circle here, and you
13 can do the same. That's you right there (indicating),
14 right?

15 A Yes, it is.

16 Q Who's this right here?

17 A That's Ernesto.

18 Q Who's this?

19 A I can't tell. I'm sorry.

20 Q Is this Rigo?

21 A I can't tell that right now either.

22 Q Well, let me ask you this. Before walking over
23 to this area, was that the first time you saw this group
24 of San Jose Vagos?

1 A No. I've seen Ernesto the year before at the
2 run.

3 Q But that night you were hanging out with --

4 A We were just --

5 Q Your people from Lake County were sort of going
6 around -- you hadn't been hanging out with these guys
7 until you walk up here in front of Trader Dick's?

8 A No, I'd seen them a couple times in the casino,
9 but we were just, like I say, socializing.

10 Q Do you know which one of these guys was Jabber or
11 Jabbers?

12 A I can't tell from this picture. I don't know.

13 Q Now, prior to -- you said there were whisperings?
14 Who was saying stuff about the Hells Angels coming?

15 A Just the guys next to me; that they were walking
16 through and just stand back and let 'em walk through.

17 Q Isn't it true that they said, "Hey, the Hells
18 Angels are coming," and people sort of got ready for them
19 to come?

20 A I wouldn't say we got ready. We just stood back
21 to let them walk through. Ready for what?

22 Q That was these San Jose guys telling you that
23 they were coming?

24 A Just the guys here, I guess, whoever is here.

1 Q Okay. So they start walking through.

2 (Video played.)

3 BY MR. STEGE:

4 Q Is this that confrontation or the words that were
5 being exchanged?

6 A I actually turned -- I guess so, yes.

7 Q Is that it?

8 A Yes. At the beginning.

9 Q So this is them right here?

10 A Nothing had happened right at that moment, but I
11 believe so.

12 Q Well, this is the confrontation right here
13 (indicating)?

14 A Maybe the beginning of it.

15 Q Okay. And you're right here, right?

16 A Yes.

17 Q You said you were a few people away. It turns
18 out you're actually --

19 A I said I was a couple of people away.

20 Q Well, it turns out you were only -- there's only
21 one person between and you them.

22 A Yeah, within so many feet.

23 Q How many feet would you say that is?

24 A Probably five, six feet maybe.

1 Q And you still can't hear what they're saying,
2 right?

3 A I wasn't paying attention too much to what they
4 were saying.

5 Q Well, you were looking over there, right?

6 A I also turned away.

7 Q When do you turn away?

8 A Just moments before here, and then there was a
9 punch.

10 Q Okay. So your testimony is then that Jethro
11 pulls out a gun starts shooting and then he pistol-whips
12 you?

13 A After this, yes.

14 Q Okay. How soon after this?

15 A Not very long.

16 Q I want you to tell -- I'm going to play this.
17 We're at 23:24:46. I'll play this and you tell me when
18 Jethro is shooting.

19 (Video played.)

20 THE WITNESS: He pulled a gun out at that point.
21 And he's got a gun in his hand right now.

22 BY MR. STEGE:

23 Q So he actually hit you?

24 A Yeah.

1 Q He hadn't fired, right?

2 A When he came out, as he came around, he fired a
3 shot there at the beginning off in a different direction.

4 Q What's he saying when he runs up and hits you?

5 A He was cussing --

6 Q What's he saying?

7 A -- about us.

8 Oh, I don't want to explain it too graphically,
9 but -- "You sons of bitches" or whatever.

10 Q Well, we're talking about murder here, so you can
11 use curse words. Why don't you tell us what he said.

12 A Just basically "you bastards" and "sons of
13 bitches" or whatever. Something to that effect. And then
14 he come back and hit me again.

15 At that time I backed off, and I think I took off
16 in a direction back this other -- from the video, back
17 this other way, and there was another planter.

18 Q Would that be you're backing up from this
19 situation or going --

20 A I backed out and turned to leave out of that
21 area.

22 Q Do you go this way?

23 A No.

24 Q Or this way?

1 A I went back. There was a planter off from the
2 pathway, and there was a planter, and a couple guys were
3 there, and even a security guard. And he started to get
4 up, and I told him to stay down.

5 Q Okay.

6 A And then I walked back behind, back around the
7 casino and towards the other -- the stage area I was
8 telling you about earlier on, and I went around that back
9 way.

10 Q Let's look -- how many shots did you hear after
11 you went towards the planter and away from the situation?

12 A As I was leaving, there was probably some
13 multiple shots. I don't know exactly how many.

14 THE COURT: This is a good place to take our --

15 THE WITNESS: Just multiple random shots.

16 THE COURT: We're going to take a short recess
17 now.

18 Ladies and gentlemen of the jury, during this
19 break do not form or express any opinion about the
20 ultimate outcome of this case. Do not speak of the case
21 or allow anyone to speak of the case to you or in your
22 presence. This includes discussing the case in internet
23 chat rooms or through internet blogs, internet bulletin
24 boards such as Facebook or Twitter, email, or text

1 messages. If anyone should attempt to communicate with
2 you about the case, report it to me immediately.

3 Do not read, listen to, or view any news media
4 accounts or any other accounts regarding the trial or
5 anyone associated with it. Do not do any independent
6 research on any of the parties or groups or law involved
7 in this case, including consulting dictionaries, searching
8 the internet, or other reference materials.

9 Do not make any independent investigation about
10 the case on your own. Thus, you may not go to the Sparks
11 Nugget in person or through the internet.

12 We'll see you after our recess.

13 Court's in recess.

14 (A recess was taken.)

15 THE COURT: Mr. Hall, were you able to handle the
16 other situation?

17 MR. HALL: I was. I just met with a number of
18 other witnesses regarding the Fifth Amendment issue, and I
19 don't think we have a Fifth Amendment issue.

20 THE COURT: Okay. Great. Then bring the jury
21 in.

22 (Whereupon, the following proceedings were
23 held in open court, in the presence of the jury.)

24 THE COURT: Counsel, will you stipulate to the

1 presence of the jury?

2 MR. STEGE: Yes.

3 MR. HOUSTON: Yes, Your Honor.

4 THE COURT: You may continue.

5
6 CONTINUED DIRECT EXAMINATION

7 BY MR. STEGE:

8 Q Sir, how many Vagos were there in the casino?

9 A I don't know the exact number of people.

10 Q Well, how many Vagos?

11 A Maybe, maybe a couple hundred or so. Maybe.

12 Approximately.

13 Q You mentioned that you at the time were president
14 of Lake County --

15 A At that time, yes.

16 Q -- Vagos. So if we refer here to Exhibit 132,
17 this is you here in the top-right corner?

18 A Yes.

19 Q It would be fair, then, to put a president
20 sticker and a Lake County sticker there, right?

21 A Yes.

22 Q Let's do that now.

23 So standing there at the -- at Trader Dick's --
24 you also know Cesar Morales, the president of San Jose,

1 right?

2 A Yes.

3 Q So he was standing there?

4 A He was -- I'm not sure of his specific location,
5 but he was up there or near us.

6 Q Now, you testified before that on that previous
7 Camera 45, that when Jethro went off to the left of the
8 screen, off the screen, that he was shooting.

9 A Before he hit me with the pistol, he had fired
10 two rounds.

11 Q And before that, though, wasn't he -- wasn't he
12 hit in the back of the head? Did you see that?

13 A Explain it again, please.

14 Q After Jethro throws a punch, didn't you see
15 Jethro get hit in the back of the head by a Vago?

16 A I -- I don't --

17 Q Know?

18 A -- specifically. I'd have to look at the video.

19 Q Did you see a --

20 A I don't remember. It's been a long time. But I
21 don't remember that at all.

22 Q How many Hells Angels did you see get hit,
23 punched, beat, weapons at them?

24 A I didn't see any of them get beat there other

1 than what was going on with Jethro, and most of his guys
2 spread out. Most of them all went down, and most of them
3 were trying to hide right after the alteration [sic].

4 Q Let's look at --

5 A At the time I was leaving, approximately -- a lot
6 of them. There was people all around. I don't remember
7 specifically, but...

8 Q Now, you had -- had you heard that the conflict
9 before involved Jabbers?

10 A I'd heard that there was some issue. I didn't
11 know any particulars about it or any direct information
12 about it.

13 Q And you didn't know that it was Jabbers? Did you
14 know that Jabbers was believed to be involved in it?

15 A Just that his name was mentioned.

16 Q So they were saying Jabbers is having problems?

17 A And that some of our guys were trying to cool the
18 situation down.

19 Q Such as --

20 A And -- I don't know. I don't know all the
21 particulars, just that they were trying to calm the
22 situation down.

23 Q But people like Rocky Siemer could -- Cocky
24 Rocky, he's a guy who could calm things down? He had that

1 power?

2 A Rocky that we discussed earlier? Yes, I would
3 say so, yes.

4 Q Cocky Rocky?

5 A Yes.

6 Q What about Top Hat? Is he a guy who would have
7 that --

8 A Who?

9 Q Top Hat. William Pizell out of Arizona.

10 A I don't know him particularly.

11 Q What about Dragon Man? He's a guy who could call
12 some shots?

13 A I know Dragon, yes.

14 Q He's a guy who --

15 A Sure.

16 Q -- could calm things down?

17 A Should be, yes.

18 Q And you're a guy -- because you're a president,
19 you're respected within the Vagos, right?

20 A Yes.

21 Q You're a guy who could tell someone to do
22 something and he would do it?

23 A He wasn't in my jurisdiction, and other people
24 were dealing with it, so it wasn't my issue at that point.

1 And I hadn't been directed to do anything.

2 Q So you were just going to socialize?

3 A Basically, yes.

4 Q And you just sort of wandered in over here to
5 Trader Dick's?

6 A Yeah. Before this, our friends from Lake County
7 had walked through, and my daughter, and they had gone in
8 the bathroom prior to the HAs walking through.

9 Q Let's direct your attention here to Monitor 1.
10 Do you recognize the area here? We've got Jethro right
11 here (indicating). This is you --

12 A Okay.

13 Q -- right?

14 A Yes.

15 Q Do you see --

16 A Everyone was spreading out at that time.

17 Q Let me have you look specifically at Jethro here.
18 I want you to follow him for -- right here. What just
19 happened to him?

20 A Can you play that back again, please?

21 Q Yes.

22 Didn't someone just smack him in the back of the
23 head right in this area?

24 A I don't know. The video's not too good here.

1 Q Well, turn your head to the right. There you go.
2 Didn't he just get hit in the back of the head
3 there?

4 A Possibly, yes.

5 Play it one more time, please. Just before.

6 Looks like -- yes, I would say he got hit.

7 Q Right. Why don't you point out when you see him
8 shooting before he comes over to you, if you see it.

9 Do you know a guy by the name of Bob Vieira?
10 Bobby V --

11 A No, I don't.

12 Q -- from San Jose?

13 Do you know this guy on the ground here?

14 A No, I don't.

15 Q Do you see how he got on the ground?

16 A Back up, please.

17 He was already on the ground and...

18 Q Who's that guy who kicked him?

19 A That was Jeffrey that just hit me. And someone
20 come up behind me.

21 Q Right. So we didn't see Jethro shooting just
22 now, did we, prior to hitting you?

23 A Back up again, please.

24 Q In fact, let's play this slowly here.

1 A Yeah.

2 Q Jethro is just standing there, isn't he? He gets
3 punched in the head here at 27:54?

4 A Yeah.

5 Q A Vago throws down Vieira, right?

6 A He's got a gun in his hand already.

7 Q Right. Where is the shooting? Point out the
8 shooting.

9 A It was turned the other way towards the -- before
10 he turned away from the slot machines or whatever there.

11 Q And we see a Vago kicking that Hells Angels on
12 the floor, right, and Jethro coming over to where he got
13 kicked? Isn't that true?

14 A He got kicked there, yes.

15 Q Is this the point where you --

16 A No, I'm still there.

17 Q -- go off behind the planter?

18 A Not yet. I got hit again.

19 Just before he got kicked in the head when he was
20 still pointed at the slot machines was the time that two
21 rounds fired off.

22 Q When who got --

23 A Jeffrey. Before he got hit. Before he turned
24 around, everyone was spreading out, mainly because those

1 rounds had gone off.

2 The video is not very good. I can guarantee you
3 that.

4 Q So your testimony is he shot before someone hit
5 him in the back of the head?

6 A There was a couple rounds fired, yes, before he
7 got turned around, basically down towards the floor or
8 that area.

9 Q And after what we just saw, is that when you go
10 off towards the planter and away from the fighting?

11 A Yes. I started to work my way out of the
12 situation.

13 Q And the next day did they talk about who had
14 killed Jethro?

15 A No. I didn't have any conversation or hear any
16 conversation of who shot who. I didn't know.

17 Q When did you find out that Jethro was killed?

18 A When we were sitting back in the casino. I went
19 around. I was on the other side of the Horseshoe Bar.
20 And about the time that the feds come in, that's when the
21 rumors said he had been shot.

22 Q Did you see any Vagos with guns?

23 A No, I didn't.

24 Q Did you see any Vagos pull knives?

1 A No, I did not.

2 Q Did you see any other Hells Angels with guns?

3 A As I left, I didn't see any of the others with
4 guns at that point. As I was leaving, going around the
5 casino to the back side of the tables, some more rounds
6 had gone off as I was working my way back around towards
7 the Horseshoe Bar.

8 Q But you don't know who fired those?

9 A No, I don't.

10 MR. STEGE: Pass the witnesses.

11 THE WITNESS: Just that Jeffrey was still
12 standing up at that point, and he had been waving -- waved
13 the gun as I backed off out across the crowd.

14 BY MR. STEGE:

15 Q What kind of gun did he have?

16 A A revolver, pistol.

17 Q Nothing further.

18 THE COURT: Cross?

19 MR. LYON: Thank you, Your Honor.

20
21 CROSS EXAMINATION

22 BY MR. LYON:

23 Q Good morning, Mr. Fearn. I'd like to start with
24 a little bit of personal information, if I could, with

1 you.

2 What's your profession and occupation?

3 A I worked for an aerospace company, an
4 international company.

5 Q And what do you do for them?

6 A I travel a lot. I do installations to a lot of
7 businesses all over the world, but in the States also.
8 Also aircraft people, Pratt & Whitney, Boeing, Rolls
9 Royce, and customers in Japan also, Europe, China. And I
10 set up a lot of machinery, and I supervise the
11 installations, and I do some of the training. I do
12 mechanical, electrical, programming.

13 Q How long have you been doing that?

14 A I've been with them just over 15 years now.

15 Q What did you do before that?

16 A Another company that installed the wheel casting,
17 head casting machines. And it was also international.

18 Q Now, you mentioned that your daughter was there
19 that night. Do you have other children?

20 A Yes. My daughter flew in from Colorado. We
21 picked her up at the airport earlier in the day and
22 brought her to the casino.

23 Q Do you have other children?

24 A Yes. I have another daughter in Oregon.

1 Seaside, and I have a son that's down in the Bakersfield
2 area now.

3 Q And you've been a member of the Vagos for about
4 10 years; is that right?

5 A Yeah, just less than ten years.

6 Q Why did you join the Vagos?

7 A I joined the club. I like to ride, and I was
8 asked to join. And the people I was around, they seemed
9 to be respectable at the time and took good care of their
10 families, and that's what I did.

11 Q As a Vago are you in the habit of committing
12 felonies?

13 A No.

14 Q Have you ever been convicted of a felony or any
15 other criminal offense in your life?

16 A No felonies. I've had traffic violations in the
17 past. Long time -- I haven't had one in a long time. But
18 that's just traffic violations.

19 Q Now, you were at Street Vibrations in 2011,
20 obviously. Had you gone to Street Vibrations prior to
21 2011?

22 A Yes. I was at The Nugget the year before.

23 Q Had you been prior -- so that was in 2010?

24 A Yes.

1 Q Any other times prior to --

2 A Two, three times. We usually stayed at the
3 Silver or Western Village when I was there before. Not
4 every year, but random years I've gone.

5 Q For 2011, how did you get up to Street
6 Vibrations?

7 A We rode up on our bikes from Lake County.

8 Q Had you ever stayed at The Nugget before?

9 A Just the previous year.

10 Q Did you notice any Hells Angels staying at The
11 Nugget in 2010?

12 A No, I didn't notice. But I'm told that they've
13 been there before. Just -- I've been told.

14 Q There was some discussion about a rivalry between
15 the Hells Angels and the Vagos. To your knowledge are the
16 Vagos at war with the Hells Angels?

17 A No.

18 Q When you came to Street Vibrations did you come
19 with any hostility towards the Hells Angels?

20 A No, I did not.

21 Q Now, you talked about going to a meeting around
22 8:00 o'clock?

23 A Yes. Upstairs.

24 Q And can you describe that meeting for us, what

1 went on there?

2 A Basically it was just to get us together, like we
3 usually do every year, to discuss our run into Reno the
4 next day. Usually we would ride in on a highway and come
5 into the Street Vibrations and we'd walk around and
6 socialize a bit, and then later on we'd go back to our
7 casino, or if there was a barbecue or something, we'd go
8 to that after we went to the Street Vibrations.

9 Q At this meeting was there discussions about
10 hostilities against the HAs or how the Hells Angels were
11 disrespecting the Vagos?

12 A Not to my knowledge, no.

13 Q Now, you talked a little bit about -- somewhat
14 about this 99 incident. Was that a subject of
15 conversation at this meeting?

16 A It wasn't, no. It wasn't brought up. There
17 wasn't a lot discussed other than the run itself and to go
18 downstairs and have a good time and enjoy. Basically
19 that's what we did afterwards.

20 Q So how long did that meeting last before you went
21 downstairs?

22 A I would say 20, 30 minutes. I don't remember
23 exactly. But when it was over we took off and said our
24 hellos or whatever and went back down to the casino.

1 Q And when you say "we," who are you referring to?

2 A I had a couple of my guys there, and we went back
3 down to visit with my family and the rest of the Vagos and
4 just socialize.

5 Q Was your daughter with you at that point in time?

6 A When we got back downstairs, yes.

7 Q And do you remember where you had dinner?

8 A I believe we ate in Trader Dick's earlier on.

9 Q And what did you do after you ate dinner at
10 Trader Dick's?

11 A We just went back into the casino, had some
12 drinks. And then down where they were playing music, some
13 people were sitting down in that low bar I talked about
14 earlier, and we socialized there. And then I went back up
15 towards the bathroom, I saw Ernesto, and we socialized a
16 little bit.

17 Q I want to go to that part in the video and just
18 kind of walk through that, if I could.

19 A I don't remember seeing all of it in the video.
20 It was probably prior to the incident.

21 Q That's what I want to do is kind of go back, if I
22 could, before -- before that timeframe. Let's see if I
23 can find when you come into the video here.

24 Do you see yourself there at that point in time?

1 A Hang on. I don't know which one to look at best
2 here.

3 Q For the record, this is Monitor 45. I think you
4 come in roughly at 23:16 or so.

5 A Okay. I'm across the other side towards -- I
6 guess that's Trader Dick's.

7 Q If you touch the screen, you can point out where
8 you're at.

9 A The big screen or this screen?

10 Q The little one. Yeah.

11 A I believe I'm right here (indicating).

12 Q What are you doing at this point in time?

13 A I think I'm talking to Ernesto.

14 Q At that point did he appear anxious at all?

15 A No.

16 Q Did he appear preoccupied?

17 A No.

18 Q Distracted?

19 A No.

20 Q Do you remember what the subject of conversation
21 was about?

22 A Not particularly. We were just discussing and --
23 you know, basically the run and socializing in the casino
24 and -- like we normally do every year.

1 Q Who's that woman that's with you, do you know?
2 Or with the two of you, I should say.

3 A I -- I'm not familiar with her. Or I can't tell
4 from this video. She must have just walked up and enters
5 into our conversation, but I don't know her personally.

6 Q Now, who are you talking to?

7 A I don't know the gentleman's name. We just met,
8 and he was wearing our shirt, and we just said our hellos
9 and how are you doing, basically. I don't know everyone.

10 Q How about this guy?

11 A I don't know him personally. We were just
12 talking.

13 Q Was there any discussions going on by anyone in
14 this crowd about the Hells Angels at this time?

15 A No, sir.

16 I'm pretty sure I know that guy, but I don't know
17 him by name or whatever. I've met him before.

18 Q And you were asked some questions about the other
19 individuals that are in this video, some of them being
20 other members of the Vagos from San Jose. Would you often
21 socialize with San Jose?

22 A They've come to Lake County before in the past.
23 We had a run up there about four or five years ago.

24 Q So it's not unusual for you to be hanging out

1 with the San Jose charter?

2 A No. We're sociable between our groups. And I
3 knew Cesar, and I met Ernesto the year before when he was
4 there. And we socialized at that time also.

5 Q How many members in your charter came with you
6 from Lake County?

7 A Two others.

8 Q And where were they while this was going on, if
9 you know?

10 A One guy was -- upstairs in their rooms. They
11 weren't downstairs. I met with one of them. We'd been
12 down prior to this, previously. There's a downstairs bar
13 also, and we'd gone there to have a couple beers, and then
14 I think I came back up towards the Horseshoe, as I told
15 you before.

16 And then our friends were over at the other bar
17 that was the low bar where the band had been playing
18 earlier. And then I had come up here to socialize.

19 Q And you have your arm around an individual at
20 this point. Can you identify who that is?

21 A It's too shiny, what I'm seeing here.

22 Can we back up a little?

23 Looks -- looks like the same guy I was talking to
24 earlier. And that's -- oh, Ernesto is in front of me

1 there with the glasses.

2 Q Would it be fair to say that there were lots of
3 members wandering into this group and out of this group
4 during this period of time?

5 A Yes. Yes. In and out of the group. I was about
6 to say that myself.

7 Q Again, consistent with what you characterized as
8 just socializing?

9 A Yes. Yes. And they're still walking away.

10 Q How would you describe, I guess, the mood at this
11 point in time?

12 A It wasn't active. It was calm.

13 Q Did anybody -- was there tension in the area?

14 A No.

15 That looked like our -- Rocky, I think, walked up
16 a moment ago, standing there talking, and I'm still
17 talking.

18 Q Who's the gentleman to your left that came in?
19 Do you remember him?

20 A No, not particularly. And the girl talking there
21 is one of our Lake County friends. She rode up with
22 another group.

23 Q How about that woman that just came in? Do you
24 know her?

1 A No, not particularly.

2 These girls are also from Lake County. And my
3 daughter is behind them.

4 Q Your daughter is with them?

5 A Yes. On the back.

6 Q If you knew that there was going to be a problem
7 with the HAs, would you have your daughter there?

8 A Heck, no.

9 Q Put her in danger?

10 A I'm sorry, but no.

11 Q What are you doing at this point in time?

12 A We're still just talking and communicating. My
13 daughter comes over and introduced herself to some of the
14 Vagos there.

15 Q Fair to say no one from the San Jose Vagos told
16 you to get out of there, told your daughters [sic] to get
17 out of there; there was going to be a problem?

18 A No, sir. There were no discussions.

19 Q Looks like Mr. Gonzalez is around at this point,
20 actually comes back in at 23:23:43?

21 A He's off to the right of the screen. Ernesto.

22 Q What are you doing now?

23 A And my daughter and the girls are headed into the
24 bathroom.

1 Q At this point in time is there any discussion
2 going on about Hells Angels?

3 A Not that I'm aware of, no. Nothing...

4 Q Now, you indicated, I think you said, that there
5 was some whispering. You can see as the Hells Angels come
6 through --

7 A Yeah.

8 Q -- that there was some whispering to stand back
9 and let them walk through.

10 A I wasn't even paying attention to them.

11 Q Why is that?

12 A There was no reason to.

13 Q Were they a concern to you?

14 A Not at that point.

15 Q Now, this is when Mr. Pettigrew starts talking
16 with Mr. Rudnick?

17 A Yes.

18 Q You indicated you couldn't overhear anything that
19 was being said. Can you --

20 A Just a very heated discussion, and there may have
21 been some cussing or whatever. But that was very heated,
22 very quickly.

23 Q And I guess that's an important part. We don't
24 get that flavor from the video. What's the sound like

1 there?

2 A It's pretty noisy in the casino. Machines.
3 Everything. It wasn't real quiet.

4 Q What are you feeling at this point in time after
5 the fights broke out?

6 A Basically, oh, shit. Excuse my language.

7 Q And why is that?

8 A Because there was a situation going on, and we
9 were trying to figure out what -- or I was trying to
10 figure out how to deal with it and where people were
11 going. And plus the fact that my daughter and our friends
12 are in the bathroom across from here, and hoping that they
13 didn't come out of the bathroom.

14 Q Would it be fair to characterize what occurred,
15 at least from your perspective, as something that just
16 spontaneously occurred?

17 A Basically it was very spontaneous. I was
18 surprised.

19 Q You just appear to be standing, watching. What's
20 going through your head at this time, do you recall?

21 A Basically I didn't know what was gonna happen at
22 this point in time other than Jethro -- I mean, I looked
23 him in the eyes, and he looked like a wild coyote. I
24 mean, he was pretty excited.

1 Q Did you do anything to Mr. Pettigrew to provoke
2 the assault on you?

3 A No, I didn't.

4 Q We've seen this a couple times. I hate to replay
5 it, but you get pistol-whipped a couple times. Did you
6 say anything to him?

7 A No, I didn't. I concerned of why he hit me, but
8 there was stuff going on, and he was pretty hostile.

9 And notice everybody was gone at this point,
10 spread out and gone. Everybody was backing off.

11 Q I think you indicated --

12 A And I'd already -- at this time I didn't even see
13 this guy with a gun that's to the right here (indicating).

14 Q By this time you're back --

15 A I'm backing out of the casino, walking away.

16 Q I think you indicated that there were some what
17 you characterized as civilians. You were telling them to
18 get down --

19 A There was a lot of people in the casino, and
20 everybody was trying to get up to take a look or a peek.

21 As I come around, like when I left there, there
22 was another -- I think a security guard or someone from
23 the casino, and Cesar from San Jose went down behind a
24 planter back behind me, and he started to get up. I told

1 him to stay down.

2 And then I walked back around the tables back
3 towards the other bar that was in the background -- the
4 low bar, I call it -- and people were trying to get up.
5 And as I walked around I told them, "Stay down on the
6 floor. Don't get up," you know.

7 And then I worked my way back over towards the
8 Horseshoe Bar, the little bar, and back up that way. And
9 I was still concerned about -- I didn't want anyone to get
10 hurt, you know? You go in a bar or somewhere, you respect
11 it. And obviously there wasn't much respect going on
12 there.

13 But I was also concerned about my friends and my
14 daughter. And as I come up the other side, then there was
15 quite a few rounds as I walked back to the back, some
16 rounds fired, random shots. I didn't see -- other than
17 Pettigrew was still standing up, pointing his gun at that
18 point as I walked back, as I turned a couple times, and I
19 didn't see that he shot anyone. Even a couple of our
20 guys, I guess, got shot. I didn't actually see them get
21 shot.

22 Q Did you actually see Mr. Pettigrew get shot?

23 A No, I didn't.

24 Q You just heard about that later when you were

1 over by the bar?

2 A Yeah. I never saw him get shot. I didn't see
3 that.

4 Q Now, there were some questions posed to you
5 basically to the effect that since you're a president of
6 Lake County chapter at that point in time, you had the
7 authority, if you wanted to, to go over and talk with
8 Jabbers or some of these others guys. That's a fair
9 statement. True?

10 A I would say I did, yes.

11 Q Okay. But you didn't --

12 A It wasn't necessary at the time.

13 Q Because you didn't know there was going to be a
14 problem?

15 A I didn't have any clue.

16 Q Thank you. That's all I have, sir.

17
18 REDIRECT EXAMINATION

19 BY MR. STEGE:

20 Q You just said you didn't have any clue. Right?

21 A That this was going to take place. I was
22 surprised as much as anybody.

23 Q In fact the defense attorney got you to say it
24 was spontaneous, right?

1 A As Pettigrew came up and the confrontation --

2 Q Do you remember the question I just asked? I
3 just said --

4 MR. LYON: Your Honor, I'd ask him to let the
5 witness finish the answer before --

6 MR. STEGE: It's nonresponsive.

7 THE COURT: I'm going to sustain your objection
8 that it was nonresponsive. But if the question -- if the
9 witness is being nonresponsive, you have to deal with that
10 without speaking over their answer and get me to rule on
11 it.

12 MR. STEGE: I'll move on to the next question.

13 BY MR. STEGE:

14 Q You stated on cross-examination that this was
15 spontaneous, didn't you?

16 A At the time of the conflict. It seemed to just
17 take off.

18 Q Yet you heard a half-hour before, at least, that
19 Jabbers was having a problem with the HAS?

20 A I'd heard rumor of it, yes.

21 Q And you heard that people from national had been
22 sent over there --

23 A Yes.

24 Q -- to deal --

1 A I assumed that they had handled whatever was
2 going on.

3 Q To squash --

4 A Yes. Hope so.

5 Q Yet when you got over there in front of Trader
6 Dick's, no one pointed out Jabbers to you, did they?

7 A No.

8 Q No one said, "We need to make sure Jabbers" --

9 A I never really conversed with him before. And he
10 come up there, I guess. And, like I say, I was surprised
11 as much as anyone in the casino that this actually took
12 place.

13 Q But yet no one pointed him out to you to say,
14 "That's Jabbers, the guy that's having problems"?

15 A No.

16 Q And you were standing I think you said six feet
17 away from the confrontation --

18 A Approximately.

19 Q -- right?

20 A Approximately, yes.

21 Q And you knew, I mean, the Hells Angels might go
22 to weapons? I mean, that's something that is a concern as
23 a Vago?

24 A Many clubs do that, but I had no knowledge of

1 anybody having guns in there.

2 Q As a rival club, they are known to carry weapons
3 or you're afraid they're going to carry weapons?

4 A They have in the past, things I've seen on the
5 news.

6 Q And so that's why you might be concerned about
7 them pulling weapons?

8 A I didn't know until this happened and they pulled
9 a weapon out.

10 Q And that could, if they pull weapons, endanger --

11 A Anybody.

12 Q -- your friend, your daughter --

13 A Anyone.

14 Q -- citizens? Anybody, right?

15 A That's right.

16 Q And so as you're standing there six feet away,
17 why don't you stop this confrontation?

18 A The guy's got a gun and comes over and hits me.
19 I don't think I had an opportunity to try to stop anything
20 at that point in time.

21 Q You didn't tell Jabbers to cool off?

22 A No, I didn't. It wasn't my concern.

23 Q Did anyone else tell him to cool off?

24 A This happened within a few moments.

1 THE COURT: Gentlemen --

2 THE WITNESS: There was already action.

3 THE COURT: Gentlemen, you're speaking over each
4 other.

5 THE WITNESS: Oh, I'm sorry.

6 THE COURT: So you both have to wait. When the
7 question comes, you have to wait until he's through
8 talking before you can answer.

9 THE WITNESS: Okay. Your Honor.

10 THE COURT: Same with you, Counsel.

11 THE WITNESS: Sorry.

12 BY MR. STEGE:

13 Q You didn't pull Jabbers away, did you?

14 A No, I didn't.

15 Q You didn't see any other P's pull Jabbers away,
16 did you?

17 A Not particularly. In the video someone came up
18 and put an arm around him at the beginning, what I saw in
19 the video here.

20 Q And who was that guy?

21 A I don't know.

22 Q Yet he didn't pull him away, did he?

23 A I don't know what was going on at that time. But
24 I didn't see him actually pull him down and stop him.

1 Q Isn't it true no one in that group that you're
2 standing with pulled Jabbers back when he had the
3 confrontation with Jethro?

4 A It looked like he stood there and the discussion
5 went very hot very quickly and a punch was fired. It was
6 within moments.

7 Q So the answer is no? No one pulled him back?

8 A No, I guess. No.

9 MR. STEGE: Nothing further, Your Honor.

10 THE COURT: Okay.

11
12 RE CROSS EXAMINATION

13 BY MR. LYON:

14 Q I do want to just go to that part in the video
15 where someone seems to be pulling Mr. Rudnick back --

16 A Sure.

17 Q -- and see if you can identify that individual.

18 (Video played.)

19 BY MR. LYON:

20 Q Who's that individual there? Do you know him?

21 A He just put his hand on his shoulder there.

22 Q Can you identify him?

23 A No, I couldn't from this video.

24 Q Do you know who the president of the Sacramento

1 charter is?

2 A Who?

3 Q The president of the Sacramento charter of the
4 Vagos?

5 A I know a couple of them, but that's -- I'm not
6 recognizing that person. Sorry.

7 Q He does attempt to pull Jabbers back, correct?

8 A He's got his hand on his shoulder.

9 Q Prior to the punch?

10 A Just prior to the punch. Looked like it hit, and
11 he was basically just standing next to him there. He
12 probably heard more than I did.

13 Q And, again, you didn't attempt to go over to
14 intervene with Jabbers, why?

15 A I wasn't conversing with him, and they were
16 having their conversation, and I wasn't part of that.

17 Q Thank you, sir.

18 A I just wasn't involved with it.

19 Q Thank you, sir.

20 MR. STEGE: Nothing else. No, thank you, Your
21 Honor.

22 THE COURT: May this witness be excused?

23 MR. STEGE: Yes.

24 MR. LYON: Yes, Your Honor.

1 THE COURT: You may step down. You are excused.

2 THE WITNESS: All right. Thank you, Your Honor.

3 THE COURT: Is this Mr. Hall's witness?

4 MR. STEGE: Yes, Your Honor.

5 THE COURT: We'll wait just a minute, sir.

6 (Pause in the proceedings.)

7 THE COURT: You may proceed.

8 Did you want to approach?

9 MR. HALL: Yes. May I approach?

10 THE COURT: Counsel approach.

11 (A sidebar was held off the record.)

12 THE COURT: Ladies and gentlemen of the jury,
13 we're going to take a short recess with you. We have some
14 business we're going to take care of.

15 During this break remember the admonition that
16 I've given you at all the other breaks. Await us in the
17 jury room, please.

18 (The following proceedings were held in open
19 court, outside the presence of the jury.)

20 THE COURT: Please proceed, counsel.

21 /////

22 /////

23 /////

24 /////

1 BOB VIEIRA,
2 called as a witness on behalf of the Plaintiff,
3 having been first duly sworn,
4 was examined and testified as follows:
5

6 DIRECT EXAMINATION

7 BY MR. HALL:

8 Q Sir, would you state your name and spell your
9 last name.

10 A What's that?

11 Q What's your name?

12 A Bob.

13 Q And your last name?

14 A Vieira.

15 Q And how do you spell your last name?

16 A V-i-e-i-r-a.

17 Q And you just came into town either last night or
18 early this morning?

19 A Last night.

20 Q All right. I haven't had a chance to talk to
21 you.

22 Do you understand that you are not allowed to
23 invoke your Fifth Amendment privilege today during your
24 testimony?

1 A No, I don't.

2 Q All right. Is there anything that you think if
3 you were asked that you would want to invoke your Fifth
4 Amendment right to remain silent?

5 A Yes.

6 Q All right. And what would that be?

7 A All depends on the question. Mostly about the
8 club.

9 Q So questions about the Hells Angels?

10 A Uh-huh.

11 Q All right. So what types of questions would you
12 not want to talk about? Club hierarchy, members of the
13 club, that sort of thing?

14 A Yeah. Yes.

15 Q All right. But the events that happened on
16 September 23rd, 2011, you can discuss those?

17 A What I can remember, yes.

18 Q All right. So why would there be a Fifth
19 Amendment privilege regarding Hells Angels business? How
20 would that tend to incriminate you?

21 A I don't know right now. I don't know right now.

22 Q All right. So is it a situation where you just
23 don't want to talk about it as opposed to it would tend to
24 incriminate you or you just don't -- is that your

1 position?

2 A Yes.

3 Q Or could you clarify your position for the Court?

4 A Correct. Incriminate me.

5 Q You think it could incriminate you?

6 A Some, yeah.

7 Q Why? Because the Hells Angels are involved in
8 criminal conduct?

9 A No. I didn't say that.

10 Q All right. Well, then that's the confusion I'm
11 having. If you're not saying that they're involved in
12 criminal conduct --

13 A I'm speaking for myself. I'm speaking for
14 myself.

15 Q Okay.

16 THE COURT: What crime do you think that you'd be
17 asked about? The privilege against self-incrimination
18 means that you cannot be called upon to testify about
19 anything -- any crimes that you committed. It is not a
20 privilege to not be able to testify just because you don't
21 feel like it. Do you understand what the privilege is
22 about?

23 THE WITNESS: I don't really understand it, no.

24 THE COURT: Okay. So when he says are you going