

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Clerk of Supreme Court

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ERNESTO MANUEL GONZALEZ,

CASE NO. 64249

Appellant.

v.

THE STATE OF NEVADA,

Respondent.

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**APPELLANT'S APPENDIX, VOLUME XIV**

**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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1 to claim the Fifth Amendment privilege, the Fifth  
2 Amendment of the United States Constitution and the  
3 Constitution of Nevada allows you not to be required to  
4 testify about any crimes that you have committed. You  
5 cannot be compelled to testify against yourself. That's  
6 what the privilege is about.

7 THE WITNESS: Okay.

8 THE COURT: So the question is: What general  
9 areas do you believe you would have to invoke the Fifth  
10 Amendment privilege about?

11 THE WITNESS: Right off the top, I'm not sure  
12 right now.

13 THE COURT: Okay. Have you had a pretrial  
14 conference with the State's attorneys?

15 THE WITNESS: No.

16 THE COURT: Do you know what kind of questions  
17 they're going to ask you?

18 THE WITNESS: No, not really. Pertaining to this  
19 case, I guess.

20 BY MR. HALL:

21 Q We did meet several months ago when you wanted to  
22 watch the video; is that correct?

23 A Correct.

24 Q And we basically asked you to tell me what

1 happened, what your impression of the situation was?

2 A Correct.

3 Q Is that accurate?

4 A Correct. Yes.

5 Q All right. And that was about it. Right?

6 A Yeah.

7 Q Okay. So obviously that's what we want to talk  
8 about today. Right?

9 A Okay. All right.

10 Q So you can talk about those things?

11 A Uh-huh.

12 THE COURT: Is that yes?

13 THE WITNESS: Yes.

14 BY MR. HALL:

15 Q All right. So if there are questions that you  
16 don't feel comfortable asking [sic], what are you going to  
17 do when that happens?

18 A I don't know. Take the Fifth, I guess. I don't  
19 know.

20 Q Okay. Well, that's why --

21 A It's kind of new to me, you know.

22 THE COURT: Counsel approach.

23 (A sidebar was held off the record.)

24 MR. STEGE: 74CC.

1 THE COURT: It stays with us.

2 It's my understanding that we are looking at 74C,  
3 which is an audio disc, and 74CC will be in the record but  
4 not to the jury, which is a transcript of the interview.

5 Is that correct, Counsel? Mr. Lyon?

6 MR. LYON: Yes, Your Honor.

7 THE COURT: Mr. Stege?

8 MR. STEGE: Yes, it is.

9 THE COURT: It's my understanding you all are  
10 stipulating to 74C as testimonial and that it will not go  
11 to the jury. Is that correct?

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

13 THE COURT: Thank you. We're marking them both  
14 demonstrative.

15 (Exhibit Nos. 74C and 74CC marked  
16 for demonstrative purposes only.)

17 MR. HALL: We're also going to discuss the  
18 Exhibit 7 series, 7A through E. Move for admission.

19 MR. HOUSTON: No objection, Your Honor.

20 THE COURT: 74C and 74CC are admitted for  
21 demonstrative purposes. 7A through 7E are admitted.

22 (Exhibit Nos. 74C and 74CC admitted  
23 for demonstrative purposes only.)

24 (Exhibit Nos. 7A through 7E admitted.)

1 THE COURT: Sir, if there's any question you feel  
2 uncomfortable answering, please do not say anything in  
3 front of the jury; just tell me that you need to have a  
4 hearing.

5 MR. HALL: I think we're all set.

6 THE COURT: Okay.

7 MR. LYON: We're ready, Your Honor.

8 THE COURT: Okay. Please bring the jury back in.

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

11 THE COURT: Counsel, will you stipulate to the  
12 presence of the jury?

13 MR. HOUSTON: Yes, Your Honor.

14 MR. HALL: Yes, Your Honor.

15 THE COURT: Please be seated.

16 You may continue.  
17

18 RESUMED DIRECT EXAMINATION

19 BY MR. HALL:

20 Q Sir, would you state your name and spell your  
21 last name.

22 A Bob Vieira.

23 Q How do you spell your last name?

24 A V-i-e-i-r-a.

1 Q And were you a member of the San Jose Hells  
2 Angels?

3 A Yes.

4 Q And how long were you a member?

5 A 41 years.

6 Q Did you come to Street Vibrations on  
7 September 23rd, or on or about September 23rd, 2011?

8 A Yes.

9 Q And why did you come to Street Vibrations? Or  
10 did you have any monetary or pecuniary interest in coming  
11 to Reno? Did you have a T-shirt booth?

12 A Yes.

13 Q All right. Let me show you what's been marked  
14 for identification as Exhibit 7A through E.

15 THE COURT: The record will reflect those have  
16 been admitted.

17 You can see them on big screen or the little,  
18 whichever is easiest for you.

19 BY MR. HALL:

20 Q I'm showing you Exhibit 7A. Do you recognize  
21 what's depicted in that photograph, sir?

22 A Do I recognize the picture? Yes.

23 Q All right. Do you recognize -- what do you  
24 recognize about it? Do you recognize any of the people?

1 Do you recognize the booth, the T-shirts? Any of that  
2 stuff?

3 A T-shirts. The booth.

4 Q All right. So, for example, do you recognize  
5 this fellow, Andrew Dandley?

6 A No, I can't say that I do.

7 Q Do you recognize this fellow?

8 A Not really.

9 Q Is that your booth?

10 A Yes.

11 Q All right. And where was the booth set up at?

12 A Right outside of the Nugget.

13 Q All right. Do you know where the Oyster Bar was  
14 at The Nugget?

15 A The Oyster Bar, yes.

16 Q Where was the booth in relationship to the Oyster  
17 Bar?

18 A Just outside the doors.

19 Q Just outside the doors?

20 A Yes.

21 Q Very close?

22 A Very close, yeah.

23 Q All right. So let me show you 7B. We'll just  
24 walk through these photographs real quick.

1 Do you recognize that individual?

2 Not really?

3 A No.

4 Q How about 7C? Do you recognize -- again, that  
5 would be your booth?

6 A Yes.

7 Q All right. 7C, 7D, another photograph of your  
8 booth.

9 Do you recognize this guy here?

10 A Well, he's a Hells Angel. I can't see his face.

11 Q All right. Looks like Mr. Villagrana?

12 You can't tell?

13 A Can't tell, no.

14 Q All right. And then just -- 7E, just another  
15 picture. Do you know any of those fellows in the  
16 background there?

17 A Yeah.

18 Q Do you know that girl?

19 A No.

20 Q All right. Sir, do you remember -- did you give  
21 a statement to the police? Were you interviewed by Rod  
22 Begbie and a couple other police officers from Sparks?

23 A Yes.

24 Q And how old are you?



1 A How old am I?

2 Q Yes.

3 A 74.

4 Q So you'd have been, what, 72 back in 2011?

5 A Yeah. Something like that.

6 Q Close enough?

7 A Yeah, close.

8 MR. HALL: Move for admission of -- what was  
9 it -- 74C.

10 THE COURT: I will allow you to play it for  
11 demonstrative purposes.

12 MR. HALL: Thank you, Your Honor.

13 (Audio played.)

14 THE COURT: Counsel approach.

15 (A sidebar was held off the record.)

16 MR. HALL: Your Honor, can you ask the jury if  
17 that's too loud?

18 THE COURT: I can say it's too loud.

19 Ladies and gentlemen of the jury, you're hearing  
20 testimony over this tape in lieu of the testimony coming  
21 in over the witness stand. I know it is very loud. Are  
22 you able to focus on it or would you like it to be turned  
23 down? Is it all right? Is anyone uncomfortable with it?

24 Okay. Proceed, Mr. Hall.

(Audio played.)

BY MR. HALL:

Q Thank you. I have no further questions.

MR. HOUSTON: Nothing further. Thank you, Your Honor.

THE COURT: Sir, you can step down. You are excused.

THE COURT: Ladies and gentlemen of the jury, I think this is the time for our next recess.

During this recess we want to remind you that you are not to discuss the case among yourselves or with any other person. Should any person attempt to discuss the case with you or in your presence, report it to the Court immediately.

Do not listen to, view, or read any news media or any other accounts regarding this case. Do not discuss the case in internet chat rooms, through internet blogs, internet bulletin boards, Facebook, Twitter, emails, or text messaging.

Do not make any independent investigation or inquiry into any of the facts and circumstances surrounding this case. That means don't do any research, using the internet, dictionaries, or anything else. And do not make any investigation with regard to the Nugget in

1 person or on the internet.

2 We'll see you after this recess.

3 Court's in recess.

4 (A recess was taken.)

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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, 08/04/2013.

  
BECKY VAN AUKEN, CCR No. 418

52

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

-oOo-

STATE OF NEVADA, )  
 Plaintiff, ) Case No. CR11-1718B  
 vs. )  
 ERNESTO MANUEL GONZALEZ, ) Dept. No. 4  
 Defendant. )  
 \_\_\_\_\_)

TRANSCRIPT OF PROCEEDINGS

MONDAY, JULY 29, 2013

AFTERNOON SESSION

RENO, NEVADA

COPY

Reported By: MARCIA FERRELL, CCR No. 797

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1 RENO, NEVADA, MONDAY, JULY 29, 2013, 12:20 P.M.

2 --oOo--

3 THE COURT: Counsel?

4 MR. HOUSTON: Yes, your Honor.

5 THE COURT: Are we ready for the next --

6 MR. HOUSTON: Yes, your Honor, we're ready.

7 THE COURT: Okay, we'll go ahead and bring the jury  
8 in.

9 (Jury present.)

10 THE COURT: Counsel, will you stipulate to the  
11 presence of the jury?

12 MR. HALL: Yes, your Honor.

13 MR. HOUSTON: Yes, your Honor.

14 THE COURT: Please be seated. You may call your  
15 next witness.

16 JIMMY DEROSA

17 called as a witness by the State  
18 who, having been first duly sworn,

19 testified as follows:

20 DIRECT EXAMINATION

21 BY MR. HALL:

22 Q. Sir, would you state your name and spell your last  
23 name?

24 A. Jimmy Derosa, D-e-r-o-s-a.

3264



1 Q. And you live in California?

2 A. Yes.

3 Q. Did you have an opportunity to come up to Reno on  
4 September 23rd, 2011?

5 A. Yes.

6 Q. And do you work down in California as well?

7 A. Yes.

8 Q. And what do you do down there?

9 A. I work for the City of Milpitas.

10 Q. Married?

11 A. Yes.

12 Q. And have kids?

13 A. Yes. Grandkids also.

14 Q. All right, and who did you come to Reno with back in  
15 September of 2011?

16 A. Three friends. Gene Anaya, Sheldon Oyao and George  
17 McRay.

18 Q. Did you guys drive together in a car?

19 A. Yes, in a car.

20 Q. Did you have reservations at the Nugget?

21 A. Not when we came up. We just drove up to the Nugget  
22 and we started drinking there, and then we didn't want to  
23 drive, and then we got -- since we were there, yeah, we got  
24 the room.

1 Q. And who did you know there that was going to be --  
2 who did you know at the Nugget?

3 A. Well, we -- when we went up there we didn't know  
4 that San Jose was there, so we seen them there and we were  
5 just -- we had known from other runs that they always have a  
6 booth up and stuff, and know the guys from around town, you  
7 know.

8 Q. So you know Bobby Viera?

9 A. Yeah.

10 Q. That's the guy that has the booth, right?

11 A. Yeah. Yeah.

12 Q. Did you know Cesar Villagrana?

13 A. Yeah, I just seen -- I know him -- seen him at other  
14 runs, and stuff. Not personally, none of the members  
15 personally, but I just know them.

16 Q. Did you know Jethro Pettigrew?

17 A. Yeah, I seen him around. Yeah, I knew him.

18 Q. What was your relationship with the members? So the  
19 members would have been Jethro Pettigrew, Cesar Villagrana,  
20 Bobby Viera, did you know a fellow by the name of Angelo  
21 Wilkins?

22 A. Angelo, yeah. Yeah.

23 Q. And did you know a guy by the name of Jimmy Arnett?

24 A. Yes.

1 Q. So you knew those guys.

2 A. Yes. Yes.

3 Q. Those are members?

4 A. Yes.

5 Q. Hells Angels members?

6 A. Yes.

7 Q. Now, are you a Hells Angels member?

8 A. No.

9 Q. Prospect?

10 A. No.

11 Q. Hang-around?

12 A. No.

13 Q. So what were you doing associating with this group  
14 of individuals?

15 A. Just friends. Just friends of the club.

16 Q. So you mentioned earlier that they have runs, they  
17 have parties.

18 A. Yes. Yes.

19 Q. And would you be invited or go to some of those  
20 parties?

21 A. Yeah, I would just go with my friends that are  
22 invited, I would just go with them.

23 Q. All right, so that would be the same fellows that  
24 you mentioned, Sheldon Oyao, Eugene Anaya, George?

1 A. Yes. Yes.

2 Q. Okay. All right, so what time did you arrive in  
3 Reno?

4 A. Gosh, I don't even know. Maybe around 4:00, I  
5 believe. Yeah, I don't know.

6 Q. You were coming from the Milpitas area?

7 A. Yes.

8 Q. So it's about a four hour drive?

9 A. Yeah. Yeah.

10 Q. What time did you take off, around noon?

11 A. Maybe about noon, yeah.

12 Q. Okay, so you got here, you see those guys in the  
13 Oyster Bar area? You have to answer outloud.

14 A. Yeah, excuse me. Can I get some water?

15 Q. Oh, yeah.

16 A. Kind of parched here. Nervous.

17 Okay, go ahead, I'm sorry.

18 Q. That's all right. So you got here about 4:00?

19 A. Yes.

20 Q. And did you see where the booth was set up outside  
21 the Nugget?

22 A. Yes. Yes.

23 Q. Did you go visit with some of the people there?

24 A. Yes. Yes.

1 Q. In and around the booth?

2 A. Uh-huh.

3 Q. And after that did you go inside to the Oyster Bar?

4 A. Yes.

5 Q. And that was the same group of people that we just  
6 talked about?

7 A. Yes.

8 Q. So how many were there altogether in your group?

9 A. Including just friends and people, the girls we were  
10 with and stuff, I would say 15, maybe.

11 Q. All right.

12 A. Yeah, 10 or 15.

13 Q. Now, did you notice any Vagos in and around the  
14 casino when you arrived?

15 A. Oh, yeah.

16 Q. And were you aware that they had a national run  
17 there?

18 A. Oh, no. No.

19 Q. Did you find out once you got there?

20 A. Yes. Yes.

21 Q. You know what a national run is?

22 A. Yeah, it's when everyone from nationally goes to one  
23 place, I guess.

24 Q. Makes sense. A national run, everybody goes to one

1 place. All right. So during the course of the evening did  
2 you have any issues with anybody?

3 A. No.

4 Q. And you went to the Oyster Bar, you were hanging  
5 around the Oyster Bar with the rest of the group that you  
6 were with?

7 A. Yes.

8 Q. And what were you doing?

9 A. Playing the slot machines.

10 Q. And directing your attention to your right, this is  
11 Oyster Bar number 2. Are you familiar with this area, what  
12 this portion of the video depicts?

13 A. No, not offhand.

14 Q. So this would have been the Oyster Bar here, and  
15 you've got slot machines all the way around.

16 A. And where is the entrance?

17 Q. So the entrance would be over here?

18 A. Yeah, yeah, okay.

19 Q. Okay? So where were you? What were you doing?  
20 We're talking the time now is 22:13, so that would have been  
21 about 10:15 in the evening.

22 A. At this time, do you see me there?

23 Q. Oh, no, I don't know if I see you or not, I was just  
24 wondering, do you remember what slot machines you were

1 playing?

2 A. No. The row of slot machines.

3 Q. Were they the ones by the door?

4 A. Yeah.

5 Q. Okay, so we can just play a little bit, and -- so  
6 you may -- you know the Tyrell brothers?

7 A. Yes.

8 Q. All right, you can notice one of the Tyrell brothers  
9 is here.

10 A. Okay.

11 Q. And this is Oyster 2 at 22:13:57. So you would have  
12 been in that general area?

13 A. Yeah.

14 Q. All right.

15 A. I might have been --

16 Q. This be you right here?

17 A. Yeah. Okay.

18 Q. That's in that general area. All right. So that's  
19 where you started out, or that's where you were at 10:14, is  
20 that right?

21 A. Yes.

22 Q. All right, and what happened after that, anything  
23 that you can recall?

24 A. No.

1 Q. You mentioned -- do you recall anybody coming over  
2 and talking to Mr. Pettigrew or any issues with anybody?

3 A. No. No, I was just playing slot machines.

4 Q. Anybody come talk to you?

5 A. I believe so, and just asked are you winning.

6 Q. Who was that?

7 A. I don't know, it's over my shoulder, and I said no.

8 Q. Were you drinking during the course of the --

9 A. Oh, yes, heavily.

10 Q. Did there come a time around 11:20 or so that you  
11 decided to leave?

12 A. Yes.

13 Q. Were you leaving with everybody else?

14 A. Yes.

15 Q. All right, can you tell me about what the plan was  
16 at that time?

17 A. To go to our rooms.

18 Q. All right, and who were you rooming with, the same  
19 fellows you drove up with?

20 A. Yes, the four I was with.

21 Q. Everybody in the same room?

22 A. Yes.

23 Q. So did you have any plans to do anything before you  
24 went to your rooms? After you left the Oyster Bar?



1 A. No. Just to go to the rooms.

2 Q. So as you were walking to your rooms were you -- do  
3 you recall if you were in the east tower or the west tower?

4 A. We never made it to the room, I don't know, past --  
5 past the front lobby you go up.

6 Q. Okay, so while you were walking to your room can you  
7 tell me what happened?

8 A. I was walking to my room, and I just heard gunshots.  
9 When I was walking.

10 Q. Did you see any fighting?

11 A. No. After the gunshots they were chasing me, but  
12 other than that, yeah, I was --

13 Q. Did you see Pettigrew stop?

14 A. Pardon me?

15 Q. When you were walking to your room, where were you  
16 in relation to Jethro Pettigrew?

17 A. I was in front.

18 Q. All right, did you see him stop?

19 A. No.

20 Q. Did you keep going?

21 A. Yes.

22 Q. And where did you go?

23 A. I just kept walking.

24 Q. All right, and then did something happen as you were

1 walking?

2 A. Yeah, then I heard the gunshots.

3 Q. And then what happened?

4 A. I just ducked and -- and ran around, and they were  
5 chasing me.

6 Q. Who was chasing you?

7 A. A bunch of -- a bunch of the Vagos.

8 Q. Did you know any of these Vagos?

9 A. No.

10 Q. Did you say anything to them?

11 A. No.

12 Q. Were they saying anything to you?

13 A. No, not that I recall.

14 Q. All right, and where did they start -- where were  
15 you when they started chasing you?

16 A. In front, I believe by the bathrooms.

17 Q. All right. So if we went to camera 3 we might be  
18 able to see you? Camera 3 at 23:26:31. Let's go to monitor  
19 one, first. 45. Are you familiar with that first group  
20 that's walking through there?

21 A. Yes.

22 Q. Mr. Derosa? All right, let me know when we see you.

23 A. Right there.

24 Q. So this would be you right there?

1 A. Yes.

2 Q. So do you know why everybody stopped?

3 A. No.

4 Q. It looked like you kept going, did you just keep  
5 going?

6 A. I just kept going, yeah.

7 Q. Is that you right there? Can't tell for sure?

8 A. I can't tell, yeah.

9 Q. Did you see the fight break out?

10 A. No.

11 Q. All right, so now this is the camera right in front  
12 of the bathroom, camera 3. And here comes your group at  
13 23:24:51. That's the first group, right?

14 A. Yes.

15 Q. And those were all fellows that were down there at  
16 the Oyster Bar with you.

17 A. Yes.

18 Q. And those are friends of yours?

19 A. Yes.

20 Q. So you still haven't come by, have you?

21 A. No.

22 Q. Did you see what happened down there, did you see  
23 anybody shooting or --

24 A. No.

1 Q. No?

2 A. No.

3 Q. There you are at 23:26:16, right?

4 A. Yes.

5 Q. Okay. So what are you doing there, where are you  
6 going? Do you recall?

7 A. No.

8 Q. Where you were going at that time?

9 A. No.

10 Q. Did you have keys to the room?

11 A. Yes. So I was going to the room, yeah, I mean.

12 Q. All right, what about everybody else that you were  
13 with, do you know what was going on with them?

14 A. No.

15 Q. So at 23:26:34, what's going on here? Can you tell?

16 A. No. Am I in that frame?

17 Q. Do you recognize this fellow here?

18 A. Yes.

19 Q. Who is that?

20 A. Gene Anaya.

21 Q. All right. So it looks like Gene was walking the  
22 same way you were, and then put on the brakes and started  
23 heading the other way, right?

24 A. Yeah.

1 Q. Back towards where Pettigrew had stopped, right?  
2 A. Yeah.  
3 Q. So did you get chased?  
4 A. Yeah. I got chased.  
5 Q. Were you chased by these guys?  
6 A. Yeah.  
7 Q. Why were these guys chasing you?  
8 A. I don't know.  
9 Q. Did you know any of these guys?  
10 A. No.  
11 Q. Did you know -- did you know this fellow here,  
12 Mr. Wiggins?  
13 A. No.  
14 Q. Did you ever have any issues with him?  
15 A. No.  
16 Q. Do you know any of these other guys, ever have any  
17 issues with any of these other folks?  
18 A. No.  
19 Q. So do you know why they're chasing you?  
20 A. No.  
21 Q. And why are you running?  
22 A. Because they're chasing me.  
23 Q. Okay, well, was there -- did you think they were  
24 going to do something to you?

1           A. Yeah.

2           Q. What did you think they were going to do?

3           A. Try to beat me up.

4           Q. All right, were you scared?

5           A. Yeah.

6           Q. All right. How many were chasing you?

7           A. How many were in the hotel? There were a lot.

8           Q. Were you able to outrun them?

9           A. Yeah.

10          Q. All right, then you run to the other -- down towards

11         Trader Dick's bar, is that correct?

12          A. Yes.

13          Q. So if we go to monitor 1. And I should see you run

14         back here, is that right? So monitor 1 at approximately

15         23:26:57. If you look at the top right-hand corner of the

16         screen, you can see there's kind of a big mob up there at the

17         right. Is that consistent with your observations?

18          A. Yeah.

19          Q. Up in this area?

20          A. Yeah.

21          Q. That's where you were running, right? You were up

22         there, that's next to the bathrooms.

23          A. Yeah, I believe so.

24          Q. That's where you were being chased.

1 A. Yeah.

2 Q. And then you just break through right there.

3 A. Is that me?

4 Q. Let's take a look. Play it again. Is that you? Do  
5 you want to see it one more time?

6 A. Yeah, let me see it one more time.

7 Q. You've got a red hat on backwards, red shirt, black  
8 vest?

9 A. Yeah, going fast.

10 Q. So that's you?

11 A. Yeah, I believe so, it is.

12 Q. Monitor 1 at 23:27:36. So you just got chased, you  
13 make it back to Pettigrew, Bobby Viera, right, Christopher  
14 Knowlton? You recognize those?

15 A. Yeah.

16 Q. All right, so then from there, so you run back.  
17 Right there. All right, so can you tell me what happens from  
18 here? Looks like you walk back, and join those -- Pettigrew  
19 and Andrew Danly? Can you see those two kicks?

20 A. Okay, I see it on the monitor, yeah.

21 Q. Did you hear anything, did you hear anybody saying  
22 anything?

23 A. No.

24 Q. At that time?

1 A. No.

2 Q. Did you see that fellow on the ground?

3 A. No.

4 Q. Did you hear Pettigrew say anything to a fellow on  
5 the ground?

6 A. No.

7 Q. How about Villagrana, did you hear him say anything?

8 A. No.

9 Q. Did you see them kick that guy?

10 A. No.

11 Q. We'll go to camera 3. So camera 3 at 23:27:11, got  
12 everybody there, right? In terms of -- not everybody, we've  
13 got Andrew Danly, Eugene Anaya, you, Cesar Villagrana, and  
14 Jethro Pettigrew are all depicted in that frame.

15 A. Yes.

16 Q. All right. Can you see what Mr. Pettigrew and  
17 Mr. Villagrana are doing?

18 A. Right now? No.

19 Q. At this moment. This is you right there, right?

20 A. Yeah.

21 Q. Okay. Can you tell me what they were doing?

22 A. No.

23 Q. Did you see Mr. Pettigrew get shot at that location?

24 A. No.



1 Q. Did you hear gunshots at that time?

2 A. Yes.

3 Q. All right. It looked like -- did you just keep  
4 walking? Let me do something, here. So this fellow right  
5 down here, did you ever see him?

6 A. No.

7 Q. Did you ever say anything to him?

8 A. No.

9 Q. Did you hear anybody else say anything to him?

10 A. No.

11 Q. Did you see him get kicked?

12 A. No.

13 Q. So that's -- you still have Andrew Danly and Cesar  
14 Villagrana in that location, is that correct? And did you  
15 stay there, or did you go somewhere else after Pettigrew got  
16 shot?

17 A. I -- I don't recall where I went.

18 Q. All right, did you stay in that location 'til the  
19 police came?

20 A. Yeah.

21 Q. All right, did the police -- did you make contact  
22 with the police?

23 A. Yes.

24 Q. Do you remember where you were when they came?

1 A. Yeah, sitting by a slot machine.

2 Q. All right, and this general location, about this  
3 area where Mr. Pettigrew was?

4 A. Yeah.

5 Q. Did you see Mr. Pettigrew get carried out?

6 A. Yeah.

7 Q. Did you help?

8 A. No, because I was handcuffed.

9 Q. All right. So the police came and -- the police  
10 came and you were handcuffed?

11 A. Yes.

12 Q. And Pettigrew was carried out?

13 A. Yes.

14 Q. All right. But where Pettigrew went down, were most  
15 of the Hells Angels right in that area?

16 A. Yeah, I believe so.

17 Q. I mean, were there people trying to tend to  
18 Pettigrew and check out how he was doing?

19 A. I -- I couldn't recall.

20 Q. Okay. Had you had a lot to drink that night?

21 A. Yes.

22 Q. All right. So your memory is a little fuzzy based  
23 upon your alcohol consumption?

24 A. Yes.

1 MR. HALL: All right, thank you, I have no further  
2 questions.

3 THE COURT: Cross.

4 MR. LYON: Thank you, your Honor.

5 CROSS-EXAMINATION

6 BY MR. LYON:

7 Q. Good afternoon, Mr. Derosa. When you got to the  
8 Oyster Bar you indicated that you had been drinking, true?

9 A. Yes.

10 Q. And you were over playing slots?

11 A. Yes.

12 Q. And I think you pointed out where you were playing  
13 slots on the video.

14 A. Yes.

15 Q. Mr. Pettigrew and the rest of the Hells Angels were  
16 over inside the Oyster Bar area, true?

17 A. Yes.

18 Q. Now, you indicated you're not a patch member of the  
19 Hells Angels?

20 A. Correct.

21 Q. And you're not -- you weren't like a hang-around or  
22 a prospect at that time.

23 A. Correct.

24 Q. But you were there as a friend.

1 A. Yes.

2 Q. So you would affiliate yourself with the Hells  
3 Angels, as opposed to the Vagos, true?

4 A. Yes.

5 Q. Now, as you're sitting there, you see a lot of Vagos  
6 go up and talk with Mr. Pettigrew?

7 A. Yeah. I wasn't paying attention, I was just playing  
8 slots.

9 Q. Okay, and would it be fair to say that the tone of  
10 that evening right as you're playing slots, it wasn't  
11 hostile, correct?

12 A. No.

13 Q. Everybody was drinking beers, having a good time.

14 A. Yes.

15 Q. Okay. And at some point in time then you all leave  
16 the Oyster Bar area.

17 A. Yes.

18 Q. And you're walking with Mr. Pettigrew and  
19 Mr. Villagrana, and we see that on the video.

20 A. Yes.

21 Q. Mr. Villagrana -- or Mr. Pettigrew stops, as does  
22 Mr. Villagrana and a couple of the other members you're with,  
23 correct?

24 A. Yes.

1 Q. And then you walk -- you walk on past that.

2 A. Yes.

3 Q. Was it your intent to go up into the room?

4 A. Yes.

5 Q. And it's at that point in time you realize there was  
6 a fight behind you.

7 A. Yeah.

8 Q. But you're still walking down towards the bathrooms  
9 even though the fight has broken out, is that correct?

10 A. When I heard -- what I heard was the gunshots first,  
11 yeah.

12 Q. Okay.

13 A. And that's --

14 Q. What did you do upon hearing the gunshots?

15 A. I just kind of ducked.

16 Q. Did you keep going towards your room, or did you run  
17 back to where --

18 A. I -- I believe I kind of ran back, because they were  
19 chasing me, so I ran back.

20 Q. Okay. Were they chasing you after the gunshots  
21 then --

22 A. Yeah.

23 Q. -- had occurred?

24 A. Yeah.

1 Q. So would it be fair to say that they might be  
2 chasing you because they're not sure whether you're involved  
3 with the fight or whether you were involved with the  
4 shootings?

5 MR. HALL: Objection, speculation.

6 THE COURT: Sustained.

7 BY MR. HOUSTON:

8 Q. We do know you were chased after the gunshots were  
9 fired.

10 A. Yeah.

11 Q. And you indicated you were chased by some Vagos?

12 A. Yes.

13 Q. And you were able to run away from them?

14 A. Yes.

15 Q. You weren't hurt at all by any Vago member?

16 A. I -- no, but I was grabbed and my clothes torn.

17 Q. Okay. You weren't physically hurt. We saw --  
18 you've got to answer out loud.

19 A. Oh. No.

20 Q. And we saw that you ran down towards Mr. -- where  
21 Mr. Pettigrew was and Mr. Villagrana, correct?

22 A. Yes.

23 Q. And then you head back up towards where you had just  
24 been chased from, true?

1 A. I believe so.

2 Q. And in fact, we see you in the video up by  
3 Mr. Pettigrew and Mr. Villagrana when they approach an  
4 individual on the ground, correct?

5 A. Yes.

6 Q. Okay. And you said you didn't see them kicking.

7 A. No.

8 Q. But you know that they were kicking by watching the  
9 video, true?

10 A. By watching the video, yes.

11 Q. But you don't see that?

12 A. No.

13 Q. Did you see that they had their guns out?

14 A. No.

15 Q. And you didn't hear anything that was being said.

16 A. No.

17 Q. Next thing you know, you hear another set of  
18 gunshots, and you see -- and you don't even see Mr. Pettigrew  
19 go down.

20 A. No.

21 Q. You just -- do you hear the other set of gunshots?

22 A. Honestly, I thought it was one set of gunshots. I  
23 mean, I just heard pow, pow, pow, pow, pow, and to me it was  
24 all one time, yeah.

1 Q. Kind of a big blur?

2 A. Yeah.

3 Q. Now, you didn't see any Vago with a gun that night?

4 A. No.

5 Q. Didn't see a Vago with any knives that night?

6 A. Yeah, they were all carrying knives. I mean, it's  
7 legal to carry as long as it's showing.

8 Q. But you didn't see them holding the knives.

9 A. No.

10 Q. And other than being chased, you didn't have any --  
11 any sort of altercation at all with a Vago that night, true?

12 A. No. Yeah, true.

13 MR. LYON: Thank you, that's all I have.

14 REDIRECT EXAMINATION

15 BY MR. HALL:

16 Q. So you were asked the question everything was all --  
17 everybody was friendly over at the Oyster Bar?

18 A. Yeah.

19 Q. Okay, well, how come Bobby V called the police?

20 A. I don't know, I didn't even know he did.

21 Q. Okay, so they weren't bothering you. They were  
22 bothering the patch members of the Hells Angels.

23 A. I -- yeah, if he called that's between -- that's  
24 club business.



1 Q. So you don't get into club business?

2 A. No.

3 Q. So you wouldn't talk to Pettigrew about what's going  
4 on with the Vagos?

5 A. No.

6 Q. You wouldn't talk to Bobby Viera about what's going  
7 on with the Vagos?

8 A. No.

9 Q. You wouldn't go up and ask Cesar Villagrana what's  
10 going on?

11 A. No. No.

12 Q. But if they called the cops and said hey, we want  
13 the cops down here because there's tension, that would be an  
14 indication to you that there's a problem.

15 A. Yes.

16 Q. That would be an indication that things weren't  
17 good.

18 A. Yes.

19 Q. Between the Vagos and the Hells Angels.

20 A. Yes.

21 Q. Now, the other question you were asked is could you  
22 see a gun -- did you see a gun in Pettigrew's hand when they  
23 were kicking Wiggins, assuming that was Wiggins?

24 A. No.

1 Q. You didn't see a gun in his hand, did you?

2 A. No. No.

3 Q. No. In fact, there wasn't a gun in Pettigrew's hand  
4 at that time, was there?

5 MR. LYON: Objection, your Honor. Counsel is  
6 leading.

7 A. Not that I know of.

8 THE COURT: Sustained.

9 BY MR. HALL:

10 Q. Now, you're aware that most of the Vagos were  
11 carrying knives, during the course of the evening you saw  
12 them carrying knives?

13 A. Yes.

14 Q. All right, and was it difficult to see whether or  
15 not they had a knife in their hand when you were running and  
16 they're chasing you?

17 A. Yeah. It's very difficult.

18 Q. You didn't stop to see oh, I wonder if that guy has  
19 a knife, because you were thinking they were going to kick  
20 the living snot out of you, right?

21 A. Yes.

22 Q. So you turned and took off?

23 A. Yes.

24 Q. So you don't know if they a knife or not?

1 A. Yes.

2 Q. You didn't want to wait and find out the hard way.

3 A. No.

4 MR. LYON: Your Honor, counsel continues to lead.

5 THE COURT: Sustained.

6 BY MR. HALL:

7 Q. Did you want to find out the easy way or the hard  
8 way?

9 A. Didn't want to find out at all.

10 Q. Now, it wasn't the Hells Angels picking a fight, was  
11 it?

12 A. No.

13 Q. You didn't try to pick a fight, did you?

14 A. No.

15 Q. When you ran down to the -- past the bathrooms  
16 there, you didn't say hey, Vagos, let's mix it up, boys.

17 A. No.

18 Q. Did you say anything like that?

19 A. Not at all.

20 Q. Were you trying to instigate a fight?

21 A. Not at all.

22 Q. Were you trying to get chased all over the casino?

23 A. Not at all.

24 MR. HALL: Nothing further. Thank you.

## RECROSS-EXAMINATION

BY MR. LYON:

Q. Who threw the first punch in the fight?

A. Pardon me?

Q. Do you know who threw the first punch?

A. No.

Q. Do you know if it was Mr. Pettigrew?

A. No.

Q. Who drew the guns first?

A. Don't know.

Q. Do you know if it was Mr. Pettigrew and  
Mr. Villagrana?

A. Don't know.

MR. LYON: That's all I have.

## REDIRECT EXAMINATION

BY MR. HALL:

Q. Have you ever seen anybody pick a fight?

A. Yes.

Q. All right, so it's not necessarily the first punch  
that starts the fight, is it?

A. No.

Q. So if you have superior numbers --

MR. LYON: Your Honor --

MR. HALL: -- and you want to start a fight --

1 MR. LYON: Counsel is leading the witness.

2 THE COURT: Sustained.

3 MR. HALL: This is follow-up to his question that  
4 he opened the door on.

5 THE COURT: You're still leading.

6 BY MR. HALL:

7 Q. Have you ever seen a situation where there are  
8 superior numbers in a fight situation?

9 A. Yes.

10 Q. All right, were there superior numbers on this  
11 evening?

12 A. 500 to 1.

13 Q. All right. So was it your observation that the  
14 Vagos had superior numbers?

15 A. Yes.

16 Q. And that the Vagos were the ones that wanted to  
17 instigate a fight?

18 A. Yes, you would think so.

19 Q. All right, and as a matter of fact there was a  
20 number of Hells Angels attacked almost simultaneously once  
21 that kicked off, right?

22 A. Yes.

23 MR. LYON: Objection, your Honor, leading.

24 THE COURT: Sustained.

1 BY MR. HALL:

2 Q. Did you see the number of Hells Angels attacked  
3 simultaneously on the videotape?

4 A. Yes.

5 Q. It wasn't just one fellow, there was a number of  
6 Vagos that attacked Hells Angels all at once.

7 A. Yes.

8 MR. HALL: Nothing further.

9 MR. LYON: No further questions.

10 THE COURT: You may step down. May this witness be  
11 excused? You are excused.

12 THE WITNESS: Thank you.

13 THE COURT: Call your next witness.

14 EUGENE ANAYA

15 Called as a witness by the State  
16 who, having been first duly sworn,  
17 testified as follows:

18 THE CLERK: Thank you, please be seated at the  
19 witness stand. You may inquire.

20 MR. HALL: Thank you, your Honor.

21 DIRECT EXAMINATION

22 BY MR. HALL:

23 Q. Sir, would you state your name and spell your last  
24 name?

- 1           A. Eugene Anaya, A-n-a-y-a.
- 2           Q. And where do you live?
- 3           A. San Jose, California.
- 4           Q. And how long have you lived down there?
- 5           A. For all my life, about 40 -- 43 years.
- 6           Q. And what do you do?
- 7           A. I'm a sanitation engineer.
- 8           Q. And have you been there for quite awhile?
- 9           A. Yes.
- 10          Q. Are you married?
- 11          A. Yes.
- 12          Q. Do you have kids?
- 13          A. Yes.
- 14          Q. And are you friends with Jimmy Derosa?
- 15          A. Yes.
- 16          Q. Sheldon Oyao?
- 17          A. Yes.
- 18          Q. I don't know if I pronounced his name right.
- 19          A. That's correct.
- 20          Q. That's correct? And so you drove up to Reno back in
- 21          September of 2011 with those fellows, is that accurate?
- 22          A. Correct, uh-huh.
- 23          Q. And why did you guys come to Reno?
- 24          A. To have a good time, leave the Bay Area and, you

1 know, gamble. Get away, you know, take a little trip.

2 Q. All right. And were you going to meet people up  
3 here?

4 A. No.

5 Q. Did you know any of the Hells Angel members at that  
6 time?

7 A. I know a few.

8 Q. And did you know of anybody that was staying at the  
9 Nugget on the 23rd of September?

10 A. Not that I know of, no. I didn't know they were  
11 going to stay there, no.

12 Q. So it was just happenstance that they were there the  
13 same time you were?

14 A. Exactly, yeah.

15 Q. When you saw them you were familiar with who they  
16 were?

17 A. Oh, yeah, of course.

18 Q. So you said hello and --

19 A. Exactly.

20 Q. Did you decide to hang out with them or at least  
21 around that same area?

22 A. Oh, yeah, gamble a little bit at the Nugget, you  
23 know, and probably -- I didn't intend on staying there, but  
24 you know, that's what happened.



1 Q. Okay. And where were you in the Oyster Bar?

2 Remember being in the Oyster Bar that evening?

3 A. Yes.

4 Q. All right, and where were you sitting?

5 A. I was right in front of the Oyster Bar itself, right  
6 in front of the bartender. Right in the -- right when you  
7 walk in, right straight ahead, right where the bar starts.  
8 That's coming in through the double doors, straight ahead.

9 Q. And who were you sitting with?

10 A. I was sitting with -- I believe it was Cesar, and a  
11 couple other guys, can't remember who they were. Can't  
12 recall.

13 Q. All right. And how long were you at that location?

14 A. Maybe for an hour or so.

15 Q. All right. And just relaxing, having a couple of  
16 beers?

17 A. Exactly.

18 Q. And did you see a number of Vagos approach that area  
19 at any particular time?

20 A. Filter in?

21 Q. Yes.

22 A. Yeah, they came in, yeah.

23 Q. Any issues with those guys?

24 A. No, not at all.

1 Q. Was there any tension between any of the patch  
2 members of the Hells Angels?

3 A. Not that I seen. Not that I seen.

4 Q. Nobody talked to you about it?

5 A. No.

6 Q. Now, do you ever talk to the Hells Angels in terms  
7 of club business?

8 A. No.

9 Q. Do they ever talk to you about club business?

10 A. No.

11 Q. Are you in any way affiliated with the Hells Angels?

12 A. No.

13 Q. So if there was Hells Angel business between the  
14 Vagos, they wouldn't talk to you?

15 A. No, that's club business.

16 Q. All right, so club business is only discussed  
17 between club members?

18 A. Exactly right.

19 Q. And how do you know that?

20 A. Because that's the way it works. Everybody pretty  
21 much knows how it goes, you know. Even people just on the  
22 outs, you know. That's how it goes.

23 Q. All right. So it's common knowledge that club  
24 business stays between club members, and you don't discuss

1 club business with outsiders.

2 A. Exactly.

3 Q. So if you're not a patch member, then you're not  
4 going to talk about what's going on with their guys.

5 A. Correct.

6 Q. So if Bobby V were to call the cops because he was  
7 nervous, there was tension, you wouldn't necessarily know  
8 anything about that.

9 A. That's true.

10 Q. Now, was there a time when you decided to leave the  
11 Oyster Bar?

12 A. Yes.

13 Q. All right, did everybody decide to go together?

14 A. We all decided to go together.

15 Q. All right, was there any particular reason everybody  
16 wanted to go together?

17 A. We just wanted to call it a night. You know, we  
18 were there for awhile, we just wanted to call it a night and,  
19 you know, head to our room. We had a cooler of beer, you  
20 know, call it a night. We just had got there, so tomorrow is  
21 another day, you know, why waste it on one night, you know.

22 Q. So you were headed to your room?

23 A. Exactly.

24 Q. And do you recall what happened on the way to your

1 room?

2 A. I just heard a lot of commotion and gunshots and I  
3 started running around.

4 Q. All right, how were you dressed that evening?

5 A. I had a leather vest on. Red hat. Jeans, and  
6 tennis shoes.

7 Q. No shirt?

8 A. No -- I had a slingshot underneath. It's a wife  
9 beater.

10 Q. Just a little T-shirt?

11 A. Yeah.

12 Q. With no sleeves?

13 A. No sleeves.

14 Q. All right. So when you were walking down did you  
15 see Mr. Pettigrew stop?

16 A. I think he did, I seen him stop, yeah.

17 Q. Did you see what was going on when he stopped?

18 A. I just seen him kind of talking, and that was about  
19 it. I kind of glanced over and I seen a lot of guys  
20 around -- coming around, so I was watching -- I was watching  
21 my surroundings.

22 Q. So when Pettigrew stopped, did you see other Vagos  
23 approaching that location?

24 A. They were approaching from every -- all angles. I

1 just -- just keeping my eyes and my peripheral vision, you  
2 know, in check and see what was happening around me. There  
3 was so much going on real fast.

4 Q. Were you a little nervous at that point?

5 A. Of course.

6 Q. Why were you nervous?

7 A. We're outnumbered.

8 Q. So did you think that a fight may break out?

9 A. Maybe.

10 Q. All right, so that's why you were aware, that's why  
11 you were taking account of your surroundings?

12 A. Exactly.

13 Q. So did you see the fight break out? Did you see  
14 Pettigrew punch Rudnick?

15 A. I didn't see that.

16 Q. After their -- when the fight broke out were you  
17 struck?

18 A. No.

19 Q. I'm going to camera 45. All right. Is this you  
20 right here at 23:25:25?

21 A. The red hat, yeah, that's me.

22 Q. All right. All right, is this you right here?

23 A. Yes.

24 Q. Tell me what happens right now.

1 A. I don't remember getting hit. Wow.

2 Q. You just got a bottle smacked upside your head,  
3 right?

4 A. I didn't even know that. Wow.

5 Q. Why did they hit you?

6 A. Why wouldn't they? I mean, I'm right there with the  
7 guys. Red hat.

8 Q. So that would be because you had a red hat on?

9 A. Yeah, of course, yeah.

10 Q. That would do it. All right, let's go -- now we're  
11 looking at monitor 1. 23:25:49 and 50. All right, so that's  
12 you kicking one of the Vagos there?

13 A. Yeah, that's me.

14 Q. And there's still people throwing things at you.

15 A. Yes.

16 Q. All right, and that's you with the red hat on,  
17 you've got your knife out?

18 A. Yeah.

19 Q. Now, why do you go running over in that direction,  
20 do you recall?

21 A. I was just trying -- I think I'm trying to get away.  
22 Trying to get away from everything, because they're still  
23 throwing stuff, and I don't know who is shooting. I'm trying  
24 to get out of there.

1 Q. Well, at 23:25:25 it looks like -- do you know who  
2 Bobby Viera is?

3 A. Yes, I do.

4 Q. Do you see him in that frame?

5 A. He's on the ground right there with me.

6 Q. Did you see what happened to him?

7 A. I think he got hit with a bottle or something.

8 Q. Okay.

9 A. Blood.

10 Q. Did you run in that direction to assist him?

11 A. I think I did.

12 Q. All right, and do you see Mr. Pettigrew?

13 A. No, I don't know where he's at at the time.

14 Q. Okay. Direct your attention right here. Do you  
15 recognize that red and white shirt that he was wearing?

16 A. Oh, Jethro is right there?

17 Q. I'll back it up a bit. All right, so did you see  
18 what was going on with respect to the shooting, who was  
19 shooting, and what they were shooting at?

20 A. No, I didn't. I don't recall, no.

21 Q. All right. Did you see anybody shoot?

22 A. No.

23 Q. Did you hear gunshots?

24 A. I heard gunshots.

1 Q. You're not sure who was shooting?

2 A. I wasn't waiting around to see, looking who was  
3 shooting, I was trying to get out of there.

4 Q. Now, were you concerned for your safety?

5 A. Of course.

6 Q. Were you scared?

7 A. A little bit.

8 Q. Did you see any Vagos with knives?

9 A. Oh, of course. All day.

10 Q. All right, did you see any Vagos with them out?

11 A. They had pulled the knives out, yeah.

12 Q. So they had knives out, just like you had your knife  
13 out.

14 A. Of course. Well, they had Rambo knives, I didn't  
15 have a big knife like that.

16 Q. What kind of knife did you have?

17 A. I had maybe a six inch flip knife.

18 Q. Did you see some of these Vagos with -- what's a  
19 Rambo knife?

20 A. Did you ever see Rambo, the movie? Like that.  
21 Hunting knife.

22 Q. All right, so Rambo in the movie, the one he had  
23 strapped to his back and pulled it out, a great big --

24 A. Yeah. About maybe 15 -- 15, 16 inches long.



1 Q. Big knife.

2 A. Big knives.

3 Q. So you're saying you saw some Vagos with big knives?

4 A. Of course, yeah.

5 Q. During this fight.

6 A. Yes.

7 Q. Now, is that you picking up the bags there?

8 A. Trying to get out of there, trying to get my bag and  
9 trying to pick up Cesar's sleep apnea machine.

10 Q. CPAP?

11 A. Yeah, machine for breathing.

12 Q. The sleep apnea machine.

13 A. Yes. I think that's what it's called.

14 Q. So at this time you picked up the bags, and where  
15 are you headed?

16 A. Trying to get out of there.

17 Q. And where -- okay, when you say get out of there,  
18 you're trying to leave the casino, go to your room?

19 A. Trying to leave the casino. But I'm blocked in by  
20 all the Vagos, they're keeping me from leaving.

21 Q. So as you continue down south, so going straight  
22 would be south, so as you continued south what happened?

23 A. I couldn't -- I think I went inside that -- I went  
24 inside some kind of I guess that Dickey's place?

1 Q. Little restaurant?

2 A. Yeah, I went in the back there, right in the back,  
3 and I seen some more Vagos around, so I got out of there and  
4 went back on the floor. I believe. And then that's when  
5 some police -- the police came in after that, I'm pretty sure  
6 what happened.

7 Q. All right. So here at 23:27:13 on camera 3. Let me  
8 back it up just a little bit. And that's you right there, at  
9 23:26:30 or so, with the bags. Is that right?

10 A. Right.

11 Q. Right?

12 A. Yes. Trying to get out of there, and they stop me  
13 from leaving.

14 Q. Did you see Jimmy Derosa?

15 A. I was with him in that -- I was with him in that  
16 restaurant, that little Dickey's place, and then we decided  
17 to go back out and then they chased him. Maybe about 10  
18 guys.

19 Q. All right, so there's you, right? Is that you right  
20 there in the middle?

21 A. That's right.

22 Q. And so this is when you get chased back?

23 A. Got chased back, yep. They pulled a knife out, and  
24 then they -- they held me back, and I wasn't even going to

1 try to go through them or anything. That's when I went back,  
2 retreated back.

3 Q. You didn't have a knife out or anything at that  
4 time?

5 A. I don't think so, no.

6 Q. You had your hands --

7 A. They were full, yeah. Two bags, yeah. Maybe three.  
8 Kept on losing the bags.

9 Q. All right, so you go back where Cesar was? Cesar  
10 and Jethro?

11 A. I don't know.

12 Q. You just head back towards that way?

13 A. Yeah, I went back towards that way, yeah. Because I  
14 had to see -- you know, who was with me, I got to -- you  
15 know, because there's all this green around, I don't know  
16 what's going on, so I have to go see where my guys are at, my  
17 friend or whatever, go back and see, you know, where I can be  
18 at and safe, you know, at least have somebody around.

19 Q. All right, so here you are. So we have Jimmy  
20 Derosa, Jethro, Andrew Danly, you're just right behind Andrew  
21 Danly there. Do you see what's going on with Pettigrew?

22 A. I don't recall, I don't know what he's doing over  
23 there. Maybe he's -- yeah, I think that's when everything  
24 started right there. But I don't -- like I said, I'm looking

1 at these guys in front of me and all around me, and I'm  
2 just -- you know, and things happened so fast too, you know.

3 Q. Did you hear Pettigrew or Cesar Villagrana say  
4 anything to this fellow on the ground here?

5 A. No.

6 Q. Did you hear this fellow on the ground say anything?

7 A. No.

8 Q. What happened after that, after Pettigrew was shot?  
9 Did you see Pettigrew get shot?

10 A. I didn't see him get shot.

11 Q. Did you hear the gunshots?

12 A. I heard the gunshots.

13 Q. So when you're right at that location right in front  
14 of the bathrooms there, you heard the gunshots.

15 A. Uh-huh.

16 Q. When you heard gunshots, what did you do?

17 A. Tried to get out of there.

18 Q. Did you know what direction the gunshots were  
19 coming?

20 A. No. Seemed like they were coming from all  
21 directions.

22 Q. And you couldn't tell what direction they were  
23 coming from?

24 A. I couldn't tell, no.

1 Q. Were there still a lot of Vagos around you?

2 A. They were throwing bottles and ashtrays, everything.  
3 Saw gun -- bullets, you know, and glass was flying by.

4 Q. Did you know -- could you see down the hallway over  
5 towards where Henry Tyrell were, did you see those fellows?

6 A. I didn't see those guys. The ones with the cooler?

7 Q. Right.

8 A. No, I did not see them.

9 Q. So what happened after the gunshots that struck  
10 Pettigrew, what did you do?

11 A. Man. I don't remember. I was drinking at the time,  
12 you know, Seagram all day from 4:00 to 11:30. My last two  
13 shots were Crown Royal at the Oyster Bar. So this is the  
14 first time I'm putting everything in perspective here.

15 Q. You haven't had an opportunity to review the video  
16 prior to this?

17 A. No.

18 Q. So this is your first time?

19 A. Exactly.

20 Q. Did you meet with anybody and discuss the case?

21 A. No.

22 Q. Okay. All right, so did you stay at that location  
23 until the police came?

24 A. Yeah.

1 Q. Generally speaking?

2 A. Oh, yeah, they had me handcuffed.

3 Q. So the police showed up shortly after Pettigrew was  
4 shot?

5 A. Exactly.

6 Q. All right. And did you ever have any contact with  
7 this fellow on the ground?

8 A. I think I -- the guy that was playing like he was  
9 shot? Was rolling around?

10 Q. Is that what he was doing?

11 A. I think he was. I think I said, "I think this guy  
12 is shot right here." I think that was my words. He was  
13 wearing glasses, as I recall.

14 Q. Did anybody mess with that guy?

15 A. No.

16 Q. Anybody -- did you see anybody kick him or talk to  
17 him?

18 A. Nobody kicked him.

19 Q. Or say anything to him or punch him?

20 A. No.

21 Q. Or anything?

22 A. Nothing.

23 Q. Did he appear to be hurt?

24 A. I thought he was, but after he stood up and I was

1 handcuffed and we both -- he was across from me, he wasn't  
2 even -- nothing was wrong with him.

3 Q. Did he complain of any injury?

4 A. No.

5 Q. He didn't say oh, those sons of bitches kicked me  
6 or --

7 A. No.

8 Q. Nothing.

9 A. No.

10 Q. So what was your impression initially when you saw  
11 this fellow? I guess we'll call him Mr. Wiggins.

12 A. Nothing. We're right across from each other, they  
13 stood between us because he kept on looking at me, I was  
14 looking at him. I don't know what his intention was, maybe  
15 he was trying to, you know, size me -- see who I was and get  
16 a good visual, you know, see who I was, maybe. I don't know.  
17 But yeah, we were across from each other. I remember him.

18 Q. All right. But you didn't see Pettigrew -- or did  
19 you see Pettigrew or Cesar kick him?

20 A. No. Not whatsoever.

21 Q. You didn't? Okay.

22 MR. HALL: Thank you, I have no further questions.

23 THE COURT: Cross-examination.

24 MR. LYON: Thank you, your Honor.

## CROSS-EXAMINATION

BY MR. LYON:

Q. Good afternoon, Mr. Anaya. When you were back at the Oyster Bar before the fight occurred, you indicated you were at the bar?

A. That's correct.

Q. And Mr. Pettigrew is right next to you?

A. He was in the -- he was in the area, yeah.

Q. Pretty close to you?

A. He was around there, yeah.

Q. And about how many other Hells Angels were in there?

A. Maybe about four or five.

Q. And one of them was Bobby Viera, Bobby V?

A. Correct.

Q. And you were asked some questions about your knowledge of whether Bobby V had called law enforcement one time while you guys were in the Oyster Bar.

A. Uh-huh.

Q. And you were aware that he had requested law enforcement be called?

A. No.

Q. You weren't aware of that?

A. No.

Q. Were you aware that law enforcement actually did



1       come over to the Oyster Bar?

2           A.   (Shakes head negatively.)

3           Q.   And that they left because in their opinion things  
4       had defused down?

5           A.   I never heard nothing about that.

6           Q.   Okay. So at least while you were there if law  
7       enforcement had showed up, they weren't asked to engage and  
8       talk to anybody, any of the Vagos, true?

9           A.   No, not that I --

10          Q.   And you guys were just drinking and having a good  
11       time.

12          A.   Exactly.

13          Q.   Then at some point in time you all decide to leave  
14       the Oyster Bar and go to your rooms.

15          A.   Correct.

16          Q.   Now, you were not a patch member of the Hells  
17       Angels?

18          A.   No.

19          Q.   But you were wearing a red hat, correct?

20          A.   Correct.

21          Q.   And fair to say that the colors of the Hells Angels  
22       is red?

23          A.   Exactly.

24          Q.   Okay, was that why you were wearing a red hat?

1 A. I always wear a red hat.

2 Q. Okay, to associate yourself with the Hells Angels?

3 A. No. I just like to wear a red hat.

4 Q. Okay. And as you were walking down towards your  
5 rooms, that's when Mr. Pettigrew stops and engages with a  
6 Vago, correct?

7 A. I believe so.

8 Q. And you didn't know who that Vago was?

9 A. No.

10 Q. Had you noticed him back at the Oyster Bar earlier  
11 that evening?

12 A. No.

13 Q. You hadn't noticed him?

14 A. No.

15 Q. I want to go to camera 45, if we could. Okay, so  
16 this is where Mr. Pettigrew stops and is talking, I'll  
17 represent to you he's talking to an individual by the name of  
18 Mr. Rudnick. You weren't able to hear anything that was  
19 said, true?

20 A. No.

21 Q. Fair to say that the music was pretty loud going on  
22 that -- in that area?

23 A. It was just loud in there, yeah, it was a busy place  
24 at that time.

1 Q. And at this point in time I think you testified that  
2 you were -- there was some concern you thought there might be  
3 a fight.

4 A. Just tension was high, yeah.

5 Q. Well, at this point in time did you think there was  
6 going to be a fight?

7 A. No. Not really.

8 Q. Then the fight actually does break out, true?

9 A. Yes.

10 Q. And the fight's Mr. Pettigrew hits Mr. Rudnick. Did  
11 you actually see that? See him throw that punch?

12 A. I didn't see that.

13 Q. Didn't see that? And you don't recall even getting  
14 hit in the head with a bottle?

15 A. I don't recall that at all.

16 Q. Then I think this is where you kind of back -- back  
17 out and you pull out your knife?

18 A. You got to. Look at all the guys around there.

19 Q. Now, you had talked about seeing Vagos with knives  
20 and you talked about Rambo knives, 15, 16 inch knives?

21 A. Yes.

22 Q. Do you see anybody in this video with Rambo knives?

23 A. No.

24 Q. Want to go to monitor 1. This is -- and I

1 understand you haven't seen any of this video before?

2 A. That's correct.

3 Q. So I want to -- video, or monitor 1 is just another  
4 viewpoint of the fight. Do you see any Vagos with 15 inch,  
5 16 inch knives anywhere in that video?

6 A. No, but when I take off, tried to get out with those  
7 bags, they pulled them out.

8 Q. Now, you're carrying -- how many bags were you  
9 carrying?

10 A. I was carrying my bag and two other bags. First I  
11 carried my bag, and I just had my bag only, and when  
12 everything broke out I grabbed Cesar's bags.

13 Q. And I think this is at the point where you had  
14 either already -- that's where you kicked a Vago, right?

15 A. Right.

16 Q. And I think you testified there were some bottles  
17 and glasses being thrown around.

18 A. Yes.

19 Q. No Vago shooting, correct?

20 A. Not that I seen.

21 Q. One shooting with Mr. Pettigrew and Mr. Villagrana,  
22 true?

23 A. What was that?

24 Q. The only persons that shot at that point in time was

1 Mr. Pettigrew and Mr. Villagrana. Did you see that?

2 A. I didn't see that.

3 Q. You didn't see anybody shooting.

4 A. That's correct.

5 Q. Now, at this point in time, fair to say things had  
6 kind of calmed down, true?

7 A. Exactly.

8 Q. No one is being -- no one is attacking  
9 Mr. Villagrana or Mr. Pettigrew or yourself. True?

10 A. Yes.

11 Q. Where are you at?

12 A. I'm in the -- that's when I think I left to that  
13 Dickey's bar place, that little restaurant.

14 Q. Okay.

15 A. I'm trying to get out of there. I think I got the  
16 bags, and then I end up in that place, that restaurant place.  
17 I couldn't get out, they kind of pushed me into that  
18 restaurant area.

19 Q. And I'll represent to you this -- kind of up in the  
20 right-hand corner, it's kind of hard to see.

21 A. Yeah, very hard to see.

22 Q. But that's where we were looking at in front of the  
23 bathrooms, where you're kind of walking with the bag, and the  
24 crowd seems to -- to stop you, and then you come running

1 back.

2 A. Exactly.

3 Q. Okay, so that's what's going on up in that corner.

4 A. They pulled their knives out right there.

5 Q. It's your testimony knives were pulled?

6 A. Yep.

7 Q. But you ran back here to -- with Mr. Villagrana and  
8 Mr. Pettigrew, true?

9 A. I had to go back up. Just to be safe, see where --  
10 you know, everybody was at. Get my composure back.

11 Q. Okay, and again at this point in time you don't see  
12 anybody being chased by Vagos, true?

13 A. What it looks like.

14 Q. Walking down the pathway, true?

15 A. Uh-huh.

16 Q. See up in this upper corner, I'll play it again, do  
17 you see Mr. Pettigrew, looked like he's kicking somebody. Do  
18 you see that? Right there?

19 A. Where are you at?

20 Q. If you follow my pointer, up in this area?

21 A. Yeah.

22 Q. I'll back it up again, see what you see. See that?

23 A. I can't see it.

24 Q. Looks like Mr. Villagrana is also kicking somebody.

1 And Mr. Pettigrew goes down. You don't recall seeing any of  
2 that?

3 A. No.

4 Q. I think Mr. Hall had kind of corresponded that event  
5 with the video that was in front of the bathroom. Let me  
6 kind of walk -- get up to that spot. Okay, and you're where,  
7 right here?

8 A. I think behind Matthew, yeah.

9 Q. All right, now, there's no Vagos around any of you,  
10 correct?

11 A. Yeah, there's one right there in the bathroom.

12 Q. Other than the Vago in the bathroom.

13 A. About 10.

14 Q. Seems to be looking out at you.

15 A. And people in front of me. There's Vagos in front  
16 of me.

17 Q. At least in this frame here that you see in the  
18 video, there's no Vagos other than the one that's in the  
19 bathroom and maybe with the Vago that's lying on the ground,  
20 true?

21 A. About another 30 in front of me.

22 Q. And this is when Mr. Pettigrew stops and kicks at  
23 Mr. Wiggins, but you didn't see any of that?

24 A. No.

1 Q. Did you see Mr. Villagrana with his gun out?

2 A. Nope.

3 Q. I think you testified you didn't even see  
4 Mr. Pettigrew get shot.

5 A. That's correct.

6 Q. But you did hear the shots?

7 A. Yes, I did.

8 Q. And then what did you do after you heard the shots?

9 A. I was -- I was on the move, trying to get out of  
10 there.

11 Q. And did you have any other altercation or otherwise  
12 with any other Vago after those shots?

13 A. I don't -- I tried to get out of there, they were --  
14 they were around, I guess they were yelling, they were  
15 cussing and --

16 Q. They were yelling?

17 A. They were yelling, yeah. There was --

18 Q. But no one else came up to try to chase you, true?

19 A. I don't recall.

20 Q. And then a short time later law enforcement arrives.

21 A. I believe so, if that's the time frame of it, yeah.

22 Q. Now, isn't it true you didn't even know San Jose --  
23 that there was a Vagos charter of San Jose -- I'm sorry, a  
24 Vagos charter that was in San Jose, true?



1 A. Do I know there's one in San Jose?

2 Q. Yeah.

3 A. Yes, I do.

4 Q. But at this time you didn't even know they had a  
5 charter there, true?

6 A. I know they had a charter in San Jose, but I didn't  
7 know any --

8 Q. Do you recall telling law enforcement you didn't  
9 even know San Jose had Vagos?

10 A. I don't believe so.

11 MR. LYON: Thank you. That's all I have.

12 THE COURT: Anything further?

13 MR. HALL: With the Court's indulgence for just one  
14 moment, please.

15 THE COURT: Okay.

16 REDIRECT EXAMINATION

17 BY MR. HALL:

18 Q. Now, you did give a statement to police, is that  
19 right?

20 A. I believe so, but I don't recall what I told them.

21 Q. All right. Now, directing your attention back to --  
22 back when you were walking up towards are the Oyster Bar, and  
23 just before Pettigrew gets stopped. What was your  
24 impression?

1           A. Maybe these guys are going to probably talk or  
2 something, I don't know. It was just like I'm looking  
3 around, maybe they're going to have a conversation, maybe  
4 they knew each other, I don't know. Because all during the  
5 day everything seemed like it was going to be all right, you  
6 know. I didn't -- I didn't feel any -- if I felt threatened,  
7 I wouldn't be there, I wouldn't stay there.

8           Q. Do you remember what you told the police as far as  
9 what was happening early on in the Oyster Bar?

10          A. As they were filtering in, they were coming in,  
11 yeah, they were coming in and -- it was kind of odd they were  
12 all coming in and, you know, asking, you know, what -- how  
13 are you doing, are you winning on the machines or whatnot.  
14 They asked several of my friends about, you know, those  
15 questions. And more and more of them started coming in.

16          Q. What did you tell the police about that when they  
17 interviewed you?

18          A. I don't recall, I just -- they came in and it was  
19 kind of like -- kind of suspicious, you know, their coming in  
20 there, you know.

21          Q. Why would they be coming in and asking --

22          A. Probably trying to size us up.

23          Q. What do you mean, size you up?

24          A. Probably see who is who, you know, who is on the

1 rank, you know, who is a member, who is not a member or --  
2 you know.

3 Q. All right, so if they came in, kind of got some  
4 information and do a little reconnaissance mission?

5 A. Exactly.

6 Q. Get some intelligence?

7 MR. LYON: Your Honor, leading.

8 THE COURT: Sustained.

9 BY MR. HALL:

10 Q. Is that what you meant?

11 A. Yes.

12 Q. So when you said they want to size you up --

13 A. I believe so.

14 Q. I kind of phrased it a little differently, but is  
15 that what you were talking about?

16 A. Yes.

17 Q. All right. Would that allow them to check the  
18 numbers? I mean compare numbers?

19 A. Oh.

20 Q. How many HAs, how many Vagos?

21 A. Oh, of course, yeah.

22 Q. Find out if there were other Hells Angels on their  
23 way?

24 A. I don't know about that, I just --

1 MR. LYON: Your Honor, now we're getting into  
2 speculation.

3 A. You know, I --

4 THE COURT: Sustained. The objection has been  
5 sustained, don't answer the question.

6 BY MR. HALL:

7 Q. Okay, so then when you left the Oyster Bar, started  
8 walking down towards Trader Dick's bar, do you remember that?

9 A. Oh, yeah, okay.

10 Q. So as you're walking towards Trader Dick's, how many  
11 Vagos do you see?

12 A. On both sides? A lot.

13 Q. And did that leave you with any impression about  
14 what was going on?

15 A. Not really. I mean, I just maybe thought they were  
16 letting us -- were parting like the Red Sea so we could walk  
17 through, I don't know.

18 Q. Do you remember what you told the police when you  
19 were being interviewed?

20 A. No, I don't recall.

21 Q. If I showed you your statement, would that refresh  
22 your recollection?

23 A. Maybe.

24 Q. First, direct your attention to page 22, and I just

1 want you to read that to yourself. And I'm referring to  
2 lines 11 through 18.

3 A. The highlighted?

4 Q. Yes.

5 A. Yes.

6 Q. Did you have a chance to read that?

7 A. Yes.

8 Q. All right, and then -- so does that refresh your  
9 recollection?

10 A. Yes, pretty much, yeah.

11 Q. So what was your impression? As far as what you  
12 told the police? What did you tell the police in your  
13 statement?

14 A. I told them that yeah, they were sizing us up, see  
15 who was who. I mean --

16 Q. All right, did you say they had a plan --

17 MR. LYON: Your Honor, counsel is leading.

18 THE COURT: Sustained.

19 A. You might --

20 THE COURT: Sustained. You can't answer that  
21 question if I sustain the objection.

22 BY MR. HALL:

23 Q. Let me direct your attention to page 33. So what  
24 was your impression as you were walking towards the Oyster

1 Bar with respect to what you told the police?

2 A. As far as --

3 Q. When I showed you that portion of your statement,  
4 what was your impression?

5 A. My impression that I -- well, didn't look good, I  
6 maybe thought something was going to happen, I don't know. I  
7 mean -- when they're coming into the Oyster Bar, I mean,  
8 maybe they had something planned out or something.

9 Q. All right. Page 22, at line -- what did you say  
10 there?

11 A. Do you want me to read it out?

12 Q. Yeah.

13 A. "They were just getting ready to do what they had to  
14 do, whatever, you know, they had planned out or something.  
15 They had to, I feel like they came to look and see who was  
16 who."

17 The first part, really I don't remember saying  
18 that, but the second part about, you know, coming in, who was  
19 who, that's correct.

20 Q. All right, so you're saying about the plan, where  
21 you said they had it planned out or something, you don't know  
22 if that's correct?

23 A. I don't believe that's -- I don't believe I said  
24 that, I don't know where they got that from. I don't recall

1 saying that. But about sizing you up, them coming in and  
2 looking at who was who, I said that.

3 MR. HALL: All right, thank you. No further  
4 questions.

5 MR. LYON: Just a couple, your Honor. May I  
6 approach, your Honor?

7 THE COURT: You may.

8 RECROSS-EXAMINATION

9 BY MR. LYON:

10 Q. Sir, I want to call your attention to the same  
11 report, be page 22, lines 22. If you could read those to  
12 yourself.

13 Have you had a chance to read through that?

14 A. Uh-huh.

15 Q. Does that refresh your recollection on what you told  
16 law enforcement concerning whether you knew San Jose had a --  
17 or the Vagos had a club in San Jose?

18 A. Yeah, I -- I mean, I knew they had a club in San  
19 Jose.

20 Q. That's not what you told law enforcement when you  
21 did your statement, true?

22 A. Maybe they reworded it wrong.

23 Q. And with respect to the conversations that you heard  
24 between Mr. Pettigrew and Mr. Rudnick right before the fight,

1 all you heard is, "Are we cool, are we cool," true?

2 A. I thought everything was cool, yeah, I think they  
3 said something like that.

4 Q. Okay, that's what you heard, that's the only  
5 conversation you heard between the two of them?

6 A. Thought everything was cool, yeah.

7 Q. Are we cool, are we cool.

8 A. Everybody -- those guys, when they came into the  
9 Oyster Bar they were saying that. Everything is cool,  
10 everything is cool, we're cool. I thought it was --

11 Q. Similar to what was being said at the Oyster Bar?

12 A. Uh-huh.

13 Q. In fact, you didn't feel threatened at all while you  
14 were at the Oyster Bar, true?

15 A. A little bit, but not too much.

16 Q. I'm going to have you refer to your prior statement  
17 page 9, line 23-25.

18 A. Yep.

19 Q. Does that refresh your recollection?

20 A. Uh-huh.

21 Q. What did you say then?

22 A. On that statement or --

23 Q. Yeah.

24 A. Yeah, I didn't feel threatened.



1 Q. Okay, that's what you told the police, you didn't  
2 feel threatened.

3 A. I felt a little uneasy.

4 Q. Felt a little uneasy because they started popping up  
5 more?

6 A. Started popping up more and more, yeah. Kind of  
7 strange when you're just sitting there and they start popping  
8 in, filtering in.

9 Q. You knew the Vagos were staying at the Nugget, true?

10 A. Yeah -- I didn't know they were staying at the  
11 Nugget, no, until I got there.

12 Q. Okay, but that wouldn't be unusual, if that's where  
13 they're holding their convention, for a lot of Vagos to be  
14 there?

15 A. I didn't know that.

16 Q. So that was -- that was what was somewhat surprising  
17 to you, is that there was -- the number of Vagos.

18 A. Exactly.

19 Q. But even then you didn't feel threatened?

20 A. No.

21 MR. LYON: Thank you, that's all I have.

22 REDIRECT EXAMINATION

23 BY MR. HALL:

24 Q. I just have one other question about your statement

1 at page 30. When we were talking about -- if I may approach.  
2 This section right here. Can you go ahead and read that to  
3 yourself?

4 MR. HOUSTON: Which section are we on?

5 MR. HALL: Lines 5 through 10, something like that.

6 A. Yeah, I believe I said that.

7 BY MR. HALL:

8 Q. Said what?

9 A. Do you want me to read it out?

10 Q. If you said it.

11 A. "They -- they were planning to shit all the way  
12 through, man. They planned it. They had planned it."

13 Q. And what were you talking about when you said that?

14 A. Maybe they planned the whole thing, maybe it was --  
15 they -- you know, coming into the Oyster Bar, maybe they had  
16 some -- they had some kind of plan going on.

17 Q. You were talking about the attack?

18 A. Maybe.

19 Q. When you got down to Trader Dick's it looked as  
20 though it were a planned out situation to you, that was your  
21 impression?

22 A. Uh-huh.

23 MR. HALL: Thank you, I have no further questions.

24 MR. LYON: A couple of follow-up, your Honor.

1 THE COURT: Okay.

2 RECROSS-EXAMINATION

3 BY MR. LYON:

4 Q. That's just your impression, true?

5 A. Impression of everybody else, too.

6 Q. But you used a lot of maybes. Maybe, maybe, maybe.

7 You don't know for sure one way or the other.

8 A. That's correct.

9 MR. LYON: Thank you.

10 THE COURT: Anything further?

11 MR. HALL: No, thank you, your Honor.

12 THE COURT: May this witness be excused?

13 MR. LYON: Yes.

14 MR. HALL: Yes, your Honor.

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

16 You may call your next witness.

17 MR. HALL: Yes, thank you.

18 HENRY TYRELL

19 called as a witness by the State

20 who, having been first duly sworn,

21 testified as follows:

22 MR. STEGE: May I proceed, your Honor?

23 THE COURT: You may.

24 //

## DIRECT EXAMINATION

BY MR. STEGE:

Q. Please state and spell your name, sir.

A. First name Henry, H-e-n-r-y. Last name Tyrell,  
T-y-r-e-l-l.

Q. Do you live in the San Jose area?

A. Yes.

Q. And how long have you lived there?

A. Born and raised, 32 years.

Q. Did you come to Street Vibrations September of 2011?

A. Yes.

Q. Who did you travel here with?

A. San Jose Hells Angels. And my brother.

Q. What's your brother's name?

A. James Tyrell.

Q. Which San Jose Hells Angels did you come here with?

A. It's like Bob and --

Q. Bob Viera?

A. Yeah.

Q. Did you go in his car or --

A. No, no.

Q. You guys came in your own car?

A. Yeah.

Q. Now, were you -- did you have any status within the

1 Hells Angels?

2 A. No. Just --

3 Q. Were you prospecting?

4 A. No. No.

5 Q. Were you a hang-around.

6 A. No. I was a guest.

7 Q. And was your brother as well?

8 A. Yes.

9 Q. Who -- how long have you been hanging out with these  
10 guys?

11 A. Before Street Vibration I'd say I went to events,  
12 oh, about two, three months before, give or take. It wasn't  
13 that long.

14 Q. And did you help Bob -- Bobby V with his T-shirt  
15 stand?

16 A. No, we weren't allowed to do the T-shirts. So we  
17 just hung around outside, walked around, seen the bikes and  
18 so forth.

19 Q. Did you end up back inside the Nugget at the Oyster  
20 Bar?

21 A. Yes.

22 Q. Were you inside the Oyster Bar or were you hanging  
23 out outside of there?

24 A. I was on the slot machine right outside the Oyster

1 Bar.

2 Q. And who were you hanging out with there?

3 A. It was me, my brother, I believe another one of our  
4 friends, Ralphie, and a couple other guys were around us.  
5 But I was playing the slot machine.

6 Q. Now, you knew at the time that -- well, did you see  
7 any Vagos in the casino?

8 A. Oh, yeah. Yeah, throughout the whole day, yeah.

9 Q. What about at the Oyster Bar?

10 A. Yes.

11 Q. And did there come a time where there were a lot of  
12 Vagos outside the Oyster Bar?

13 A. Oh, yeah. Yeah.

14 Q. And how did that happen?

15 A. How it happened I'm not sure, but when I was playing  
16 the slot machines I noticed everyone was turning around, so I  
17 was like what the heck, so I turned around and I look, and  
18 just all I saw was all green. Vagos all right there. How  
19 many? A lot. Yeah.

20 Q. There were more of them than there were Hells Angels  
21 in the bar, weren't there?

22 A. Oh, yes. Yes.

23 Q. Now, you know the difference between a patch or like  
24 a member of the Hells Angels and like their friends or

1 hang-arounds?

2 A. Oh, yes. Yes.

3 Q. How many patch HAS were inside that bar?

4 A. Give or take, five, six, at the most. That I can  
5 remember.

6 Q. And there were some friends there as well?

7 A. Yes.

8 Q. And fair to say there were a lot more Vagos than  
9 Hells Angels?

10 A. Oh, yes. Yes.

11 Q. And how did this make you feel, or could you tell if  
12 there was any tension in the air?

13 A. When I turned around, yes, I was nervous, of course.  
14 I was nervous, I was like okay, what's going to happen.  
15 But --

16 Q. Well, because you knew that the Hells Angels and the  
17 Vagos did not get along?

18 MR. LYON: Objection, leading.

19 THE COURT: Sustained.

20 THE WITNESS: I didn't --

21 THE COURT: You can't answer the question, you have  
22 to wait. He'll rephrase it.

23 BY MR. HALL:

24 Q. What were you afraid of?

1 A. Just -- I just felt tension. That's --

2 Q. What did you know about the relationship between the  
3 Hells Angels and Vagos?

4 A. Honestly, before that date, nothing, I didn't know  
5 anything. I didn't know -- nothing.

6 Q. Well, didn't you tell the police in an interview in  
7 the hours after this happened that you knew they didn't get  
8 along?

9 A. Because I -- because of the tension that I felt  
10 throughout the day, and then the Oyster Bar actually  
11 confirmed it.

12 Q. Okay.

13 A. So yeah.

14 Q. So --

15 A. It was little bits and pieces that, you know, that  
16 led up -- where I could feel the tension, and then.

17 Q. What happens next?

18 A. After --

19 Q. After you see all these Vagos --

20 A. Oh, okay.

21 Q. -- you turn around, you're kind of worried.

22 A. So what happens next is the Angels are in the bar,  
23 we're outside, and a handful of Vagos, patch members, came up  
24 to the Angels. So we're just sitting there looking at them,



1 seeing what's going on. And then I don't know the words that  
2 were exchanged, because a couple of Hells Angels met with  
3 them. They shook hands -- they had their words, shook hands,  
4 and then next thing you know, Angels went, Vagos went, and  
5 then they just disappeared. They -- they went. And then we  
6 went back. I go okay, so. That was it.

7 Q. Eventually you guys -- you all left the Oyster Bar.

8 A. Yes. It was -- yeah.

9 Q. You all left in a group?

10 A. Yes.

11 Q. And were you and your brother carrying anything?

12 A. The cooler.

13 Q. And that's a red and white cooler?

14 A. Red and white cooler, yes.

15 Q. And where were you in the group in sort of placement  
16 in the group when everyone leaves? Front, middle or back?

17 A. When we first left -- well, we were in the front.  
18 Yeah.

19 Q. And you had a room there at the Nugget?

20 A. Yes.

21 Q. And what happened as you walked towards your room on  
22 the casino floor?

23 A. When we walked -- right when we hit the corner -- we  
24 left all in a group, and right when we hit the corner, we

1 look up and we just see Vagos straight -- just right and  
2 left, just straight down. So.

3 Q. Were these Vagos lined up in front of Trader Dick's,  
4 near the aquarium bar?

5 A. Oh, yes, they were just all -- where exactly I'm not  
6 sure, because I was -- I was looking down.

7 Q. Okay.

8 A. Looking down, don't make any eye contact, just go  
9 straight.

10 Q. Why didn't you want to make any eye contact?

11 A. Because by the time we hit that corner I seen all of  
12 them, like -- okay, that's -- nerve wracking. You know, I  
13 got nervous, so I'm not going to look at anybody's eyes, just  
14 straight to the --

15 Q. The tension that you mentioned earlier, did that  
16 come back when you were walking back?

17 A. That came back, yes.

18 Q. So what do you do?

19 A. We just continue walking, and then I believe --  
20 well, me and my brother are still holding the cooler. We get  
21 almost to the elevators, and then we turn -- for some reason  
22 we turn around, and we look, we're like -- where is everybody  
23 at. The group we were with.

24 Q. Right.

1           A. And then all of a sudden we take a couple of steps  
2 forward, and we just seen Vagos just running. Running to --  
3 to the back. Like what the heck, what's going on. So we  
4 just walk -- take a couple more steps, and that's when we  
5 hear the shots. And then --

6           Q. By this time you're approaching the elevators,  
7 you're near the elevators, and you see Vagos running and hear  
8 gunshots.

9           A. We're walking towards the elevator, we turn around,  
10 we -- we're sitting there wondering where everyone is at. So  
11 we start walking back. We start back-tracking. And then  
12 that's when we see them running back, and then that's when we  
13 hear the gunshots.

14          Q. What do you do when you hear the gunshots?

15          A. We ducked off between the slot machines.

16          Q. And what do you do after hearing gunshots?

17          A. So me and my brother are ducked off in between the  
18 slot machines. After the gunshots stopped ringing, I turned  
19 around and I'm looking around, and all I see is green.  
20 Vagos. So I turn to my brother, I'm, like, we need to get  
21 out of here. We need to get out of here.

22          Q. Now, were the gunshots, were they close to you or  
23 far away from you, could you tell?

24          A. I -- I couldn't. I couldn't tell. But it was -- it

1 was really loud.

2 Q. Did you see anyone shooting?

3 A. No, I didn't.

4 Q. Did you tell your brother we need to get out of  
5 here?

6 A. Yes.

7 Q. And what do you do?

8 A. So we grabbed the cooler again, one on each side, we  
9 grabbed the cooler and I was like, just grab the cooler, get  
10 up, start walking like -- like -- just start walking. You  
11 know.

12 Q. And what was in that cooler?

13 A. Beers, I think a Hennessey bottle, ice, some sodas I  
14 guess, you know. Yeah.

15 Q. And so what happens next?

16 A. So right when we -- I think -- I think right when we  
17 hit the main walkway -- when we hit the main walkway, all of  
18 a sudden we hear from the back, "There's two of them right  
19 there." Two of them, probably -- right there.

20 Q. Okay.

21 A. And --

22 Q. Well, and who said that, was it a Vago who said  
23 that?

24 A. Yes. Cause then -- and we didn't know -- I didn't

1 know who was saying it in the beginning, but right when we --  
2 we kept hearing it, me and my brother turn around, and  
3 there's two of them just walking straight towards me and my  
4 brother. And --

5 Q. Following you. Had they been following you?

6 A. They were following us from right when we got up to  
7 start walking, then that's when they came -- I guess behind  
8 us. And then started pointing us -- pointing us out.

9 Q. How many total gunshots do you think you heard?

10 A. Oh, man. I -- give or take, four or five.

11 Q. And so you turn around and you see these guys  
12 following you, what happens next?

13 A. So we -- they come up, they start pushing us, and  
14 that was it. We're pretty much -- next thing you know, we're  
15 just surrounded. And we're getting kicked and punched.

16 Q. Now, were you wearing anything that would associate  
17 you with the Hells Angels?

18 A. A support shirt, yes.

19 Q. What's a support shirt?

20 A. A Local 81, San Jose 81.

21 Q. That's a red -- has red and white on it?

22 A. Yes. Yes.

23 Q. And like to direct your attention here to some  
24 video. This video is called Horseshoe Bar on disk 86. Ask

1 you if you recognize anyone on this. Who are those guys with  
2 the cooler there? In fact, I'll go slower for you.

3 A. Oh. That's me and my brother. I'm walking in the  
4 front, and my brother is the one with the -- yes, that's me.

5 Q. You're in the front and your brother has --

6 A. My brother with the long hair and with the cooler in  
7 the back.

8 Q. Okay, so here you are trying to get -- who is that  
9 guy you're following in front of you, that Hells Angels, do  
10 you know who that was?

11 A. I'm sorry, I didn't get a chance to see it.

12 Q. This guy here.

13 A. I can't tell.

14 Q. You don't know who that is?

15 A. No, I can't tell who the -- there you go. I -- I  
16 want to say Jimmy, but I don't think it's him.

17 Q. There's a Hells Angels named Jimmy Arnett, right?

18 A. Yeah, I want to say it's him, but I don't -- I'm not  
19 really sure if it's him or not.

20 Q. So at this point have you heard the shots?

21 A. At this point, no. Wait. No, we haven't. From the  
22 looks of it, no.

23 Q. Okay, so you're walking off. Let's go normal speed  
24 here for a little bit. At this point have you heard the

1 shots? You see those people running, right?

2 A. Yes, I -- yes.

3 Q. And to be fair, you've never seen this before, isn't  
4 that true?

5 A. No, I've never seen this before. Okay, since people  
6 are ducking, then yeah, I probably heard the shot at this  
7 point. Yeah, probably heard the shot at this point.

8 Q. Is that you guys there again?

9 A. Yeah.

10 Q. Is this when those guys were chasing you?

11 A. Yeah, that's when we turned around -- before that,  
12 that's -- before we popped out, that's -- before we even  
13 popped out, that's when we were hearing from the back,  
14 "There's two right there, there's two right there." And then  
15 that's right when we hit the floor, that's when I guess we  
16 turned around, and then that's when they just --

17 Q. Were you hiding just right there, crouched down just  
18 to the left where you came out?

19 A. Yes.

20 Q. Okay.

21 A. Yeah, see, we turn around, and then those two pop  
22 out, and then that was it.

23 Q. Is it those two who start the fight with you or is  
24 it other guys?

1           A. I guess it was -- I guess they started pushing us,  
2 and then from there, we just got hit. I didn't get a chance  
3 to see, because they were trying to pull off our vest, they  
4 were trying to pull off -- they were just -- it was bad. It  
5 was bad.

6           Q. Did you have a chance in the fight?

7           A. No. To swing? To swing, to kick, to do anything,  
8 no. I didn't -- I didn't -- no. It was -- yeah.

9           Q. And what were the numbers like in this fight? You  
10 and your brother, anyone else on your side?

11          A. It was just me and my brother alone.

12          Q. What about the Vagos, how many Vagos do you think  
13 were after you?

14          A. When we looked up, when we hit right there, we  
15 looked around and all we saw, it was just green everywhere.

16          Q. Now, did you hear, during the course of this did you  
17 hear people that were beating you up say anything?

18          A. Towards the end all I kept hearing -- in the middle,  
19 all I kept hearing them say is, "Get their vest." So that's  
20 when they were trying to --

21          Q. Pause this here.

22          A. That's when they were trying to pull off my  
23 brother's vest, and mine. They got my brother's off, but not  
24 mine.



1 Q. Did those vests say anything to affiliate them with  
2 HAs?

3 A. No -- I think one of them did, I think the one -- I  
4 had had a little support -- 81 on it, somewhere on it. I  
5 know it was a little -- but other than that, it was all  
6 black.

7 Q. What about towards the end, did you hear people  
8 saying anything that concerned you?

9 A. Towards the end all I kept hearing was get the  
10 knives, get the knives. And then that's when I was -- I  
11 think I was on top of my brother, like trying to protect him,  
12 and then I -- around when I heard get the knife, get the  
13 knife, I just braced myself. I was like okay, well, here we  
14 go, I'm going to get stabbed, you know.

15 Q. You were thinking they were saying get the knives  
16 because they're about to stab you?

17 A. That's what I was thinking, yeah.

18 Q. And you braced yourself?

19 A. I braced myself to get stabbed. And then right  
20 after that, that's when luckily I heard "get down" and, you  
21 know, all the cops came in.

22 Q. Let's continue here, we're at 23:28:56.

23 A. That's me protecting my brother, I'm on my brother.

24 Q. You're on top covering up your brother, who is on

1 bottom?

2 A. Yes. Oh, wait. Yes, that's my -- yeah.

3 Q. How many different guys do you think -- we sort of  
4 missed the part where the camera was in the other part. How  
5 many total guys of the Vagos do you think hit you?

6 A. I -- I don't even know.

7 Q. There we're seeing at 23:29:06 the cooler being  
8 thrown at you guys. Any of these guys, have you ever seen  
9 them before this day?

10 A. No. That's when they were trying to get our vests,  
11 I think. See? They tried to -- they got my brother's off,  
12 but they tried to get mine, but I don't know if they got mine  
13 off, but I -- I know they got my brother's off.

14 Q. Now, why didn't you just let them take off your  
15 vests?

16 A. Why didn't I just let them?

17 Q. Right.

18 A. I was trying to. I was like this, like -- even my  
19 brother was like -- he -- take it. That's what we were  
20 doing.

21 Q. Is it about now where you hear them saying get the  
22 knife, get the knife? Or is it back when you were covering  
23 your brother up?

24 A. All I know is it's shortly before the officers --

1     shortly after I heard the officer yell out, "Get down," and  
2     that's all I remember.

3             Q.   You just said shortly after; do you mean shortly  
4     before the cops got there you heard them talk about the  
5     knife?

6             A.   Yes, shortly before the cops got there.   So yeah, it  
7     was -- yeah.   And I think that's me right here.   No.   I'm --  
8     I know I came back to my brother somehow.

9             Q.   Did you crawl back to him?

10            A.   I think I did.

11            Q.   Speed up just a little bit.

12            A.   Because somehow -- a cop was telling me get down,  
13     but I just kept moving to my brother, I don't -- yeah, there  
14     I am right there.

15            Q.   Now, do you recall, as you guys are laying there,  
16     this guy, this Vago here saying anything to you guys?

17            A.   All I remember is when I was down right there with  
18     my brother, there was another Vago like laying across, I'm  
19     not sure if it was him or another person further away,  
20     telling me not to let my brother go to sleep.   Don't let my  
21     brother close his eyes, don't let him go to sleep, keep him  
22     awake.   That's the only thing, I don't know if it was him or  
23     someone further back.   But I think it was him.

24            Q.   You think it's that guy in the center of the screen

1 there?

2 A. Yeah, I think it's him, because I don't think the  
3 person was that far back, but -- yeah, I think it was him,  
4 telling me -- and I guess he was slapping the ground to try  
5 to keep my brother to stay awake, also.

6 Q. Now, eventually what do the police do with you?

7 A. Do with me?

8 Q. Right, you and your brother. Don't they take you  
9 guys outside?

10 A. Yeah, I was -- they take my brother first, and then  
11 they take me after. But when they take us outside -- when I  
12 got outside, my brother wasn't around. So they sat me on the  
13 curb, and then I guess by that time I started like dozing  
14 off. So they took me to the ambulance, and that's when I met  
15 up with my brother. By the ambulance truck. Truck.

16 Q. Now, and in fact wasn't there a time when you were  
17 sitting outside where some Vagos start using Spanish curse  
18 words against you guys?

19 A. I believe so, yeah. And that's when the officers  
20 had to move us away from everybody.

21 Q. They were calling you a puto in Spanish. But is  
22 that a curse word you understand?

23 A. I don't speak much Spanish, but I know that's a bad  
24 word.

1 Q. It's not one you want to hear.

2 A. Yeah.

3 Q. So you were hearing that from Vagos while you were  
4 outside on the curb.

5 A. I heard everything, yeah. Yeah.

6 Q. And then you and your brother both went to -- and  
7 gave interviews with the police, is that right?

8 A. Yes.

9 Q. And you were photographed at the police station.

10 A. Yes.

11 Q. Do you remember the injuries that you had?

12 A. All I remember is -- maybe I'm overexaggerating, but  
13 my forehead was like out to here, probably. I mean, maybe  
14 I'm overexaggerating, but when I seen my forehead it looked  
15 like that.

16 Q. Looked pretty bad?

17 A. Yeah. And some other scrapes and bruises, but  
18 I'm -- the only thing I remember is my -- looking at my  
19 forehead and --

20 Q. And your brother's forehead was pretty beat up too,  
21 isn't that right?

22 A. I believe so.

23 MR. STEGE: I move for the introduction of a number  
24 of Exhibits in 38. 7, 8, 9, 10, 11 and 12. Of 38 series.

1 THE COURT: Any objection?

2 MR. LYON: No objection, your Honor.

3 THE COURT: Exhibits 38-7, 38-8, 38-9, 38-10, 38-11  
4 and 38-12 are admitted.

5 MR. STEGE: Move is to introduce -- move to publish  
6 these, your Honor.

7 THE COURT: You may publish them.

8 (Exhibit Nos. 38-7 -12 admitted.)

9 BY MR. STEGE:

10 Q. So let's start first with this person 38-8. That's  
11 your brother, is that right?

12 A. Yes.

13 Q. The 7 series of 38? Do you see some injury to his  
14 head?

15 A. Now I'm starting to remember, yeah.

16 Q. 38-10. You see his forehead there, right?

17 A. Uh-huh.

18 Q. Let's talk about you now. 38-11. And 12, here we  
19 see that's the injury to your forehead, right?

20 A. Yeah.

21 Q. What about any injuries after this, like any -- we  
22 just saw this to your face, and overall to your body did you  
23 have any other injuries from this?

24 A. No. No.

1 Q. Now, you were asked what this whole fight was over  
2 by the police, do you remember that?

3 MR. LYON: Objection, leading.

4 THE COURT: Overruled.

5 A. I -- I think I remember, yeah.

6 BY MR. STEGE:

7 Q. Well, did you remember --

8 A. Sorry, it was so long, but I mean, I'm trying to  
9 remember.

10 Q. Did you make this statement that this was over  
11 disrespecting and drugs?

12 A. Respecting and drugs?

13 Q. Disrespecting and drugs, that the whole -- what  
14 happened there at the Nugget was over disrespecting and  
15 drugs?

16 A. I don't remember saying drugs.

17 Q. Do you remember saying disrespecting?

18 A. Probably disrespecting, yeah. But I don't --

19 Q. And why did you use that term, disrespecting?

20 A. Because later on, before the -- the incident, I  
21 found out that we weren't even supposed to be at that hotel.  
22 That wasn't our -- that was their hotel, we weren't even  
23 supposed to be there. So that's what I kind of figured,  
24 okay, well, we disrespected them and, you know.

1 Q. It was a Vagos hotel, and Hells Angels weren't  
2 supposed to be there.

3 A. That's the way I took it, yeah.

4 MR. STEGE: I'll pass the witness.

5 THE COURT: Cross.

6 CROSS-EXAMINATION

7 BY MR. LYON:

8 Q. Good afternoon, sir. I want to start -- you ended  
9 this thing by saying you thought this dispute had to do  
10 something with disrespect, meaning that the Hells Angels  
11 weren't supposed to be at the Nugget.

12 A. Yes.

13 Q. This is something you learned after the fact, true?

14 A. Yes.

15 Q. Okay, and were you aware that the Hells Angels had  
16 stayed there in previous years for Street Vibrations?

17 A. This is actually my first time. My first time going  
18 to -- yes.

19 Q. So you weren't aware that Hells Angels stayed at the  
20 Nugget many years prior to the 2011 Street Vibrations?

21 A. No. No.

22 Q. And you know who Bobby V is?

23 A. Yes.

24 Q. Were you aware that he had been there for many years



1 and had his T-shirt stand outside the Nugget for many years?

2 A. I -- I've known he had a stand out there, but I  
3 don't know where they stayed.

4 Q. And in fact, both Hells Angels and Vagos had stayed  
5 at the Nugget on previous years, were you aware of that?

6 A. No.

7 Q. Never been a problem between the two?

8 A. No, never.

9 Q. Now, back at the Oyster Bar, you had indicated you  
10 were a little nervous just because of the number of Vagos?

11 A. Yes.

12 Q. That showed up?

13 A. Oh, yes.

14 Q. Were you aware at least for the 2011 event that that  
15 was -- they were holding their national convention on the  
16 second floor of the Nugget?

17 A. Not until after -- after the Vagos left the Oyster  
18 Bar.

19 Q. Okay, then you found out?

20 A. Then that's when I started hearing little rumors and  
21 all that.

22 Q. And that's why there was the large number of Vagos  
23 around?

24 A. Yes.

1 Q. And you had indicated at one point in time you had  
2 saw or you had seen some of the Vagos shaking hands with the  
3 patched members of the Hells Angels?

4 A. Oh, yes. Yes.

5 Q. And then everything was fine?

6 A. Yes.

7 Q. No more problems or nervousness, I think --

8 A. Yes.

9 Q. -- as you put it.

10 A. Yes.

11 Q. And then you indicated you left the Oyster Bar with  
12 everybody else.

13 A. Uh-huh.

14 Q. You were walking down what's been classified as the  
15 yellow brick road or the yellow tile pathway?

16 A. Yes.

17 Q. And you were all the way past back by Trader Dick's  
18 by the time you even hear gunshots, correct?

19 A. Yes.

20 Q. So you don't know who is shooting?

21 A. No.

22 Q. You don't know -- do you know that a fight is going  
23 on?

24 A. No, all I saw was just -- well, obviously I kind of

1     figured there was a fight going on when people -- when I seen  
2     all the men just run across, but other than that, no.

3             Q.   You didn't see any Vagos with guns?

4             A.   No.

5             Q.   Any Vagos with knives?

6             A.   No.

7             Q.   Now, I want to go back through the video of the  
8     Horseshoe Bar, because you talked about the fight being  
9     started by -- or at least you were approached by a couple of  
10    individuals. I want to walk through that.

11            First of all, as you're going through, as you see,  
12    you and your brother first show up in this video. I'll slow  
13    it down just a little because I think it is a little easier  
14    to watch as we go through slower.

15            You're not being harassed or bothered by any Vagos  
16    at this point in time, true?

17            A.   True.

18            Q.   They're letting you pass through?

19            A.   Yes.

20            Q.   I think you said you're not sure whether shots had  
21    been fired at this point in time?

22            A.   I'm not really sure.

23            Q.   And really, you had no issues with any Vagos until  
24    you were approached by the two people that you talked about,

1 correct?

2 A. Yes.

3 Q. Let me see if I can get up to that part. So there's  
4 where you come back around with your brother, correct?

5 A. Yes.

6 Q. Is that one of the individuals that was causing you  
7 problems?

8 A. Yes, I believe so.

9 Q. Do you know who that individual is?

10 A. No.

11 Q. Do you know the individual by the name of Gary  
12 Rudnick?

13 A. No.

14 Q. You never met him before?

15 A. No.

16 Q. Would it be fair to say that he was one of the  
17 primary instigators in starting the fight on behalf of the  
18 Vagos with you and your brother?

19 A. I would say so, yes.

20 Q. And --

21 A. Just with me and my brother, right?

22 Q. Correct.

23 A. Yes. Okay, yes, I'd say so.

24 Q. Let me ask you this, had you seen him at the Oyster

1 Bar earlier?

2 A. I -- no, I didn't recognize him at the Oyster Bar.  
3 There was just so many of them there.

4 Q. First time you came in contact with him at least is  
5 what we're seeing here in the video?

6 A. Yes. Yes.

7 Q. Back up to full speed here. Isn't it a fact  
8 Mr. Rudnick is one of the ones that try to take the vest off  
9 you and your brother? Right there?

10 A. Yes. Yes.

11 Q. Is he one of the ones yelling at you, do you know,  
12 get their vest, get their vest?

13 A. I didn't see any faces. I was -- I was, as you can  
14 see, I'm face down. All I hear -- all I do is hear  
15 everything.

16 Q. And again over in this area?

17 A. Uh-huh.

18 Q. Now, is that you or is that your brother down there?

19 A. My brother.

20 Q. Where are you while this is going on?

21 A. Probably --

22 Q. Just on the other side of the path?

23 A. Yeah.

24 Q. Now, he walks away, law enforcement shows up shortly

1      thereafter?

2           A.   I -- yes.

3                Yes, now they -- now they show up, yes.

4           Q.   Did he ever come in contact with you again?

5           A.   My brother?

6           Q.   No, Mr. Rudnick ever in contact with you again, do  
7      you know?

8           A.   No, I didn't even know.

9           Q.   He left the scene, as far as you know?

10          A.   I can't recall, yeah.

11          Q.   Now you talked about this one Vago being on the  
12      ground basically giving you some advice to keep your brother  
13      awake?

14          A.   Yes.

15          Q.   He seemed to be trying to help the situation?

16          A.   Yes.

17          Q.   He wasn't involve in the fight, true?

18          A.   I don't even know, I --

19          Q.   At least from your perspective he's trying to help?

20          A.   Yes, that's -- at this point, yes, that's what he  
21      was doing, trying to.

22          Q.   And you made some reference about somebody saying  
23      something about knives, you were worried about being stabbed?

24          A.   Yes.

1 Q. Fair to say that maybe they were also talking about  
2 just cutting off the vests rather than pulling them off of  
3 you?

4 A. Honestly I don't know what they were talking about,  
5 or trying to do with the knives, I just braced myself.

6 Q. And you never did see any knives, true?

7 A. No. Not until the officers picked us up, then there  
8 were -- our knives were sitting there open around us.

9 Q. Your knives were there?

10 A. Ours and a bunch of other people's knives were  
11 opened around us.

12 Q. Okay. And then you indicated that you went over and  
13 you were in the police van, and you had other Vagos that were  
14 still upset over the situation were calling you names?

15 A. Yes.

16 Q. But there was no confrontation between and you those  
17 Vagos, true?

18 A. No. No.

19 MR. LYON: Thank you. That's all I have.

20 REDIRECT EXAMINATION

21 BY MR. STEGE:

22 Q. You stated on cross-examination I think that you  
23 learned after this that this was a Vagos hotel and HAS  
24 weren't supposed to be there? Or was it the other way

1 around, you learned it before this?

2 A. Before -- before we left the Oyster Bar, that's when  
3 people started talking, not directly to me, but people  
4 started talking around me like we weren't supposed to be  
5 here, and blah, blah, blah, you know.

6 Q. And you were in a Vago bar -- a Vago hotel?

7 A. The hotel, yeah.

8 Q. Now, it was pointed out by the defense attorney that  
9 you were apparently walking through there unmolested right at  
10 the start of this video, no one is harassing you or saying  
11 anything to you, right?

12 A. (Nods head.)

13 Q. But didn't you testify on direct examination that  
14 you were walking with your head down, trying not to make eye  
15 contact with anybody?

16 A. Yeah. Yeah.

17 Q. Because of the tension.

18 A. Yeah.

19 Q. Although none of them were trying -- fighting with  
20 you yet?

21 A. No. No.

22 Q. Or saying anything to you yet.

23 A. No.

24 Q. You were walking with your head down?



1 A. Yes.

2 Q. To avoid a confrontation.

3 A. Yes. Yes.

4 Q. It was also pointed out that a guy -- a fellow by  
5 the name of Rudnick, right? Let's start here at 23:28:33.  
6 Now, you testified it was those two guys who were -- you turn  
7 around, there were two guys saying stuff to you, right?  
8 Including the guy they're calling Rudnick.

9 A. Yes.

10 Q. Was it in fact those three guys or three different  
11 bald guys followed you and your brother?

12 A. Well, now that I see them, yes.

13 Q. And do you know which of those was the one who first  
14 started pushing you or calling you guys MF'ers?

15 A. From what I'm seeing, the one on the -- on my left  
16 was the one that pushed my brother first.

17 Q. And then it kicked off from there.

18 A. Then that was it.

19 Q. Was it just that Rudnick guy who was hitting you?

20 A. No, it was all three of them probably, or -- because  
21 when they pushed my brother, I went to get my brother, and  
22 that was it.

23 Q. Let's circle some more faces, here. You've got this  
24 guy kicking you, you've got this guy here, you've got this

1     guy here, there's three so far, right? There's a guy putting  
2     a couple kicks to you guys. A guy throwing a cooler at you.  
3     A guy kicking you again. Two guys going after your vest.  
4     Three guys going after your vest, isn't that true?

5             A. Yes.

6             Q. A couple more kicks. In fact, when we saw it before  
7     we saw -- punching you guys, kicking you guys. Now, would  
8     you say it's not that Rudnick guy who is attacking you, it  
9     was actually a group, wouldn't you say?

10            A. Oh, yeah, it is a group, yes.

11            Q. It's the whole group of these Vagos?

12            A. Yes. Yes.

13            Q. Was on you guys.

14            A. The whole group, yes.

15            Q. So you wouldn't say in characterizing this fight  
16     that this was Rudnick's fight against you, would you?

17            A. No, I wouldn't, like, specifically put everything on  
18     him, but --

19            Q. You would say this is a group fight.

20            A. Yeah.

21            Q. A Vago fight.

22                   MR. LYON: Your Honor, leading. Leading, your  
23     Honor.

24                   THE COURT: Sustained.

1 MR. STEGE:

2 Q. How would you characterize it?

3 A. We got jumped. By a group of Vagos.

4 MR. STEGE: Pass the witness.

5 RECROSS-EXAMINATION

6 BY MR. LYON:

7 Q. And who was kind of leading the charge? That was  
8 Mr. Rudnick, true?

9 A. The one on the left, of my left, yes. Was the one  
10 that --

11 Q. And Mr. Gonzalez was not a part of any of this  
12 dust-up that you're aware of, true?

13 A. I don't even know -- I just -- I'm barely seeing  
14 this right now. As far as what I'm seeing now, everything  
15 is -- I never seen any faces, and so forth, just only --

16 Q. Only what you're seeing on the video?

17 A. What I'm seeing right now, yes.

18 MR. LYON: That's all I have.

19 THE COURT: May this witness be excused?

20 MR. STEGE: Yes, thank you.

21 MR. HOUSTON: Yes, your Honor.

22 THE COURT: Thank you, you may step down, you are  
23 excused. Counsel approach.

24 (Unrecorded discussion at the bench.)

1 MR. HOUSTON: Thank you, your Honor.

2 THE COURT: Okay, ladies and gentlemen, I did go a  
3 little bit past this afternoon, because we want -- I wanted  
4 to finish up with that witness. So tomorrow we're going to  
5 start again at 7:30 in the morning, and we should be finished  
6 by 2:30.

7 We're on schedule. But we're still -- on schedule,  
8 so we're not ahead of schedule. But during this break I want  
9 you to remember the admonition I've given you at all the  
10 other breaks. That is that you may not form or express any  
11 opinion about the ultimate outcome of this case. You may not  
12 speak of the case to anyone or allow anyone to speak of the  
13 case in your presence. This includes discussing this case on  
14 the internet, in internet chat rooms or through internet  
15 blog, internet bulletin boards such as Facebook or Twitter,  
16 e-mails, or text messaging. If anyone tries to communicate  
17 with you in any way about this case, notify the court  
18 immediately. Do not read, watch or listen to any news  
19 reports or any other accounts about the trial or anyone  
20 associated with the case.

21 Do not do any independent research on any of the  
22 parties, groups or laws involved in this case, including  
23 consulting dictionaries, searching the internet or other  
24 reference material. Do not make any investigation about the

1 case, independently go to the Nugget or through the internet.

2 Ladies and gentlemen of the jury, we'll see you  
3 back tomorrow at 7:30. You may leave the courtroom.

4 (Jury absent.)

5 THE COURT: Please be seated. Counsel, do we have  
6 any issues to discuss outside the presence of the jury?

7 MR. HALL: You know, I did want to bring up one  
8 issue. When Gary Rudnick testifies, you know, his statement  
9 indicates that he knew the defendant, and that the defendant  
10 would drop a gun off at his house when he'd go to Mexico to  
11 pick up drugs. So, you know, when he testifies, I would  
12 assume that that's how he's going to explain how he knows the  
13 defendant.

14 So I want to make a record as far as the Court's  
15 ruling on that testimony.

16 THE COURT: Okay. When do you anticipate he will  
17 be here?

18 MR. HALL: Wednesday.

19 THE COURT: So the Court will need a Petrocelli  
20 hearing on that.

21 MR. HALL: Yes.

22 THE COURT: Will he physically not be available  
23 until Wednesday, or can we do it tomorrow after court  
24 recesses?

1 MR. HALL: He won't be here until Wednesday.

2 THE COURT: Okay. We could --

3 MR. HALL: I don't think. I mean, I think that's  
4 what -- I think that's how we have it scheduled.

5 THE COURT: Well, the time -- we have to do a  
6 hearing.

7 MR. HALL: Right.

8 THE COURT: And we have to do it not during the  
9 jury's time. So we have Tuesday after 2:30, or we have  
10 Wednesday after 2:30.

11 MR. HALL: Right.

12 THE COURT: Because we're using early mornings we  
13 don't have that time, and we don't have a lunch hour, so

14 MR. HALL: I'll see if I can get him here, then,  
15 tomorrow.

16 THE COURT: Okay, that will be fine. We'll just  
17 work around that. Just let us know.

18 MR. HALL: All right.

19 THE COURT: Okay? And we will have that hearing  
20 before he testifies.

21 MR. HALL: Okay.

22 THE COURT: Okay? Anything else? All right, thank  
23 you. Court is in recess.

24 (Recess.)

53

Code No. 4180

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

Morning Session

Tuesday, July 30, 2013

Reno, Nevada

COPY

Reported By: SUSAN CULP, CCR No. 343



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

2 -oOo-

3 THE COURT: Good morning, Counsel.

4 ALL COUNSEL: Good morning.

5 THE COURT: Is there anything that you need to do  
6 outside the presence of the jury?

7 MR. HALL: Yes, may we approach?

8 THE COURT: Yes.

9 (Discussion at the bench.)

10 THE COURT: Please bring the jury in.

11 (The jury entered the courtroom.)

12 THE COURT: Counsel, will you stipulate to the  
13 presence of the jury?

14 MR. HALL: Yes, Your Honor.

15 MR. HOUSTON: Yes, Your Honor.

16 THE COURT: Thank you. Please be seated. Good  
17 morning, ladies and gentlemen of the jury.

18 JURORS: Good morning.

19 THE COURT: Welcome back. We are going to proceed  
20 with more testimony today. Mr. Hall, please call your next  
21 witness.

22 MR. HALL: State calls Dr. Clark.

23 (The witness was sworn.)

24 ///

25 DR. ELLEN CLARK,

1           **having been first duly sworn, was examined**

2           **and testified as follows:**

3           **DIRECT EXAMINATION**

4   BY MR. HALL:

5       Q     Good morning, ma'am.

6       A     Good morning.

7       Q     Would you state your name and spell your last name?

8       A     Ellen Clark.   E-L-L-E-N, C-L-A-R-K.

9       Q     What is your occupation?

10      A     I'm doctor of medicine, and I specialize in anatomic,  
11   clinical, and forensic pathology.

12      Q     And would you tell the jury a little bit about your  
13   background training and experience, with respect to your  
14   current position?

15      A     Yes.   I received my doctorate of medicine degree from  
16   Texas Tech University in 1984.   I then transferred to the  
17   University of Texas in San Antonio, where I completed a portion  
18   of the an accredited residency training program in anatomic and  
19   clinical pathology.

20            In 1987, I transferred to the University of New  
21   Mexico, where I completed subspecialty training in a fellowship  
22   in pathology.   In 1989, I moved to Reno and took a position  
23   with a private practice group as a hospital-based and forensic  
24   pathologist in Washoe County.

25      Q     What is a pathologist?

1       A     In general, pathology is the medical specialty which  
2 deals with designing tests, performing those tests, and  
3 rendering diagnosis in all types of cases. We typically break  
4 pathology down into anatomic and clinical pathology. Anatomic  
5 is the performance of diagnosis and studies on solid tissues  
6 that may range from cells on a microscopic slide up to  
7 intra-operative biopsy diagnosis, such as for a cancer case or  
8 something of that nature. And ultimately, we conduct autopsy  
9 examinations.

10           Clinical pathology is more commonly known as  
11 laboratory medicine. And it looks at performing tests and  
12 making diagnoses on body fluids, such as blood and urine.  
13 Forensic pathology is a subspecialty within pathology. That's  
14 primarily charged with conducting examinations in unexpected,  
15 unattended, unusual, and particularly violent death cases.

16       Q     You mentioned that you perform an autopsy when you're  
17 trying to determine cause of death and manner of death, is that  
18 correct?

19       A     That's correct.

20       Q     And what is manner of death?

21       A     First of all, manner of death describes the  
22 circumstance under which death arises. It looks at conditions  
23 of death and typically falls into five major categories, which  
24 include homicide, suicide, accident, natural, and occasionally  
25 undetermined manners. We also look at the cause of death,

1 which is simply the disease or injury that causes death.

2 Q Now, you mentioned an autopsy being a procedure that  
3 is conducted to determine cause and manner of death, is that  
4 accurate?

5 A That's correct.

6 Q All right. You do that pretty much every case?

7 A Yes.

8 Q And your current position is what?

9 A I'm presently the Chief Medical Examiner and the  
10 coroner for Washoe County.

11 Q And what are the duties of the Chief Medical Examiner  
12 for Washoe County?

13 A The Chief Medical Examiner conducts the investigations  
14 and autopsy or postmortem examinations in deaths under the  
15 circumstances that I've described. That is unattended death,  
16 unusual, unexpected, or unexplained death. The medical  
17 examiner is a physician specialized in forensic pathology in  
18 order to -- who looks at these cases and renders diagnoses or  
19 opinions about how the individual died.

20 Q Now, can you briefly describe the process, the autopsy  
21 process?

22 A Yes. The autopsy is conducted in several phases.  
23 First of all, the body is attended at the scene of death or  
24 death pronouncement, and that attendance is conducted by a  
25 medical examiner death investigator. The investigator attends

1 the scene, documents findings at the scene, and facilitates the  
2 transport of the body back to the medical examiner or coroner's  
3 office. The body is preserved as best as can be accomplished  
4 in the condition in which it's discovered dead or pronounced  
5 dead.

6 The body is then examined first externally, all the  
7 while looking for evidence of disease or injury, which would  
8 account for a cause and a manner of death. The body is then  
9 cleaned and re-examined, all the while collecting evidence and  
10 documenting findings by photograph. And, ultimately, we  
11 conduct a internal examination through large surgical-type  
12 incisions, again, in order to identify cause and a manner of  
13 death.

14 Q Now, where -- you conducted an examination and an  
15 autopsy of Mr. Pettigrew on or about September 24th, 2011?

16 A Yes.

17 Q All right. And where was he pronounced dead?

18 A Mr. Pettigrew died at the Renown Trauma Center  
19 hospital.

20 Q All right. Dr. Hulka was there and pronounced him  
21 dead?

22 A That's correct.

23 Q And then you performed an autopsy on Mr. Pettigrew to  
24 determine cause and manner of death, is that accurate?

25 A Yes.

1 Q Now, are autopsies documented through photography?

2 A Yes.

3 Q And, during the course of your autopsy, did you take  
4 photographs to document the process?

5 A Yes. I did not personally take the photographs  
6 because, during the examination, we are conducting the  
7 examination, so we have autopsy assistants and forensic  
8 investigation personnel who attend the autopsy and take the  
9 photographs for documentation.

10 Q You would direct which photographs to take?

11 A Yes.

12 Q Did you have a opportunity to review those photographs  
13 that we wanted to used to for your presentation?

14 A Yes.

15 Q And do they accurately depict Mr. Pettigrew in the  
16 process that would allow you to describe cause and manner of  
17 death?

18 A Yes.

19 MR. HALL: Your Honor, I move for admission of a  
20 39-series of photographs. They are photographs numbered 66,  
21 58, 59, 62, 63, 64, 67, 69, 48, 51, 61, 56, 55, and 57. Those  
22 are all in the 39-series.

23 THE COURT: I'm not sure I have all of those.

24 Any objection?

25 MR. HOUSTON: No objection, Your Honor.



1 THE COURT: Exhibits 39-66, 58, 59, 62, 64, 67, 48,  
2 51, 61, 56, 55, and 57 are admitted.

3 MR. HALL: I think we missed 63, Your Honor.

4 THE COURT: Did I miss 63?

5 THE COURT CLERK: You did.

6 THE COURT: 63, then, is also admitted.

7 MR. HALL: Thank you.

8 (Exhibits 39-66, 39-58, 39-59, 39-62, 39-64, 39-67, 39-48,  
9 39-51, 39-61, 39-56, 39-55, 39-57, and 39-63 admitted into  
10 evidence.)

11 BY MR. HALL:

12 Q What I would like to do now, Dr. Clark, is go through  
13 these photographs that we reviewed earlier, and I would like  
14 you to describe each photograph. Would you do that for us?

15 A Yes.

16 Q Showing you what has been marked for identification as  
17 39-66.

18 A Would you like me to use this screen or the large  
19 screen?

20 Q Whichever one you feel most comfortable using. Of  
21 course, the one in front of you can -- you can tap and identify  
22 certain things that may be important for the jury to look at  
23 and consider.

24 A Okay. The first photograph is what is referred to as  
25 a identification photograph. It's taken near the outset of the

1 autopsy, but in the case of Mr. Pettigrew, he was received from  
2 the hospital with very extensive medical therapy. This  
3 included chest tubes, a breathing tube, various bandages,  
4 intravenous lines, all of which had been inserted or put to the  
5 body in a effort to accomplish resuscitation.

6           So this photograph is actually taken after the body  
7 had been cleaned and the therapy largely removed. You can  
8 appreciate that there is a breathing tube that protrudes from  
9 the front of the mouth. There was, initially, tape and straps  
10 attaching that tube. This picture is significant because it  
11 shows, to some extent, the habitus of Mr. Pettigrew. He was  
12 approximately 6 feet -- between 6 feet and 6 feet 1 inch in  
13 size and weighed approximately 215 pounds.

14           His weight was performed before the therapy had been  
15 removed, and so it's my estimate that the weight is an  
16 overestimate. Mr. Pettigrew probably weighed closer to  
17 approximately 200 pounds. You can appreciate in this  
18 photograph that there is a large area of injury to the front of  
19 the nose, more to the left of midline. There are also some  
20 injuries towards the nasal bridge and towards the right  
21 eyebrow.

22           Q     Showing you now Exhibit 58.

23           A     Exhibit 58 shows a more detailed photograph of  
24 Mr. Pettigrew's head, in particular, the region of the eyebrow  
25 or the upper eyelid on the right and the right nasal bridge.

1 When we conducted the autopsy examination, as I indicated, we  
2 look for any evidence or of injury or disease that might  
3 account for the cause of death.

4 These injuries were conspicuous, partly because they  
5 were located on the face and the head, but they have features  
6 of relative sharp cutting along the edges with little abrasion.  
7 We typically categorize injury as sharp force, blunt force, and  
8 gunshot wound. But there may be overlap or combination of  
9 those injury-types in one aggregate of wounds.

10 So, primarily, this injury, which was a puncture-type  
11 wound on the right nasal bridge, has relatively sharp or  
12 discrete margins without extensive bruising or tissue bridging,  
13 that is, irregular tearing of the tissue. So that's highly  
14 characteristic of sharp force injury.

15 Back towards the right eyebrow or upper eyelid region  
16 also shows fairly sharp edges with appointed extremity. And  
17 those features are, once again, characteristic of sharp force  
18 trauma.

19 There are some areas of more extensive bruising with  
20 some irregularity of the margins that may be more  
21 characteristic of blunt trauma or tearing or splitting trauma.  
22 So, in aggregate, these wounds have features primarily  
23 consistent with sharp trauma, but there are also some elements  
24 of blunt or tearing, crushing trauma.

25 Q So would these injuries be consistent with either a

1 knife or a glass or both? Or like a bottle being smashed on  
2 his face?

3 A That's a possibility. There may be elements of both  
4 sharpened edges and more blunt edges in the implement that  
5 created those wounds.

6 Q So it could be either -- either one or both?

7 A Yes.

8 Q You can't really tell?

9 A Correct.

10 Q But there are elements of both sharp force injuries,  
11 as well as blunt-force trauma on Mr. Pettigrew's face?

12 A Yes.

13 Q Showing you now Exhibit Number 599.

14 A This exhibit shows Mr. Pettigrew's nose and some of  
15 the injuries on his nose. For reference, the mustache is in  
16 this region. And the tip of the nose is at the front of the  
17 photograph, the ala or the right side of the edge of the nose  
18 is where I just indicated. You can appreciate that the flap of  
19 the front of the nose continuing onto the left side is  
20 partially detached, or we call it evulsed, from Mr. Pettigrew's  
21 face.

22 You can see that, along the lower edge there, again,  
23 are those elements of sharp force injury, that is a relatively  
24 smooth cut without extensive abrasion. But there are also, in  
25 other portions of the wound, some areas of scalloping or

1 regular contours to the wound margin and some abrasion or  
2 crush-type injury.

3 The nose was literally detached in a flap, so that  
4 there were other areas that showed injury, for example,  
5 continuing onto the left nasal ala or breathing hole region,  
6 and you can see, again, that these have some sharp margins or  
7 relatively crisp and discrete margins. So this also had  
8 features of combined blunt and sharp trauma.

9 Q Now, you say -- was this injury fairly deep? Was the  
10 cut deep?

11 A Yes. It disconnected, basically, the left side of the  
12 nose from the rest.

13 Q So in layman's terms, in lay terms, if I said half his  
14 nose was almost cut off, would that be accurate?

15 A That would be accurate.

16 Q 39-62 is our next photograph.

17 A This photograph shows the back of Mr. Pettigrew's  
18 legs. When he was received at autopsy, there was obvious  
19 deformity of the right lower leg. In fact, it had been  
20 remotely or previously amputated through the mid portion of the  
21 lower leg through the tibia and fibula. There was a  
22 well-healed amputation margin, and there was initially a leg  
23 and foot prosthesis attached to the right.

24 This is important because, at autopsy, in addition to  
25 looking for injury and disease, we are obligated to conduct a

1 positive identification. This was one of the identifying  
2 features, and there was, ultimately, a positive identification  
3 accomplished by fingerprint comparisons.

4 I would also point out in this photograph and all of  
5 the photographs, when you see the scale, it has the case  
6 session number. And it's also consistently oriented, so the  
7 top of the body is at the top of the numbering, and the bottom  
8 of the body is below the numbering.

9 Q Do you remember how old Mr. Pettigrew was?

10 A He was 51 years old.

11 Q Showing you now Exhibit No. 63 -- 39-63.

12 A Again, at the early phase of the examination, this  
13 shows the back of Mr. Pettigrew with obvious evidence of trauma  
14 or injury that might account for a cause of death. In  
15 particular, you can see the back. Some of these areas of  
16 marking, where the body appears dark colored, are livor mortis  
17 or livor mortis. That is a passive pooling of the blood  
18 towards the gravity dependent areas that occurs after death.  
19 So I would point out those do not represent injuries.

20 What you can appreciate in this photograph are bullet  
21 wounds. There are actually two towards the back torso of the  
22 body, one toward the buttock region, one somewhat higher up on  
23 the back. And you may need to move the picture down slightly.  
24 There's also a aggregate -- up slightly.

25 Q Sorry.

1       A     My bad. There's also an aggregate of injuries at the  
2 back of the right arm. And there was one evident towards the  
3 forearm, which I think are shown in more detail in subsequent  
4 photographs, so back of the right upper arm and then down lower  
5 on the forearm. These simply show injuries at the early phase  
6 of the autopsy as we begin to identify them.

7             With gunshot wounds, in particular, we attempt to  
8 identify -- we focus on looking at the proximity of the  
9 shooting. That is how far away the tip of the muzzle is from  
10 the body when the shot occurred. And we also obviously need to  
11 identify what represents a gunshot entrance and what represents  
12 a exit because this allows us to determine the trajectory or  
13 the path that the bullet tracts through the body.

14            In this initial inspection, it appears that each of  
15 these wounds at the back of the body would be gunshot entrance  
16 wounds.

17       Q     Showing you, now, Exhibit 39-64.

18       A     This exhibit is a photograph taken at the later phase  
19 of the examination. In the case of Mr. Pettigrew, there were  
20 numerous injuries, and it is my practice to number the injuries  
21 simply, so that I can describe them, recognize them in  
22 photographs, and refer to them in my examination.

23            So this photograph shows some of the injuries we saw  
24 in the immediately proceeding photograph, but shows many  
25 additional injuries. In particular, I'll identify gunshots

1 number 1, 2, 3, and 4. These all represent gunshot wounds of  
2 entry or gunshot entrance wounds.

3 So at the back right torso of the body, we can see  
4 four gunshot entrance wounds. We recognize an entrance wound  
5 because it's -- in a gunshot case, it's basically a blunt  
6 traumatic injury. The bullet punches from the outside of the  
7 body inside. In doing so, it creates scrapes or abrasions or  
8 bruising on the outer body surface.

9 On the other hand, when the bullet exits, it punches  
10 from the inside of the body to the outside and causes tearing  
11 and splitting of the skin that, typically, has a look that's  
12 different than gunshot entrance. In this case, again, my  
13 determination was that there were four entries at the back of  
14 the body and towards the right torso.

15 In particular, I would point out that, while I spoke  
16 to trying to identify the proximity of firing or how far the  
17 muzzle is from the body, in this case, there was clothing  
18 interposed between the -- the gun muzzle and the body. So the  
19 evidence that we use to make those determinations, such as  
20 gunshot powder or gunshot stippling or partially burned flakes  
21 of gunpowder would have been deposited on the clothing, so I  
22 cannot make that determination in looking at the body.

23 When I describe these wounds then, they are called  
24 indeterminate range wounds, as opposed to close wounds or even  
25 distant wounds or intermediate range wounds. And that is



1 because I don't have sufficient evidence on the body to make  
2 those determinations.

3 In total, there were a minimum of five gunshot wounds  
4 to Mr. Pettigrew's torso, all of which entered towards the back  
5 or the right backside of the body. You can appreciate that in  
6 addition to the one, two, three, four wounds, there are others  
7 that are more atypical or irregular toward the right side and  
8 front of the body.

9 Q Look at Exhibit 39-67.

10 A This photograph shows the right side now and a portion  
11 of the right front, the chest region of Mr. Pettigrew. It  
12 shows one of those gunshot wounds, number two, that is now  
13 towards the back right axillary line region of the body. It  
14 shows additional wounds. In particular, there's another  
15 atypical or irregular gunshot wound that is toward the right  
16 axilla or armpit region.

17 There's also another atypical or irregular wound  
18 toward the right front of the body. Another is here, below the  
19 nipple, but towards the midline and front of the right side of  
20 the chest. And then there's, obviously, a large area of  
21 bruising or injury to the skin and beneath the skin surface  
22 towards the right chest wall below the nipple line.

23 Q We're going to look at 39-69.

24 A This is photograph, again, shows the right side of  
25 Mr. Pettigrew's body, more towards the front aspect. I

1 neglected to point out, in the previous photograph, that you  
2 can see another wound that's toward the outer right side of the  
3 chest wall, and that's a chest tube. That's a therapeutic  
4 incision with a tube inserted to drain blood and decompress air  
5 from the right chest wall.

6 That's a part of the resuscitation or surgical effort.  
7 You can see that these wounds have also now been labeled number  
8 seven, number eight, and number nine. I've already described  
9 them.

10 There is some drying and relatively extensive bleeding  
11 around each of these wounds. In particular, number seven has  
12 some irregular drying. It has a torn, kind of curved or  
13 horseshoe-shaped skin flap, that could be pulled back to  
14 partially attach or close the wound. This is characteristic of  
15 a exit. Remember, the bullet has to penetrate from the inside  
16 of the body to the outside of the body, and it detaches and  
17 splits the skin in doing so.

18 The examination and palpation or feel of this injury  
19 that was towards the right edge of gunshot exit number seven  
20 actually produced a bullet, which is shown in a subsequent  
21 photograph. Gunshots 8 and 9 are both atypical. And that  
22 means that they have, again, mixed features that make it  
23 difficult to determine whether they represent a gunshot  
24 entrance or a gunshot exit.

25 I will say that, in the internal examination, gunshot

1 8 and wound number 9 track together, so that it went beneath  
2 the skin surface and through the soft tissue between them.  
3 There is also extensive bruising for gunshot number 8. Again,  
4 it runs close to the chest tube or the therapeutic device, but  
5 this track generally corresponded to some areas of bruising and  
6 then linking the injury, again, associated with gunshot  
7 wounding that is on the right inner upper arm and toward the  
8 axillary region of the arm.

9 In general, the four gunshots that entered the right,  
10 backside of Mr. Pettigrew's body passed to the front of the  
11 body. Some of them went very slightly upward through the body.  
12 And some of them went very slightly lateral or, in other words,  
13 went from the back of the body or the extreme right side of the  
14 body towards the outer edge of the body. They were all,  
15 essentially, front to back. The gunshot wound number 1 tracked  
16 to the exit number 7, so it went back to front and exited from  
17 number 7.

18 Gunshot wound number 2 tracked from back to front and  
19 to the end of this region of bruising where a bullet was  
20 recovered. Gunshots 3 and 4, again, tracked from back to  
21 front. Number 4 exiting from the irregular wound, number 5  
22 toward the front right side of the body, the flank or fatty  
23 region of the side of the body. Gunshot wound number 3 that  
24 was towards the upper buttock tracked to the front of the body  
25 through the pelvic bone and soft tissue to exit from the front

1 of the body.

2 Q Okay. We are going to look at 39-48.

3 A This photograph shows a closer examination of the  
4 region below the nipple on the right side toward the front of  
5 the chest. It shows, again, the horseshoe-shaped gunshot exit  
6 wound number 7. Now, that area of bruising has been partially  
7 opened through the skin surface, and there is present a bullet.  
8 And this is the gray metal core like region of the bullet. The  
9 bullet has mushroomed or opened up. And there is a plug or a  
10 wad, a packing device that's partially detached from the bullet  
11 center.

12 Q All right. Now, I'm showing you 39-51.

13 A This photograph just confirms the retrieval and the  
14 appearance of the bullet. Again, it's a medium-caliber bullet.  
15 It has some wad or packing that's detached from it, but this  
16 represented the most intact bullet. One of two bullets or  
17 large bullet aggregates that were recovered from the body, this  
18 one towards the right anterior chest wall or front chest wall.

19 Q Exhibit -- photograph number 39-61.

20 A Is there anything higher up on that? Mr. Hall?

21 Q There is.

22 A This photograph shows -- and there may be a subsequent  
23 photograph that shows, in more detail, an aggregate of gunshot  
24 wounds that were actually on the upper inner bicep region of  
25 Mr. Pettigrew's right arm. This shows a complex aggregate of

1 gunshot wounds that appear to represent entry and exit, exit  
2 and reentry wounds.

3           Basically, the bullet has tracked underneath the skin  
4 surface and caused extensive abrasion and concussive injury  
5 with tearing along the track. This did not pass through bone.  
6 It was relatively superficial.

7           It's difficult, again, to determine because of the  
8 irregularity of the bullet track. The irregularity of the  
9 gunshot wounds and the superficial nature with evidence of  
10 entry, exit, reentry, or tangential graze-type injury, how this  
11 bullet traveled through the body.

12           But, if you recall, on the right side of the chest  
13 wall near some of the atypical gunshot wounds, there was  
14 extensive contusions. So this may actually represent one  
15 bullet that's tracking through, multiple times, the arm  
16 entering, exiting, and reentering the chest wall.

17           I should point out because I don't know if it's shown  
18 more discretely or in a subsequent photograph, but there is  
19 also a wound on the inside of the upper arm. It was identified  
20 as wound number 10. Again, the wound numbering does not  
21 reference the order of wounding or the tracking of bullets.  
22 It's just for identification and reference.

23           But there was another wound in the arm itself, very  
24 near the armpit region. So there's an aggregate of complex  
25 wounds that are not deeply penetrating that may represent

1 bullet entries, bullet fragmentation, bullet exits and  
2 reentries in the arm and uppermost torso area of  
3 Mr. Pettigrew's body.

4 Q Exhibit 39-56.

5 A This exhibit, now, shows the right forearm of  
6 Mr. Pettigrew, and, as there were injuries on the inside of the  
7 upper arm, there were also injuries that were complex and  
8 irregular on the forearm. In particular, there were similar  
9 graze-type defects with very extensive tearing and bruising of  
10 the forearm, and there was then a area where the skin had been  
11 torn, and there were fragments of bullets -- bullet embedded  
12 within the forearm.

13 Q Showing Exhibit 39-55.

14 A This shows that area of the forearm now in what we  
15 would call the dorsum or the back of the forearm, if the body  
16 were laid in this position. And this wound has been partially  
17 opened to expose the bullet or bullet fragments that were  
18 recovered from Mr. Pettigrew's forearm.

19 Q Showing you 39-57.

20 A And this shows those bullet components that were  
21 recovered from the right forearm and this is primarily  
22 jacketing. These were each jacketed bullets. You can see the  
23 area that would correspond to the first to the first bullet  
24 recovered where the jacket had opened and, of course, the  
25 bullet mushroomed or folded out with impact.

1           There are other areas of detached jacket, which may  
2 account for some of those irregular wounds on the body,  
3 particularly, in this case, the forearm, where there's  
4 extensive tearing and atypical appearance to the gunshot wound,  
5 and there were also some separate fragments of gray metal or  
6 usually lead core from the bullet.

7           So, in total, there were two bullets recovered or two  
8 aggregates of bullets recovered. The one from the right chest,  
9 relatively intact with all the components of the bullet, and  
10 that from the right forearm, more fragmented and broken and  
11 consisting primarily of the jacket of one of the bullets.

12         Q     Now, those bullets that we talked about are typically  
13 collected in evidence for examination by forensic experts,  
14 people who are educated in the field of comparing guns to  
15 ammunition?

16         A     Yes, the firearms or ballistics examiner.

17         Q     Firearms experts?

18         A     Yes.

19         Q     So Victor Ruvalcaba, who would have been there to  
20 collect that evidence for the Washoe County Crime Lab?

21         A     Yes. At autopsy, the evidence that will be further  
22 analyzed by the toxicology lab or the crime lab or ballistics  
23 or firearms in this case is gathered directly by the forensic  
24 investigation examiner and taken to the crime lab here in  
25 Washoe County.

1           Q     Now, you mentioned, briefly, injuries to the upper  
2 arm, front bicep area, is that correct?

3           A     Yes.

4           Q     You were kind of looking for a photograph that  
5 depicted those injuries?

6           A     Yes.

7           Q     Let me show you photograph 39-52. Is this the  
8 photograph or one of the photographs that you were thinking  
9 about?

10          A     Yes.

11          Q     All right, you want me to display that for the jury?

12          A     Yes. Thank you.

13                This photograph simply shows, again, the complex track  
14 of injury with numerous gunshot defects, some having blunt  
15 changes and some having some sharp margins or torn margins.  
16 But it also shows -- and, for orientation, this is the axillary  
17 fold region. So this would be the hair in the armpit. This is  
18 toward the extreme front of the armpit.

19                It was identified as gunshot number 10. Again, it's  
20 very irregular, unlike some of those that we saw in the back of  
21 the body, which are very discrete, generally round, perforating  
22 defects.

23                Once we get to a contoured or complex portion of the  
24 body where we are dealing with a fragmented missile or other  
25 object, the wounds become more irregular. So, again, there was



1 a number 10 wound, identified an aggregate of number 11 wounds,  
2 and the 12 were those on the forearm.

3 Q So, at the conclusion of the autopsy, were you able to  
4 determine a cause of death?

5 A Yes.

6 Q And what was the cause of death?

7 A I should add that the gunshots that passed from the  
8 back and side torso or chest and abdomen region of  
9 Mr. Pettigrew caused very extensive internal injury. In  
10 particular, there was tearing and fragmentation of the  
11 diaphragm, that is the muscle that separates the chest from --  
12 from the abdomen.

13 There was also complete shredding or fragmentation of  
14 the liver. There was bleeding into the chest wall on the  
15 right. There was bleeding into the chest wall or the cavity on  
16 the left. There were numerous associated rib fractures that  
17 had torn through the internal linings of the chest wall. So,  
18 in my opinion, Mr. Pettigrew died due to gunshot wounds of the  
19 chest, abdomen, and arm.

20 Q What -- did you determine the manner of death?

21 A Yes.

22 Q And what did you determine was the manner of death?

23 A The manner of death was homicide.

24 Q And what is your definition of homicide?

25 A Homicide is, generally, death occurring at the hands

1 of another or other individuals. It can result from the direct  
2 actions or failure to act against another individual who's  
3 injured.

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

5 THE COURT: Cross-examination?

6 MR. HOUSTON: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. HOUSTON:

9 Q Good morning, Doctor. How are you?

10 A Fine. Thank you.

11 Q Doctor, and I'm trying to understand this, and I  
12 appreciate the detail, the description of the entry and the  
13 exits and the number of defects. If you were to simplify it a  
14 bit, how many gunshot wounds do we have here? And I know, when  
15 I say, "wound," I may mean something different.

16 So let me ask it this way: When a person fires a gun  
17 at a person, it enters and it exits, correct? Sometimes?

18 A It may enter and exit. In many cases, the gunshot or  
19 the bullet does not exit the body.

20 Q Okay. And, in this case, we have entry wounds, and we  
21 have exit wounds, as well as we have one where the bullet  
22 remains and another where the bullet remains, correct?

23 A Correct.

24 Q Okay. How many gunshot wounds entered the body,  
25 whether the bullet exited or remained, if you can tell?

1       A     At minimum, there are five gunshot entries on the  
2 torso area. The discrete entries are numbers 1, 2, 3, and 4 on  
3 the back and right side of the body. The more atypical entry  
4 is that at the axillary region or armpit region or outer right  
5 side of the chest. Of those wounds or of those entries, four  
6 bullets exited the body, and one remained in the chest wall.

7       Q     If --

8       A     There is also --

9       Q     I'm sorry. I was just trying to get to the fact, if I  
10 were to sum it up, how many times was he hit by gunfire, if you  
11 can tell?

12       A     Well, when you say, "hit by gunfire," that's different  
13 from how many gunshots were fired. So, in this case, with  
14 Mr. Pettigrew, there were some wounds that may not represent  
15 wounds from a complete or a intact bullet, in particular, those  
16 that are on the extreme upper right side of the chest wall, in  
17 the arm folds, and over the forearm, and the inside of the  
18 bicep region. So, again, in my examination, my opinion is that  
19 there are a minimum of five separate gunshots that involve the  
20 trunk. There may be many separate fragmentary injuries to the  
21 arms.

22       Q     And by, "fragmentary injuries," do you mean that when  
23 the bullet hits, it starts to fragment. And, if it exits, it  
24 may hit another part of the body, as it continues on?

25       A     Partially. Or the bullet may actually fragment before

1 it impacts the body. For example, if there's an intermediate  
2 target. If the bullet is passed through clothing, for example,  
3 and begun to separate, the different components of the bullet,  
4 that is the jacket, the core, some of the fragments of each may  
5 create separate wounds on the body.

6 Q So I think what you said is you think there's minimum  
7 of what I'll refer to as five gunshots that impacted him,  
8 correct?

9 A Correct.

10 Q Okay. It seems as though, from looking at the  
11 photographs and I don't really want to show them again, that  
12 he's hit primarily in the right portion of the back, somewhere  
13 in this area?

14 A That's correct.

15 Q Okay. And then do you have any that are in this area,  
16 meaning the right side?

17 A There are some, if you remember gunshot entry number  
18 4, its a atypical elongate wound. It would have been in the  
19 vicinity -- incidentally, there was clothing present when the  
20 injury occurred, so it may have been in the vicinity of a belt  
21 or a belt line on the pants.

22 That is really pretty much toward the extreme outer  
23 right edge of the back of the body with the entrance towards  
24 the extreme outer right front of the body, so there are some  
25 wounds that -- that do enter towards the side --

1 Q Okay.

2 A -- or backside of the body.

3 Q Almost as if someone were hit on the right side in the  
4 back region over here and then they were turning in this  
5 direction and could have been shot, then, in the right rib cage  
6 side?

7 A That's one possibility.

8 Q Okay. When you talked about the -- the bullets, you  
9 indicated that you had recovered two bullets?

10 A I recovered one relatively intact bullet at the right  
11 side of the front of the chest wall, and there were large  
12 components of another bullet, that is primarily jacketing with  
13 some fragments of the core in the right forearm.

14 Q If appears though -- did it appear as though one of  
15 the bullets was a full metal jacket type bullet and the other  
16 was a different style of ammunition?

17 A I would say that, when you say, "full metal jacketed,"  
18 it's semi-jacketed or hollow point type bullet. So there was a  
19 jacket present, but it's not -- it's a military full metal  
20 jacket.

21 Q Well, I notice -- the reason I asked this is I  
22 noticed, on one of the photographs you had, that -- what  
23 appeared to be a little red plastic piece in the photograph,  
24 was the same type of -- did it appear to be the same type of  
25 ammunition in reference to both bullets is my question?

1       A     Generally, the -- the jackets looked to be of similar  
2 dimension and configuration. Only the jacket -- or, primarily,  
3 the jacket portion was recovered from the forearm wound, But  
4 the general configuration of the bullet and the jacket would be  
5 similar. I would have to defer to the firearms examiner who  
6 can more specifically address that.

7       Q     When we look at the photographs, it seems as though  
8 the bullet wounds are pretty widely spread, is that a  
9 reasonable description?

10      A     Yes.

11      Q     In other words, they are not grouped?

12      A     No. They actually range from being approximately  
13 17 inches below the top of the head to as far as 33 inches  
14 below the top of the head, so, literally, from the armpit area  
15 to the upper buttock area on the back of the body.

16      Q     When you were speaking about some -- and I'll call  
17 them lacerations, and correct me if I'm wrong, in reference to  
18 the face, you indicated that some appear to be, I believe you  
19 said, "sharp-force trauma," but they also had a component of  
20 blunt-force trauma as well, true?

21      A     That's correct.

22      Q     Okay. And you indicated that's something that could  
23 be caused by a sharp object?

24      A     Yes, it may be caused by a sharp object.

25      Q     Now, if I'm not incorrect, I think the State mentioned

1 something about getting hit by a bottle, true?

2 A I believe they asked if a bottle or a broken bottle  
3 may account for those injuries.

4 Q Did you find anything in reference to, for instance, a  
5 nasal fracture?

6 A I did not find a nasal fracture.

7 Q How about a orbital bone fracture?

8 A No, there was not separate facial fractures. In fact,  
9 on the side of the nose where the skin flap was torn back, I  
10 did not find, for example, a cartilage incision or a cut  
11 through the cartilage. I wouldn't expect to see one through  
12 the bone, but I didn't find separate bone injuries.

13 Q Any skull fractures?

14 A No.

15 Q At least from your observation, nothing to suggest  
16 that someone may have been hit with a intact bottle in the  
17 head?

18 A I don't recall any bruises to the head itself. That  
19 is to the scalp.

20 MR. HOUSTON: All right. Thank you very much.

21 Nothing further. Thank you, Doctor.

22 THE WITNESS: Thank you.

23 REDIRECT EXAMINATION

24 BY MR. HALL:

25 Q Doctor, with respect to the grouping of the bullets,

1 now, if somebody gets shot, do they typically stand there like  
2 a -- like a target would stand there, or would you expect the  
3 body to move as it's getting penetrated with metal bullets?

4 A The body certainly may move. Also, I -- you know, I  
5 would point out that the -- gunshot tracks through the body or  
6 the trajectories that I described are just that. They are the  
7 tracks through the body. There was additional examination, as  
8 in-scene reconstruction and evaluation of the circumstances  
9 based upon things, in addition to the tracks through the body  
10 that may help demonstrate more specifically the circumstance.

11 Q Now, you indicated that the -- that Mr. Pettigrew was  
12 shot in the back, is that accurate?

13 A Yes.

14 Q Okay. And were all five bullet tracks consistent with  
15 the shooter being in one area?

16 A That is certainly possible.

17 Q All right. And so, if I give you a hypothetical, so  
18 if Mr. Pettigrew was standing up and he gets shot in the middle  
19 of the back and then starts to fall, let's just assume that the  
20 first shot is the center punch right in the middle of the back.  
21 You indicated that that caused significant injury, is that  
22 right?

23 A Yes.

24 Q The one in the middle of the back. Now, would that be  
25 a debilitating injury? Would that cause somebody to drop



1 pretty quick?

2 A It may. It would cause extensive internal bleeding.  
3 It may not be immediately incapacitating.

4 Q Okay. All right. And you mentioned that these  
5 bullets look like hollow-point bullets?

6 A Yes.

7 Q All right. So those are designed to cause maximum  
8 damage, is that consistent with your knowledge of firearms --  
9 or at least bullets?

10 A Yes. Hollow point bullets have a certain  
11 characteristic for damage.

12 Q All right. I mean, they mushroom out, and they are  
13 supposed to cause a little more damage?

14 A That's correct.

15 Q So, now, in this hypothetical of Mr. Pettigrew was  
16 shot in the back and assuming the first shot hits him in the  
17 back and he starts to go down, that would account for the  
18 bullets being spread out a little bit, in terms of one near the  
19 buttocks, the one on the side in the upper chest arm area,  
20 would that be fair to say?

21 A Yes, that's one possibility.

22 Q Now, Mr. Houston asked you -- he kind of indicated  
23 that there was a bullet going in this -- in from the right  
24 side. Was there a bullet coming in from the right side?

25 A No. The bullet was -- again, all of the bullets or

1 gunshot entry wounds were confined within an approximate one  
2 foot area at the back of the body, so we have entrance 1, 2, 3,  
3 and 4 within this square that's a fairly confined area.

4           The reference to the wound on the right side of the  
5 body would be at the flank region. Basically, if the kidney is  
6 here, the flank, the edge of the abdomen, and the low part of  
7 the back of the chest wall, it would have entered here at the  
8 right side and continued to exit at the right front side.

9           That gun shot wound tracked just through the fatty and  
10 soft tissue that was at the edge of the body. It didn't  
11 penetrate the abdomen cavity or major organs, for example.  
12 Number 3 exited from number 6 through the pelvis. Numbers 1  
13 and 2 exited or ended in a bullet retrieved from the front of  
14 the body and gunshot exit number 7 and the bullet retrieval  
15 site, respectively.

16       Q     So, let's just say you were the person shooting and  
17 I'm Mr. Pettigrew. So, if you were shooting at me, all those  
18 bullets would be pretty much consistent trajectory as I start  
19 to go down?

20       A     Yes. They're -- all of the bullet tracks through the  
21 body are generally -- once again, I believe I already  
22 testified, they are back to front. They deviate very little  
23 from the horizontal plain, so they are kind of straight through  
24 horizontally. Some of them travelled very absolutely upward,  
25 you can appreciate 4 and 5, for example, and some of them very

1 slightly outward and to the lateral aspect of the body. But  
2 the tracks are very similar, back to front in the horizontal  
3 plain or very closely thereto and very slightly outward.

4 Q And then I just wanted to confirm one other point that  
5 I think you made, that the entrance from number 1 corresponded  
6 to number 7 exit?

7 A Yes.

8 Q And then entrance number 2 -- bullet number 2  
9 corresponded to bullet number 1 and the right chest?

10 A Correct.

11 Q And then bullet number 3 corresponded to number 6 exit  
12 point?

13 A That's correct.

14 Q And bullet entry number 4 corresponded to number 5  
15 exit?

16 A Correct.

17 Q And then number 8 corresponded to exit number 9?

18 A Correct.

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

20 THE COURT: Counsel?

21 MR. HOUSTON: Thank you, Your Honor.

22 RECROSS-EXAMINATION

23 BY MR. HOUSTON:

24 Q Doctor, again, excuse me, I'm trying to clarify for my  
25 own thought process. What appears to be the flank is this

1 region here, somewhere in this area right here, correct?

2 A Yes.

3 Q And, if you would, work with me a little. It appears  
4 as though, again, if we have the entry wounds as shown on the  
5 monitor here, 1 is an entry wound, correct?

6 A Correct.

7 Q 3 is an entry wound, correct?

8 A Correct.

9 Q Now, 3 appears to travel across the body and exit  
10 through 6, true?

11 A Correct. It travels from the back of the body to the  
12 front of the body.

13 Q Right. Does that indicate to you that the individual  
14 shot was at an angle at the time the bullet entered? In other  
15 words, it didn't go directly in the back; it actually went  
16 across?

17 A I'm not certain I understand your question.

18 Q If 3 enters here and exits here, it's travelling  
19 across the body in that sense, correct?

20 A My terminology would be from the back of the body to  
21 the front of the body.

22 Q Right. And what about gunshot wound number 4? Is  
23 that an entry?

24 A Yes, I think that's a atypical entry wound.

25 Q And atypical means that it's not a smooth-edged wound?

1 A Correct.

2 Q Okay. And that, again, appears to be front, or excuse  
3 me, back to front?

4 A Yes.

5 Q All right. Now, gunshot wound number 1 exits where?

6 A At the right side of the chest wall, sort of medial to  
7 the nipple line, a few inches below the nipple line.

8 Q Okay. Now, Mr. Hall had done a demonstration for you  
9 like somebody going down and being hit, correct? Do you  
10 remember that?

11 A I don't recall.

12 Q All right. Your indication is that the entry, for  
13 instance, on number 3 exiting on number 6 was travelling  
14 slightly upward?

15 A Yes.

16 Q Okay. No great differentiation as far as it's path,  
17 slightly means slightly, correct?

18 A Well, there are actually measurements made, so -- and  
19 I can refer to those. I don't know if the autopsy report has  
20 been admitted into evidence.

21 Q I don't need the measurements, but slightly to me  
22 means not very much?

23 A It appears it may be up an inch or half an inch.  
24 There will be a scale somewhere on the photograph that might  
25 clarify that.

1 Q Okay. And would that be consistent for all of the  
2 wounds?

3 A Some of them were more flat. That is that the exit  
4 wound was very close in the horizontal distance or the distance  
5 from the top of the head, for example, to the exit. So the  
6 wounds were at very similar heights. I believe one was half an  
7 inch different from the other.

8 Q If somebody is shot in motion, does that also affect  
9 how the bullet travels, whether it be upward or downward,  
10 through the body?

11 A Just --

12 MR. HALL: Objection. Vague.

13 THE COURT: Is that question too vague to answer?

14 THE WITNESS: I don't know if I can specifically  
15 answer that question, but I can address trajectory through the  
16 body.

17 THE COURT: Would you rephrase the question, please?

18 BY MR. HOUSTON:

19 Q When a person is in movement like this, if they are  
20 shot more than one time, the bullet path can be influenced by  
21 their movement as well, correct?

22 A Yes.

23 Q Okay. Thank you. Now, you also indicated there was a  
24 wound to the arm, correct?

25 A That's correct.

1 Q Was it right arm or left arm?

2 A There were several wounds to the right arm.

3 Q Now, would those wounds be sufficient to disable the  
4 arm?

5 A They did not cause bone fractures. I can't say that  
6 they would not have disabled the arm, but they are not  
7 extremely mangling or disabling injuries necessarily.

8 Q If I were holding something I might drop it, correct?

9 A That's a possibility.

10 MR. HOUSTON: Thank you. Nothing further.

11 THE COURT: Anything further, Counsel?

12 MR. HALL: No, I don't have any further questions.

13 THE COURT: Okay. Are you offering Exhibit 39-52?

14 MR. HALL: Yes.

15 THE COURT: Any objection?

16 MR. HOUSTON: No objection, Your Honor.

17 THE COURT: Okay, Exhibit 39-52 is admitted.

18 (Exhibit 39-52 admitted into evidence.)

19 THE COURT: And may this witness be excused.

20 MR. HALL: She may.

21 THE COURT: Thank you. Thank you, Doctor.

22 THE WITNESS: Okay.

23 THE COURT: You are excused.

24 You may call your next witness.

25 (The witness was sworn.)

1 THE WITNESS: Good morning.

2 THE COURT: Mr. Hall?

3 MR. HALL: Thank you.

4 ROBERT WIGGINS

5 having been first duly sworn, was examined

6 and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. HALL:

9 Q Sir, would you state your name and spell your last  
10 name?

11 A Pardon me?

12 Q What is your name?

13 A Robert Wiggins.

14 Q Would you spell your last name, please?

15 A W-I-G-G-I-N-S.

16 Q What is your occupation, sir?

17 A I'm a general contractor.

18 Q All right. And how long have you been so employed?

19 A Since 1982.

20 Q All right. And where do you live?

21 A Chino Hills, California.

22 Q All right. And how long have you lived there?

23 A About 20 years.

24 Q All right. And are you a Vagos member?

25 A Yes, sir.



1 Q And how long have you been a Vagos member?

2 A About 5 years.

3 Q All right. And what's your status in the  
4 organization?

5 A I'm a Vagos.

6 Q All right. What does that mean?

7 A I don't know what you're asking me. I'm a Vagos.

8 Q Okay. How do you become a Vagos?

9 A How did I become a Vagos?

10 Q Yes.

11 A I was asked to join. A lot of friends were Vagos.

12 Q And what do Vagos do?

13 A Ride motorcycles a lot.

14 Q Okay. And is there any kind of a initiation process?

15 A I wasn't initiated.

16 Q Well, do you have to be a prospect before you become a  
17 full-patch member?

18 A I did not.

19 Q So how did you earn your patch?

20 A I was asked to join.

21 Q All right. And that's all you need to do, is somebody  
22 asks you and they hand you a patch?

23 A That's what happened with me.

24 Q Okay. So who is your president?

25 A A man in Orange County.

1 Q And what's his name?

2 A I don't know his real name, sorry.

3 Q What's his nickname?

4 A Dinosaur.

5 Q Okay. What's your nickname?

6 A Bob.

7 Q What chapter are you affiliated with, Bob?

8 A Orange County.

9 Q Okay. Do you know what a wrecking crew is?

10 A Can't say I do.

11 Q Orange County is not the wrecking crew?

12 A I don't know what an Orange -- a wrecking crew is.

13 Q So you've been a Vagos for 4 or 5 years, is that what

14 you said?

15 A About 5 years, yeah.

16 Q All right. Who else is in the Orange County chapter?

17 A Other guys.

18 Q Besides Dinosaur, what are the other guys' names?

19 A Um, Preacher and Tombstone.

20 Q You don't know their real names?

21 A No.

22 Q Do you know how Tombstone got his moniker?

23 A I have no clue.

24 Q How well do you know these people?

25 A They are club brothers, they are friends.

1 Q Are all Vagos brothers?

2 A Well, yeah. We are club brothers.

3 Q All right. And so are there certain rules and  
4 regulations that Vagos have in terms of respecting their  
5 brothers?

6 A There are some.

7 Q All right. Can you explain those to the ladies and  
8 gentlemen of the jury, please?

9 A Yeah, you don't fist-fight a brother. You respect a  
10 brother. You don't steal from a brother.

11 Q Is that it?

12 A About it.

13 Q Okay. Now, do the Vagos have certain identifying  
14 colors?

15 A We wear green.

16 Q Okay. And it is the color green, like your shirt  
17 there, or is there a different green?

18 A No, it's not the same. This is green and white.

19 Q So it's not that green, it's a different green?

20 A I guess, yeah.

21 Q All right. Well, you have -- you have what you call  
22 cuts, right?

23 A Cuts, yes.

24 Q All right. And so Vagos have a common identifying  
25 symbol?

- 1 A Sure.
- 2 Q And what's that?
- 3 A A patch on our back.
- 4 Q What do you call the patch on your back?
- 5 A A patch on my back.
- 6 Q All right. Does it have a specific design?
- 7 A Yeah.
- 8 Q And what's the design?
- 9 A It's a -- what's called Loki riding a wheel.
- 10 Q What's the Loki stand for? What is a Loki?
- 11 A Loki is a Norse God. It comes from -- you know,
- 12 Nordic mythology.
- 13 Q And what does it stand for?
- 14 A Wandering gypsy.
- 15 Q Now, you have cuts, right?
- 16 A Pardon me?
- 17 Q You have a patch yourself, right?
- 18 A Yes.
- 19 Q You sew that onto a jacket?
- 20 A Well, I had it sewn on, sure.
- 21 Q All right. And do you have a bottom rocker? Do you
- 22 know what a bottom rocker is?
- 23 A Yes.
- 24 Q What's a bottom rocker?
- 25 A My bottom rocker is California.

1 Q All right. And did you have any other identifying  
2 rockers, identifying location, or chapter affiliation?

3 A I do not.

4 Q So you didn't have -- did you have any other patches  
5 on your jacket?

6 A Yeah. Well, on the inside of my jacket, but, yeah.

7 Q What patches were those?

8 A I have a secretary patch.

9 Q All right. Are you the secretary of Orange County?

10 A Yes.

11 Q All right. And who is your Sergeant-at-Arms?

12 A We don't have -- we don't have one.

13 Q All right. Who is your vice president?

14 A Me.

15 Q All right. So you're the vice president and  
16 secretary?

17 A Uh-huh.

18 Q All right. And so what does the vice president do?  
19 What are their duties?

20 A Nothing. We just -- I don't really have any. I  
21 just -- it's more of namesake than anything else. Just if the  
22 P is not around, they call me. That's about it.

23 Q All right. So, when they call you, what do they  
24 discuss?

25 A I've never been called.

3412

1 Q And how do you know they would call you if the P is  
2 not around?

3 A Because you're told that the P is on vacation or  
4 whatever, indisposed.

5 Q All right. And there is no Sergeant-at-Arms at Orange  
6 County?

7 A We do not, no.

8 Q How many people in that chapter?

9 A Four.

10 Q And how long has that chapter been in existence?

11 A Over 20 years.

12 Q All right. Do you have regular meetings?

13 A Irregular meetings.

14 Q All right. And what do you call those meetings?

15 A Meetings.

16 Q Have you ever heard the term "church"?

17 A Oh, sure.

18 Q Are sometimes those meetings referred to as church?

19 A No, they are meetings.

20 Q You just call them meetings?

21 A Yeah.

22 Q Do you have meetings with other members of the Vagos  
23 in other chapters?

24 A No.

25 Q All right. Well, did you have some meetings in Reno?

1 A None that I know of.

2 Q No meetings in Reno when you had the National Run?

3 You came to the National Run, right?

4 A Yeah. But I don't know of any meeting -- I was not in  
5 any meetings in Reno.

6 Q Okay. Well, what's the purpose of a National Run?

7 A My purpose was to have a good time.

8 Q Okay. And why were you chasing guys around the  
9 casino?

10 A Pardon me.

11 Q Why were you chasing Hells Angel associates around the  
12 casino?

13 A I was not chasing Hells Angel associates around the  
14 casino.

15 Q What were you doing?

16 A I was sitting in a restaurant. I had just ordered  
17 dinner.

18 Q All right. How did you end up on the floor?

19 A I heard a lot of noise. Came to the door, got kind of  
20 shoved out the door, and knocked to the ground -- not the door,  
21 but the door opening of the restaurant.

22 Q All right. So you have the restaurant opening. How  
23 far do you think you got shoved from this restaurant opening to  
24 where you fell on the floor?

25 A Across the aisle and across from the restrooms. The

1 restaurant is here, and the restrooms are here. I -- I was in  
2 the kind of opening, and it was just this kind of push crowd,  
3 and I ended up stumbling and getting knocked across -- in fact,  
4 the guy that bumped into me apologized to me later. He said,  
5 hey, man, sorry I knocked you down.

6 Q Yeah. When did the guy do that?

7 A Pardon me.

8 Q When did the guy do that?

9 A Because we were at the opening of the door and  
10 everybody was kind of surging out the doorway.

11 Q Why was everybody surging out the doorway?

12 A Because we heard a lot of noise going on, a lot of  
13 ruckus. We kind of all came to the door to see what was  
14 happening, and I got banged into.

15 Q What is happening?

16 A Chaos.

17 Q All right. Can you describe this chaos?

18 A Yeah. Hells Angels were shooting guns.

19 Q You saw that?

20 A Yeah.

21 Q You saw that from the restaurant?

22 A Not from the restaurant, from the aisle way.

23 Q All right. So you got pushed out into the aisle way,  
24 and you were able to see Hells Angels shooting guns when you  
25 got out into the aisle way?



1 A Yeah.

2 Q Who did you see shooting?

3 A Pardon me.

4 Q Can you describe the person that you saw shooting?

5 A No, they were wearing red and white.

6 Q Okay. How far were you from this shooter?

7 A Within 2 feet.

8 Q You were within 2 feet of the shooter?

9 A Yes.

10 Q And he was shooting?

11 A Yes.

12 Q And where were you at this time?

13 A Laying on the ground, fearing for my life.

14 Q Oh, okay. And you mentioned that to the police when  
15 they showed up, right?

16 A No.

17 Q No? As a matter of fact, you told the police woman to  
18 F off, right? "FU, bitch." Isn't that how you responded to  
19 Sergeant Walsh?

20 A You know, I may have. I may have. And I apologize  
21 for that.

22 Q So --

23 A It was probably pretty appropriate at the time because  
24 I was scared to death. And I thought I was going to be killed.  
25 And, as a matter of fact, I'm lucky to be alive today.

1 Q Well, as a matter of fact, you were playing possum,  
2 weren't you?

3 A I was playing possum, so I didn't get shot.

4 Q So you were laying down on your stomach, right?

5 A No, I was laying down on my side.

6 Q All right. And you had your head down playing like  
7 you were either injured or dead or something, right? Isn't  
8 that what you were doing?

9 A I did not have my head down. I was lying on my side.

10 Q And you had the feet toward the aisle, right?

11 A Yes.

12 Q So feet towards the aisle, head toward -- inside next  
13 to a slot machine, right?

14 A Uh-huh.

15 Q So how could you even see these people that approached  
16 if you had your head down on your stomach?

17 A I was laying on -- I did not lay on my stomach. My  
18 head was not down. I've said that a couple of times now.

19 Q All right. So what side were you on? Your left side  
20 or your right side?

21 A I was on my right side. My arm was behind my back. I  
22 was laying on the ground. Two guys were kicking the shit out  
23 of me, and one guy pulled a gun out. One guy had a gun and  
24 started firing it into the crowd.

25 Q Now, he didn't start firing until your buddy,

1 Mr. Gonzalez, shot Pettigrew in the back, right?

2 MR. HOUSTON: Your Honor, I'm going to object to the  
3 classification in reference, "your buddy."

4 THE COURT: Okay.

5 MR. HOUSTON: I think that's inappropriate.

6 THE COURT: I'll sustain the objection at that, but  
7 the question in all other respects is appropriate. You can  
8 answer it.

9 THE WITNESS: I'm sorry.

10 THE COURT: You can answer the question.

11 THE WITNESS: Okay. I don't know when Pettigrew was  
12 shot.

13 BY MR. HALL:

14 Q Well, then how do you know somebody else was firing?  
15 You heard gunshots. You don't know if it was Gonzalez shooting  
16 or somebody else shooting, isn't that correct?

17 A It was somebody else shooting. No, you're wrong. It  
18 was somebody else shooting.

19 Q All right. Well, I've only got one other bullet  
20 strike in that location and one other shell casing in that  
21 location in that aisle where you were laying.

22 A I don't know anything about that.

23 Q One.

24 A I don't know anything about that.

25 Q And I know where that bullet went.

1 A Okay.

2 Q And it didn't go anywhere near you --

3 A Okay. Well, great.

4 MR. HOUSTON: I object. Mr. Hall is testifying.

5 THE COURT: I'm going to overrule. It's  
6 cross-examination. And, if you want me to make a ruling about  
7 whether or not this witness can be led, we can make that  
8 ruling.

9 MR. HOUSTON: I don't think we need to, Your Honor.  
10 May we approach?

11 THE COURT: Certainly.

12 (Discussion at the bench.)

13 MR. HOUSTON: Thank you, Your Honor.

14 BY MR. HALL:

15 Q So your eyes were closed, right?

16 A No.

17 Q Well, did you see Mr. Pettigrew and Mr. Villagrana  
18 approach?

19 A Yes.

20 Q But you were laying down on your right side, playing  
21 possum?

22 A When they first approached me, I was on my hip, like  
23 on my hand and elbow.

24 Q And then you laid down further and played possum?

25 A I laid down further, after I was kicked in the throat,

1 kicked in the chest, and kicked in the head.

2 Q So how many -- you were kicked like 7 or 8 times?

3 A No, 3.

4 Q 3 or 4 times?

5 A 3, maybe. 3.

6 Q All right. And this was in the head?

7 A In the throat, in the back of the head, and in the  
8 chest and shoulder area.

9 Q Okay. Well, I thought you just told me that your legs  
10 were out toward the tile portion of the walkway. Didn't you  
11 just tell me that?

12 A Yeah.

13 Q Moments ago?

14 A Yeah.

15 Q Well, then how were they kicking you -- and let me ask  
16 you another question. Now, if I see -- now, did you perceive  
17 these guys and enemies as a threat to you?

18 A Two guys with guns in their hand? Yeah.

19 Q No question about it. So you were scared, right?

20 A Yes.

21 Q And, now, you're telling me that you put your head out  
22 there, so they could kick your head and your neck, as opposed  
23 to reeling back in fear?

24 A No, that's not what I told you.

25 Q Well, I just -- I can see, on the video, two guys

1 kicking?

2 A Uh-huh.

3 Q And, if you're scared of these guys, it just seems  
4 common nature. I mean, it would be a normal reaction for a  
5 person to back up, so they don't get hit in the head, right?

6 A I'll tell you again.

7 Q And you're telling me that they kicked you in the neck  
8 and the head?

9 A Yes, they did.

10 Q Doesn't make any sense?

11 A Maybe not to you.

12 Q I mean, you didn't lead with your head. Did you say,  
13 hey, guys, want to kick me in the head? Or are you going to  
14 back up? What did you do?

15 A Are you trying to get a rise out of me?

16 Q I'm trying to get the truth out of you.

17 A I'm telling you the truth.

18 Q I want to get the truth.

19 A I'm telling you the truth.

20 Q Okay. So answer the question, then.

21 A The question is?

22 Q You were scared. Did you put your head out there for  
23 them to kick? Or did you back up?

24 A I was trying to get out of the way, so I guess that  
25 would be back up.

1 Q How far did you get when you were backing up?

2 A Not very far..

3 Q What were you doing there, anyway?

4 A I just -- I told you, about ten minutes ago, I got  
5 knocked down.

6 Q Okay. And you got knocked down -- if I understood  
7 your testimony correctly, you got knocked down as this surge of  
8 people pushed you out there, right?

9 A Yeah.

10 Q You weren't chasing anybody?

11 A No.

12 Q Okay.

13 (Media played.)

14 BY MR. HALL:

15 Q So if we go to camera 3, did you see the initial  
16 fight? And do you see these people running -- running towards  
17 the restaurant -- towards Rosie's? Did you see any of that?

18 A No, I was in the restaurant.

19 Q Okay. With your -- with your buddy Preacher and  
20 Dinosaur and Tombstone?

21 A No.

22 Q Other Vagos?

23 A Other people.

24 Q Other Vagos?

25 A There was a couple of Vagos there.

1 Q How many Vagos were there with you?

2 A There might have been two.

3 Q Two Vagos?

4 A Yeah, a couple girlfriends.

5 Q Okay. So, when you got pushed out, there was about  
6 two Vagos with you?

7 A There was probably 20 people trying to come out of  
8 that restaurant.

9 Q Okay. Were they Vagos, or were they just other  
10 people?

11 A There were Vagos. There were people.

12 Q So was the surge of people, was it Vagos, or was it a  
13 mix of other people?

14 A A big mix of other people, just a big -- a bunch of  
15 people trying to get out of the restaurant.

16 Q So your testimony -- why was everybody trying to get  
17 out of the restaurant? What was going on in the restaurant  
18 that made you want to get out of there?

19 A I couldn't tell you, man. We came to the door, and it  
20 was just chaos. There were people running everywhere. There  
21 were people screaming, shouting. There was glass breaking. It  
22 was nuts.

23 Q Where was the glass breaking?

24 A I could hear glass breaking everywhere.

25 Q Okay. But you still have -- I still don't have a



1 clear understanding of why people were leaving the restaurant?

2 A You'd have to ask them that.

3 Q Okay. Why were you leaving the restaurant?

4 A I wasn't. I was standing in the doorway.

5 Q Okay. So you were standing in the doorway, and you  
6 get pushed out? So you weren't leaving voluntarily?

7 A I was not leaving voluntarily.

8 Q And so there's group of people pushing you. Did you  
9 see anybody wearing red before you left voluntarily?

10 A No, I don't think so.

11 Q Didn't notice any guy that may have been affiliated  
12 with the Hells Angels, by virtue of his red hat, red T-shirt,  
13 black vest?

14 A No.

15 Q Didn't notice that guy?

16 A Can't say I did, no.

17 Q Didn't notice another guy with a black vest and a red  
18 hat in that general location, in front of the bathrooms?

19 A Not at that time, no.

20 Q Okay. So do you have any idea as to why all those  
21 people were running down towards the Trader Dick's bar, any  
22 idea at all?

23 A I don't -- well, I don't remember anybody running  
24 towards the bar. All I remember is people surging out of the  
25 restaurant with all this noise, and, I mean, it was pretty

1 nuts. People -- women screaming, people yelling and shouting.  
2 It was crazy.

3 Q Okay. So I'm trying to figure out the source of this  
4 craziness. All these people running down. What's the source  
5 of that?

6 A I don't -- I don't know.

7 Q Why are they doing that?

8 A I don't know.

9 Q No idea?

10 A Well, I do now.

11 Q But, at that time, you didn't?

12 A No.

13 Q All right. And so, now, is it your opinion that they  
14 were chasing those Hells Angels?

15 A No. My opinion, now, is that when they heard and saw  
16 or -- what was going on and all this chaos, I think people were  
17 trying to get out of the way.

18 Q Oh, okay. So they were getting out -- so those people  
19 that were running down towards the Trader Dick's bar area were  
20 trying to get out of the way? And that's what you were trying  
21 to do?

22 A I said I don't know about anybody running towards  
23 Trader Vic's or Dick's bar.

24 Q Okay. I've got Exhibit 130 here. Let me just  
25 acquaint you with this diagram here.

1 A Okay.

2 Q Just take a minute. Take a look. Are you familiar  
3 with -- can you recognize what that depicts?

4 A No, I don't.

5 Q All right. Let me help you out here.

6 A Yeah, please.

7 Q All right. So, do you remember where that fish tank  
8 bar -- remember the fish tank?

9 A I think that's like -- if I'm facing --

10 Q Here is your fish tank.

11 A Okay. So --

12 Q Here is Rosie's.

13 A Here is Rosie's.

14 Q See, it says, "Rosie's," right here?

15 A Okay.

16 Q This is the men's and women's bathroom?

17 A Okay.

18 Q So you're in Rosie's with two people?

19 A There was -- there was maybe five of us at the table.  
20 There was a couple of girlfriends, friends, yeah, yeah. I was  
21 at Rosie's.

22 Q Okay. So your testimony was that people come out of  
23 Rosie's, and they start running down toward the fish tank,  
24 right?

25 A No, my testimony is not that people start running

1 toward the fish tank. I haven't said that to you, yet.

2 Q So your testimony is that they didn't do that?

3 A No, my testimony is I didn't see them do that. I  
4 didn't say anybody running towards the fish tanks. That's what  
5 I'm saying to you.

6 Q Okay. All right. Now, if we move -- you're familiar  
7 with the area that this video depicts, correct? Are you  
8 familiar with what camera 3 depicts?

9 A Uh-huh.

10 Q And we are at 23:26:09. Now, have you heard gunshots  
11 by this time?

12 A Um, no.

13 Q Didn't hear any gunshot?

14 A No.

15 Q So did you hear glass breaking?

16 A Yeah. Yeah, I did.

17 Q So why did you -- why did you go to the front of  
18 Rosie's? I just want to make sure I understand that.

19 A No, I heard -- what I said was we heard noise. We  
20 heard shouting. And somebody at the table said, what the hell?  
21 We got up, came to the doorway, and it was like everybody in  
22 the restaurant was trying to get out the doorway. I don't  
23 know, maybe try to see, I don't know. I don't know. I got --  
24 I got slammed into -- the whole crowd is moving.

25 Well, you've got the thing. And I end up laying on

1 the ground or on my -- my hip, kind of sitting and leaning on  
2 the ground across the aisle between two rows of slot machines.  
3 I think they called that The Yellow Brick Road or something  
4 like that.

5 Q Okay. All right. Now --

6 A Just like that. Just this crazy surge. My God, there  
7 were people everywhere.

8 Q I just want to open this in slow motion.

9 (Media played.)

10 BY MR. HALL:

11 Q All right. Are you friends with the Hells Angels?

12 A Sorry?

13 Q You're friends with Hells Angels?

14 A I am.

15 Q Okay. You're not aware of any rivalry, are you?

16 A No.

17 Q I mean, everybody gets along great, right?

18 A Everybody gets along. We have mutual respect for each  
19 other. The people I know --

20 Q Mutual respect, love, and friendship -- brother,  
21 right? That's kind of how you guys --

22 A I have somebody very close to me that's a Hells Angel.

23 Q Okay.

24 A And he has nothing but respect and love for me.

25 Q All right. Well, can you describe what's going on

1 here? Let me know -- now, do you see the guy in the Hells  
2 Angels attire, at least, dressed in red?

3 A Where?

4 Q Right there. Right there, 23:26:16. See this fella  
5 with the red hat on?

6 A Uh-huh.

7 Q Okay. Now, could you associate that individual with  
8 Hells Angels based upon his attire?

9 A Based upon just a red hat, no.

10 Q What about the red shirt and the black vest? Would  
11 that give you a clue?

12 A If you say that's a red shirt. I thought he was  
13 shirtless. Okay.

14 Q Here is the shirtless guy. See, he's a got a red hat  
15 on, too?

16 A Okay.

17 Q And a black vest?

18 A Yeah.

19 Q Can you associate that individual with the Hells  
20 Angels?

21 A No.

22 Q Now, is this that surge of people? Now, so it's your  
23 opinion that this group of people are just normal customers and  
24 other people that are just going to see what's going on in the  
25 casino, is that your testimony?

1 A Sure.

2 Q So that's what's happening? These people are just  
3 curious onlookers, going out to see what's happening, right?

4 A Yeah.

5 Q Remember that fella that we just saw in the video,  
6 with the red shirt and the red hat?

7 A The first guy?

8 Q The first guy.

9 A Okay.

10 Q And you didn't think that you could identify him as  
11 being affiliated with the Hells Angels?

12 A Okay. Yeah.

13 Q Okay. It's that guy, right?

14 A I don't know.

15 Q Well, isn't that the guy that was being chased?

16 A Pardon me?

17 Q That's the guy that was being chased, right?

18 A I haven't seen anybody being chased.

19 Q Okay. Well, the point here is do you see the  
20 red-and-white supporter patch on his jacket?

21 A Yeah.

22 Q Anyway, this is -- can I have this marked as State's  
23 next in order, please?

24 THE COURT CLERK: Sure. 156 marked.

25 (Exhibit 156 marked for identification.)

1 MR. HALL: Move for admission of 156.

2 MR. HOUSTON: No objection, Your Honor.

3 THE COURT: Exhibit 156 is admitted.

4 (Exhibit 156 admitted into evidence.)

5 BY MR. HALL:

6 Q Why don't you go ahead and take a look at that? You  
7 can see it better close. Do you see the little patch on his  
8 jacket that says, "red-and-white supporter"?

9 A Yes.

10 Q What does that mean?

11 A That he's a red-and-white supporter.

12 Q What's a red-and-white supporter?

13 A I would guess that's a guy that is a Hells Angel  
14 supporter, whatever they call a supporter.

15 Q All right. So it would be pretty obvious that that  
16 guy is supporting the Hells Angels?

17 A Okay.

18 Q To somebody who is familiar with bikers, biker world,  
19 and is good friends with Hells Angels, that would be you,  
20 right?

21 A I said a Hells Angel.

22 Q All right. Well, if your friends with a Hells Angel,  
23 I'm assuming that you know a little bit about the Hells Angels.  
24 Do you know a little bit about the Hells Angels?

25 A A little bit.



1 Q Do you know that they wear red and white? They  
2 have -- 81 is their number, right?

3 A Yeah.

4 Q Vagos are 22, correct?

5 A Uh-huh.

6 Q Right. And they have a similar structure as the  
7 Vagos, is that correct? President, vice president --

8 A I couldn't tell you. I'm not a Hells Angel.

9 Q Okay. All right. Well, back to what we were talking  
10 about before and that was this surge of people?

11 A Yeah.

12 Q So these are just a surge of people that are just  
13 coming out to see what's going on?

14 A Okay.

15 Q That's your testimony, correct?

16 A I know I was coming out to see what was going on. I  
17 can't tell you what everybody else was doing.

18 Q Okay. Now, are you involved in this group, kind of at  
19 the lead of the pack here, which would appear to be chasing the  
20 Hells Angel 81 support person, named Jimmy DeRosa?

21 A I don't know that name.

22 Q All right. Well, I'm just letting you know that this  
23 individual depicted in 156?

24 A Uh-huh.

25 Q His name is Jimmy DeRosa.

3432

1 A Okay.

2 Q And he testified, yesterday, that he was running for  
3 his life. People were chasing him.

4 A Well --

5 Q Were you part of that group chasing him?

6 A No, I wasn't chasing anybody.

7 Q Who is this individual right here?

8 A Looks like me.

9 Q That is you, isn't it?

10 A If you say so. It looks like me.

11 Q What are you doing there?

12 A I don't know.

13 Q Chasing Jimmy DeRosa? Are you denying that?

14 A I've told you four times. I was not chasing anybody.  
15 I'm too fat and old to chase people.

16 Q Then why do you have your fists clenched?

17 A If you say that's a fist, fine.

18 Q I don't see anybody pushing you. Who's pushing you at  
19 that point?

20 A I don't see anybody pushing me at that point, either.

21 Q So what are you doing? Chasing Jimmy DeRosa?

22 A Number 5, no. I did not chase anybody.

23 Q Just a curious onlooker at this point?

24 A Whatever you want to call it.

25 Q All right.

1 (Media played.)

2 BY MR. HALL:

3 Q So how far did you go down toward the Trader Vic's  
4 bar? You admit, now, you were heading down towards the Trader  
5 Vic's bar, correct?

6 A Well, Trader Dick's bar is that direction.

7 Q Right.

8 A So, yeah, I'm moving that direction.

9 Q All right. How far did you get?

10 A About two banks of slot machines, I think -- can I  
11 point?

12 Q Yes.

13 A I think I fell in here.

14 Q Okay. Well, the question is how far did you continue  
15 down towards the bar, do you recall?

16 A Not -- no. I mean --

17 Q Okay. So did you fall right there? Is this when you  
18 fell?

19 A I think so. I think it was right there. I think,  
20 in-between those two banks of slot machines outside of the  
21 ladies restroom there, that's where I went down.

22 Q Okay. And did you bump your head or anything when you  
23 fell down?

24 A No, I did not.

25 Q Okay. So you fell down and decided to lay there and

1 take a little rest?

2 A No.

3 Q Why were you laying there?

4 A Because I couldn't get up.

5 Q Why couldn't you get up?

6 A Because I got knocked down to the ground.

7 Q Who knocked you down?

8 A Pardon me?

9 Q Who knocked you down?

10 A A friend of mine actually bumped into me.

11 Q Okay. So he was going -- he was that curious  
12 onlooker. He was just going down to see what was going on, as  
13 well?

14 A I couldn't answer that.

15 Q Who was that friend?

16 A A friend of mine named Dave.

17 Q And Dave who?

18 A Dave Storvis.

19 Q Okay. So Dave knocked into you?

20 A Uh-huh.

21 Q And you fell down?

22 A Uh-huh.

23 Q And you couldn't get up?

24 A I -- I was unable to get up fast enough, no. I  
25 couldn't get up. I've got bad knees, bad hips, bad back. I've

1 got a lifetime in construction. I'm telling you, I didn't  
2 chase anybody. I fell down. I couldn't get up.

3 Q And you couldn't get up because your bad back, your  
4 bad knees, you didn't feel good. Anything else?

5 A At that point, and it seems like it was right then, I  
6 got kicked.

7 Q Right then. So, as soon as you fell down, boom,  
8 kicked?

9 A Within reasonable seconds, yes.

10 Q Okay. And do you know who kicked you?

11 A I do not. A guy kicked me.

12 Q Okay. And the first kick, where was it?

13 A Like here. It was like a glancing blow across my jaw  
14 and in my throat.

15 Q Okay. And this is when you're laying down on your  
16 side now, is that right?

17 A No. I was kind of up. I was on my hip and kind of on  
18 my side. I took this -- this kick. I went down. I took  
19 another blow to the chest or -- you know, in here, and then I  
20 took a blow to the back of my head, and so, now, I'm laying  
21 down completely.

22 Q Okay. Did you see these two guys coming that were  
23 going to kick you?

24 A I didn't see two guys coming. I saw one guy -- I  
25 really saw one guy coming.

1 Q So he's coming at you, and you were scared, right?

2 A Yeah, I was very scared.

3 Q All right.

4 A He had a gun in his hand. I was very scared.

5 Q All right. So you would have gone down right about  
6 now, right? So, if we are looking at camera 3, we are looking  
7 at 23:26:40, is that correct?

8 A Somewhere in this -- it had to be somewhere in this  
9 time, yeah.

10 Q And it's your testimony that these people that kicked  
11 you were upon you in seconds, right, just immediately?

12 A It seemed like they were right there, yeah.

13 (Media played.)

14 BY MR. HALL:

15 Q And is this you sitting right there?

16 A Yeah, that would be me there.

17 Q Okay. And you couldn't -- you couldn't get up?

18 A I don't -- I don't think -- no, I -- I couldn't.

19 There it is.

20 Q All right?

21 A There it is again. Geez.

22 Q All right. So, when you see these guys coming, you're  
23 scared, right?

24 A Yes.

25 Q And is it your testimony that this fella in the

1 red-and-white shirt, he had a gun?

2 A They both had guns.

3 Q All right. Well, where is the gun in his hand?

4 A I don't know. They both had guns.

5 Q Well, I can't see one, that's the problem. Can you  
6 see one and can you point to the gun that the guy in the  
7 red-and-white shirt has?

8 A With a crappy video, no. I can't see guns, no. I  
9 can't see the expression on their face, and I can't see the  
10 color of their eyes.

11 Q And you're laying back now, right? Now, you see them,  
12 and you're squared, right?

13 A Yeah.

14 Q And you didn't put your head out there to get kicked,  
15 did you?

16 A Why would I do that?

17 Q You retreated, right?

18 A Why would I do that?

19 Q Exactly.

20 Now, your earlier testimony is that they were shooting  
21 now. So is this when they were shooting?

22 A No.

23 Q You said, "I was scared for my life." So when is the  
24 shooting?

25 A Shortly right after I got kicked is when the

1 shooting -- I remember the shooting started.

2 Q All right. So that's when Gonzalez started shooting  
3 then, right, because you didn't see either one of these guys  
4 shoot, did you?

5 A I saw the big guy was standing over the top of me,  
6 unloading a gun into the crowd.

7 Q He didn't shoot you?

8 A He was going to.

9 Q Okay.

10 A He pointed right at me, and I laid there, thinking,  
11 please, don't wound me. If you're going to shoot me, please  
12 kill me. I laid there looking at him, looking at that gun. I  
13 got a wife and family at home. I was scared shitless.

14 Q Okay. Well, everybody has got a wife and family at  
15 home, right?

16 A Not that I know of, but --

17 Q Okay.

18 A Okay.

19 Q Well, that guy did. Did you know that?

20 A No, I did not.

21 Q Well, when they come up and kick you, they don't say  
22 anything, do they?

23 A I'm sorry.

24 Q Did they say anything?

25 A Somebody said, "You motherfucker," and kicked me in



1 the throat.

2 Q And is that when Gonzalez shot Pettigrew in the back,  
3 right there?

4 A I didn't see anybody shoot anybody in the back.

5 Q Okay. Did you see any injuries on these guys?

6 A On who?

7 Q On Pettigrew, the guy that's kicking you, did you see  
8 any injuries on him?

9 A I don't even remember seeing him. I didn't even know  
10 who he was.

11 Q Okay. So did you play possum when they approached, or  
12 did you play possum later?

13 A I played possum after I was being kicked, and I saw  
14 one of those guys with a gun -- the big guy with a gun in his  
15 hand. And I laid there with my eye like this, looking at him.

16 Q So as soon as you saw them approach?

17 A Looking at the gun. Pardon me.

18 Q You saw them approach, you saw a gun, you laid down  
19 and played possum, is that correct?

20 A No.

21 Q So you got kicked first and then played possum?

22 A I got kicked first. I saw a gun in his -- in  
23 somebody's hand and a gun firing into the crowd. And that's  
24 when I laid there, not moving, playing possum.

25 Q All right. Where was the crowd?

1           A     I have no idea. I was laying on the ground, fearing  
2 for my life.

3           Q     Which where were they firing?

4           A     Over me.

5           Q     Which way was over you?

6           A     You want a north, south, east, west? Put that floor  
7 plan back up there, I'll tell you.

8                     Okay. Show me Rosie's. I think -- where is the  
9 restrooms?

10          Q     You're laying right here. This is where you are,  
11 in-between slot banks 628 and 624?

12          A     Okay.

13          Q     Excuse me, 618 -- 618 and 624.

14          A     All right. I'm upside down. If I'm -- in here,  
15 you're saying?

16          Q     I'm saying you are right here.

17          A     I see a guy with a gun -- I see a guy with a gun  
18 shooting this way. He emptied that gun into the crowd.

19          Q     Okay. Can you tell me which guy that was?

20          A     Looks like the guy on the left. I remember a big guy.  
21 It was just a big guy. I remember a big-ass foot. A really  
22 big foot.

23          Q     All right. So saying it was (indicating)?

24          A     I think it was that guy, yeah.

25          Q     Okay. He emptied his gun?

1 A Pardon me?

2 Q He emptied his gun into the crowd?

3 A Yes.

4 Q At that location?

5 A Yeah.

6 Q And you remember that?

7 A I remember that.

8 Q How many shots?

9 A It seemed like it went on forever. I don't know 8, 9.

10 Q All right.

11 A It was an automatic gun, so -- and -- and he emptied  
12 the magazine, all right. I remember that.

13 Q You think you -- is it possible that you had a -- that  
14 you're mistaken between him shooting and the defendant shooting  
15 Pettigrew in the back? Could you be mistaken there?

16 A The defendant was not standing over the top of me  
17 shooting into the crowd.

18 Q Okay. So you're positive you saw him emptying a gun,  
19 7, 8 shots, no question about it?

20 A Yeah.

21 Q Okay.

22 A Yeah.

23 Q Now, Pettigrew was shot, right?

24 A Yeah.

25 Q He was lying right next to you?

1           A     You know what, I didn't see him until they stood me  
2 up, and I asked -- I actually asked the deputy after or  
3 whatever the officer was, I asked him how is he doing? I  
4 didn't even -- I saw some guy laying there -- you know, I saw  
5 his legs, and the cop looked at me and shook his head. I  
6 didn't know until -- actually, excuse me, sorry. I didn't  
7 know, until a couple of days later, that somebody had even been  
8 killed. I didn't know.

9           Q     Okay. How long were you at that -- at that location,  
10 when you were down on the ground? For quite a while, I guess,  
11 until the police came, right?

12          A     Yeah. I heard dogs, I mean, it's like the sound all  
13 of a sudden, kind of a lull, and I heard dogs, officers came  
14 in. Yeah, yeah.

15          Q     And you were -- you were in the same position when the  
16 police came as you were when you were getting kicked, right?

17          A     Yeah, I was trying to get up. At that point, I was  
18 trying to get out of there.

19          Q     All right.

20                                 (Media played.)

21 BY MR. HALL:

22          Q     So if we go to camera 61 --

23          A     There's people laying all over the place.

24          Q     So camera 61, at 23:33:36, shows you on the ground,  
25 right? That's you?

1 A That's me?

2 Q That's you.

3 A Okay.

4 Q Okay. So that would have been your orientation,  
5 right, because you didn't move, that's where you were. So,  
6 when those guys came, that's where you were. That's where your  
7 feet were. That's where your head was.

8 A Okay.

9 Q That's you, right?

10 A Okay. I don't disagree with you, but -- okay.

11 Q Do you agree or disagree?

12 A Yeah. Okay. If you say that's me, all right.

13 Q Well, I mean, you would agree that, when the police  
14 came, they had to jump on top of you and handcuff you. And you  
15 were cussing at them, right?

16 A No, nobody jumped on top of me.

17 Q Nobody jumped on top of you? They had to push you  
18 down?

19 A No.

20 Q That didn't happen?

21 A No.

22 Q Okay. You didn't say, "FU bitch," to Sergeant Walsh?

23 A You know what, I don't remember saying that. Maybe I  
24 did. I've already apologized, and I do mean that.

25 Q Okay.

1 A I shouldn't have said it, if I did say it.

2 Q Right.

3 A What I remember is her asking me if I had been hit,  
4 and the other guy yelling at me, that he was going to taze me  
5 if I didn't lay down. I was looking at her, and she was  
6 talking to me.

7 Q And then did you apologize to her later?

8 A No, I'm apologizing right now. I did not apologize to  
9 her later.

10 Q Oh.

11 A I wanted to get out of there, man, there was -- unless  
12 you've been in some -- I don't know if you've ever been in the  
13 service, or you've ever been in a firefight, all you want to do  
14 is get the hell out.

15 Q So, afterwards, you never -- you did establish a  
16 rapport with Sergeant Walsh after this, didn't you?

17 A Um.

18 Q You were sitting there for awhile, correct?

19 A Is she the lady?

20 Q Yes.

21 A No, not really. I took -- I called her Jane Lynch.  
22 She reminds me of that. There was an officer across the way,  
23 obviously, a motor officer. He had a helmet on his hip,  
24 clipped to his belt. I started chatting with him a little bit,  
25 asking him about the kind of helmet he wore, you know.

1 Q Okay.

2 A About it.

3 Q Now, do you know a fellow by the name of Doc?

4 A Who?

5 Q Doc?

6 A Doc, yes. Doc picked me up off the floor, he asked me  
7 if I had been -- if I'd been shot.

8 Q So that was when you were playing possum, right? You  
9 were still playing possum?

10 A This was after everything, and I was playing on the  
11 floor. I wasn't playing possum. This was after everything had  
12 pretty much calmed down. The police were there and -- and he  
13 came over to ask me if I had been -- if I'd been shot, and I  
14 said, no, no.

15 Q You almost got shot by Mr. Gonzalez, right?

16 A I don't know anything about that. I told you.

17 Q You didn't feel any bullets going?

18 A You keep asking me that question, and I keep telling  
19 you the same thing. I don't know anything about Mr. Gonzalez  
20 trying to shoot me.

21 Q Okay. And you don't know anything about Mr. Gonzalez  
22 shooting Mr. Pettigrew.

23 A I did not see anything like that, no.

24 Q And you didn't even realize Mr. Pettigrew had been  
25 shot and was right next to you?

1           A     I did not. All I saw -- I didn't know it was  
2 Mr. Pettigrew. I saw a guy on the ground.

3           Q     You didn't notice those people administering CPR or  
4 attending to a person who is bleeding profusely on the ground  
5 right next to you? You didn't notice any of that?

6           A     No.

7           MR. HALL: No further questions.

8           THE COURT: This is probably a good time to take a  
9 short recess.

10           Ladies and gentlemen of the jury, we will take our  
11 short recess now. During this break, remember the admonition I  
12 gave you at the other breaks. Do not form or express opinions  
13 about the ultimate outcome of this case. Do not discuss this  
14 case with each other or anyone else. Do not allow anyone to  
15 speak to you or attempt to influence you, in such regard, about  
16 the case.

17           Let me know if anyone tries to do that. Do not make  
18 any independent investigation or inquiry into any of the facts  
19 and circumstances surrounding this case. And do not read,  
20 listen, or view any news media regarding the case. Go ahead  
21 and go into the jury room for our first recess.

22           Court is in recess.

23                     (A break was taken.)

24           THE COURT: Thank you. Please be seated.

25           Is the jury ready to come back?



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

2 THE COURT: Any reason not to?

3 Okay. Please bring the jury in.

4 (The jury entered the courtroom.)

5 THE COURT: Counsel, will you stipulate to the  
6 presence of the jury?

7 MR. HOUSTON: Yes, Your Honor.

8 THE COURT: Thank you. Please be seated. You may  
9 continue your inquiry -- begin your inquiry.

10 MR. HOUSTON: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. HOUSTON:

13 Q Good morning, Mr. Wiggins. How are you?

14 A All right.

15 Q Been better?

16 A I'm all right.

17 Q Sir, there were a lot of specific questions asked of  
18 you during a period of time you referred to as chaotic and  
19 frightening, true?

20 A Yes.

21 Q And would you agree with me that there may be some of  
22 the finer details that you've overlooked or mistaken?

23 MR. HALL: Objection, leading.

24 MR. HOUSTON: It's cross, Your Honor.

25 THE COURT: Counsel, approach.

1 (Discussion at the bench.)

2 THE COURT: Ladies and gentlemen of the jury, if you  
3 will excuse us for a few minutes, I'd ask that you go into the  
4 jury room. Remember the admonition that I gave you at the last  
5 recess. Go ahead and go into the jury room.

6 (The jury left the courtroom.)

7 THE COURT: Counsel, do you want to -- I'll ask you in  
8 a second -- now, the jury left the courtroom. Sorry. I  
9 thought they were further in the door. Would you like the  
10 witness to remain on the stand during this hearing, or do you  
11 want him to step outside?

12 MR. HALL: He can sit right there.

13 THE COURT: Okay. Go ahead, Mr. Hall.

14 MR. HALL: Sir, did you meet with defense counsel last  
15 night?

16 THE WITNESS: Yesterday afternoon, yeah.

17 MR. HALL: Okay. And you talked about your testimony  
18 here today, right?

19 THE WITNESS: Yeah, yeah.

20 MR. HALL: Look at some video?

21 THE WITNESS: Uh-huh.

22 MR. HALL: All right. Read some transcripts?

23 THE WITNESS: No.

24 MR. HALL: Look at your statement?

25 THE WITNESS: No.

1 MR. HALL: Okay. But you prepared. And so you're on  
2 their side, right?

3 THE WITNESS: I'm not on any.

4 MR. HALL: You're supporting Mr. Gonzalez, right?

5 THE WITNESS: I'm not on anybody's side. I'm here to  
6 tell the truth.

7 MR. HALL: All right. Well, how come when we called  
8 you, you said, "I don't want to talk to you," and you slammed  
9 the door in Detective Gallup's face?

10 THE WITNESS: I didn't slam the door in his face. I  
11 told him I don't know -- I don't want to talk to you, and I  
12 closed the door. I said -- actually, I said I've got nothing  
13 to say. That was exactly what I said.

14 MR. HALL: So you slammed the door in his face, but  
15 you willingly met with him?

16 THE WITNESS: I didn't slam the door in his face.

17 MR. HALL: All right. And you didn't talk to us,  
18 either? I did call you, right?

19 THE WITNESS: No, you've never called me.

20 MR. HALL: I tried to call you and left a message.

21 THE WITNESS: No, you haven't.

22 MR. HALL: Yeah.

23 THE WITNESS: No, you haven't.

24 MR. HALL: I call my investigator, Mr. Stone --

25 THE COURT: We can't do it in the middle of this

1 witness, but you can call him in just a minute. Do you have  
2 any other questions for this person?

3 MR. HALL: No, that's good.

4 THE COURT: Sir, will you step down, please? You can  
5 have a seat in the front row of the audience.

6 Mr. Hall, you can call the witness you want to call.

7 MR. HALL: All right. Mr. Stone?

8 JEREMY STONE,

9 having been first duly sworn, was examined

10 and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. HALL:

13 Q Sir, would you state your name and spell your last  
14 name?

15 A Jeremy Stone, S-T-O-N-E.

16 Q What is your occupation?

17 A Investigator with the Washoe County District Attorney.

18 Q Have you been assisting in investigating this case?

19 A Yes.

20 Q All right. And do you recall when the State received  
21 a notice of witnesses from Mr. Houston's office?

22 A Yes.

23 Q And it had phone numbers on it?

24 A Yes.

25 Q Did you sit in my office while we called everyone on

1 that list?

2 A Yes, we did.

3 Q Was Wiggins on that list?

4 A Yes, he was.

5 Q Did we call him?

6 A Yes, we did.

7 Q What happened?

8 A We left a message and never received a return call.

9 Q All right. We talked to other prospective witnesses,  
10 is that right?

11 A Yes, we did.

12 Q All right. And did most of them tell us -- talk to my  
13 attorney, David Houston?

14 A That's correct.

15 MR. HALL: Thank you. No further questions.

16 THE COURT: Did you have any questions?

17 MR. HOUSTON: Yeah, I do, Your Honor. Thank you.

18 CROSS-EXAMINATION

19 BY MR. HOUSTON:

20 Q Sir, didn't they tell you that, if you wanted to speak  
21 with them, they wanted to tell the story once, and they wanted  
22 all of us present?

23 A No.

24 Q When you say you called Mr. Wiggins and you left one  
25 message?

1 A Yes.

2 Q Didn't want to get a hold of him that badly, did you?

3 A We left a message for him to contact us.

4 Q One message?

5 A Yes.

6 MR. HOUSTON: Thank you. Nothing more.

7 THE COURT: Okay. Thank you, sir. You may step down.  
8 Argument?

9 MR. HALL: Yes, Your Honor. It's clear to me  
10 Mr. Wiggins is biased toward the defense. It's clear he does  
11 not want to answer questions, and, now, the defense seeks to  
12 lead a biased witness, who's clearly affiliated with the  
13 Vagos -- closely affiliated with the Vagos. He's been chasing  
14 one of the Hells Angels through the casino.

15 Obviously, he's been a -- less than candid in his  
16 observations, at least with respect to the video and his  
17 recollection of the events. He is clearly biased. He -- it is  
18 the heart of these -- of the defense as we know from  
19 Mr. Houston's opening statement. Obviously, he practiced his  
20 little statement about I was scared of -- for my life, just  
21 wound me, don't kill me -- or kill me -- don't -- don't just  
22 wound me, that is ridiculous.

23 So, based upon all of the facts and circumstances of  
24 this case, I believe it would be -- it would be inappropriate  
25 for him to be allowed to put words in the mouth of a key

1 witness that the jury has to determine the veracity of this  
2 witness in light of his affiliation with the Vagos and his  
3 testimony here on the stand today. Thank you.

4 THE COURT: Mr. Houston.

5 MR. HOUSTON: Thank you, Your Honor.

6 Your Honor, the Court sat through the examination.  
7 Mr. Wiggins answers the questions and, quite frankly, with  
8 quite a bit of reserve, understanding the rude and facetious  
9 attack he was under. If there was bias, it's bias by virtue of  
10 the prosecutor's behavior with the witness, and, as a  
11 consequence, nonetheless, the witness continued to be  
12 forthright and answers questions.

13 When a prosecutor asks him, what are you thinking,  
14 what did you feel, and he says, I was worried about being  
15 killed because a man is standing -- standing over me with a  
16 gun, and the prosecutor is acting as though that's somehow is  
17 contrived, it's ridiculous.

18 Mr. Wiggins answered everything he was asked.  
19 Mr. Wiggins was attempting to tell him, you've asked me that  
20 now one time, two times, three times, four times, five times,  
21 but, nonetheless, continued to answer the questions.

22 To suggest he's biased because he's Vagos certainly  
23 doesn't rise to the level of what the law requires. There's no  
24 relationship between these two. And that's something that  
25 Mr. Hall, of course, didn't delve into because he knows that

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1 Mr. Wiggins doesn't even know Mr. Gonzalez.

2           The consequence of Mr. Wiggins' testimony has been and  
3 continues to be that of a witness called by the prosecutor.  
4 It's also a situation where they claim, well, we tried to get a  
5 hold of him, we called him and left a phone message. Dare say  
6 that, if I came to court and said I tried to get a hold of a  
7 witness and they can't be here and my only attempted contact  
8 was one phone message, I don't think the Court would think  
9 that's sufficient to say that I actually, in good faith,  
10 endeavored to try to talk to a particular witness.

11           The fact is -- and I think as Mr. Wiggins had  
12 indicated -- he just didn't want to be involved. He just  
13 wanted to get out of there. I don't think he wants to be here  
14 today. The prosecutor subpoenaed them. It doesn't give them  
15 the right to simply come in and label everyone as hostile  
16 because they think so.

17           The fact is we've watched his testimony. He was not a  
18 person who didn't answer a question when he was asked a  
19 question. If he had, what I might call a rather poor attitude  
20 toward Mr. Hall, I ask the Court to look at the method in which  
21 Mr. Hall was relating to the witness. As a consequence, I  
22 don't believe he's a hostile witness and, certainly, shouldn't  
23 fall under that definition.

24           THE COURT: Anything further, Mr. Hall?

25           MR. HALL: Yes. First of all, this characterization



1 of me being rude to the witness, I think, is absolutely wrong.  
2 I was not rude to the witness, didn't ever raise voice or  
3 attack or close distance of the witness, in terms of getting in  
4 his face, so to speak, or trying to intimidate the witness, so  
5 there was none of that, and the record should reflect that  
6 there was none of that.

7 The witness, obviously, was trying to be deceptive in  
8 this particular case. The fact that Detective Gallop went up  
9 and try to interview him, and he did slam the door in his face  
10 -- as a matter of fact, we have a tape of him slamming the door  
11 in Detective Gallop's face.

12 That's a clear indication he doesn't want to speak  
13 with us, and the fact that we did call him and leave a message,  
14 we would assume that he is a person that would -- you know, get  
15 his phone messages and return calls. He, obviously, didn't do  
16 that.

17 Close to trial, when we contacted him with respect to  
18 court, he certainly got those messages. He was able to contact  
19 our witness assistance center and respond to those calls, make  
20 reservations, come up here, so he, obviously, had the  
21 opportunity to make contact with our office. He didn't do  
22 that, and he clearly got the messages.

23 So he is a hostile witness, and we would ask you to  
24 find that he is a hostile witness and preclude  
25 cross-examination or leading questions by the defense in this

1 case.

2 THE COURT: Okay. The Court had an opportunity to  
3 listen to the witness's testimony and whether or not he  
4 appeared to be aligned with one side or the other, based upon  
5 his answers to the questions; his reticence to admit his  
6 personal involvement with his group in the Vagos chapter in  
7 southern California; his indication that he is the secretary of  
8 the club, but could not name any persons named; his indication  
9 that they were all good friends of his, but he couldn't give  
10 anything, but a nickname, and had no other identifying  
11 information; the fact that he's wearing a clearly  
12 green-and-white plaid shirt, but didn't want to talk about the  
13 colors and seemed to think the color was the wrong color for a  
14 Vagos and, yet, said he was a Vagos and said he was wearing --  
15 that green was the color.

16 There was a lot involved in his testimony that was not  
17 forthcoming to the direct questions by the State, the close  
18 association, the fact that he said he is a blood brother with  
19 all Vagos, and the vehemence with his statement, the passion  
20 that he used, it is clear he's associated with the Defendant in  
21 this case.

22 For that reason, the Court will find him to be a  
23 hostile witness, in terms -- not hostile in that he was -- he's  
24 beating anybody up, but in the legal term, acknowledging and  
25 will preclude the defense from leading cross-examination, but I

1 will not preclude you from cross-examining. You certainly can  
2 do that.

3 MR. HOUSTON: Thank you, Your Honor.

4 THE COURT: Any reason not to the bring the jury back?

5 MR. HOUSTON: No.

6 THE COURT: We'll bring the jury back in.

7 (The jury entered the courtroom.)

8 THE COURT: Counsel, will you stipulate to the  
9 presence of the jury?

10 MR. HALL: Yes, Your Honor.

11 MR. HOUSTON: Yes, Your Honor. Thank you.

12 THE COURT: Thank you. Please be seated.

13 Mr. Houston, you may continue.

14 MR. HOUSTON: Thank you, Your Honor.

15  
16 ROBERT WIGGINS

17 having been previously duly sworn, was examined  
18 and further testified as follows:

19  
20 CROSS-EXAMINATION (Resumed)

21 BY MR. HOUSTON:

22 Q Mr. Wiggins, what's your profession and occupation?

23 A I'm general contractor in the state of California.

24 Q And how long have you been general contractor?

25 A Since 1982. I'm a general engineering contractor as

1 well.

2 Q Now, do you own your own business?

3 A I'm partner with -- with somebody, yeah.

4 Q How long have you owned your own business?

5 A We've only been together a couple of years.

6 Q Prior to that time, were you a sole proprietor, or did  
7 you work for a company?

8 A I've worked for many large corporations. I've held --  
9 I've held general contractor's license since 1982, and I've  
10 worked for several large corporations.

11 Q Are you married?

12 A Yes.

13 Q How long have you been married?

14 A 26 years of wedded bliss.

15 Q Any children?

16 A Yeah.

17 Q How many kids?

18 A I have three.

19 Q You are a Vagos, true?

20 A Yes.

21 Q And how long have you been a Vagos?

22 A Almost 5 years.

23 Q Tell me, again, how you became a Vagos.

24 A I was invited to join the club.

25 Q Why did you accept the invitation?

1           A     Because we ride. I -- you know, I -- I have kind of  
2 ridden with other groups and just -- these guys were pretty  
3 good guys. They treated me real well. I had some -- some very  
4 close friends that were in -- that were in the club -- and just  
5 pretty cool.

6           Q     Have you ever been in the service?

7           A     No, sir.

8           Q     When -- you indicated you were present for Street  
9 Vibrations in 2011, correct?

10          A     Yes.

11          Q     Had you ever been to Street Vibrations before?

12          A     Yeah, twice.

13          Q     Had you ever seen Hells Angels when you were at Street  
14 Vibrations before?

15          A     Yes.

16          Q     Had you ever stayed at the Nugget before 2011?

17          A     All the time.

18          Q     Have you ever seen, if at all, Hells Angels at the  
19 Nugget?

20          A     Yes.

21          Q     Did you ever notice whether or not there were any  
22 merchandising efforts by the clubs?

23          A     Our club or their club?

24          Q     Both.

25          A     Yes, both.

1 Q And what would that entail, if you know? What did you  
2 see?

3 A T-shirts.

4 Q Okay. I believe, on direct, you indicated that you  
5 didn't feel there was a rivalry, true?

6 A I don't feel there was a rivalry.

7 Q When you came up for Street Vibrations in 2011, what  
8 was your purpose? Why did you come?

9 A I came up to see friends. I had been looking forward  
10 to this run for six months.

11 Q What's -- what's a National Run?

12 A A National Run?

13 Q Yeah.

14 A Is when every chapter -- every charter is invited.  
15 Everybody gets together.

16 Q Why do you look forward to that?

17 A I get to see people that I haven't seen in a long  
18 time, friends that live in other states, there's -- there's  
19 people that come in from other countries. It's just -- it's  
20 lot of fun. I mean, it's just cool to see all these people and  
21 just hang out.

22 Q How -- again, tell me, you're in what charter?

23 A I'm sorry?

24 Q What charter are you in?

25 A Orange County.

1 Q And how many people did you say were in that charter?

2 A There's only four of us now.

3 Q So it's not, by and large, a very large charter -- big  
4 charter?

5 A No, no. It's -- you know, had its ups and downs, but  
6 there's only four of us.

7 Q Is your charter run formally or informally?

8 A It's very informal -- you know, we got a real good P.  
9 He's good guy. He's been around a long time. He's been very  
10 good to us.

11 Q Were there any other members of your charter present  
12 for the September 11th -- excuse me, September 23rd?

13 A Same thing.

14 Q 2011 Street Vibration event?

15 A Yes, all of us were here.

16 Q All right. All four of you?

17 A Well, at that time, there was -- hold on just a  
18 minute. Let me think this through. Two, three, four -- there  
19 were five of us -- there were -- there were six people in the  
20 chapter, and five of us were here.

21 Q When you were at the Nugget on the 23rd, did you check  
22 in that day, or was it another time -- a different day? When  
23 did you get here?

24 A It would have been whatever the Saturday was that --  
25 that late Saturday.

1 Q Okay. You mean Friday or Saturday. I think Friday  
2 was the 23rd --

3 A I'm sorry. We came up on Friday.

4 Q Okay.

5 A And we went home Saturday.

6 Q And when you came up on Friday, how did you get here?

7 A We rode.

8 Q And you rode from Orange County?

9 A Yeah, yeah.

10 Q All right. Now, once you get here, do you remember  
11 what time it was?

12 A I don't think we rolled in until 7:00, 7:30.

13 Q What did you do once you got here?

14 A Went to the room, got cleaned up, agreed to come back  
15 downstairs and meet up. Came downstairs, went to the bar, got  
16 a beer, wandered around, started seeing people, and just kind  
17 of hung out, and we were going to meet at Rosie's later to have  
18 something to eat.

19 Q Did you see any Hells Angels when you were checking  
20 in?

21 A Yeah, all over the place. We were wandering around  
22 outside, and, I mean, there was a hundred of them outside.

23 Q Was that a problem for you?

24 A No.

25 Q When you checked in, you went out and you socialized,



1 true?

2 A Yeah.

3 Q There came a point in time where I think you testified  
4 you were having dinner in Rosie's, right?

5 A We had -- no, we weren't eating. We had just sat --  
6 we all met up, we were actually downstairs -- came upstairs,  
7 agreed to go to Rosie's, sat down at the table. We had just  
8 ordered. I ordered -- yeah, we just ordered.

9 Q How many people at the table, again?

10 A I think there was five of us.

11 Q All Vagos or all -- what was the mix?

12 A There were -- there was -- there was six of us. There  
13 were four Vagos and two ladies.

14 Q All right. And the two ladies were related in some  
15 way to anyone at the table, if you know?

16 A One was a girlfriend, and one was just a friend --  
17 just a friend.

18 Q How long do you think you sat there before things  
19 caught your attention elsewhere?

20 A Maybe 15 minutes.

21 Q Do you recall, specifically, what you heard?

22 A A lot of noise. Just -- not the normal rhythm of  
23 noise. When I say chaotic, it was -- there were people  
24 yelling. I heard glass breaking. I mean, it's -- maybe  
25 even -- I want to say I heard a couple of women scream.

1 Q You've testified you went forward from your table?

2 A Yeah, we -- we -- it was like, what the hell?

3 Everybody -- and it was like everybody in the restaurant. The  
4 restaurant was pretty full for being about 11:00 at night. And  
5 everybody in the restaurant -- I mean, it was like everybody at  
6 once jammed toward -- it was this bottleneck of people toward  
7 -- it doesn't have a door, it's an opening.

8 Q Do you know what other people are thinking?

9 A I'm sorry?

10 Q Do you know what other people are thinking? Can you  
11 read their minds?

12 A No.

13 Q Do you know why other people are doing what they're  
14 doing?

15 A I can only assume, trying to see what's going on out  
16 there.

17 Q All right. Why did you step forward?

18 A To find out what's going on out there.

19 Q Did you have any goal of trying to harm anyone at all?

20 A No. No, no, no. No.

21 Q Did you have any purpose, if at all, consistent with  
22 chasing anybody?

23 A I did not chase anybody.

24 Q When you stepped forward, what happened?

25 A I don't think we ever actually stopped moving. We --

1 we -- it was -- it was kind of like everything was moving  
2 towards that opening. We are kind of -- you know, like this  
3 (indicating).

4 It's like I -- I kind of got -- the whole crowd kind  
5 of surged or moved -- it's kind of like a wave. I mean,  
6 everybody kind of pushed out of the opening. And I got -- like  
7 I said earlier, I got run into -- I was sharing a room with the  
8 guy. He apologized to me, sorry, I knocked you down, man. And  
9 that's what happened.

10 Q Do you remember falling?

11 A Yeah, I do.

12 Q Okay. I want to show you something.

13 MR. HOUSTON: Your Honor, may I ask Mr. Lyon to assist  
14 me with the computers?

15 If we want to keep it working, it's probably a good  
16 idea.

17 BY MR. HOUSTON:

18 Q Sir, if you would, you've got the monitor right in  
19 front of you. And, also, you have a larger monitor right  
20 there. So if you would, I would like you to concentrate your  
21 attention in the very upper right-hand corner, where that  
22 circle has appeared. And, if we could, I would like to play  
23 the video? Now, watch that upper-right corner. Stop right  
24 there.

25 Mr. Wiggins, do you see a person laid out, in what we

1 call The Yellow Brick Road?

2 A Do I.

3 Q Is that you?

4 A I don't -- I can't identify that person.

5 Q You can't see the face?

6 A I don't know if that's me or not.

7 Q Did you get knocked to the ground?

8 A What I know now, that's me.

9 Q Okay. You remember getting knocked to the ground?

10 A Yes.

11 Q All right. Now, we are going to start that running  
12 again, if we could? Why would you crawl out of the way, as  
13 opposed to getting up?

14 A Man, there was people walking towards me.

15 Q Okay. Stop for a second, please?

16 A The wrong people.

17 Q Who do you mean by "those people" are walking toward  
18 you --

19 A I'm seeing lots of red and white coming towards me. I  
20 just wanted to get out of the way.

21 Q All right. And did you see any firearms, in reference  
22 to those people coming toward you?

23 A I clearly remember one firearm.

24 Q Okay. Had you heard what sounded like the retort of a  
25 gun being fired prior to the time you fell?

1           A     Not as -- not at the time I fell.  Not -- no, I don't  
2 recall that.

3           Q     When you fell, did you receive -- or do you recall  
4 hitting the side of your face at all?

5           A     Yeah, yeah.  I -- the reason I fell is that I got --  
6 one of my knees got taken out, okay?  I was slammed into, I  
7 said earlier.  I went down.  These -- I saw several guys  
8 approaching me, and as I was down and kind of like on my -- my  
9 knee, my hip, my side, one of them took a kick to me.  I got  
10 kicked here and in the throat.

11          Q     All right.  And I want to, if we could, continue that  
12 video for a moment.  Can you tell me where you're crawling to,  
13 from what you recall?

14          A     That way towards the -- away from the aisle into the  
15 slot machine area.

16          Q     You've seen the video this morning, true?

17          A     Yeah.

18          Q     You see two individuals on the video that appear to be  
19 kicking, true?

20          A     Yes.

21          Q     Was it you, if you know, that they were kicking at?

22          A     Yes.

23          Q     Where were you hit again?

24          A     Pardon me?

25          Q     Where were you kicked?

1       A     I was hit here and in the -- like, right here. In the  
2 throat. I was hit in the upper body. And I can't say I was  
3 kicked in the back of the head. I took a blow to the back of  
4 the head.

5       Q     And you don't know where that came from because it got  
6 you in the back of the head?

7       A     I do not know where that came from.

8           MR. HOUSTON: Can we flip, Ken, to the other video,  
9 please, the still video?  
10 BY MR. HOUSTON:

11       Q     I want to show you another video which appears to be  
12 almost click, click, click. It's not a fluid motion video.

13       A     Okay.

14       Q     And I want to ask you, again, if we concentrate in the  
15 middle right, do we see your head? Is that your head we see on  
16 the video here?

17       A     That's my head, that's -- yeah. Yes. That's me on  
18 the -- down in the aisle.

19       Q     Right there?

20       A     Yes.

21       Q     So in other words, the head we see --

22           MR. HOUSTON: Ken, can you circle that for me, please?  
23 BY MR. HOUSTON:

24       Q     The head we see right there is yours?

25       A     Yes.

1 Q Now, is your head braced up against something, or are  
2 you just sitting there?

3 A No, I -- I don't think I'm leaned up against anything.

4 Q Well, we see your head sitting straight up?

5 A Yeah. I mean, I -- like my head up against like a --

6 Q Right.

7 A No, I don't think I'm up against the slot machines or  
8 anything.

9 Q At the time you're sitting there, what are you  
10 thinking?

11 A It's -- it's pretty scary. It's -- there's just --  
12 there's not any positive energy going on. I -- I saw a group  
13 of these guys coming towards me. It doesn't seem like it  
14 was -- it seems like it was right after. I'm sitting there,  
15 these guys were approaching me. One of them has got a gun in  
16 his hand, and it's like right after that is when I -- when I  
17 get kicked -- I first get kicked.

18 Q Right before you get kicked, did you say anything to  
19 either Mr. Pettigrew -- Mr. Villagrana or Mr. Pettigrew?

20 A Did I say anything?

21 Q Yeah, did you say anything to him?

22 A No.

23 Q Did you make any threatening moves or gestures?

24 A I was sitting on the floor. No, no, I did not.

25 Q Do you recall hearing anything when they approached,

1     referencing statements made?

2             MR. HALL:  Objection, hearsay.

3             THE COURT:  Sustained.

4             MR. HOUSTON:  The question is just whether he recalls  
5     hearing anything, not what the statement is, Your Honor.

6             THE COURT:  You can answer whether you heard anything,  
7     but not what you heard.

8             THE WITNESS:  Okay.  Yeah, I heard something pretty  
9     loud and clear.

10    BY MR. HOUSTON:

11         Q     Did what you hear alarm you?

12         A     I'm sorry?

13         Q     Did what you hear scare you?

14         A     Not in that instance.  I mean, I was already -- I  
15     mean, things were not going well.

16         Q     Well, you see, on the video, Mr. Villagrana and  
17     Mr. Pettigrew approach you.  What happens once they stand  
18     there, what do they do?

19         A     I got -- I got kicked.

20             MR. HALL:  Asked and answered.

21             THE WITNESS:  Huh.

22             MR. HALL:  Objection.

23             THE COURT:  Sustained.

24    BY MR. HOUSTON:

25         Q     Once you are kicked at, what body position do you then



1 assume?

2 A I was still -- I was still sitting there. I was still  
3 kind of -- I was down, but not laying down.

4 Q Right. Were you, based upon your body position,  
5 accessible to Mr. Villagrana and Mr. Pettigrew?

6 A Yeah.

7 MR. HALL: Objection, speculation.

8 THE COURT: Sustained.

9 MR. HOUSTON: Let's show the video, if we could? If  
10 we can back up to the point, Ken, where they walk up?

11 BY MR. HOUSTON:

12 Q So, again, we have --

13 MR. HOUSTON: If we could, Ken?

14 (Media played.)

15 BY MR. HOUSTON:

16 Q Watch your head. That is your head --

17 MR. HOUSTON: Okay. Stop, please, Ken.

18 BY MR. HOUSTON:

19 Q Now, you also indicated you saw someone with a gun,  
20 true?

21 A Yes.

22 Q Do you see a gun in Mr. Villagrana's right hand?

23 MR. HOUSTON: And, Ken, you can run it more, if you  
24 need to.

25 THE WITNESS: Not in his right hand, no.

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1 BY MR. HOUSTON:

2 Q Left?

3 A Huh.

4 Q Do you see a gun in his hand?

5 A I do not see a gun in his hand.

6 Q All right. Now, I want you to watch the video, and we  
7 are going to watch the entire portion there. And  
8 Mr. Villagrana is the guy you called the big guy.

9 A Back up. There's a gun in somebody's hand.

10 Q Okay. You don't know who Mr. Villagrana is or who  
11 Mr. Pettigrew is, true?

12 A No, no.

13 Q All right?

14 A Well, I do now.

15 Q Right. Now, after this took place, meaning after you  
16 were kicked, do you recall Mr. Pettigrew being on the ground?

17 A I didn't see -- well, directly, yes, but I didn't see  
18 Pettigrew -- I didn't know it was Pettigrew. I saw somebody on  
19 the ground after the police arrived.

20 Q All right. Why -- what were you doing immediately  
21 after the video seems to show you were being kicked at? What  
22 did you do?

23 A I -- well, after -- after that, I mean, I -- I went  
24 down. When I was kicked, I went down. I went fully down on  
25 my -- I was on my side, fully down, and I had -- and I saw the

1 gun -- and I see a gun. And I was laying like this. I was  
2 laying on my side. I had my hand behind my back, and I was  
3 playing possum because I saw the gun. The big guy started  
4 firing the gun into the crowd, and I was laying there like  
5 this, watching him.

6 Q Now, you heard gunshots, correct?

7 A Yes.

8 Q And the other fellow had fallen down, correct?

9 A I don't know.

10 Q Is it possible the gunshots you heard were the shots  
11 that hit Mr. Pettigrew?

12 A No.

13 Q When Mr. Villagrana was standing above you, you  
14 indicated he had the gun, true?

15 A I saw --

16 Q He's the big guy.

17 A -- a man standing over the top of me with a gun.

18 Q Was it pointed at you or not?

19 A Initially, yes.

20 Q At one point, you're sitting -- you're kicked at, you  
21 go down, true?

22 A Yes.

23 Q And then, according to your testimony, the individual  
24 is standing above you with a gun?

25 A Yes.

1 Q You think you're going to be killed?

2 MR. HALL: Objection, leading.

3 MR. HOUSTON: Do you --

4 THE COURT: Sustained.

5 BY MR. HOUSTON:

6 Q Do you think, if at all, you're going to be harmed, in  
7 any way?

8 MR. HALL: Objection, leading.

9 THE COURT: It's asked and answered.

10 MR. HOUSTON: Pardon me?

11 THE COURT: He's already answered that question for  
12 you once.

13 BY MR. HOUSTON:

14 Q What's your frame of mind at this point?

15 A I thought I was going to be shot.

16 MR. HALL: Repetitive, objection, same question.

17 THE COURT: Sustained.

18 BY MR. HOUSTON:

19 Q When you are first contacted by the police, where are  
20 you located?

21 A On the ground, right there on the floor.

22 Q You indicated for Mr. Hall you simply wanted to get  
23 out of there. Do you remember that?

24 A I wanted to get -- I was -- yeah, I wanted to go home.  
25 Yeah, I wanted to get out of there.

1 Q Why?

2 A Truthfully, nobody had done much to take care of us  
3 beforehand. I -- you know, security hadn't done anything.  
4 That hotel was loaded with people. These guys had guns. I  
5 didn't know anybody with guns.

6 Q Had you ever been --

7 A I needed to get out of there.

8 Q Were you worried about other Hells Angels?

9 A Yeah, I was worried about everything, yeah. Yeah, I  
10 was.

11 Q Had you ever been in a firefight before -- a gun  
12 fight?

13 A No.

14 MR. HOUSTON: Thank you. I have nothing further.

15 REDIRECT EXAMINATION

16 (Media played.)

17 BY MR. HALL:

18 Q Did you watch the first part of the video, where the  
19 Hells Angels were attacked by a group of Vagos? Did you watch  
20 this part on monitor 1?

21 A No.

22 Q No? All right. So how many Hells Angels do you see  
23 there, about three or four?

24 A No. I see one.

25 Q Okay. How many Vagos do you see there?

1 A Five, six.

2 Q Okay. Would it be fair to say there's lot more Vagos  
3 than Hells Angels?

4 A Yeah.

5 Q All right. And then, when everybody was running down  
6 from Rosie's, would it be fair to say there was a lot more  
7 Vagos than Hells Angels?

8 A You know what, I can't -- I don't know.

9 Q You don't know?

10 A No.

11 Q You don't know. You don't know if there was more  
12 Vagos than Hells Angels coming out of Rosie's?

13 A Coming out of Rosie's? That's not what you asked me.

14 Q Okay. What did I ask you?

15 A You asked me if there were more Vagos running down the  
16 hallway towards the Hells Angels.

17 Q Okay. Answer that question.

18 A I don't know.

19 Q Okay. You don't know?

20 A What I know was that there were Vagos and people in  
21 Rosie's.

22 Q Okay.

23 A I don't know how many Vagos are running down the  
24 corridor. I don't know how many people were anywhere.

25 Q Okay. Did you know that there was a fight between the

1 Hells Angels and the Vagos?

2 A I did not.

3 Q Okay. Then why were you scared?

4 A Why was I scared?

5 Q Yeah, why were you scared of Hells Angels if you  
6 didn't know there was a fight?

7 A Because one of them had a gun in his hand, and I was  
8 on the ground.

9 Q Well, why would you be scared if you guys are friends  
10 with the Hells Angels. Why is there an issue?

11 A Who says we are -- you're saying that we are friends  
12 with the Hells Angels?

13 Q I asked you if there was a rivalry, you said no.

14 A Does that mean we're friends? If any man, if you or  
15 your big buddy there has a gun pointed at me, I'm going to be  
16 afraid of you.

17 Q And you're saying the gun someone pointed at you?

18 A And a big guy, like your buddy, had a gun in his hand  
19 pointed at me.

20 Q Okay. Well, then, if that was the case, then Gonzalez  
21 shot the wrong guy, right? He should have shot the guy with  
22 the gun in his hand. What's he doing shooting Pettigrew?

23 A I don't know -- I don't know if Mr. Gonzalez shot  
24 anybody. I didn't see anybody get shot.

25 Q Well, his attorney, at the beginning of this case,

1 said he shot Pettigrew. And he said it was all in  
2 self-defense.

3 A Okay.

4 Q And, now, we established Pettigrew didn't have a gun  
5 in his hand. You just testified to that, right?

6 A I said I didn't see a gun in his hand.

7 Q Can't see a gun in his hand. We looked at the video  
8 for five minutes, and there's no gun in his hand, right?

9 A I didn't see a gun in his hand.

10 Q Okay. That's what I'm saying. So why would you shoot  
11 Pettigrew, the guy who doesn't have a gun?

12 A I can't answer -- I don't know. I can't answer that  
13 for you.

14 Q You said there was a hundred Hells Angels. Where did  
15 you see these other Hells Angels?

16 A Outside.

17 Q Outside where?

18 A Outside the casino.

19 Q What time?

20 A Where else would they be?

21 Q What time?

22 A Before dark. So I don't know, 7:30, 8:00.

23 Q Did you see the Hells Angels inside the casino?

24 A Pardon me?

25 Q Did you see a hundred inside the casino?



1 MR. HOUSTON: Timing, Your Honor.

2 MR. HALL: Any time that night, Friday night. We are  
3 talking Friday night.

4 THE WITNESS: I remember seeing --

5 THE COURT: Wait, wait, wait, wait. If he's asking a  
6 question, you have to stop and let him finish.

7 Mr. Hall, you have to let the witness finish. The  
8 court reporter can only take one person at a time.

9 So Mr. Hall is going to ask you another question, and  
10 you're not going to start answering until he's through, okay?

11 THE WITNESS: Okay. Ask me again.

12 BY MR. HALL:

13 Q Friday night.

14 A Yes.

15 Q Did you see Hells Angels inside the casino?

16 A Yes.

17 Q Where did you see them?

18 A All over. Inside the casino, walking the corridor,  
19 going to the rooms, as we were in the elevator, as we were  
20 coming down.

21 Q Were there hundreds inside the casino as well?

22 A Not hundreds.

23 Q Okay. Did you go down to the Oyster Bar?

24 A There were Hells Angels at the Oyster Bar, yeah.

25 Q Did you go down to the Oyster Bar?

1 A Yeah, yeah. We were right there.

2 Q Did you get the call that there was an issue down at  
3 the Oyster Bar and respond to that call?

4 A No.

5 Q Then why did you go down to the Oyster Bar?

6 A I didn't go down to the Oyster Bar. I was hanging out  
7 at the Oyster Bar.

8 Q What time were you at the Oyster Bar?

9 A After we checked in, probably 8:30, just before we  
10 ate --

11 Q All right.

12 A -- or we were going to eat.

13 Q And you didn't go to any of the National meetings, the  
14 8:00 meeting? Didn't know anything about that?

15 A I didn't even know there were any meetings. No, I  
16 didn't, no.

17 Q All right. Now, it is -- now, you saw Mr. Pettigrew  
18 and Mr. Villagrana walking, and a couple of other guys, Andrew  
19 Danley, Eugene Knight, they were walking down your direction,  
20 right?

21 A Yeah, coming up the tiled Yellow Brick Road.

22 Q And it's your testimony that you weren't -- that your  
23 group of Vagos were not chasing anybody, that's your testimony?

24 A Yeah. Our group -- my group -- none of those people  
25 in the restaurant were chasing anybody.

1 Q All right. So, when we are looking at monitor 1, at  
2 23 -- we are going to get to 27 here. Now, at the upper  
3 right-hand corner, you're going to see a lot of people kind of  
4 running towards Trader Dick's, like we discussed earlier,  
5 right? Like right there, there's a whole bunch of people  
6 running towards this group of four Hells Angels, right?

7 A I see a bunch of -- well, it's obvious it's the  
8 proximity of the restaurant doorway, I'll give you that. I see  
9 a bunch of people coming out of there. I see me getting  
10 knocked to the ground, so I see all these Hells Angels down  
11 here picking up shell casings. Somebody has been firing a gun  
12 down there. I didn't hear a gun.

13 Sorry, I just didn't -- I didn't hear any gunfire. I  
14 don't remember any gunfire.

15 Q And nobody is chasing anybody?

16 A Sorry?

17 Q It's your testimony that nobody is chasing anybody.  
18 And if this is you?

19 A I --

20 Q You're at the front of the group then?

21 A I am unaware of anybody chasing.

22 Q I mean this is you?

23 MR. HOUSTON: Your Honor, may the witness please  
24 answer the question?

25 THE WITNESS: Yeah, that's me falling.

1 MR. HOUSTON: As opposed to Mr. Hall testifying?

2 THE COURT: Sir, when a lawyer stands up and objects,  
3 you can't keep talking.

4 THE WITNESS: Okay. Sorry.

5 THE COURT: Because I can't hear you and him and  
6 neither can the court reporter.

7 THE WITNESS: Okay. Sorry.

8 THE COURT: So the objection was that Mr. Hall wasn't  
9 letting him finish his question -- his answer. At this point,  
10 I think that there was a question being asked. The court  
11 reporter will read the that question back, please.

12 (Record read.)

13 BY MR. HALL:

14 Q And that -- I was referring to this area right here.  
15 This is the upper right-hand corner at 23:27:07?

16 A That's me. That's me going down.

17 Q So you're, essentially, leading the pack at that  
18 juncture, right?

19 A No, not leading any pack.

20 Q Are there people in front of you?

21 A Well, you've shown other pictures that shows me a  
22 bunch of other people in front of me, so, yeah.

23 Q Yes, what? I'm unclear as to what you're --

24 A You've shown me photographs and video of lots of  
25 people in front of me.

1 Q All right. But, at this point, you are leading the  
2 pack, correct?

3 A No, I am not.

4 Q There are people in front of you that we can see at  
5 27:07. Is that your testimony?

6 A I -- I don't know. I don't see anything, but a bunch  
7 of blur. I see what has now been established and has been for  
8 some time that I'm going down on the ground.

9 Q Well -- you know, that's interesting because you just  
10 said -- all I can see now is a big blur --

11 A Yeah.

12 Q -- when I asked if you're leading the pack, but, when  
13 the defense is asking you questions, you're like, that's me,  
14 that's me falling down, I'm positive.

15 A Why are you attacking me?

16 Q Because --

17 A Why do you keep attacking me? You were the guy that  
18 asked me to come up here and help you.

19 MR. HOUSTON: At this point, it's the prosecution  
20 harassing the witness. It's argumentative --

21 THE COURT: I'm going to overrule your objection,  
22 based on harassment.

23 MR. HOUSTON: How about rude?

24 THE COURT: And that, too. Neither of the -- neither  
25 of the parties are being particularly civil, but the witness is

1 asking questions of the person asking him questions, rather  
2 than answering a question.

3 If you don't know the answer, say, "I don't know the  
4 answer."

5 THE WITNESS: Okay.

6 THE COURT: If you don't -- if you can't answer the  
7 question, say, "I can't answer the question."

8 THE WITNESS: Okay.

9 THE COURT: But it isn't your role to question the  
10 person asking you questions.

11 THE WITNESS: Okay. All right. All right.

12 THE COURT: Thank you.

13 BY MR. HALL:

14 Q So I'm just trying to get some clarification --

15 A Okay.

16 Q -- of where we were? So, a minute ago, you said you  
17 positively identified yourself?

18 A That's me.

19 Q Okay. And then I said, well, you're essentially  
20 leading the pack there, right, the pack that was chasing the  
21 Hells Angel?

22 MR. HOUSTON: Your Honor, asked and answered, probably  
23 six times.

24 THE COURT: I don't know about six times.

25 MR. HOUSTON: I'll go four then.

1 THE WITNESS: I was not leading the pack. I was not  
2 chasing a Hells Angel.

3 THE COURT: I guess I overruled the objection.

4 THE WITNESS: I'm sorry.

5 THE COURT: When they object, you're supposed to wait  
6 for me to say overruled or not.

7 THE WITNESS: I've got bad hearing. I'm sorry.

8 THE COURT: I can tell. I better speak up.

9 THE WITNESS: I don't know the rules.

10 BY MR. HALL:

11 Q All right. So the person that we see at 23:27, that's  
12 the person that is you, correct?

13 A Yeah, that's me.

14 Q And then we can see at 26 -- all right. So if we go  
15 to camera 3 at 23:26 -- 36, we see you right there?

16 A Yeah.

17 Q Being pushed?

18 A Yes.

19 Q Then, all of a sudden, people retreating, and you  
20 falling right there?

21 A Yeah.

22 Q And you fall, and there is your head, right there,  
23 right?

24 A Yes, yes, yes.

25 Q So, from that angle, it doesn't look like you crawl

1 anywhere, does it?

2 A Crawling?

3 Q Yeah. Let's watch it again.

4 A I don't think I was crawling.

5 Q Well, the person that we looked at in monitor 1,  
6 obviously, crawled out of The Yellow Brick Road?

7 A Oh, all right. Okay.

8 Q All right. So we're looking at monitor 3 at 23:26:40,  
9 and we see you running?

10 A Yeah.

11 Q And then falling?

12 A Okay.

13 Q So you're going to fall right here -- there you go?

14 A Yeah.

15 Q And there's your head. And that's where we see your  
16 head now for -- well, until Pettigrew then comes, and then we  
17 lose your head --

18 MR. HOUSTON: Your Honor, I'm going to object.

19 BY MR. HALL:

20 Q -- right?

21 MR. HOUSTON: Excuse me. I'm going to object, Your  
22 Honor. These are not fluid motion video, and to ask the  
23 witness a question as though they are is misleading.

24 THE COURT: You can cover that on cross, but I've been  
25 disconnected.



1 THE WITNESS: I didn't do it.

2 THE COURT: And which videos were you using,  
3 Mr. Houston? Which numbers?

4 MR. HALL: They were looking at monitor 1.

5 MR. HOUSTON: Monitor 3, Your Honor.

6 THE COURT: Monitor 3.

7 MR. HOUSTON: 1 and 3.

8 THE COURT: And were you using the same -- weren't you  
9 to say it's delayed?

10 MR. HOUSTON: Right. This is the delayed, almost like  
11 you're taking still pictures and --

12 THE COURT: Right. And so you used monitor 1 and 3  
13 and which ones are you using, Mr. Hall, right now?

14 MR. HALL: I'm looking at monitor 3.

15 THE COURT: Okay. Then you can continue.

16 MR. HALL: Camera 3.

17 BY MR. HALL:

18 Q And it was your testimony, as we proceed, that  
19 Villagrana, the big guy with the bandana on, was -- shot seven  
20 or eight times, correct?

21 A He has a -- the big -- if that -- I now know his name,  
22 yes. The big guy with the bandana was firing a gun.

23 Q And when the defense attorney was asking you  
24 questions --

25 A Yeah.

1 Q -- you said that he was shooting before Pettigrew got  
2 shot, right?

3 A I don't know when Pettigrew got shot. I think that's  
4 what I said. I didn't see Pettigrew get shot. I didn't know  
5 Pettigrew was shot. Karl, I didn't know anybody was shot for  
6 almost two days.

7 Q So you could have been mistaken with your observation  
8 as to who was shooting, correct?

9 A Are you referring to the big guy shooting? Me being  
10 mistaken about that?

11 Q Yes.

12 A Absolutely not. There was a -- he was standing over  
13 the top of me. He was as close as that monitor, standing over  
14 the top of me.

15 Q Okay. Now, let's see if we can identify when  
16 Pettigrew gets shot. Using monitor 3 at 23:27:11, okay?

17 All right. So we don't see Pettigrew anymore?

18 A No.

19 Q Now, it's 23:27:15. Don't see Pettigrew, do you?

20 A No.

21 Q Okay. Now, during those four seconds, did you see  
22 Villagrana shooting?

23 A No.

24 Q All right.

25 A No.

1 Q So that eliminates him as the shots that you fired,  
2 correct? So it must have been Gonzalez shooting? Right?

3 A I did not see Gonzalez shooting anybody.

4 Q I understand that, but you said you heard some shots,  
5 and you said you saw Villagrana shooting. Now, we've just  
6 established that Villagrana wasn't shooting before Pettigrew  
7 got shot and went down, right?

8 A Okay. Yeah, all right. I'll go with you there.  
9 Yeah, yeah.

10 Q Okay. Now, we know that Gonzalez shot first?

11 A I guess.

12 Q I wanted to just look at one other thing. Now, we are  
13 looking at monitor 1 at 23:27:36. That's where we are  
14 starting. And I'd like you to look at the upper right-hand  
15 corner where you were, and I want you to count the kicks.

16 A Boom.

17 Q Is that one? There's two.

18 A Yep.

19 Q And Pettigrew goes down. Did you count two?

20 A I think I saw three kicks there, Karl.

21 Q Okay. And that was a kick to your neck and your head?

22 A Yeah, like I say, I took one here in this area. Now,  
23 that would tell me I got one in the back of the head.

24 MR. HALL: Okay. Nothing further.

25 THE COURT: Mr. Houston, anything further?

1 MR. HOUSTON: I don't have anything further, Your  
2 Honor. Thank you.

3 THE COURT: Okay. Thank you. You may step down.  
4 You're excused.

5 THE WITNESS: Okie-dokie.

6 THE COURT: Go ahead and call your next witness.

7 (The witness was sworn.)

8 THE WITNESS: Good morning, Your Honor. Good morning.

9 THE COURT: Good morning.

10 JOHN SIEMER,

11 having been first duly sworn, was examined

12 and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. HALL:

15 Q Good morning. How are you, sir?

16 A Good.

17 Q Would you state your name and spell your last name?

18 A Excuse me?

19 Q What's your name?

20 A John Siemer. They call me Rocky.

21 Q How do you spell your last name, Mr. Siemer?

22 A S-I-E-M-E-R.

23 Q And you're a member of the Vagos?

24 A Yes, sir.

25 Q A Nomad?

1 A Yes, sir.

2 Q What is a Nomad?

3 A A Nomad means I've put in 20 years -- over 20 years'  
4 time. I'm actually a 35-year member. And I -- basically, I'm  
5 my own man. I can do what I want, go to whatever I want, and  
6 enjoy life as we speak -- you know. That's what a Nomad is.

7 Q All right. Now, are you aware that there were some  
8 Hells Angels down at the Oyster Bar, is that right?

9 A I became aware of that when I was -- somebody  
10 approached me upstairs and told me that they were having some  
11 problems down there.

12 Q All right. And did you go down there and try to  
13 resolve them?

14 A Actually, I went down there, and I talked to the guy,  
15 supposedly, that they were having problems with and -- because  
16 I asked the knew the gentleman, and we shook hands and agreed  
17 on that everybody should go to their own way for the night and  
18 let it be that.

19 Q All right. Did you talk to Pettigrew?

20 A Yes, I did.

21 Q And you knew Pettigrew?

22 A Yes, I did.

23 Q All right. Did you know Bobby Vierra?

24 A No.

25 Q You just talked to Pettigrew?

1 A Yeah.

2 Q And did you know Gary Rudnick?

3 A Yes, I do.

4 Q Did you talk to him?

5 A Yes, I did.

6 Q All right. What did you tell him?

7 A I told him that I heard that -- because I got there  
8 around 9:30 that night. I told him that I heard you've been  
9 stirring up shit all day long with these guys, and my  
10 suggestion to you is that you go lay down and rest your fucking  
11 neck, and I told him that's enough, I don't want to hear any  
12 more. You know what I mean?

13 And that was my suggestion. I don't tell anybody to  
14 do anything. I suggest things. I've been in long enough --  
15 Vagos long enough, to where, if I suggest something to a  
16 younger member and he can't take that heed, then he shouldn't  
17 even be out and about by himself, you know?

18 Q All right. Now, you've known Hells Angels for --

19 A 35 years.

20 Q Right. And you know that they would be armed more  
21 than likely, is that right?

22 A I'm not armed.

23 Q All right. Well, would you expect some of the Vagos  
24 to be armed?

25 A Not at a casino.

1 Q With knives or guns?

2 A It would be -- to that individual -- it would be up to  
3 the individual, you know what I mean? I'm not going to tell  
4 them to carry a gun. I don't carry one -- you know, I don't go  
5 in a casino with a knife -- you know. That's just me. I'm one  
6 person -- one man.

7 Q Okay. So you don't know what other people would do?

8 A No, sir.

9 Q Well, as a 35-year member, you would know, generally  
10 speaking, whether or not members of the Hells Angels or Vagos  
11 carry weapons, correct?

12 A Well, naturally.

13 Q Okay. So do a lot of them carry weapons?

14 A Do a lot of them carry weapons? I couldn't tell you  
15 yes or no.

16 Q Really?

17 A Like I said, I can only speak for myself. I can't  
18 speak for anybody else.

19 Q All right. I'm asking you?

20 A You're asking me to tell you something about another  
21 individual that I can't -- I don't know what that individual  
22 does.

23 Q No, no, no, I'm not talking about any particular  
24 individual.

25 A You're saying individuals.

1 Q I'm talking about groups of individuals that are  
2 associated with the Hells Angels or the Vagos. Are they known  
3 to carry weapons?

4 A Are they? Do you -- do your friends carry weapons?

5 Q You're the guy that's a member of the Vagos --

6 A Right.

7 Q -- for 35 years. I would expect you to know.

8 A Why would you expect me to know what somebody else  
9 does in life? I don't intrude in nobody's business.

10 THE COURT: Okay. Sir, I'm going to stop you here.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: The court reporter is taking down  
13 everything everyone says.

14 THE WITNESS: Okay.

15 THE COURT: So you have to wait until the question is  
16 completely finished, so Mr. Hall has to stop talking --

17 THE WITNESS: All right.

18 THE COURT: -- before you start talking.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: And you can't start talking, again, until  
21 he's through with the next question, okay?

22 THE WITNESS: Yes, ma'am.

23 BY MR. HALL:

24 Q Okay. So, do you have an opinion as to whether or not  
25 members of the Vagos would typically carry knives and/or guns?



1 A My opinion?

2 Q Yes.

3 A More than likely, yes.

4 Q All right. Same thing with the Hells Angels?

5 A More than likely, yes.

6 Q All right. So, if the Hells Angels and Vagos were  
7 going to get in a gang fight, hypothetically speaking, would  
8 you expect that it would escalate to the use of weapons?

9 A First of all, it wouldn't be a gang fight; it would be  
10 two clubs fighting each other.

11 Q Okay.

12 A The Hells Angels and the Vagos are not gangs. They  
13 are clubs.

14 Q Okay.

15 A And, second of all, I'm from the old school where you  
16 take it out back and do it one-on-one. You don't -- you know  
17 it don't go down like that -- you know.

18 Q All right. So, in this particular instance, if we had  
19 Rudnick trying to pick a fight with Pettigrew, now, would there  
20 be any significance in trying to pick a fight with the  
21 president of the San Jose Hells Angels, as opposed to a regular  
22 old member?

23 A What do you mean, "significance"?

24 Q Well, would you get a little more credibility as a  
25 Vagos for beating the president of the San Jose Hells Angels,

1 as opposed to beating up a prospect or a regular member?

2 A No, sir. No, sir.

3 Q It would be the same?

4 A No. It would be stupidity.

5 Q Okay. And you agree that this whole thing was not a  
6 very wise choice, right?

7 A On Rudnick's part, yes.

8 Q And you wanted to stop it, correct?

9 A I tried -- I wanted to just try to lower the tension.

10 Q Okay. And so you went and talked to Pettigrew?

11 A Yes.

12 Q And then did you go talk to Rudnick after that?

13 A Yes.

14 Q And then did Dragon Man -- you know who Dragon Man is,  
15 right?

16 A Yes.

17 Q Who is he?

18 A Dragon Man, he's a Vagos.

19 Q International Sergeant-at-Arms, correct?

20 A Correct.

21 Q So he has a lot of power?

22 A Well, nobody has a lot of power.

23 Q Well, you're all men, right?

24 A Right.

25 Q You're big boys, is that correct?

1           A     Yes, sir.

2           Q     And you should take care of your Vagos brothers,  
3 right?

4           A     Yes, sir.

5           Q     And you would want to take -- you want to make sure  
6 that things don't get out of hand, correct?

7           A     Yes, sir.

8           Q     And, as a grown man, if you see a person, a brother  
9 Vagos who was intoxicated, who was going to get everybody else  
10 in trouble, as a man, as a Vagos, as a brother, you could take  
11 care of that situation, right?

12          A     No, sir.

13          Q     No?

14          A     No.

15          Q     You just let it spiral out of control? And so people  
16 shooting up a casino --

17          A     No, sir. Like I said, I can make a suggestion. If a  
18 guy don't take a suggestion that's made to him, then -- then,  
19 you know what? He's on his own.

20          Q     All right. Well, in this situation, he wasn't on his  
21 own. He seemed to have the backing of a lot of other Vagos  
22 inside the casino, right?

23          A     Well, if that person got hit, I mean, sure,  
24 something -- everything is going to change. It's the same  
25 thing if you are somewhere and up got hit, your friends, they

1 are going to help you out.

2 Q Right. So, once a Vagos got hit, then, as a Vagos  
3 brother, you need to jump in and defend your brother, right?

4 A To a certain extent.

5 Q So the Vagos kind of have a unwritten agreement that  
6 they would aid their fellow Vagos in a fighting situation?

7 A No, I didn't have no agreement.

8 Q No?

9 A Like I said, it's to each individual.

10 Q Okay. So, if there was a bunch of Vagos and one Vagos  
11 got punched and other Vagos went over and started attacking  
12 other Hells Angels, that would be consistent with protecting  
13 Rudnick, right?

14 A No, sir.

15 Q What would that be?

16 A If one Vagos got punched?

17 Q Right.

18 A It should be whoever punched him, that's who would be  
19 fighting.

20 Q Okay. Well, that wasn't the situation here. Once  
21 Rudnick got punched, a number of Hells Angels got bottles  
22 smashed on their heads by other Vagos?

23 A Um.

24 Q And then Pettigrew got punched from behind. Bobby  
25 V. got knocked to the ground on a couple of occasions and

1 kicked to the ground. Pettigrew's nose was cut off, his eye  
2 slashed, and then he got shot in the back, so there was a lot  
3 of Vagos involved. It wasn't just Rudnick, so how do we  
4 account for that?

5 A Well, like I said, I have no clue or knowledge of any  
6 of that because, once I talked to Rudnick, I left the building.

7 Q All right. And why did Dragon Man come and get you?

8 A Because he didn't want -- he said, "Hey, no more  
9 talking to that guy, he's an idiot."

10 Q All right. Well, he knew better than to start a fight  
11 with the Hells Angels, right?

12 A He didn't start a fight with the Hells Angels.

13 Q Well, Rudnick said he did.

14 A That who started it?

15 Q Rudnick said that Dragon Man said, "Hey, why don't you  
16 go ahead" --

17 A That's a lie.

18 Q -- "make sure these guys don't get it."

19 A That's a lie.

20 Q That's what I'm wondering. How come Dragon Man came  
21 and -- you were the one trying to break it up, right?

22 A No. I was trying to talk him out of being stupid  
23 because he had been drinking all day, so I heard. And I said,  
24 "You need to go to your room and rest your fucking neck because  
25 you're drunk and being a drunk doesn't solve anything, and it