

IN THE SUPREME COURT OF THE STATE OF NEVADA

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ERNESTO MANUEL GONZALEZ,

CASE NO. 64249

Appellant.

v.

THE STATE OF NEVADA,

Respondent.

APPELLANT'S APPENDIX, VOLUME XVIII

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

Second Judicial District
State of Nevada

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1 fighting were going, to just try to calm them down, let them
2 know, you know, they were going to be okay.

3 Q. Did you recognize any of the people that were
4 ducking under tables?

5 A. No, I was -- like I said, I had only been there for
6 about a month, I really was just getting to know, you know,
7 who my immediate coworkers were, I didn't really know anyone.

8 Q. Or your regulars, you didn't know who the regulars
9 were yet.

10 A. Right, I hadn't even established regulars yet, I was
11 so new.

12 Q. So you're telling people what's going on, what
13 happens next?

14 A. At that point -- well, I saw the Hells Angel fall to
15 the ground, and then a few moments later a S.W.A.T. team came
16 in and ordered everyone to the ground.

17 Q. Where did you see the long-sleeved Hells Angel go
18 down?

19 A. I saw him go down -- it would have been I think --
20 I'm pretty sure it was in this slot area right here, is where
21 I saw him go down.

22 Q. I'd like to direct your attention to monitor 1, a
23 video called monitor 1. And what -- before we get going
24 here, I want to ask you if you can point out when you see --

1 when it was that you saw the Vago engage in this gun fight.
2 with Villagrana.

3 A. Sure.

4 Q. Before we get there, do you see the area right now?

5 A. Yes, sir.

6 Q. Do you see the area that you ended up seeing the
7 Vago?

8 A. Yes, sir, it was right in this area here.

9 Q. Slow it down a little bit here. Is this the area
10 that you saw the Vago engaged in a gunfight?

11 A. I -- I recall it being in this area here.

12 Q. Okay. I want you to watch this area here.

13 A. Okay. That's it right there.

14 Q. That's what?

15 A. This is what I saw here. This is Mr. Villagrana,
16 and that's -- that's when I -- when I arrived I saw him
17 engaged in a gunfight right there.

18 Q. So right there he's shooting at a Vago?

19 A. Yes, sir.

20 Q. And your testimony is a Vago was shooting at him?

21 A. I believe -- I believe a Vago was shooting at him,
22 yes, sir.

23 Q. And then the Vago goes out of your view?

24 A. Yes, sir.

1 Q. And then you see Villagrana continue to -- where do
2 you focus on from there?

3 A. I was -- I was focused primarily on Mr. Villagrana.
4 He was -- he appeared to me at that time clearly the most
5 aggressive person there, and so my eyes just -- I just
6 fixated on him and watched him.

7 Q. And he was closer to you, as well?

8 A. Yes, sir, actually I didn't even realize how close
9 he actually was until I -- until I saw that.

10 Q. Until you just saw it. I want to ask you if you --
11 well, if you'll see the point where Villagrana makes that
12 click with his gun.

13 A. Okay.

14 Q. If you see it. Is this when you saw him join up?

15 A. Yes, sir, at that moment I saw him join up with
16 Mr. Pettigrew.

17 Q. Is that -- who is Mr. Pettigrew?

18 A. I believe that's him right there.

19 Q. You mentioned previously this Hells Angel in a
20 long-sleeved shirt, is that who you're calling --

21 A. That's Mr. Pettigrew, yes.

22 Q. So you saw them join up?

23 A. Yes, sir.

24 Q. And where are you -- what part of the casino are you

1 in?

2 A. I'm right here.

3 Q. Did you notice anything unusual about Pettigrew?
4 Anything going on with Pettigrew?

5 A. No, not really. I just saw, just like what we saw
6 here, I saw them together for a few moments.

7 Q. And you're still focused on what?

8 A. Mr. Villagrana.

9 Q. Up until now, you haven't seen -- well, have you
10 seen Villagrana shoot again?

11 A. No, not yet.

12 Q. Where are you right now?

13 A. I would be right in this area here.

14 Q. Is that the -- where is that?

15 A. That's an area called -- what they call pit 2. It's
16 where the table games are.

17 Q. Were you in pit 2 when I asked you before --

18 A. Yes, I was -- I ran up to pit 2, and I never got any
19 further than that.

20 Q. You were inside the pit?

21 A. Yes, sir.

22 Q. Is that where you saw Pettigrew go down?

23 A. Yes, sir.

24 Q. What's happening right now? To your recollection?

1 A. At that point I recall -- I don't recall hearing any
2 gunshots at that period. I believe Mr. Villagrana was
3 somewhere in the -- well, he was somewhere in those slots.

4 Q. And what do you see him doing?

5 A. He looked like he was -- he was looking for people.

6 Q. Okay. Are you able to see Villagrana when he's
7 right here?

8 A. Yes, sir.

9 Q. And what do you see him doing?

10 A. Well, he's running from where he was previously, and
11 he's turned around.

12 Q. He appears to be standing in one area --

13 MR. HOUSTON: Objection, your Honor, leading.

14 THE COURT: Sustained.

15 BY MR. HALL:

16 Q. What's he doing now, what's Villagrana doing now?

17 A. He's standing there looking -- apparently for the
18 people he's fighting with.

19 Q. Is that what you meant when you said he was looking
20 for people?

21 A. Yes.

22 Q. Seeing where they are?

23 A. Exactly.

24 Q. Seeing if they're after him. Now, are you still --

1 at this point are you still watching Villagrana?

2 A. Yes, sir.

3 Q. When did you find out -- or when did you learn that
4 in fact Pettigrew had been killed?

5 A. It was a day or two later.

6 Q. So what -- we've just gone up to about 23:28:54.
7 What -- what happens after this? What do you see after this?

8 A. I recall after this there was -- there was a bit of
9 a lull in the shooting.

10 Q. Okay.

11 A. I remember watching Mr. Villagrana walking in
12 between the slots, and then I recall the S.W.A.T. team
13 arriving.

14 Q. Okay. So what happened once they get there?

15 A. They -- they came in this way, and they ordered
16 everyone to the ground. So the gentlemen that had been
17 fighting, they all went to the ground. Mr. Villagrana
18 started to go to the ground, and then he started to get back
19 up, he was raising himself up like this, and one of the
20 S.W.A.T. team members pointed the rifle in his face and told
21 him to get on the ground. And he finally complied.

22 Q. What's going on in the casino where -- in the pits
23 where you are?

24 A. It was pretty hysterical in there, there were a lot

1 of people under the tables crying and screaming, and there
2 were also two Vagos in the pit with me, that I saw, and one
3 of them was asking me to help him get some of the people to
4 safety.

5 Q. And what was going through your mind when he asked
6 that?

7 A. Well, the night of the shooting I was dressed in a
8 shirt and tie, and I was mistaken -- I'm always mistaken for
9 management. And my belief was that he thought I was like a
10 pit manager.

11 Q. Right.

12 A. And I thought at the time that he wanted to distract
13 me so they could steal all the money and chips off the
14 tables.

15 MR. STEGE: Thank you, I'll pass the witness.

16 CROSS-EXAMINATION

17 BY MR. LYON:

18 Q. Good afternoon, sir.

19 A. Good afternoon.

20 Q. Fair to say that was a pretty chaotic night for you?

21 A. Yes, sir, that would be fair to say that.

22 Q. And you had only been there about a month.

23 A. About a month, yes, sir.

24 Q. Now, you had indicated when you were walking your

1 coworker to put away your money, you heard a loud noise and
2 you thought that was a gunshot.

3 A. I thought --

4 Q. Or an explosion.

5 A. Yeah. Yeah, either -- I thought it was one of the
6 two.

7 Q. Okay. Do you now have the belief that it was a
8 gunshot?

9 A. Yes, sir.

10 Q. So before you see Mr. Villagrana engaging in any
11 gunfight, you had already heard gunshots being fired.

12 A. Yes, sir.

13 Q. Okay, did you see the individual who fired those
14 shots?

15 A. No, sir.

16 Q. How many shots did you hear?

17 A. I couldn't count, sir. It was more than two or
18 three.

19 Q. Okay, so before you saw Mr. Villagrana engaging in
20 the gunfight, you at least had heard two or three other
21 shots.

22 A. Yes, sir.

23 Q. But you did not notice the individual who was firing
24 those shots?

1 A. No, sir, I could not see who was firing.

2 Q. Or what that individual was firing at?

3 A. No, sir, I could not.

4 Q. And you put your coworker down, go over, run to the
5 pit area.

6 A. Yes, sir.

7 Q. Okay, and you pretty much, it sounds like, you stay
8 in that pit area for the -- for all this time that you've
9 been testifying to?

10 A. Yes, sir, that was as close as you could really get
11 to the gunfight without actually being in the gunfight.

12 Q. Okay. Now, I want to go back through monitor 1,
13 here, just back it up a little bit. Did you actually see the
14 fight going on?

15 A. No, sir, I did not.

16 Q. Okay, so you come in after the fight.

17 A. Yes, sir.

18 Q. Can we get the lights? So you didn't see any of
19 this going on?

20 A. No, sir, I did not.

21 Q. Did you hear any of this?

22 A. Yes, sir, I did.

23 Q. And what were you hearing, gunshots?

24 A. I was hearing gunshots.

1 Q. Now, did you see any of that? Did you see -- let me
2 back it up. Mr. Pettigrew comes over and hits somebody with
3 the gun, did you see that?

4 A. No, sir, I did not.

5 Q. So you were not in position in the pit by this
6 point?

7 A. No, I had not arrived there yet.

8 Q. I think -- let me stop it just for a second. So
9 you -- I think you indicated you had put your -- your
10 coworker on the ground, and then you took her to another
11 location?

12 A. Yeah, a few feet away is a room that they call the
13 service bar, and it's -- there are no windows, it's hidden
14 behind a door and a wall, and it's just for employees to go
15 in to get drinks for customers. And I put her in that room.

16 Q. Is it just an open door, you open the door --

17 A. You open the door, actually the door was locked,
18 there were employees who were hiding in there, so we banged
19 on the door and they opened it up and I put her in there and
20 I ran to the pit.

21 Q. How long do you think all of that took you, from the
22 time you hear the first shots, put her on the ground, then
23 get up and get over to the pit area?

24 A. Oh, maybe -- probably less than a minute.

1 Q. And is the gunfight the first thing that you see
2 when you get over to the pit area?

3 A. Yes, sir, that's the first thing I saw when I
4 arrived. That's when I arrived at the pit, that was the
5 first thing I saw.

6 Q. Okay, and so how far away do you think from
7 Mr. Villagrana you think you are?

8 A. I'm probably 30 feet away.

9 Q. Okay, and at least from the perspective of this
10 video, you're behind Mr. Villagrana?

11 A. Yes, sir.

12 Q. Okay. And any people -- any items between you and
13 Mr. Villagrana? Obstructing your view?

14 A. No, sir, because he was outside of the slots, and I
15 had a clear view of him.

16 Q. Because before you said when you first heard the
17 shots, you kind of looked over and you couldn't really see
18 anything because there were so many people.

19 A. There were people, and you had to look through the
20 pit, as well. And then as you can see, there are plants,
21 too. So standing back there by where I was where it
22 originally broke out, yeah, my view was obstructed, I
23 couldn't really see what was going on.

24 Q. But at that point in time you were at least able to

1 see Mr. Villagrana?

2 A. Yes, sir, I was much closer then, and I got a
3 good -- I got a clear view of him.

4 Q. And next to Mr. Villagrana there's a set of slot
5 machines, correct?

6 A. Yes, sir.

7 Q. And you could not see behind those slot machines, I
8 assume.

9 A. Are you referring to I couldn't see like back here?

10 Q. Correct.

11 A. No, sir, I could not.

12 Q. Okay, because you're indicating that you saw a Vago
13 in a gunfight with Mr. Villagrana.

14 A. I did, sir, they were only a few feet away from each
15 other.

16 Q. And it's your belief that the Vago was shooting back
17 at Mr. Villagrana while he was shooting at the Vago.

18 A. Yes, sir.

19 Q. How far away do you think they were?

20 A. They were -- maybe 10 feet away from each other.
21 They were very, very close to each other.

22 Q. How many shots do you think the Vago shot?

23 A. Sir, I couldn't tell you.

24 Q. Now, they didn't find any shell casings from someone

1 shooting in that area back at Mr. Villagrana.

2 A. Uh-huh.

3 Q. So are you sure you saw a Vago shooting a gun?

4 A. Sir, that's my belief, I believe I saw a Vago
5 shooting a gun.

6 Q. And no -- Mr. Villagrana wasn't hit, correct?

7 A. Not that I'm aware of, no.

8 Q. So we would assume the bullets missed and went
9 somewhere way off?

10 A. Possibly, yes, sir.

11 Q. And no bullets were recovered, are you aware of
12 that?

13 A. I'm not aware of that.

14 Q. Knowing that there's no shell casings and no
15 bullets, would that affect your opinion as to whether or not
16 a Vago was shooting?

17 A. Well, you know, I've thought about this for the last
18 two years, and I believe in what I -- what I saw. And I saw
19 Mr. Villagrana and a person in a Vagos jacket shooting at
20 each other.

21 Q. Now, that's your -- what you believe.

22 A. Yes, sir, that's my belief.

23 Q. Okay, fair enough. And then how many shots do you
24 think Mr. Villagrana fired back?

1 A. I could not tell you, sir. Like I said, I wasn't
2 counting shots.

3 Q. Did you see the Vago get hit by Mr. Villagrana?

4 A. No, sir, I did not. He disappeared from my view
5 shortly thereafter.

6 Q. Okay, so whoever Mr. Villagrana was in a gunfight
7 with, he wasn't hit, and he was able to run away.

8 A. Well, I'm not going to say that, I'm going to say he
9 disappeared from my view.

10 Q. Now, the person involved in the gunfight, that
11 wasn't Mr. Gonzalez, was it?

12 A. I could not tell you, sir, I couldn't tell you who
13 it was. I just remembered the vest.

14 Q. Now, after that gunfight, then, is that when
15 Mr. Villagrana loads his -- he had emptied his clip, correct?

16 A. He -- after the gunfight, from here, he went this
17 way and he came back out here. And he pointed the gun toward
18 the east end of the casino, and that's when he pulled the
19 trigger and the gun went click.

20 Q. Okay, and that's when you saw him drop the clip and
21 put a new one in?

22 A. Yes, sir, he turned -- he turned and actually was --
23 he was facing my direction, and I saw him reload that gun.

24 Q. Okay, so let's kind of walk through that part of the

1 video, if we could. Now, you have your eye on Mr. Villagrana
2 this whole time?

3 A. Yes, sir.

4 Q. Do you see what he's doing there?

5 A. Just a second. Oh, there -- no, that's not him.

6 Oh, there he is. Yeah, I missed that, I'm sorry.

7 Q. Let me back that up, there. Do you see him -- looks
8 like he's picking stuff up off the floor?

9 A. Yes, sir.

10 Q. Did you see him doing that?

11 A. No, sir, I don't recall seeing him do that.

12 Q. And things have pretty much calmed down by this
13 point?

14 A. Yeah, that was a bit of a lull right there.

15 Q. So this is -- is this where Mr. Villagrana is
16 shooting again?

17 A. Yes, sir.

18 Q. So as he went back behind those slot machines, he
19 was firing his gun again?

20 A. I believe he was, yes, sir.

21 Q. How many shots did you hear?

22 A. Sir, I could not tell you how many shots.

23 Q. I think you testified it seemed like shots were
24 going on the entire time?

1 A. Yeah, there was -- yeah, it was a long period of
2 time that I was hearing gunshots.

3 Q. I think you said he was kind of pointing his gun and
4 looking for people?

5 A. Yeah, that's what it appeared that he was doing,
6 sir.

7 Q. And are you moving down the pit area as he's moving
8 down this walkway?

9 A. Yes, sir, I was trying to stay abreast with him.

10 Q. Did you see this part that we see on the video,
11 where he was kicking, appears to be kicking somebody?

12 A. I couldn't see that part, my view was obstructed by
13 the slot machines.

14 Q. But you did see Mr. Pettigrew go down?

15 A. I saw that, yes, sir.

16 Q. Okay, and Mr. Villagrana, what did he do after that?
17 He ran -- he ran back into the slot machines?

18 A. Yeah, I believe he was somewhere -- yeah, he was in
19 the slot machines at the time.

20 Q. Okay, and then how many -- did he start shooting
21 again?

22 A. I -- sir, I can't recall if he was shooting at that
23 point in time or not.

24 Q. Then did you follow him -- I believe he runs back

1 closer to us, at least in the video frame. Did you follow
2 him back that direction?

3 A. Yes, sir.

4 Q. So you were basically mirroring his direction,
5 running back and forth in the pit area?

6 A. Yes, sir, yeah, I was focused on him most of the
7 entire time.

8 Q. Why were you focused on him?

9 A. He -- Mr. Villagrana is a very large man and he
10 appeared to me, anyway, to be the most aggressive, and he was
11 the first one I saw firing the gun. So I guess the best way
12 to put it, he seemed to me to be the most dangerous person
13 there.

14 Q. And by that what do you mean? He's obviously the
15 one holding the gun, he's shooting, I think you had indicated
16 that he's looking for --

17 A. Yes, sir.

18 Q. -- people. Did it look like he was looking --
19 actively looking for people to shoot?

20 A. Yes, sir, it appeared that way to me.

21 Q. Is it fair to say you wanted somebody to stop him?

22 A. Yes, sir.

23 MR. STEGE: Objection. To the relevance.

24 THE COURT: Okay.

1 MR. LYON: Goes to his belief at the time. At that
2 time --

3 THE COURT: I think he's given us his present sense
4 impression already, so I'm going to sustain the objection.

5 BY MR. LYON:

6 Q. And then shortly after we see this portion on the
7 video, the S.W.A.T. team does arrive?

8 A. Yes, sir.

9 Q. I assume that was some relief to you?

10 A. Yes, sir. Very much relief.

11 Q. And they were able to take Mr. Villagrana down.

12 A. Yes, sir.

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

14 THE WITNESS: Thank you, sir.

15 REDIRECT EXAMINATION

16 BY MR. STEGE:

17 Q. So it was pointed out on cross-examination that you
18 did not see the initial portion of this, is that right?

19 A. That's correct, sir.

20 Q. So for instance, you didn't see any Vagos pull their
21 knives out at the Hells Angels, did you?

22 A. No, I did not.

23 Q. Or throw bottles at them?

24 A. No, I did not.

1 Q. Or smash them in the face with bottles?

2 A. No, I did not see any of that.

3 Q. Did you see Pettigrew's face get smashed or cut?

4 A. No, sir, I did not.

5 Q. Did you -- let's go to this -- I want to ask you a
6 few moments, here, let's talk about at 23:27:18. So you
7 didn't see, I guess, at the beginning, you didn't see the
8 Vagos attack Pettigrew?

9 MR. LYON: Objection, leading.

10 THE COURT: I'm going to sustain the objection,
11 it's been asked and answered.

12 BY MR. HALL:

13 Q. So did you see this rush of Vagos chasing a Hells
14 Angel?

15 A. No, sir, I did not.

16 Q. Did you see this Hells Angel there running from a
17 group of Vagos?

18 A. I saw -- I saw a lot of people running around in
19 there. That particular -- I could not say if I saw that
20 particular individual running.

21 Q. And give me an idea of the numbers of Vagos you saw
22 versus the number of Hells Angels. I think you've testified
23 to seeing two Hells Angels so far. How many did you see?

24 A. I recall those two specifically. As far as Vagos, I

1 probably saw maybe the same amount, maybe two, three. By the
2 time I got up there.

3 Q. How many had you seen in the casino beforehand?

4 A. Hundreds.

5 Q. How many in the aftermath of this were inside the
6 casino?

7 A. They were still -- I saw at least 1 to 200 still
8 left in the casino after the gunfight.

9 Q. And how many Hells Angels after the gunfight?

10 A. None. I don't recall seeing any.

11 Q. And so when we saw earlier, we saw Villagrana
12 shooting -- or doing this, didn't we also see Pettigrew doing
13 the same thing?

14 MR. LYON: Objection, leading and --

15 THE COURT: Sustained.

16 MR. LYON: If we're asking this witness's
17 testimony, not his narrative --

18 THE COURT: I'm going to sustain on leading
19 grounds, and I don't know if this witness -- if you're asking
20 for a period of time this witness even could see. So you
21 have to be more clear about when.

22 BY MR. STEGE:

23 Q. Could you see Pettigrew shooting?

24 A. No, sir, I did not see Pettigrew shooting. I saw

1 him next to Mr. Villagrana for a period of time, but I don't
2 recall seeing him fire a gun.

3 Q. Do you recall seeing him -- at the time that
4 Villagrana is shooting, do you recall what Pettigrew was
5 doing?

6 A. I just recall seeing him in the slots next to
7 Mr. Villagrana. I don't recall him doing anything specific.

8 Q. Let's look at this frame, here. 23:27:20. Is
9 this -- what's Villagrana doing here?

10 A. He was pointing his gun, and then he -- he was
11 actually pointing his gun towards the area where I was. And
12 then he turned and walked off.

13 Q. Is this the click that you heard?

14 A. Possibly.

15 Q. And is it a fair statement to say that when you see
16 Pettigrew go down, you're hearing gunshots?

17 A. Yes, sir.

18 Q. Did it appear, once -- well, I don't need to show it
19 to you necessarily to ask you this question. When we see
20 Pettigrew come back to this area here, does it appear as
21 though he's looking for threats?

22 A. Yes, sir, he was -- yeah, when he came back to that
23 area, when he was with Mr. Villagrana, they were -- they were
24 acting pretty aggressively. Their movements.

1 Q. After Pettigrew goes down, doesn't it appear
2 that villagrana is looking for threats?

3 MR. LYON: Objection, leading.

4 THE COURT: Sustained.

5 BY MR. STEGE:

6 Q. What's the demeanor that you see in Villagrana after
7 Pettigrew goes down?

8 A. After Pettigrew went down, I saw Mr. Villagrana, he
9 still had the gun in his hand and he was walking around
10 pointing the gun, and it seemed to me that he was looking for
11 the people that he was fighting.

12 Q. Looking to see if they were going to attack him
13 again?

14 A. He was looking for them. It looked like he was
15 looking for more people to engage into a fight with.

16 Q. It is true that I think your words were Villagrana
17 was the bigger of him and Pettigrew, right?

18 A. Yes, he is.

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

20 THE COURT: If he's already testified to it, I
21 don't know where you're going with it. Is this a predicate
22 to something?

23 MR. STEGE: Yes.

24 THE COURT: Okay, then I'll let the predicate stand

1 without the answer.

2 BY MR. STEGE:

3 Q. Who is bigger, Pettigrew or Villagrana?

4 A. Villagrana was larger by far.

5 Q. And Villagrana is the one you saw with a gun.

6 A. Yes, sir.

7 Q. And the gun out.

8 A. Yes, sir.

9 Q. And who is older, to your view, Villagrana or
10 Pettigrew?

11 MR. LYON: Objection, relevance.

12 THE COURT: Overruled.

13 A. Mr. Pettigrew appeared to be older than
14 Mr. Villagrana.

15 BY MR. STEGE:

16 Q. To your view, how old would you say Pettigrew was?

17 A. I remember when I was watching that happen I -- the
18 thought crossed my mind that he was -- you know, he was kind
19 of an old guy. I would say he was probably in -- I don't
20 want to offend anybody by saying old guy, but he looked like
21 he was an old guy for this thing. He was -- he looked to me
22 like he was in his '60s.

23 THE COURT: Do you need the lights on or off?

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

1 MR. LYON: They can come back on, your Honor.

2 THE COURT: Okay.

3 RECROSS-EXAMINATION

4 BY MR. LYON:

5 Q. Sir, you indicated there were a lot of Vagos there
6 that night?

7 A. Yes, sir.

8 Q. Fair to say not all the Vagos engaged in any of --
9 of the fight, or the gunfire that you saw?

10 A. No, actually in proportion to how many Vagos there
11 were, it was a very small number that were engaged.

12 Q. And that was going to be my next question, so. And
13 you were asked a question about what Mr. Pettigrew was or
14 wasn't doing, and you kind of suggested you weren't really
15 watching him, you were watching Mr. Villagrana.

16 A. That's correct, I saw Mr. Pettigrew during the times
17 that he was with Mr. Villagrana.

18 Q. All right, and you were watching Mr. Villagrana?

19 A. Yes, sir.

20 Q. Because I think in your words he was the most
21 dangerous person out there?

22 A. He appeared to be, yes, he seemed to be the most
23 aggressive person there.

24 Q. And that was true both before and after

1 Mr. Pettigrew got shot?

2 A. Yes, sir.

3 MR. LYON: Thank you.

4 THE COURT: Anything further? May we excuse this
5 witness?

6 MR. STEGE: Yes, thank you.

7 THE COURT: Thank you, sir.

8 THE WITNESS: Thank you, your Honor.

9 THE COURT: You are excused.

10 JOHN GUTIERREZ

11 called as a witness by the State
12 who, having been first duly sworn,
13 testified as follows:

14 THE CLERK: Thank you, please be seated at the
15 witness stand.

16 THE WITNESS: Thank you.

17 DIRECT EXAMINATION

18 BY MR. STEGE:

19 Q. Good afternoon. Please state and spell your name.

20 A. Good afternoon, sir. My first name is John,
21 J-o-h-n. My last name is Gutierrez, and it's spelled
22 G-u-t-i-e-r-r-e-z.

23 Q. Are you currently employed?

24 A. Yes, sir, I am.

1 Q. Where?

2 A. I'm currently employed by the Claremont Country Club
3 as the director of security.

4 Q. What were you doing back in September of 2011?

5 A. I was a sergeant with the UCSF Police Department.

6 Q. How long were you a police officer?

7 A. For 33 years.

8 Q. Can you give us a brief description of your law
9 enforcement career?

10 A. Yes, sir. I was a trainee in the academy, the
11 Oakland Police Academy in 1979, and I spent 30 years in the
12 City of Oakland as a police officer, as a detective. And
13 then in 2009 I retired from the City of Oakland and I thought
14 I was going to pursue a golf career, and within a month UCSF
15 PD gave me a call and asked me if I'd be a sergeant with the
16 UCSF Police Department in San Francisco.

17 Q. That's the University of California in San Francisco
18 Police Department?

19 A. Yes, sir.

20 Q. Directing your attention to the 29th of September of
21 2011, were you on duty as police sergeant at that time?

22 A. Yes, sir, I was.

23 Q. Did you find yourself in the area of Treat Avenue
24 and Alameda?

1 A. Yes, sir, I did.

2 Q. Tell us a little bit about that area of campus.

3 A. Well, Treat and Alameda is a commercial area, it's
4 what we call a side street near the UCSF headquarters, or it
5 was the headquarters. It was called the Mission City Bay.
6 But it's a side street off Harrison Street, borders 16th,
7 Harrison, which are your main boulevards. But it's really a
8 side street for parking and commercial businesses, such as
9 that.

10 Q. And about 20:20 hours, that's about 8:20 p.m., what
11 were you doing in that area?

12 A. I was trying to make it to the headquarters to move
13 my personal vehicle.

14 Q. And what happened on the way?

15 A. The -- going through the side streets I noticed a
16 black Chevy Malibu parked to my west, and I observed an
17 individual within the vehicle, and I observed the dome light
18 on. So I knew I had to make a U-turn and investigate what
19 was going on within that vehicle.

20 Q. And you made that U-turn, and what happened next?

21 A. I made the U-turn, I communicated with my dispatch,
22 advised him that I had a suspicious vehicle, we call it a
23 916, which is for San Francisco means suspicious vehicle. I
24 advised them of my location, and I provided them with the out

1 of state Washington license plate.

2 Q. Why do you call it a suspicious vehicle, what was
3 suspicious about it?

4 A. Well, again, the area of Treat and Alameda, we have
5 a lot of burglaries, auto burglaries, we have auto thefts, we
6 have a lot of crime within that general area. With a person
7 with a dome light leaning over to his right, I wanted the
8 make sure that this wasn't an auto burglary, this wasn't an
9 auto theft in progress. So all those factors in my mind as
10 I'm making that U-turn, and from 30 years of delightful
11 experience in Oakland, I thought it would be wise if I made a
12 U-turn and check this vehicle out.

13 Q. You get out of your car and you go up to check out
14 the vehicle, tell us what happens.

15 A. Well, before I got to the vehicle I was advised that
16 it was a rental vehicle out of EA Holding. EA Holding is
17 a -- it's a division or abbreviation for Enterprise, so I
18 knew it was a rental vehicle.

19 I walked up to the vehicle, and I see Mr. Gonzalez
20 sitting in the driver's seat.

21 Q. You just identified someone here in the court, is
22 that right?

23 A. Yes, sir.

24 Q. That's the man in the car?

1 A. Yes, sir.

2 Q. Would you point to him, what he's wearing in court
3 today?

4 A. Mr. Gonzalez is in between the two gentlemen, he's
5 wearing the nice pink tie, black suit, white shirt, glasses.

6 MR. STEGE: Ask the record reflect identification
7 of the defendant.

8 THE COURT: Record will so reflect.

9 BY MR. STEGE:

10 Q. What do you see Gonzalez doing?

11 A. He was leaning to his right, and as I approached he
12 was holding a -- a cell phone in his left hand, while looking
13 at another cell phone which was in the center console of the
14 vehicle.

15 Q. And did you notice anything about Gonzalez's person
16 or the way he was acting?

17 A. Yes, sir. Mr. Gonzalez, as I approached the
18 vehicle, appeared startled. As I started to talk to him,
19 ascertain what he was doing here, his right hand was shaking
20 so bad, it was really shaking, trembling. He was looking
21 like his head was on a swivel, looking to his left, looking
22 to the right. I don't know what he was looking for, but his
23 head was like turning back and forth. He appeared really
24 nervous at that time.

1 Q. What happened next?

2 A. Next I -- I asked him if this was his vehicle.

3 Q. Didn't you say, "What's up, is this your vehicle?"

4 A. Something to -- yes, sir, something like that. I
5 try to be low key and friendly with people, so I could have
6 said something like that.

7 Q. What happens next? Or what's his answer?

8 A. He said no, it belongs to a friend of his.

9 Q. So what do you say?

10 A. I asked him who his friend was.

11 Q. What does he say?

12 A. He stated he didn't know.

13 Q. So what do you say?

14 A. At that time I -- still looking at his hands, I
15 asked him for the keys to the ignition. I asked him for his
16 identification and the rental agreement.

17 Q. What did he do next?

18 A. He quickly gave me the keys, he gave me his license,
19 California driver's license, and he gave me the rental
20 agreement.

21 Q. What did you do next?

22 A. I told him to hang tight and we'll be out of here in
23 a few minutes, and I started to walk back to my vehicle.
24 First I placed the keys in the middle of the hood, for some

1 reason I always do that. I walked back to my vehicle. As I
2 walked back to my vehicle, I don't -- in 33 years of law
3 enforcement I don't turn my back on any car or person, I kind
4 of side-walk. As I'm backing up, I side-walk. I saw
5 Mr. Gonzalez staring at me through his side mirror. I get to
6 my car, at that time they gave me a brand new Chevy Tahoe, so
7 I proceed to the passenger's side near the front hood so I
8 can keep my car between my vehicle and his vehicle. And then
9 I radio -- do a communications check on Mr. Gonzalez with my
10 communications section.

11 Q. And so that entails giving them the information of
12 Gonzalez from the driver's license and stuff.

13 A. Yes, sir.

14 Q. What happens next?

15 A. What happens next is the transmission comes back
16 that Mr. Gonzalez is wanted for murder out of Sparks.

17 Q. What do you do -- what do you do with that
18 information, or what do you do next?

19 A. I -- I said why don't you start me some cover, then.
20 And I could hear -- and I says you might as well invite
21 San Francisco PD as well. And within seconds you could hear
22 my officers responding, I'm in route, I'm in route, everybody
23 is in route, and I could hear sirens from a distance. And
24 then I directed my officer, who I knew was the first to

1 respond, the manner in which I want him to proceed into the
2 area.

3 Q. What's that officer's name?

4 A. Officer Hackard, Matt Hackard, a young officer.
5 Good officer.

6 Q. Did you tell Hackard how you wanted him to approach
7 the area?

8 A. How I want him to respond. Come off of Harrison,
9 come on Alameda, come behind my vehicle. Don't come
10 southbound on Treat, things like that. I don't want officers
11 involved in any -- any dangerous situation, if I can prevent
12 it.

13 Q. So does Hackard come up to your vehicle?

14 A. Yes, sir.

15 Q. What happens next?

16 A. I advise Mr. Hackard -- well, other information is
17 being related at that time, sir. That Mr. -- that the
18 individual might be armed with a .40 caliber semiautomatic,
19 that the shooting involved a motorcycle gang, between the
20 Vagos and the Hells Angel, during an altercation. So I'm
21 getting relayed other information. So I told Officer Hackard
22 I -- this is -- I told him the way I wanted the takedown of
23 Mr. Gonzalez. I wanted it low-key, I felt I had a -- it was
24 very low key on our conversation, I told him I want a low-key

1 take-down. I don't a felony take-down, I want a low-key,
2 where I'm going to respond to the driver's side, I want your
3 weapon drawn, you proceed to the passenger side and we'll
4 take Mr. Gonzalez out of the vehicle at that time. And I'll
5 cuff him within the vehicle.

6 Q. So what happens next?

7 A. I proceeded to the driver's side, I tell
8 Mr. Gonzalez, I order him -- kind of tell him, I tell him
9 lean forward, put your hands behind your back. And I cuff
10 him through the car, through the driver's window. I cuff him
11 right there in the front seat. I ask him to step away from
12 the car.

13 Q. Doesn't -- does the defendant say anything when you
14 go up to him and say lean forward, put your hands behind your
15 back?

16 A. As I'm handcuffing him, yes, sir.

17 Q. What does he say?

18 A. He says there's an APB out on me, and I'm wanted.

19 Q. You get the defendant out of the car, what happens
20 next?

21 A. I tell him no big deal, take him back to -- again, I
22 drive a Chevy Tahoe with no cage, no -- no seating
23 arrangements where they can sit. So I place him in Officer
24 Hackard's car. At that time, another UCSF -- or police

1 officer, her name is Officer Michelle Gonzalez, she arrives.
2 I advised Officer Hackard to search Mr. Gonzalez, and then
3 place him in your car with -- with other agents -- or
4 San Francisco is arriving. So I'm placing them all over the
5 area, because at that time I want an inner and outer
6 perimeter of the -- of the scene.

7 Q. And at some point do you -- so these other agency
8 officers start showing up.

9 A. San Francisco PD.

10 Q. SFPD shows up. At some point do you go back to look
11 in the car, to see what's in the car from the outside?

12 A. Yes, sir.

13 Q. And what do you see inside the vehicle?

14 A. Again, I see a cell phone on the driver's seat, I
15 see another cell phone in the center console. There's a
16 notepad with writing on the passenger's seat. There's a
17 briefcase, a vinyl briefcase, behind the driver's seat.
18 There's a hunting knife on the rear passenger floorboard.
19 That's about it.

20 Q. And eventually you end up sealing up that car and
21 the car is towed, right?

22 A. Yeah, I secured the vehicle. Again, I have to
23 search the trunk, make sure there's no people in the trunk
24 area. So secure the entire vehicle, make sure that people do

1 not disturb that car until the search warrant is obtained.

2 Q. And at some point do you go back up to Gonzalez
3 while he's in the back of Hackard's car?

4 A. Yes, sir.

5 Q. And what's the purpose of doing that?

6 A. Again, we're waiting for some time, I'm notifying SF
7 homicide, I'm notifying Sparks homicide of the incident, I'm
8 waiting for them. It's well over an hour. Again, I want to
9 make sure Mr. Gonzalez's welfare is okay. Check on him, make
10 sure the cuffs aren't too tight. Because when you're in a
11 police car for some time, it hurts. It hurts when you're in
12 those back seats, they're not that roomy. So I ascertain if
13 he's okay, and he says my cuffs are too tight and I'm
14 uncomfortable. I have him step out of the car, and I loosen
15 the cuffs and what we call double-lock. Double-lock the
16 cuffs so they won't tighten up, and I check for spacing in
17 the cuffs, make sure that they're not, you know, breaking the
18 circulation or anything.

19 Q. What happens next?

20 A. At this time Mr. Gonzalez tells me that you'd better
21 move me. You'd better move me from here. Move me from here,
22 or I'm dead and so are you. And I go, wow. Okay.

23 So I gave it some thought, and I thought, you know,
24 he's right. I don't want to be killed here. Or him hurt.

1 So I direct my officers -- again, I had to notify my command,
2 and my assistant chief of police arrived, and I worked with a
3 Chief Berlin in Oakland, he was a captain there, advised him
4 of what we had, and advised him that I was going to have
5 Mr. Gonzalez transported to my agency, which was a block
6 away.

7 Q. And what were you going to do, stay with Gonzalez or
8 stay on the scene?

9 A. No, I was in charge of the scene, since I made the
10 stop I had to stay. I ordered Officer Hackard and Officer
11 Gonzalez or Baroni, who was another officer that arrived, to
12 transport Mr. Gonzalez to our headquarters, which is a block
13 away. Block and a half. And to take him within the
14 headquarters there.

15 MR. STEGE: Can I approach the witness?

16 BY MR. STEGE:

17 Q. Showing you, sir, the Exhibit 43A through 43M
18 series, ask you to review those.

19 A. Yes, sir. Yes, sir.

20 Q. Do you recognize those as being photographs from the
21 scene as well as other photos taken of the defendant?

22 A. And also there's MUD photos that were taken from the
23 San Francisco Police Department, the first three.

24 Q. May I have those back.

1 A. Yes, sir.

2 MR. STEGE: Your Honor, I move to introduce these
3 exhibits.

4 MR. HOUSTON: No objection.

5 THE COURT: Exhibits 43A through M are admitted.

6 (Exhibit Nos. 43A-M admitted.)

7 BY MR. STEGE:

8 Q. And we're getting close to the hour, so let's have
9 you describe 43B. Is this the defendant as he appeared that
10 night?

11 A. Yes, sir.

12 Q. We also have a few photographs of the car, including
13 43F.

14 A. The vehicle there on the left, yes, sir.

15 Q. Appears one slightly better in 43M. Slightly, but
16 not much.

17 A. Yes, sir, that's the vehicle in question, the Chevy
18 Malibu.

19 Q. You mentioned booking photographs. You and Officer
20 Hackard ended up booking the defendant on the warrant at the
21 jail?

22 A. Yes, sir.

23 Q. And these exhibits -- 43B was taken at that time,
24 right?

1 A. I believe so, yes, sir.

2 Q. As well as 43C.

3 A. I believe so.

4 MR. STEGE: Pass the witness.

5 THE COURT: We've got five minutes, do you want to
6 inquire or do you want to wait?

7 MR. LYON: I think I can get it done pretty quick,
8 your Honor.

9 THE COURT: Okay.

10 CROSS-EXAMINATION

11 BY MR. LYON:

12 Q. Good afternoon, officer.

13 A. Good afternoon, sir.

14 Q. You initially stopped Mr. Gonzalez because you
15 thought maybe there was a car burglary in progress, true?

16 A. A suspicious vehicle, yes, sir.

17 Q. And Mr. Gonzalez was not burglarizing the car,
18 correct?

19 A. No, sir.

20 Q. In fact, he had a -- when you asked him to produce
21 his license and the rental agreement, he produced that to
22 you?

23 A. Yes, sir.

24 Q. You had made some comment that after you had got his

1 information, you were walking back to your vehicle, and you
2 noticed him looking at you through the side mirror? Do you
3 recall that testimony?

4 A. Yes, sir.

5 Q. It's not unusual for occupants of a car to be
6 watching you as you're going back to your vehicle, is it?

7 A. I think looking is -- is a broad term. Staring is
8 another term. He was staring, sir. He was -- he was
9 interested in what I was doing all the time. And when you
10 see a head just constantly in the mirror, I think that's
11 staring, not just looking.

12 Q. Okay, that's how you would classify it?

13 A. That's how I classified it. In my experience --

14 Q. You don't know what he was thinking.

15 A. No.

16 Q. Or why he was doing what he was doing?

17 A. Not at all.

18 Q. You run the APB on him, find out that there's an
19 arrest warrant out of Sparks, Nevada?

20 A. Yes.

21 Q. Call for backup, and go up and effectuate the
22 arrest.

23 A. Yes, sir.

24 Q. Mr. Gonzalez didn't give you any problems with the

1 arrest?

2 A. Not at all.

3 Q. He complied with your commands to lean forward and
4 put his hands behind his back, and you handcuffed him.

5 A. Yes, sir.

6 Q. He didn't try to resist, didn't try to run, anything
7 like that.

8 A. No, sir.

9 Q. And you get him out of the vehicle, and I think you
10 said you took him back, and by that time Officer Hackard had
11 been there, so you put him in Officer Hackard's vehicle.

12 A. Yes, sir.

13 Q. Then you had talked about you went back to him
14 sometime later and he made this comment, you need to move me
15 out of here or I'm dead and so are you, something to that
16 effect?

17 A. Yes, sir.

18 Q. So fair to say he was expressing concern for himself
19 and being in that location?

20 A. I would think so, yes, sir.

21 Q. And expressing concern for you?

22 A. Thank you, yes, sir.

23 Q. And for the other officers that were on the scene?

24 A. Yes, sir.

1 Q. And fair to say that he meant it, he was concerned,
2 correct?

3 A. Oh, yes, sir.

4 Q. To the point where you -- you felt he needed to be
5 moved.

6 A. I thought it made sense.

7 Q. And so would it be fair to say that he was
8 frightened that night?

9 A. Very much, sir.

10 Q. Enough to make that impression on you that there
11 could be something that could happen if you didn't move him
12 to a safer location?

13 A. That's true. I've never heard that response in 33
14 years of investigating crime in Oakland and San Francisco,
15 that move me or I'm dead and so are you. I was kind of like,
16 wow.

17 Q. That concerned you when he said that?

18 A. Very much so.

19 Q. And so you gave the order to Officer Hackard to move
20 him to a safer location, and then you went on and did the
21 search of the vehicle, correct?

22 A. No, I stayed there, the search -- I wasn't doing the
23 searching, I was waiting for Sparks Police to arrive, waiting
24 for San Francisco homicide.

1 Q. You just stayed with the vehicle?

2 A. Secured the vehicle and waited for San Francisco
3 homicide and Sparks homicide to arrive, so they can do a
4 search warrant on the vehicle.

5 Q. And did that eventually happen?

6 A. I hope they did.

7 Q. Okay, and did you have any further involvement with
8 Mr. Gonzalez?

9 A. Later that night I had to -- I was told that he
10 invoked his Miranda rights by San -- or by Sparks homicide,
11 and if I could make sure he got transported. And I said I
12 will transport him myself with Officer Hackard.

13 Q. And you did that?

14 A. Yes, sir.

15 MR. LYON: All right, thank you very much. That's
16 all I have, your Honor.

17 THE COURT: Counsel, do you have any more
18 questions? We're out of time, if you need tomorrow.

19 MR. STEGE: Can it be one question?

20 THE COURT: One question.

21 REDIRECT EXAMINATION

22 BY MR. STEGE:

23 Q. Did Gonzalez seem concerned about his safety when
24 you first approached him?

1 A. I'm sorry, what was the question, sir?

2 Q. Did Gonzalez seem concerned about his safety when
3 you first approached him?

4 A. I don't think so.

5 MR. STEGE: That's it.

6 MR. LYON: I do have one follow-up.

7 RECROSS-EXAMINATION

8 BY MR. LYON:

9 Q. You had testified when you approached him his head
10 was swiveling, he appeared nervous.

11 A. Hands shaking, everything.

12 MR. LYON: Thank you.

13 THE COURT: May this witness be excused?

14 MR. STEGE: Yes.

15 MR. LYON: Yes.

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

17 THE WITNESS: Thank you, your Honor. Thank you.

18 THE COURT: Ladies and gentlemen of the jury, at
19 this time I'm going to let you leave for the afternoon
20 recess. During this recess I want to remind you that you are
21 admonished not to form or express any opinion regarding the
22 ultimate outcome of this case. Further, you may not speak of
23 the case to anyone or allow anyone to speak of it in your
24 presence. This includes discussing the case in internet chat

1 rooms or through internet blogs, internet bulletin boards
2 such as Facebook or Twitter, emails or text messaging. If
3 anyone tries to communicate with you about the case, let me
4 know immediately.

5 Do not read, watch or listen to any news media
6 reports or any other kinds of reports regarding the trial or
7 anyone associated with it, including any online information.
8 Do not do any research on any of the parties or groups or law
9 involved in the case, including consulting dictionaries,
10 searching the internet, or other reference material. Do not
11 make any investigation about the case on your own. Thus, you
12 may not go to the Sparks Nugget either in person or through
13 the internet.

14 You may step out, and see you tomorrow morning at
15 7:30.

16 (Jury absent.)

17 THE COURT: Counsel, we're going to take a recess,
18 but I'd like to see you in chambers. Court is in recess.

19 (Recess.)
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1 Code No. 4180

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

4

IN AND FOR THE COUNTY OF WASHOE

5

THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

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STATE OF NEVADA,

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Plaintiff,

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vs.

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ERNESTO MANUEL
GONZALEZ,

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Defendant.

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TRANSCRIPT OF PROCEEDINGS

15

Trial

16

Morning Session

17

Friday, August 2, 2013

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Reno, Nevada

19

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COPY

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Reported By: SUSAN CULP, CCR No. 343

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I N D E X

WITNESS

PAGE

1 RENO, NEVADA, WEDNESDAY, JULY 31, 2013, 12:18 P.M.

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3
4 THE COURT: Thank you. Please be seated.

5 Counsel, for today, have you reached any
6 stipulations?

7 MR. HOUSTON: No, Your Honor.

8 THE COURT: Okay. And, Counsel, are you ready to
9 call your next witness?

10 MR. STEGE: Yes, Your Honor.

11 THE COURT: Okay. Who is that?

12 MR. STEGE: Officer Hackard.

13 THE COURT: Go ahead and bring the jury in first,
14 sorry.

15 (The jury entered the courtroom.)

16 THE COURT: Counsel, will you stipulate to the
17 presence of the jury?

18 MR. HALL: Yes, ma'am.

19 MR. HOUSTON: Yes, Your Honor.

20 THE COURT: Thank you. Please be seated.

21 Go ahead and call your witness.

22 (The witness was sworn.)

23 THE COURT: You may proceed.

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MATTHEW HACKARD,
having been first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. STEGE:

Q Thank you, sir. Please state and spell your name.

A Matthew Hackard.

Q How do you spell your last name?

A Last of H-A-C-K-A-R-D.

Q How are you currently employed?

A I'm currently employed as a police officer with the
San Francisco Police Department.

Q In 2011, how were you employed?

A I was employed as a police officer with the UC San
Francisco Police Department.

Q Was your supervisor Sergeant Gutierrez?

A Yes, sir.

Q Did you go to a call of his on September 29th, 2011,
at about 2022 hours?

A Yes, I did.

Q And where did you respond to?

A I responded to the intersection of Alameda and
Treat.

1 Q What did you do once you got there?

2 A I made contact with Sergeant Gutierrez who was out
3 with a suspicious vehicle.

4 Q And what did you do from there?

5 A We learned that the driver had a no-bail warrant out
6 of Sparks, Nevada, made contact with the driver, and Sergeant
7 Gutierrez placed him in custody.

8 Q Once he was placed in custody, did you perform a
9 search of his person incident to arrest?

10 A Yes, I did.

11 Q And what did you locate?

12 A I located \$1,740 in currency, various denominations,
13 multiple credit cards in the name of Mr. Gonzalez, and two
14 silver rings.

15 Q Do you see Ernesto Gonzalez in the courtroom right
16 now?

17 A Yes, I do.

18 Q Would you identify him for the record?

19 A He's sitting at the defendant's table between the
20 two attorneys.

21 MR. STEGE: Ask the record reflect the ID of the
22 defendant.

23 THE COURT: Can you describe him a little further.

24 THE WITNESS: Yes, ma'am. He's wearing a blue suit

1 with a striped -- horizontally striped tie, white in color.

2 THE COURT: Thank you. The record will so reflect.

3 BY MR. STEGE:

4 Q Directing your attention here to exhibits -- the 45
5 series exhibits, 36, 37 and 38 which have previously been
6 admitted by stipulation, do you recognize these documents?

7 This is 45-38.

8 A Yes, I do.

9 Q And was this on the defendant's person?

10 A Yes.

11 Q Exhibit 45-37. What is this exhibit?

12 A It's a United States passport for Mr. Ernesto
13 Gonzalez.

14 Q Exhibit 45-37, what are we seeing here?

15 A Two silver rings.

16 Q Those were on his person?

17 A Yes, sir.

18 Q And what -- can you describe these rings, please?

19 A The one on the left is a Vagos motorcycle ring.

20 Q What about the one on the right?

21 A Along with that, it's a Vagos ring.

22 Q What does it say on it?

23 A MF.

24 Q What are we seeing in Exhibit 45-36?

1 A A credit card in Mr. Gonzalez's name.

2 Q And what do you notice about this credit card?

3 A I recall the picture, the Nicaragua sign, and the
4 Vagos T-shirt.

5 Q Is that the defendant wearing that Vagos T-shirt?

6 A Yes, it appears to be.

7 Q Once he's placed under arrest, what happens next?

8 A Once he was placed under arrest, he was placed into
9 the rear of my patrol vehicle.

10 Q At some point, did you go back to your patrol
11 vehicle?

12 A Yes, I did, along with Sergeant Gutierrez, when
13 Mr. Gonzalez asked to have his handcuffs loosened, as he
14 stated, they were too tight.

15 Q What happened next?

16 A Sergeant Gutierrez informed me that Mr. Gonzalez was
17 afraid for his safety being in the back of my patrol vehicle.

18 Q So what did you guys do after that?

19 A At 2122 hours, I transported Mr. Gonzalez to the UC
20 San Francisco Mission Center Building police substation where
21 I parked in the northwest corner of the parking lot.

22 Q Did you do anything relative to his handcuffs?

23 A Yes. Once at the station, he stated his shoulder
24 was hurting -- once outside of the station in the back of the

1 patrol car, he informed me his shoulder was hurting, so
2 Officer Baroni and I loosened his handcuffs and placed two
3 pairs on rather than one.

4 Q Where were you parked?

5 A So we were -- I was parked in the northwest corner
6 of the parking lot, backed in with my vehicle concealed in the
7 parking lot.

8 Q And why did you do that?

9 A So the police substation, University Police
10 Department didn't have a holding cell, rather it was more of
11 an office setting than a traditional police station, so there
12 wasn't a secure place to hold Mr. Gonzalez without the
13 supervision of multiple officers.

14 Q And in the meantime, what were you waiting for or
15 who were you waiting for?

16 A I was waiting for investigators from the Sparks
17 Police Department along with San Francisco Police Department.
18 And I believe the San Jose Police Department was en route as
19 well.

20 Q At 2203, did you give the defendant anything?

21 A Yes, I did.

22 Q What did you give him?

23 A I gave him a bottle of water and a Snicker's bar
24 from the vending machine.

1 Q At 2206 hours what happens?

2 A Mr. Gonzalez asked if he could speak with me, and I
3 stated, sure.

4 Q And what did he say?

5 A He informed me that he was in fear for his safety.

6 Q Now, prior to this, had you heard any -- heard
7 anything?

8 A Prior to those statements being made, I heard loud
9 grumbling motorcycle exhaust in the area.

10 Q And so he asked you, "Do you know who I am?" You
11 say?

12 A "Sort of."

13 Q And what is the statement that he makes?

14 A Do you mind if I refresh my recollection reading my
15 report?

16 Q If it would refresh your recollection, please do so.

17 A Thank you. Mr. Gonzalez stated, "Out of respect for
18 you and your family, I want to let you know that they are
19 going to get me and it doesn't matter if you or your partners
20 are in the way."

21 Q So what -- what did you do next?

22 A I informed my Sergeant, Gutierrez, that he was in
23 fear for his safety, and so we made the decision to move him
24 inside.

1 Q And where inside did you move him?

2 A We moved him into the interview room of the police
3 substation.

4 Q Is that -- is that you and Officer Baroni?

5 A Yes, sir.

6 Q And there you waited for detectives from Sparks and
7 San Francisco Police Department?

8 A Yes.

9 Q And the items that were recovered from the
10 defendant's person, were those given to other investigators?

11 A Yes.

12 Q The ones that were coming?

13 A Yes, to the Sparks investigators.

14 Q And the car that the defendant was in, was that car
15 sealed up and those investigators dumped it?

16 A Yes.

17 Q What did you do with the \$1,750 in currency?

18 A My recollection is it was given to the Sparks
19 investigators.

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

21 THE COURT: Cross?

22 CROSS-EXAMINATION

23 BY MR. LYON: Good morning, Officer Hackard.

24 A Good morning, sir.

1 Q So you respond to Sergeant Gutierrez's call for
2 assistance, correct?

3 A Yes.

4 Q And you effectuated the arrest of Mr. Gonzalez?

5 A Yes.

6 Q With -- with Sergeant Gutierrez?

7 A Yes.

8 Q And Mr. Gonzalez turned himself over peacefully,
9 correct?

10 A Yes.

11 Q He didn't resist or try to run away?

12 A Yes.

13 Q He did try to run away?

14 A No, no, no. He did not try to run away, he was
15 basically cornered at that point.

16 Q Put in the back of your patrol car?

17 A Yes.

18 Q And then at some point in time, he expressed concern
19 about his safety?

20 A Yes.

21 Q Okay. And so that's why he was moved over to the
22 office or the -- was it a station house that he was moved over
23 to?

24 A To the parking lot of where the station is inside of

1 an office building.

2 Q Okay. So it's more of an office complex, not
3 necessarily like a normal police station with holding cells
4 and things like that?

5 A That's correct.

6 Q Okay. That's why he was out in the parking lot?

7 A Yes.

8 Q Did the search of his person occur before he was
9 transported or after?

10 A It occurred at the scene, so Alameda and Treat.

11 Q So the items that were seen, those were already
12 taken from his body?

13 A Yes.

14 Q And when he gets over to the parking lot at the
15 police station, at some point in time, you could hear
16 motorcycles in the vicinity?

17 A Yes.

18 Q Okay. Was that of some concern to you?

19 A When Mr. Gonzalez stated that he was concerned,
20 then, you know, we decided to take him inside.

21 Q Okay. Because that did concern you as well?

22 A The fact that the defendant was -- I'm sorry,
23 Mr. Gonzalez was afraid for his safety, then, you know, that
24 did concern us.

1 Q Okay. And he said, basically, "Out of respect for
2 you and your family, I want to let you know that they are
3 going to get to me and it doesn't matter if you and your
4 partners are in the way"?

5 A Yes.

6 Q And he was -- that concern was real, wasn't it?

7 A Yes. From as far as I could tell.

8 Q You took that seriously?

9 A Yes.

10 Q Okay. And did that -- and this is after you're
11 hearing motorcycles essentially circling -- what appeared to
12 be circling the parking lot, true?

13 A Didn't see any motorcycles in the vicinity of the
14 parking lot. It's an urban environment, so somewhere in the
15 near vicinity.

16 Q Okay. But you could hear the motorcycles, true?

17 A Yes.

18 Q And when he's referencing "they," you understand he
19 was had a concern for the Hells Angels, true?

20 MR. STEGE: Judge, can we approach the bench?

21 THE COURT: Yes.

22 (Discussion at the bench.)

23 THE COURT: Sustained. The objection is sustained.

24 MR. STEGE: Thank you.

1 BY MR. LYON:

2 Q He was expressing concern for himself, true?

3 A Yes.

4 Q And concern for you and your family, true?

5 A Yes.

6 Q He was worried that at least as far as what police
7 presence was there that evening was not sufficient to protect
8 himself?

9 A Sir, I don't think that's -- I mean that wasn't what
10 I took out of the statement.

11 Q Okay. But he was at least expressing concern even
12 though he was in police custody, correct?

13 A Yes, sir, yeah.

14 Q Okay. And the items that you seized you turned over
15 to Sparks Police Department?

16 A Yes.

17 MR. LYON: All right. That's all I have. Thank
18 you, sir.

19 THE COURT: Mr. Stege?

20

21 REDIRECT EXAMINATION

22 BY MR. STEGE:

23 Q Would you describe the motorcycle sounds as circling
24 as Mr. Lyon did?

1 A I wouldn't say circling, but in the area, in the
2 general vicinity. If they were circling, I would have
3 probably seen them, but I didn't see them come by the parking
4 lot where I was.

5 Q Did it sound like they were circling? Was it a
6 continuous sound?

7 A Yes, it lasted for a little while.

8 MR. STEGE: Thank you. Nothing further.

9 MR. LYON: No further questions, Your Honor.

10 THE COURT: Thank you. May this witness be excused?

11 MR. STEGE: Yes.

12 THE COURT: Thank you. You may step down. You are
13 excused.

14 THE WITNESS: Thank you, ma'am.

15 THE COURT: You're welcome.

16 Call your next witness.

17 (The witness was sworn.)

18 THE COURT: You may proceed.

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JOHN PATTON,
having been first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. STEGE:

Q Sir, will you state and spell your name?

A John Patton, P-A-T-T-O-N.

Q And you are a detective with the Sparks Police
Department?

A Yes.

Q How long have you been a detective?

A Been a detective for a little over five years.

Q How long have you been a police officer?

A A little over 14 years.

Q And what is your assignment in detectives?

A Currently I work as a detective in the crimes
against persons.

Q And what sort of crimes are considered crimes
against persons?

A That includes assaults, batteries, murders,
robberies.

Q What sort of training have you had in your career?

A I've been to several investigation schools, a basic

1 detective training class, a five-day homicide school, sexual
2 assault three-day class.

3 Q And at the time of the killing of Mr. Pettigrew, how
4 long had you been a detective?

5 A About four-and-a-half years -- or three-and-a-half
6 years, sorry.

7 Q Well, why don't you walk us through the events of
8 September 23rd and your role in them. Where were you when you
9 first learned there was something going on at the Nugget?

10 A Okay. I had actually been in firearms training that
11 night, and so I was done about 11:00 or so. On my way home, I
12 heard the radio call of a fight at the Nugget.

13 Q Did you then respond to the Nugget?

14 A Yes. So I ended up responding to the Nugget, and I
15 ended up on the 11th Street side where Officer Mowbray was.

16 Q And what did you observe at the scene there with
17 Officer Mowbray?

18 A When I got there, I saw who I later found out was
19 Diego Garcia. He had suffered a gunshot wound to his right
20 leg, and a few other Vago members were assisting him.

21 Q Now, did you notice if Diego was wearing his cut or
22 his motorcycle jacket?

23 A He was not. He was wearing just a shirt, just
24 button-up shirt, I believe.

1 Q Did you notice if he was wearing gloves?
2 A He was not.
3 Q And who was with Diego Garcia?
4 A Rigoberto Garcia and Cesar Morales.
5 Q At the time, did you know who Rigoberto and Cesar
6 were?
7 A No, I did not.
8 Q And did you -- what was your role there with Diego
9 Garcia?
10 A First I was trying to get him some medical
11 attention. I was telling him -- he was leaning against the
12 car. I told them to put him on the ground, elevate his leg
13 until the medics got there. When they got there, I began
14 speaking with Mr. Garcia and Mr. Morales.
15 Q And what did you learn later about those particular
16 gentlemen?
17 A That they were actually indeed near and in the fight
18 that occurred inside.
19 Q And what's their Vagos affiliation?
20 A They were with the San Jose Vagos.
21 Q What about Diego Garcia's affiliation?
22 A Again, he was a San Jose Vago.
23 Q Did you see any other San Jose Vagos in the area
24 where Diego Garcia was?

1 A Yes, I did. I didn't remember at the time, but I
2 remember seeing an individual I now know is Brian Marquez who
3 was standing nearby.

4 Q Who is Brian Marquez?

5 A He is another San Jose Vagos member. He did not
6 have any identifiers on, like a vest.

7 Q What about the other two with Diego, did you notice
8 if they had there cuts on?

9 A They did have their cuts on.

10 Q What was Brian Marquez doing?

11 A He was standing and he was actually yelling at
12 myself and other law enforcement to get Diego some medical
13 assistance.

14 Q Now, you stated that they -- you realized later that
15 they were involved. What was their involvement once you
16 reviewed the video and started investigating the case?

17 A Well, I realized that all three of them -- all four
18 of them, actually, including Diego, had been in and around the
19 Oyster Bar and also in front of the Trader Dick's bar.

20 Q And what specifically had you seen them doing on the
21 video?

22 A Well, they were standing behind Mr. Rudnick as
23 Mr. Pettigrew and his group came down the walkway, and then
24 when the fight started, Mr. Morales engaged with Mr. Nolton,

1 smashing a bottle on his face.

2 Q And these other men were also involved in that
3 initial confrontation?

4 A Yes, they were.

5 Q With Diego eventually being shot?

6 A Yes.

7 Q What do you do next?

8 A From there, you know, it's just a matter of trying
9 to figure out what happened. It was kind of a crazy scene.
10 Ended up going back to the station to conduct some interviews.

11 Q Were the men we just talked about, were they
12 cooperative? Did you ask them what happened?

13 A Yeah, I did ask them what happened, and I was
14 gathering trying to gather as much information as I could
15 because nobody knew anything. I asked them what happened and
16 basically they refused to tell me anything. They said they
17 couldn't tell me anything. And I asked them to come down to
18 the station to be interviewed, and they refused.

19 Q What do you mean that they couldn't tell you
20 anything?

21 A Well, they alluded to the fact because of their
22 affiliation with the Vagos, that they just couldn't talk to me
23 about what happened.

24 Q And who was that that was saying that?

1 A That was Rigoberto Garcia and Mr. Morales.

2 Q And do you know their, sort of, rank or their
3 standing within the San Jose Vagos?

4 A Yes. Cesar Morales was -- is the president of the
5 San Jose Vagos, and Rigoberto Garcia is the vice president.

6 Q They won't go down to the police station with you or
7 give statements?

8 A No.

9 Q So you go to the police station, and what do you do
10 there?

11 A Just conduct some interviews with witnesses.

12 Q Do you end up going back to the scene, back to the
13 Nugget?

14 A Yes. The next morning, myself and Detective Gallop
15 went back to the Nugget because I hadn't looked -- I hadn't
16 been inside to see actually where the incident had occurred.
17 And as we were walking around, we discovered some items that
18 appeared to have been left there.

19 Q And where specific -- did you go into the bathrooms
20 of the Nugget?

21 A Yeah, we went basically everywhere in that area. We
22 went into both bathrooms, the area in front of Trader Dick's
23 inside the Trader Dick's dance area, and the slot machines
24 kind of surrounding that area.

1 Q Let me focus on the photographs depicted in
2 Exhibit 28-A through H. I'd like to show those to you now.

3 A Okay.

4 Q What is depicted in 28-A?

5 A That's one of the bathrooms.

6 Q And where is this bathroom?

7 A This is the bathroom that's in between the Rosie's
8 Restaurant and Trader Dick's.

9 Q Sort of in the area where Pettigrew was shot?

10 A Exactly.

11 Q So directing your attention to 28-C, what are we
12 seeing in this exhibit?

13 A That is the -- that's a toilet stall and the toilet
14 seat liner, casing.

15 Q And what do we see in 28-D?

16 A That's a knife that was located inside.

17 Q And what is 28-F?

18 A That's the knife that was inside.

19 Q And so you or Detective Gallop impounded that knife?

20 A Detective Gallop did.

21 Q I believe that knife has been previously admitted in
22 court.

23 THE COURT: Did you want to identify the knife's
24 number?

1 MR. STEGE: Yes. That is --

2 MR. HALL: I think it's 99.

3 MR. STEGE: Yes, Your Honor, that's Exhibit 99, a
4 bag containing a silver folding knife.

5 THE COURT: Did you want the witness to identify it
6 somehow? Maybe by number just so we know what document.

7 BY MR. STEGE:

8 Q Right. Was that knife identified with Sparks number
9 S027393?

10 A Yes.

11 MR. HALL: Doesn't that say 3991?

12 THE COURT: There's two, sir.

13 MR. HALL: I got you. 293.

14 MR. STEGE: 293. Silver folding knife.

15 THE COURT: So which one was it, sir?

16 MR. HALL: 393.

17 THE WITNESS: 393.

18 BY MR. STEGE:

19 Q So you and Detective Gallop walked the scene there.
20 What's the -- are other detectives working on the video,
21 collecting video evidence?

22 A Yeah, at that time, we hadn't seen any video and we
23 didn't -- I didn't see any video until later that afternoon.

24 Q And so later that afternoon, do you attempt to

1 identify a suspect?

2 A Yes.

3 Q And how do you go about doing that?

4 A Well, going over the limited video that we had
5 several times, mainly playing the camera view just in front of
6 Trader Dick's.

7 Q And so, are you able to identify a suspect in the
8 shooting or on the video? You identify who you're looking
9 for?

10 A Yes.

11 Q And so how do you go about looking for that person,
12 trying to identify the shooter?

13 A Well, from there, I knew in speaking with Rigoberto
14 Garcia and Cesar Morales that -- and now looking at the video,
15 that all these people were from San Jose, I believed. So I
16 just began to do some internet searching for any websites
17 related to the Vagos.

18 Q And do you find a website related to the Vagos?

19 A Yes. I located a website called Green Hell 22.

20 Q And what do you see on that website?

21 A On that website, I went into -- they actually have a
22 section for San Jose, and there were several photographs.
23 Included in the photographs, I saw three photographs which
24 included the suspect, I believed, in the photographs.

1 Q You later identified -- had you identified him as
2 Ernesto Gonzalez at the time?

3 A Yes.

4 MR. STEGE: May I approach the witness?

5 THE COURT: You may.

6 BY MR. STEGE:

7 Q Sir, handing you exhibit --

8 MR. LYON: Your Honor may we approach?

9 THE COURT: Certainly.

10 (Discussion at the bench.)

11 MR. HOUSTON: Thank you, Your Honor.

12 MR. STEGE: May I approach the witness?

13 THE COURT: You may. Would you show Counsel.

14 BY MR. STEGE:

15 Q Sir, do you recognize the photographs depicted in
16 the 110-A, B and C?

17 A Yes.

18 Q Are those the photographs you took off of
19 greenhell22.com?

20 A I did.

21 Q Depicting the suspect, yes?

22 MR. STEGE: Move to introduce A, B, C.

23 MR. LYON: No objection subject to the Court's
24 determination.

1 THE COURT: Okay. Exhibit 110-C is admitted in its
2 redacted version. The others were admitted previously.

3 (Exhibit 110-C admitted into evidence.)

4 MR. STEGE: May I publish the exhibit?

5 THE COURT: You may.

6 BY MR. STEGE:

7 Q What is depicted in 110-A?

8 A A photograph of -- including several Vagos members
9 and Mr. Gonzalez.

10 Q Can you circle on your screen Gonzalez?

11 A How do you do that? I don't know.

12 Q With your fingers, like John Madden. There you go.
13 Directing your attention to 110-B. What is included
14 in this?

15 A Another picture with several Vago members including
16 Mr. Gonzalez.

17 Q Would you circle Gonzalez?

18 A (The witness complies.)

19 Q Do you recognize anyone else in this photograph?

20 A Yes, the subject in the white shirt is John Juarez.

21 Q Who is John -- could you circle him?

22 A Yes. Also known as Quicky John.

23 Q Who is Quicky John?

24 A He is the cousin to Pastor Palafax, Ta-Ta.

1 Q Does he told a position of authority or rank in the
2 Vagos?

3 A I'm drawing a blank on what actually his -- I'm not
4 sure I know exactly his standing.

5 Q Do you know if he's Ta-Ta's cousin? Do you know if
6 there's any communication between them?

7 A Yeah, yeah.

8 Q Let's talk about what we are seeing in 110-C.

9 A Another picture with several Vago members and
10 Mr. Gonzalez and also Mr. Nickerson.

11 Q Would you circle Gonzalez?

12 A (The witness complies.)

13 Q Would you circle Nickerson?

14 A (The witness complies.)

15 Q And Nickerson is a San Jose Vago?

16 A San Jose Vago, yes. Richard Nickerson.

17 Q Now, you also during this time get some other
18 photographs from other investigators?

19 A Yes. I got some -- I communicated with the
20 Sacramento sheriff's department, sheriff's office, and an
21 officer indicated that he has --

22 MR. LYON: Objection. Hearsay, Your Honor.

23 THE COURT: Counsel?

24 MR. STEGE: I'll move on beyond this.

1 THE COURT: Okay.

2 BY MR. STEGE:

3 Q Did you receive some photographs from another
4 agency?

5 A I did.

6 Q And were those -- where were those photographs
7 taken?

8 A The photographs were taken in Applegate, California,
9 at a gas station.

10 Q And did in fact -- how many CDs did you receive?

11 A I got two CDs of photographs.

12 MR. STEGE: May I approach the witness with
13 Exhibit 111-B and C?

14 THE COURT: Yes.

15 MR. HOUSTON: Your Honor, may we see those first?

16 THE COURT: 11 -- and 111-A, B, and C were admitted
17 yesterday.

18 MR. HOUSTON: Thank you, Your Honor.

19 MR. STEGE: May I publish these exhibits.

20 THE COURT: Yes.

21 BY MR. STEGE:

22 Q Let's look first at 111-B.

23 THE COURT: The clerk reminded me, Mr. Houston, that
24 you were going to notify us if you had any objection on the

1 111 series.

2 MR. HOUSTON: Your Honor, may we approach for one
3 moment?

4 THE COURT: Yes.

5 (Discussion at the bench.)

6 MR. HOUSTON: Thank you. No objection, Your Honor.

7 THE COURT: Okay. Go ahead, Mr. Stege.

8 BY MR. STEGE:

9 Q Now, these are the photographs you -- one of the CDs
10 of photographs that you received taken in Applegate on the
11 23rd?

12 A Yes.

13 Q Let's just go through a few of these. Now in
14 reviewing these, did you recognize anyone?

15 A Yes. I recognized several individuals that were at
16 the Nugget.

17 Q For example, let's look at this file ending 7884.
18 Who is in this photograph?

19 A This is Diego Garcia.

20 Q The man on the left is Diego?

21 A Yes.

22 Q Who is the man on the right?

23 A That's his brother, Angel Garcia.

24 Q What is their affiliation?

1 A Both San Jose Vagos.

2 Q Let's look at this image ending 7890. Do you
3 recognize anyone in this photograph?

4 A Yes. Mr. Gonzalez and Cesar Morales.

5 Q Cesar Morales being on the far right, the defendant
6 being in the middle there.

7 A Yes.

8 Q This exhibit or photograph ending 7891 to this
9 exhibit, do you recognize anyone in this photograph?

10 A Yes, again, Ernesto Gonzalez in the middle and Angel
11 Garcia.

12 Q Let's look at 7892. Do you recognize anyone in this
13 file?

14 A Yes, Cesar Morales and Rigoberto Garcia.

15 Q Cesar being on the left, Rigoberto on the right?

16 A On the right, yes.

17 Q Cesar is the president of San Jose?

18 A Yes. And Rigoberto is the vice president.

19 Q Let's now go to 111-C. Let's look at a few of
20 these. Do you recognize anyone in the file ending 7275?

21 A Yes. Here on the left is Diego Garcia, on the right
22 is Angel Garcia and in the back -- do you want to clear that?
23 In the back is Brian Marquez.

24 Q All San Jose Vagos?

1 A Yes.

2 Q Let's move to 7281. Who is in this photograph?

3 A Ernesto Gonzalez, Cesar Morales, Rigoberto Garcia,
4 Brian Marquez, and Angel Garcia.

5 Q All San Jose Vagos?

6 A All San Jose Vagos.

7 Q So, what do you do once you receive these
8 photographs?

9 A Well, once I receive these photographs, I begin
10 drafting an arrest warrant.

11 Q And did you begin to look for Ernesto Gonzalez?

12 A Yes.

13 Q And how did you do that?

14 A Well, I received information about an operation that
15 was happening in another state. I spoke to that detective,
16 Eric Bennett who knew what was going on with our case, had
17 received some information from somebody else, and he was able
18 to identify a cell phone number for Mr. Gonzalez.

19 Q And what did you do with that information?

20 A I directed Detective Gallop to confirm with Verizon
21 if the phone number did belong to Mr. Gonzalez, and then when
22 I was told it was, he requested an exigent request for -- to
23 locate the phone, to see if it was on, where it was.

24 Q And were you able to do that and see where the phone

1 was?

2 A Yes.

3 Q And where was the phone?

4 A The phone -- we didn't get any information until
5 early on the 28th of September, but the phone was in Los
6 Angeles, California.

7 Q So what did you do next?

8 A Well, from there, we knew -- since we knew he was
9 down there, later we also received information about a plane
10 flight that had been booked by Mr. Gonzalez.

11 Q Leaving from where and going to where?

12 A Leaving from LAX to El Salvador and then El Salvador
13 to Nicaragua.

14 Q And --

15 A And it was on Alaska Airlines.

16 Q So we are here up to the 28th of September; is that
17 when you learned that information?

18 A Yes. And based --

19 Q Go --

20 A I'm sorry. Based on this information, myself and
21 other detectives drove down to southern California.

22 Q And what happened in southern California?

23 A Well, on our way, we were notified that the -- the
24 current phone information about where the phone was showed

1 that -- to be in San Mateo, California. So we realized
2 that -- and then eventually, the flight we found out had been
3 canceled.

4 Q So you -- but do you split up maybe some
5 detectives --

6 A Yeah, a couple of detectives the next morning ended
7 up going to San Jose and myself and other detectives stayed in
8 southern California.

9 Q And you went to the -- did you go to the airport?

10 A Yes.

11 Q And you were able -- that's where you were able to
12 get confirmation of this airline reservation?

13 A Yeah, just got some more detail on how the airline
14 was booked, when it was canceled, how it was canceled.

15 Q In the meantime, you sent detectives back up north?

16 A Back to -- up north to San Jose, yes.

17 Q And what happens next?

18 A Well, after they arrive, they were there for awhile,
19 but as I start to drive up to San Jose as well, we received
20 information that Mr. Gonzalez had been arrested.

21 Q So do you then proceed to San Jose?

22 A Yes. We were already going there, but yeah, we
23 continued.

24 Q And other detectives including Detective Gallop and

1 Brown?

2 A Mike Brown, yes.

3 Q Were in San Jose?

4 A Yes.

5 Q You get to San Jose, right?

6 A Yes.

7 Q And what -- what do you do there?

8 A The following morning with the assistance of San
9 Francisco PD, I drafted a warrant for Mr. Gonzalez and the
10 vehicle he was in and also some hotel information.

11 Q What hotel information?

12 A Hotel information from the Mariott in south San
13 Francisco which is near the airport which I found out was --
14 Mr. Gonzalez had booked on September 26th and stayed there.

15 Q So you had information defendant was staying at a
16 hotel near the San Francisco airport?

17 A Yes.

18 Q He had been stopped in a rental car within San
19 Francisco?

20 A Yes.

21 Q We'll touch on this subject, but did you end up
22 locating an address or a residence for the defendant?

23 A Yes. We -- all the information showed that
24 Mr. Gonzalez's residence was 4118 Folsom Street in San

1 Francisco.

2 Q And what's the proximity of that location to the
3 location where Sergeant Gutierrez had arrested the defendant?

4 A It was, I would say, two or three miles away.

5 Q Tell us, now, did you or other detectives receive
6 items that had been on the defendant when he was arrested?

7 A Yes.

8 Q And what items were those?

9 A There was a passport, a credit card, and two Vago
10 rings, a car rental agreement, and also cash.

11 MR. STEGE: Your Honor, I move to introduce
12 Exhibit 103 which I believe is admitted by stipulation.

13 MR. LYON: 103?

14 MR. STEGE: Yeah, the 103 series.

15 THE COURT: 103, 103-A, B, C and D were admitted
16 yesterday.

17 MR. LYON: Yes, Your Honor.

18 MR. STEGE: May I publish those?

19 THE COURT: You may.

20 BY MR. STEGE:

21 Q Let's look first at 103-A. What is this?

22 A A passport.

23 Q Of?

24 A Ernesto Gonzalez.

1 Q Let's go to a few pages of this passport. Let's
2 look at page 8 and 9. What are we seeing here?
3 A Can you turn it. Just several stamps of travel
4 including Nicargua, three to Nicaragua and some customs
5 stamped.
6 Q As well as what are we seeing on pages 10 and 11?
7 A Several Nicaragua stamps.
8 Q And we have more of those on pages 12 and 13?
9 A Yeah.
10 Q And up to 14?
11 A Yes.
12 Q Look at 103-E. What are we seeing in this
13 agreement?
14 A This was the rental agreement that was found on
15 Mr. Gonzalez to the Chevy Malibu that he was driving when he
16 was located.
17 Q Was the car rented in his name?
18 A It was not.
19 Q Whose name was it rented in?
20 A Norma Meijia.
21 Q Did you investigate who Norma Meijia is?
22 A Yes. We discovered that she was a friend of
23 Mr. Gonzalez.
24 Q 103-B. What is this?

1 A The credit card that was found on Mr. Gonzalez.
2 Q Let's look at 103-D. What is this?
3 A One of the rings that's -- that was found on
4 Mr. Gonzalez.
5 Q And 103-C. What's that?
6 A It's the other ring that was located.
7 Q Anything distinguishable about this ring?
8 A It says Vagos on it.
9 Q And was any currency booked by the police
10 department?
11 A Yes. There was \$1,740 on Mr. Gonzalez.
12 Q Now, you mentioned that you applied for a search
13 warrant and searched the rental car pursuant to a search
14 warrant?
15 A Yes.
16 Q And what was located?
17 A During the search, we located a black vest or cut
18 which had Nicaragua, Nicaragua on the bottom back patch,
19 several Vagos shirts a laptop computer, three cell phones, a
20 pair of dark Versace sunglasses.
21 Q You were present when they were found and they were
22 ultimately booked by Detective --
23 A Begby, yes.
24 MR. STEGE: May I approach the witness? I seek a

1 stipulation to the Exhibit 104 series.

2 THE COURT: Counsel, approach counsel table. You
3 guys look at that.

4 You may approach.

5 Counsel any objection.

6 MR. LYON: No objection.

7 THE COURT: Okay. 104 and all the A, B and C, et
8 cetera are admitted.

9 MR. STEGE: Thank you.

10 THE COURT: The exhibit is marked as 104.

11 (Exhibit 104 admitted into evidence.)

12 BY MR. STEGE:

13 Q Let's look first at this item labeled RB-11,
14 Detective, out of the bag and show it to us. What it is?

15 A This is the black vest or cut that I located.

16 Q Could you hold it up so the jury can see it?
17 Now, what, if anything, did you notice about this
18 vest?

19 A Well, besides the obvious markings, I noticed a spot
20 that looks like a holster on the inside.

21 Q Inside of the --

22 A The vest.

23 Q Left side?

24 A Left side, yeah.

1 Q Thank you.

2 MR. STEGE: Is this an okay spot?

3 THE COURT: (The Judge nods.)

4 BY MR. STEGE:

5 Q I want you to describe what is in a bag labeled
6 RB-9?

7 A A pair of black and white Converse high top shoes.

8 Q Anything distinguishable about those in terms of
9 your investigation?

10 A Well, they appeared to be similar to the shoes that
11 Mr. Gonzalez was wearing at the time of the incident.

12 Q Now, did you subject these shoes to additional
13 examination?

14 A No.

15 Q Let's look at the bag labeled RB-8.

16 A This is a plastic bag containing several patches,
17 including San Jose -- woops. San Jose, and a California
18 rocker.

19 Q What are the other patches?

20 A "Trust No One," and some of the other, "Vago
21 Forever, Forever Vago" insignias, and then the "LVDV" which I
22 can't be sure what that means.

23 Q I'll have you describe what is in -- you can put
24 those back.

1 What is in RB-7?

2 A This is the Versace sunglass case in which we found
3 these sunglasses. They are actually prescription.

4 Q What is the significance of those?

5 A They looked like the glasses that Mr. Gonzalez was
6 wearing on the night of the shooting.

7 Q Thank you.

8 Describe what is in bag RB-10.

9 A These are the several shirts that were collected,
10 the -- the green shirt was similar to the shirt that
11 Mr. Gonzalez appeared to be wearing in the video. And then
12 other Vago-type apparel.

13 Q What is that shirt?

14 A This is representing Hawaii. Another Vago shirt.
15 And --

16 Q What does that shirt say?

17 A This says, we live -- or we give -- "We give what we
18 get," on the front. And on the back it's for United States,
19 representing United States Vagos.

20 Q These are all shirts found inside of the car?

21 A Inside of the suitcase inside of the car, yes.

22 Q Were there toiletries inside the suitcase?

23 A Yes.

24 Q What do you do after doing this search on the car?

1 A Well, from there, the defendant was then transported
2 here and booked.

3 Q Did you eventually go and apply for a search warrant
4 to the home at -- on Folsom Street?

5 A I did.

6 Q Did you find a gun in the car?

7 A No, we did not.

8 Q And is that part of the reason why you searched the
9 address on Folsom Street?

10 A Yes. The primary reason.

11 Q And when did you do that search?

12 A That was done on October 5th, 2011.

13 Q All right. I need to actually back up a little bit.
14 Were there also -- did you find any cell phones?

15 A Yes. We found three cell phones.

16 Q And where were those cell phones?

17 A They were -- one was on the front seat, and a couple
18 were in the center console.

19 Q And what became of these cell phones?

20 A Well, eventually, they were examined.

21 Q What kind of phones were they?

22 A It was a -- one was a Samsung droid. And a Sony
23 Erickson phone, and an LG flip phone.

24 MR. STEGE: Can I approach the witness with

1 Exhibit 106 and 107?

2 THE COURT: 106 was previously admitted. 107 has
3 not been.

4 MR. HOUSTON: May we have a moment, Your Honor?

5 THE COURT: Yes.

6 MR. LYON: No objection, Your Honor.

7 THE COURT: Okay. 107, then, is admitted.

8 You may approach.

9 (Exhibits 107 admitted into evidence.)

10 BY MR. STEGE:

11 Q In the interest of time, we won't open these, but
12 could you just tell us what is in 106, what we expect to find
13 in 106?

14 A The Verizon Samsung touch screen cell phone.

15 Q And what about 107?

16 A Actually, that's -- this is -- okay. So this is the
17 two cell phones and the chargers in 106.

18 107 is the actual Samsung droid cell phone.

19 MR. LYON: And, Your Honor, just for the record, we
20 were agreeing to the actual cell phones, not the content of
21 the cell phone at this juncture.

22 THE COURT: Okay.

23 BY MR. STEGE:

24 Q Those are the -- between 106 and 107 are the three

1 phones?

2 A Yes, they are.

3 Q Let's look at -- when was the search warrant
4 executed?

5 A On October 5th.

6 Q And could you describe what was found pursuant to
7 the warrant?

8 A Located several Vagos patches, stickers, bandanas, a
9 few shirts, another denim vest that had all the patches
10 removed from them.

11 Q Let me actually go back to the search of the car.
12 Did you locate any computers?

13 A Yes. An Apple laptop computer.

14 Q And what became of that computer?

15 A That was also examined.

16 Q Do you recognize what is depicted in Exhibit 45-21
17 which is admitted by stipulation?

18 MR. LYON: No objection, Your Honor.

19 THE COURT: You may publish.

20 THE WITNESS: That's the Apple laptop computer.

21 BY MR. STEGE:

22 Q Let's look at a series of photographs from
23 Exhibit 45. What are we seeing in Exhibit 45-5?

24 A Those are the Vagos patches that I was describing

1 earlier as being located inside his residence.

2 Q Can you read some of them off to us?

3 A Top left, "We give what we get." "In memory of my
4 Vago brothers." "Hawaii." "San Jose." "Romeo." "One
5 percent."

6 Q Let's look at Exhibit 45-6. What are we seeing
7 here?

8 A Another Vagos patch. With brass knuckles.

9 Q What about 45-7. What are we seeing here?

10 A One of the -- that's one of the Vagos long-sleeved
11 green shirts that was located.

12 Q And what does this Vagos shirt depict?

13 A The Mexicali Vagos.

14 Q And then 45-9, is this the back of that same shirt?

15 A It is.

16 Q And what do we see there?

17 A It's representing Mexico Vagos.

18 Q And on the sleeves of that shirt in 45-8?

19 A Rocky Point Vagos.

20 Q Let's look at 45-10? In fact, what is this?

21 A This was a box of stickers located in his kitchen
22 area with identify the Oahu Charter in Hawaii, Hawaii itself,
23 and then San Jose.

24 Q Now, the previous shoes that you found. Those

1 were -- what kind of shoes were those?

2 A Converse high tops.

3 Q Did you locate additional shoes inside of the
4 defendant's residence?

5 A Yes, in the closet we located a pair of black and
6 white Nike tennis shoes.

7 Q And what was -- why did you collect those?

8 A Because those -- these shoes looked much more like
9 the shoes Mr. Gonzalez was wearing the night of the shooting.

10 Q Let's get to that exhibit.

11 Now, did you photograph the cell phones as you
12 impounded them?

13 A We didn't initially until later when we brought them
14 back.

15 Q Okay. So you took them back and impounded?

16 A Yes.

17 Q And photographed --

18 A Exactly.

19 Q -- the cell phones.

20 So let's move forward. You then -- you begin to do
21 some analysis of the cell phones that you had?

22 A Yes.

23 Q In fact, will you hand me that binder right there?

24 Would you describe the process of examining a cell

1 phone?

2 A Well, we -- at the Sparks Police Department, we have
3 a system called Cellebrate. It's a software tool that allows
4 us to gather the contents on a cell phone and draw that
5 information out into a readable document.

6 Q And you have training in this?

7 A Yes.

8 Q And so what cell phones did you subject to that
9 analysis?

10 A All three cell phones were downloaded, I guess you
11 could say.

12 Q And what information do you get when you conduct one
13 of these downloads?

14 A You get a lot of information depending on the type
15 of phone. But you get contact information, all the contacts,
16 any text messages that are on the cell phone, call logs,
17 incoming, outgoing, photographs, videos, a lot of information.

18 Q It includes photographs that are on the phone; is
19 that right?

20 A Yes, yes.

21 Q Let's look at Exhibit 46. Do you recognize what is
22 depicted in this document from Exhibit 46?

23 THE COURT: Have you shown it to counsel?

24 MR. LYON: No objection to this portion of that.

1 THE COURT: Okay. So Exhibit 46 you're approaching
2 the witness with?

3 MR. STEGE: Yes, Your Honor.

4 THE COURT: And are you offering it?

5 MR. STEGE: I'm about to offer it, yes.

6 THE COURT: And that's what you're saying you have
7 no objection to?

8 MR. LYON: As I understand, there's multiple
9 portions of this exhibit. That portion we have no objection
10 to.

11 MR. STEGE: Perhaps we should label this A.

12 THE COURT: Probably, thank you.

13 MR. STEGE: And I move to introduce it.

14 THE COURT CLERK: 46-A marked.

15 THE COURT: Based upon your stipulation, 46-A is
16 admitted.

17 (Exhibit 46-A was marked and admitted.)

18 MR. STEGE: May I publish this exhibit, Your Honor?

19 THE COURT: Yes. If -- if you want to ask questions
20 first, whatever you want to do.

21 BY MR. STEGE:

22 Q Sir, do you recognize what's depicted in
23 Exhibit 46-A?

24 A Yes.

1 Q And what is this?

2 A This is one of the examination report details for
3 one of his cell phones.

4 Q One of Ernesto's cell phones?

5 A Yes.

6 Q And so by way of example, you have the phone
7 contacts that are in the phone?

8 A Yes.

9 Q For example, we have V. Larry, Gloria, Maria,
10 Gilberto as phone entries, right?

11 A Yes.

12 Q And this particular phone examination, for example,
13 has a list of phone calls or a log of incoming phone calls
14 starting September 11th -- September 29th?

15 A Yes.

16 Q Let's skip to some photographs. This is within that
17 exhibit. This report also takes the photographs that are on
18 the phone; is that right?

19 A Yes. And these photographs -- that particular
20 examination, that was for one of the other phones not the
21 Samsung. So these photos came from a different phone. Not
22 the phone that you just listed. The LG. Just so that is
23 clear.

24 Q Why don't you tell us the three phones that they

1 were and which each one came from?

2 A An LG flip phone, a Sony Erickson phone and a
3 Samsung droid phone.

4 Q And which of the phones did you get the most
5 information from?

6 A The Samsung droid. It's a smart phone.

7 Q So which phone is this?

8 A This is from the Samsung droid phone.

9 Q Let's look at a few photographs from this phone.
10 What do we see in this particular exhibit, the photo to this
11 exhibit?

12 A That's a picture of Mr. Gonzalez with a Vago vest.

13 Q Let's look at another photograph here, the last one.
14 What is depicted here?

15 A That is a photograph of Mr. Gonzalez with Pastor
16 Palafax, the president of the Vagos.

17 Q And so looking back to a previous page of this
18 exhibit, we see the same photograph here, right?

19 A Yes.

20 Q And what information about that photograph?

21 A It -- on the left-hand side, you can see it gives --
22 it's a file name similar to a computer. It also gives the
23 date, approximate date in which the photo was taken.

24 Q And what is the date of the photograph of the

1 defendant with Pastor Palafax?

2 A February 9th, 2011, and actually 8:51 p.m.

3 Q So you subjected the phones to the Cellebrate
4 analysis. Did you also seek other information about the
5 phones of Mr. Gonzalez?

6 A Yes.

7 Q And tell us about that process.

8 A Well, in looking -- I also looked through all of
9 his, obviously, his phone logs and text message detail.

10 Q And tell us about that.

11 A I noticed that there was a -- approximately there
12 was over a thousand text messages incoming and outgoing, but I
13 notice that there were some text messages that I did not find
14 which I expected to find.

15 Q What do you mean?

16 A Well, the -- when we had got the exigent request
17 earlier when we were trying to track his phone, we also got
18 text message detail between the 23rd and 27th of September.

19 Q And where did you get that information from?

20 A From Verizon wireless.

21 Q So the examination of the actual phone showed a gap
22 in text messages?

23 A Yes, there was just a couple of text that were
24 missing.

1 Q And so you were able to go to the cell phone company
2 and they were able to fill in those texts, as it were, give
3 you the text messages?

4 A Yeah. We had already done that before the load, but
5 when I examined the download of some of the text messages, I
6 noticed that some of the text we found earlier were not on his
7 phone. So basically the phone company logged them as a text
8 message that went through their system, but it wasn't actually
9 on the physical phone.

10 Q Let's look at Exhibit 62.

11 MR. STEGE: May I approach the witness?

12 THE COURT: You may.

13 MR. LYON: No objection.

14 BY MR. STEGE:

15 Q Please describe what Exhibit 62 is?

16 A This is the exigent request information that we
17 received from Verizon Wireless which includes some call detail
18 records and text message detail records.

19 Q And within that is -- are the deleted texts or the
20 texts that were not on the droid phone?

21 A Correct.

22 Q And could you direct us to some of those?

23 A Skipped a page. Yes.

24 MR. STEGE: Your Honor, may I publish this exhibit?

1 THE COURT: Yes.

2 THE WITNESS: Those are the two pages.

3 BY MR. STEGE:

4 Q Let's look at the page from this exhibit baring, the
5 bottom right has a Bates stamp ending 1043. Tell us about
6 this message.

7 A The middle message or one of the middle messages
8 indicates it's a text message it says, "My P had me change
9 plans due to our circumstances. Check with you later. All is
10 good."

11 Q Who was this text message from and who was it to?

12 A This was from Mr. Gonzalez to Gary Rudnick.

13 Q Now, on the date of September 27th?

14 A Yes.

15 Q Now, what do you know about what is happening on
16 September 27th. What's happening with the cell phone? Where
17 is the cell phone?

18 A Oh, yeah, on the 27th, I know that the -- that the
19 cell phone was -- it started in the San Jose area, and by the
20 time this text message had been sent, it was in Los Angeles,
21 the phone was.

22 Q So the phone is on its way to Los Angeles when this
23 text is made?

24 A Yes.

1 Q Is this around the same time that the airline
2 reservations to fly to Nicaragua are?

3 A It's just before, I believe, that it was actually --
4 had been reserved. But I think it's right around that time.

5 Q You also pointed out the page 1044.

6 A Yes, there's an answer to the next from Gary Rudnick
7 to Mr. Gonzalez.

8 Q And what is that message?

9 A It says, "Okay. My house is open."

10 Q Is that right here (indicating)?

11 A Yes.

12 Q So a message from Rudnick to Ernesto, "Okay. My
13 house is open."

14 A Yeah.

15 Q May I have the remainder of that.

16 Now, did you also obtain information about some of
17 the phone calls that you had noticed in the phone records of
18 Gonzalez?

19 A Yes.

20 Q And describe that process.

21 A Well, I noticed that there were several -- after the
22 shooting incident, I notice several phone calls to several
23 members of the San Jose Vagos and also to -- one call to
24 Pastor Palafax.

1 Q I guess -- I'm sorry. I'm asking a predicate
2 question. How did you know what Pastor Palafax's phone number
3 was?

4 A That had been developed from -- also from Eric
5 Bennett.

6 Q And you seek the phone numbers or the people
7 associated with phone numbers?

8 A Yes. So basically, the phone numbers than been
9 obtained through our investigation and people who we
10 identified as being at the Nugget or involved with somehow
11 with the case.

12 Q And so who are those people?

13 A Rigoberto Garcia -- well, Mr. Gonzalez, Gary
14 Rudnick, Rigoberto Garcia, Cesar Morales, Diego Garcia, Pastor
15 Palafax, John Siemer, Albert Perez, and Richard Nickerson.

16 Q So you obtained subscriber information for all of
17 those people?

18 A Yes.

19 Q And so you know their phone numbers, and by looking
20 back at the phone records, you can tell who called who?

21 A Exactly, yes.

22 Q And so where are the sources of the information to
23 see who's calling who?

24 A What are the sources?

1 Q Right. Like what documents are you looking at to
2 determine that?

3 A Well, um, phone records for -- were obtained for
4 Gonzalez, Gary Rudnick, and then some of the other people. A
5 short amount for Mr. Perez -- Albert Perez, Cesar Morales, and
6 Pastor Palafax.

7 Q And so did you create a summary of the phone calls
8 made after the shooting?

9 A I did.

10 Q And what is the date range that you included in that
11 analysis?

12 A I included the September 23rd through October 5th.

13 Q And what did you notice -- let's talk, for example,
14 about the phone calls of Mr. Rudnick. What did you notice
15 about his phone calls before the shooting and after the
16 shooting?

17 A Well, I noticed that Mr. Rudnick had a couple of
18 calls that were of interest to me. There was two phone calls
19 to Mr. Gonzalez. One Gonzalez -- Mr. Gonzalez called him, and
20 then Rudnick called Gonzalez in August of 2011. In August and
21 September. And then Mr. Rudnick also had some communication
22 with Pastor Palafax in September, early September, before the
23 incident.

24 Q Before the incident.

1 What about calls between Rudnick and any of the
2 other San Jose Vagos?

3 A There were no calls prior to September 23rd.

4 Q What about after the shooting. What calls between
5 Rudnick and the San Jose -- other San Jose Vagos?

6 A After the shooting, Mr. Rudnick had several phone
7 calls to Brian Marquez and Rigoberto Garcia as well as
8 Mr. Gonzalez.

9 Q So prior to the shooting, is there any evidence in
10 the phone record that Rudnick had called either Marquez,
11 Rigoberto, or Cesar Morales?

12 A There were two phone calls he made to Brian Marquez
13 at 8:00 and 9:00 before, the night of the shooting.

14 MR. STEGE: Your Honor, I move to introduce
15 Exhibit 64.

16 MR. LYON: No objection, Your Honor.

17 THE COURT: Exhibit 64 is admitted.

18 (Exhibit 64 admitted into evidence.)

19 BY MR. STEGE:

20 Q Let's -- what are we seeing here in Exhibit 64?

21 A This is the document that I created.

22 Q And what is it? What does it show?

23 A It's just showing chronological order phone calls
24 between the involved Vago members.

1 Q So what is the first line here?

2 A The first line it shows the date, obviously, and the
3 time is in military time, so that's 11:33 p.m.

4 Q So you have a call from?

5 A From Mr. Gonzalez to Richard Nickerson.

6 Q At 2333 hours?

7 A Yes.

8 Q Now, let's move down for example to the call at
9 2339. What do we have there?

10 A That's a call from Gary Rudnick to Brian Marquez.

11 Q At 2339?

12 A Yes.

13 Q We now have what are the next phone calls. We have
14 here on the 23rd starting at 2341?

15 A Calls that Mr. Gonzalez made.

16 Q To who?

17 A Richard Nickersen.

18 Q So there was in fact communication between Gonzalez
19 and Nickersen after the shooting?

20 A Yes.

21 Q What's -- what are the next calls after the --
22 Ernesto to Nickerson? In fact, we have looks like four calls
23 between Ernesto and Nickerson after the shooting?

24 A Yes. And then after midnight, there's calls to

1 Diego Garcia, Cesar Morales, from Gonzalez.

2 Q Could you highlight those, please, for the jury.

3 A That is not very good.

4 Q So you have Gonzalez calling Diego, calling

5 Nickerson for the sixth time, calling Cesar Morales?

6 A Yes.

7 Q Just at 023 hours, Albert Perez is calling who?

8 A John Siemer.

9 Q And at 030?

10 A Pastor Palafax.

11 Q You have moving to just before 1:00, 059 hours, you
12 have the log calling?

13 A Calling Nickerson again and calling Morales and
14 Rigoberto Garcia.

15 Q And back to Nickerson?

16 A Then Morales again, and receiving calls from
17 Nickerson, and then Rigoberto Garcia calling Albert Perez.

18 Q And what's the significant of that?

19 A Well, Albert Perez is not a member of the San Jose
20 Vagos, so it's interesting because he's a national member of
21 the Vagos, and Mr. Garcia is now calling him after the
22 shooting.

23 Q Don't we in fact have -- let's look at the continued
24 calls in the early morning hours of the 24th. Do you have --

1 what's the significance of this call here, the Rudnick to
2 Marquez?

3 A Again, another -- another phone call from Gary
4 Rudnick to Brian Marquez after the shooting.

5 Q And the next call, Gonzalez to Quicky John. Who is
6 Quicky John?

7 A He's the cousin to Pastor Palafax. And directly
8 under there, there's a call from Brian Marquez to Gary
9 Rudnick.

10 Q Now, up until the shooting, how much -- I mean, you
11 looked back in the record. You looked back before the dates
12 of this shooting. How often did you have calls between
13 Marquez and Rudnick?

14 A None.

15 Q And so after the shooting, you're seeing calls
16 between Marquez and Rudnick?

17 A A lot, yes. A lot of communication.

18 Q Between Marquez and Rudnick?

19 A Yes.

20 Q And is the same statement true that you have a lot
21 of communication between Rudnick and the other San Jose Vagos
22 after the shooting?

23 A Yes, with Rigoberto Garcia.

24 Q In fact, aren't there three calls between Rudnick

1 and Rigoberto after the shooting?

2 A Yes.

3 Q You have here Sean Phelps, to Cesar Morales at 2:24
4 on the 24th?

5 A Sean Phelps is another San Jose Vago member.

6 Q So you have communication between the San Jose
7 Vagos?

8 A Yes.

9 Q Let's continue into the early part of the morning of
10 the 24th. Point out some calls here for us.

11 A Could you zoom out a little bit.

12 Q Zoom out? Yes.

13 A Again, there's a lot of communication between San
14 Jose Vagos members and then also national members. Here
15 there's a call to Rigo, to Albert Perez.

16 Q All right.

17 A And then there's a call to -- from Rudnick Ernesto
18 Gonzalez at 8:29 in the morning.

19 Q All right. So this 8:29, Rudnick Ernesto call,
20 what's the significance of that?

21 A Well, that shows some communication after the
22 shooting.

23 Q And you were aware of Rudnick's statement that he
24 had in fact communicated with Ernesto?

1 A Yeah. This confirmed what Mr. Rudnick told me, that
2 he had spoken to Mr. Gonzalez that next morning.

3 Q Here we have continued communication between the San
4 Jose Vagos as well as calls going up to people like Albert
5 Perez, John Siemer, Cesar Morales, people with --

6 A Yes.

7 Q --influence in the club?

8 A Yes.

9 Q Let's move to the afternoon of the 24th. Let's talk
10 about, for example, the top call there, Rudnick to Rigo?

11 A Yes. Continue as I explained earlier with Rudnick
12 calling Rigoberto Garcia as well.

13 Q Right.

14 A Another San Jose Vago member.

15 Q When he had not called him before the shooting, you
16 have a pattern of him calling?

17 A Yes.

18 Q Him, Brian Marquez, Cesar Morales of the San Jose
19 Vagos?

20 A Yes.

21 Q And this continued communication between Nickersen
22 and Ernesto?

23 A Yes, a lot of communication.

24 Q Let's look at the 25th, let's focus in on these

1 9:00 -- around 9:00 calls. Here we have calls between Rudnick
2 and San Jose Vagos?

3 A Yes. And then another call at about 12-14.

4 Q You pointed that out, right? This one right here?

5 A Yes.

6 Q So continued communication between Rudnick and these
7 other guys?

8 A Exactly, yes.

9 Q And does it appear from your analysis that Rudnick
10 was cut off from the San Jose Vagos?

11 A Not at all.

12 Q Does it appear, in fact, the opposite, that Rudnick
13 had increased communication with the San Jose Vagos?

14 A Very much so.

15 Q And the text messages in fact indicates that --
16 indicate what between Rudnick and Gonzalez?

17 A That there's a deeper relationship than what was
18 thought of before.

19 Q And in fact, you have Gonzalez sharing what his
20 plans are with --

21 MR. LYON: Objection, leading.

22 THE COURT: Sustained.

23 BY MR. STEGE:

24 Q What's the signatures of, "My P changed my plan.

1 All is well."

2 MR. LYON: Objection. Speculation.

3 THE COURT: You can lay a foundation, if you can.

4 BY MR. STEGE:

5 Q What was going on around the time that that text
6 related to, "My P changed my plans"?

7 A Well, during that time, Mr. Gonzalez had made his
8 way to Los Angeles, and there had been a meeting earlier in
9 the LA area, and Mr. Gonzalez had also booked a flight.

10 Q And do you have Gonzalez continuing to communicate
11 with his P?

12 A Yes.

13 Q Cesar Morales?

14 Let's move down here. Here we have on at 2216 hours
15 on the 25th, Ernesto calling Rudnick?

16 A Yes.

17 Q Continuing to the 26th, what are we seeing here?

18 A More communication between Rudnick, Brian Marquez
19 and then Mr. Gonzalez.

20 Q All right. So, for example, we have here at 8:59,
21 Rudnick Ernesto?

22 A Yes. And then -- yeah, and this is right after
23 Rudnick has called Brian Marquez.

24 Q Moving to the 27th, do we see this continued

1 communication?

2 A Yes, indeed. I mean, Mr. Gonzalez is keeping in
3 contact with Brian Marquez, Mr. Nickerson, there's a call that
4 Palafax makes to Diego Garcia, and then you see Rudnick calls
5 Mr. Gonzalez, he also makes a call two hours later to Brian
6 Marquez, and then at 2:30, Mr. Rudnick makes a call to
7 Gonzalez.

8 Q Can you point that out for us?

9 A (The witness complies.)

10 Q This one Rudnick to Gonzalez?

11 A Yes.

12 Q And you have this communication between -- what's
13 the significance of these two people?

14 A Well, Diego obviously is a San Jose Vago who was
15 shot in the leg, and Pastor Palafax is the president of the
16 Vagos.

17 Q And here you have Palafax to Dragon Man, the
18 international sergeant-at-arms?

19 A Yes.

20 Q Let's look at the 28th. What are we seeing on the
21 28th?

22 A Continued communication between all of these San
23 Jose Vagos, national members. Vagos.

24 Q Well, let's talk about here, these two 11:30 calls.

1 Who do we have there?

2 A There's a call to Mr. Gonzalez and then -- that
3 Rudnick makes, and then Rudnick also calls Rigoberto Garcia.

4 Q And here we have Palafax, a number of calls to
5 Albert Perez?

6 A Yes.

7 Q And here we have on the 29th, in fact, Rudnick
8 calling Palafax at 1742 hours?

9 A Yes.

10 Q On the 30th -- now, what was the date of the arrest
11 of Mr. Gonzalez?

12 A It was the 29th, I believe. September 29th, the
13 night of.

14 Q And let's move forward here to the 4th of October.
15 Who are we seeing Rudnick call here?

16 A Several calls to Pastor Palafax.

17 Q The international president?

18 A International president.

19 Q How many calls are there between Rudnick and
20 Palafax?

21 A Eight, I believe. Eight, yeah.

22 Q Eight calls in the afternoon of?

23 A October 4th.

24 MR. HOUSTON: Your Honor, I'm sorry. What Exhibit

1 Number was that?

2 MR. STEGE: That was 64.

3 MR. HOUSTON: Thank you.

4 BY MR. STEGE:

5 Q What conclusions or what -- what was your interest
6 in these calls, seeing this, or what patterns did you see in
7 this, in the phone records?

8 A Well, it just showed a lot of communication between
9 specifically Gary Rudnick and San Jose Vagos, which he had
10 described as -- to me during my interview of him. And also
11 San Jose Vagos communicating with national club members or
12 members of the Vagos.

13 Q National people like who?

14 A Pastor Palafax, Albert Perez, John Siemer.

15 Q Did it appear as though Rudnick was suddenly cutoff
16 from the situation after the shooting?

17 A No.

18 Q All right.

19 A No.

20 Q I mean, beforehand he's hardly called San Jose guys?

21 A Yeah. And now after the shooting, there's a lot of,
22 just, communication between all these members.

23 Q Going all the way up to the top to Ta-Ta?

24 A The top, yes.

1 Q And to Albert Perez?

2 A Yes.

3 Q And to?

4 A John Siemer.

5 Q Siemer. What's Siemer?

6 A He's the Nomad President of the Vagos.

7 Q Influential person in the Vagos?

8 A Very much so.

9 MR. STEGE: Your Honor, I move to introduce
10 Exhibit 113.

11 MR. LYON: No objection.

12 THE COURT: 113 was previously admitted. You may
13 publish.

14 MR. STEGE: Thank you.

15 BY MR. STEGE

16 Q What are these in Exhibit 113?

17 A Those are the Nike -- black and white Nike shoes
18 that we recovered from 4118 Folsom.

19 Q And why did you recover these shoes?

20 A Because they were -- they looked very similar to the
21 shoes that Mr. Gonzalez was wearing during the shooting.

22 Q Now, during the course of the investigation, isn't
23 it true that the shoes of Mr. Pettigrew were recovered by
24 Detective Gallop?

1 A Yes.

2 Q These are admitted per stipulation, Your Honor,

3 155-A?

4 THE COURT: Do you want to publish?

5 MR. STEGE: I would like to publish them now.

6 THE COURT: Okay.

7 MR. LYON: No objection, Your Honor.

8 THE COURT: 155 previously admitted may be

9 published.

10 BY MR. STEGE:

11 Q Detective Patton, will you please show the jury

12 Mr. Pettigrew's shoes.

13 A (The witness complies.)

14 Q What kind of shoes are they?

15 A They are black Reebok high tops.

16 Q Now, tell us about the -- let's go back to the Mac

17 Book that was recovered from the defendant's car.

18 A Yes.

19 Q What became of that?

20 A That was examined.

21 Q And that was examined by another detective,

22 Detective Clark in the forensic environment; is that right?

23 A Yes, with Reno PD.

24 Q And you had an opportunity to review the report from

1 that examination; is that true?

2 A Yes.

3 MR. STEGE: Your Honor, what was the status of 47-A?
4 Actually, if we could approach.

5 THE COURT: Yes.

6 (Discussion at the bench.)

7 THE COURT: Ladies and gentlemen of the jury, I
8 think this is the time for us to take our morning recess.
9 During this break, remember the admonition that I've given you
10 at all the other breaks. Go ahead and go into the jury room
11 at this time.

12 (The jury left the courtroom.)

13 THE COURT: Please be seated. Counsel, do we have
14 any other issues that we need resolve right now?

15 MR. HOUSTON: No.

16 THE COURT: Okay. Then we'll be in recess.

17 MR. HOUSTON: Thank you, Your Honor.

18 (A break was taken.)

19 THE COURT: Thank you. Please be seated. Counsel
20 approach, please.

21 (Discussion at the bench.)

22 THE COURT: The documents I gave you should be kept
23 sealed.

24 Counsel, are you ready for the jury?

1 MR. STEGE: Yes.

2 THE COURT: Okay. Please bring the jury in.

3 (The jury entered the courtroom.)

4 THE COURT: Counsel, will you stipulate to the
5 presence of the jury?

6 MR. STEGE: Yes.

7 MR. LYON: Yes, Your Honor.

8 THE COURT: Please be seated. You may continue your
9 inquiry.

10 BY MR. STEGE:

11 Q I think we left off talking about the forensic
12 examination of Mr. Gonzalez's computer?

13 A Yes.

14 Q And you've had an opportunity to review some of the
15 photographs that were found on that computer?

16 A Yes.

17 MR. STEGE: Your Honor, I'd move to introduce 47 --
18 the remainder of 47.

19 MR. LYON: No objection.

20 THE COURT: Okay. Counsel approach.

21 (Discussion at the bench.)

22 THE COURT: Okay. The record should reflect that
23 Exhibit 47 was admitted previously, that there's no objection
24 to the publication.

1 And, Mr. Stege, you may publish.

2 MR. STEGE: Thank you.

3 THE COURT: Thank you.

4 BY MR. STEGE:

5 Q Let's start with this photograph. Do you recognize
6 anyone in that photograph?

7 A Yes. There's Mr. Gonzalez and then Cesar Morales.

8 Q What patch is he wearing, what club?

9 A They are both wearing a San Jose patch on their
10 vest.

11 Q And this photograph here, who is this?

12 A Ernesto Gonzalez.

13 Q And what is he doing there?

14 A Just standing in front of a building with the Vagos
15 logo on it.

16 Q Let's look at this, the next photograph, who was in
17 this photograph?

18 A A picture of Mr. Gonzalez with Diego Garcia.

19 Q This photograph?

20 A Another picture of Mr. Gonzalez in Nicaragua.

21 Q Who do you recognize from this photograph here?

22 A From the left, Cesar Morales, Mr. Gonzalez, Richard
23 Nickerson, Diego Garcia, and Brian Marquez.

24 Q What about this photograph, can you tell us the kind

1 of cut the defendant's wearing?

2 A He's wearing a denim cut with San Jose on it. This
3 is Mr. Gonzalez here.

4 Q And let's look at, finally, this photograph here.

5 A The picture with Mr. Gonzalez, Richard Nickerson,
6 Brian Marquez, Diego Garcia, and Cesar Morales.

7 Q Let's look at this series of photographs. Who do we
8 see in this photograph?

9 A Mr. Gonzalez.

10 Q What does he appear to be holding in his hand?

11 A A handgun.

12 Q What about the gentleman on the right-hand side of
13 the photograph?

14 A He appears to be holding a handgun as well.

15 Q Let's look at this next photograph taken from the
16 back. What do you notice about this picture?

17 A Well, here is Mr. Gonzalez and he's also -- he's got
18 the same handgun in his back pocket.

19 Q Let me zoom in here. What can you tell us about
20 this handgun?

21 A It looks like a Glock semi-automatic handgun.

22 Q Now, what is the basis for that statement?

23 A Well, I also carry a Glock handgun, and it has
24 similar features on the handle and also the rear of the slide

1 portion of the handgun.

2 Q All right. So, for example, the magazine is unique
3 or distinct to Glocks?

4 A Yes, especially this -- well, it's kind of hard to
5 tell, but there's a hollow point right here at the back of the
6 handle.

7 Q That is unique to Glock?

8 A Yes.

9 Q So in your opinion, that is a Glock firearm?

10 A It is.

11 Q I'll ask to you identify, I believe, Exhibit 98 that
12 was previously admitted by stipulation, Your Honor.

13 May I publish it?

14 THE COURT: Yes.

15 BY MR. STEGE:

16 Q Would you publish this knife as being found in the
17 patrol vehicle? And before you do that, could you tell us the
18 location that patrol vehicle relative to some of the people in
19 this case?

20 THE COURT: Okay. That's Exhibit 98; is that
21 correct, Officer?

22 MR. STEGE: Yes.

23 THE WITNESS: Yes.

24 THE COURT: Thank you.

1 THE WITNESS: This was located in the patrol car
2 just out front of the 11th Street door of the Nugget where
3 Diego Garcia was located as well as Cesar Morales and
4 Rigoberto Garcia.

5 BY MR. STEGE:

6 Q As a matter of fact, was it found by an officer and
7 placed in there?

8 A It was. It was placed in the trunk of that patrol
9 vehicle.

10 Q And found in that general area?

11 A Yes.

12 Q Will you please publish that?

13 A (The witness complies.)

14 Q Now, was that knife taken off a Vago or thrown in
15 that trunk by a Vago?

16 A It was located on a Vago, yes.

17 Q In that area?

18 A Yes.

19 Q Now, you booked items JPP-5 and JPP-6 identified as
20 knives; is that right?

21 A Yes.

22 Q And where did you find those knives?

23 A On top of a slot machine, bank of slot machines
24 inside the Nugget.

1 Q And this was the next morning when you went to the
2 scene?

3 A Yes.

4 Q Could you point out for the jury where you found
5 those?

6 THE COURT: What were those exhibit numbers again?

7 MR. HALL: They are labeled JPP-5 and 6. They are
8 part of the series 100.

9 THE WITNESS: Um.

10 THE COURT: Wait a second. So you are -- you took
11 out two numbers out of that, two bags?

12 MR. STEGE: Yes, there's two bags in 100.

13 THE COURT: Okay. You may go ahead.

14 THE WITNESS: I found them on top of the bank of
15 slots listed as 606 right here which is next to the ATM
16 machine in front of Trader Dick's.

17 BY MR. STEGE:

18 Q And based on your review of the video, who was in
19 that area?

20 A Well --

21 MR. LYON: Objection as to time frame. When are
22 we --

23 THE COURT: Sustained. The question was vague.

24 ///

1 BY MR. STEGE:

2 Q Who was in that area when the fight breaks out?

3 A Leonard Ramirez, Diego Garcia, Jeffrey Pettigrew,
4 Cesar Villagrana.

5 Q On the video, did you see Cesar Villagrana or Jethro
6 Pettigrew put any knives down there?

7 A No.

8 Q In fact, is there a portion of the video when those
9 Vagos?

10 MR. LYON: Objection, leading, Your Honor.

11 THE COURT: Sustained.

12 BY STEGE:

13 Q Did you see any Vagos put the knives down?

14 A No.

15 Q Is there a time on the video when the Vagos might
16 have put them down and not been seen?

17 MR. LYON: Objection, leading, Your Honor.

18 THE COURT: Sustained.

19 BY MR. STEGE:

20 Q Where do you think these knives came from or who do
21 you think put those knives there?

22 MR. LYON: Asked and answered, Your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: I have no idea.

1 BY MR. STEGE:

2 Q Let's look at JPP-5. You placed that zip tie on
3 there so it won't open, right?

4 A Yes.

5 Q Please describe the knife.

6 A It's a serrate folding knife.

7 Q What's JPP-6?

8 A Do you want me to open it?

9 Q Yes.

10 A It's the other knife that was collected on top of
11 the bank of slot machines.

12 Q Would you describe that knife for the record?

13 A It's a buck -- some sort of a smaller buck knife.

14 Q Was there an sheath on it when you found it?

15 A No.

16 Q And that's a fixed-blade knife?

17 A Fixed blade, yes.

18 Q Now, were both of these knives found together?

19 Describe a little bit more their location?

20 A Yeah, from what I remember, they were right next to
21 each other kind of in the middle on top of the slot machines
22 on 606.

23 Q On which side of 606?

24 A It would have been on the left-hand side.

1 Q As we see it, the side towards generally the steak
2 house here?

3 A Yes.

4 Q And in the -- on top and bottom, where was it?

5 A I recall it being somewhere in the middle.

6 Q The middle of 606?

7 A Yes.

8 Q Thank you. Will you put that back?

9 Let's go to some --

10 A Do you want this down.

11 Q Yes. Now, you have reviewed the video in this case,
12 right?

13 A I have.

14 Q Now, let's talk about, and we'll use monitor one as
15 an example, but to your view, how many shots do you see
16 Villagrana shoot in the area of Trader Dick's?

17 MR. LYON: Objection, Your Honor. If he's going to
18 narrate the video, I think the video speaks for itself.

19 THE COURT: What is the purpose, Counsel? I can't
20 see you, so . . .

21 MR. STEGE: Well, the purpose is -- can we approach
22 the bench?

23 THE COURT: Certainly.

24 (Discussion at the bench.)

1 MR. HOUSTON: Thank you, Your Honor.

2 THE COURT: Okay. Can we move to that area that you
3 mentioned.

4 MR. STEGE: Yes, Your Honor.

5 BY MR. STEGE:

6 Q Let's move to, now, you've had an opportunity
7 subsequent to or during the course of your investigation to
8 review the video?

9 A Yes.

10 Q And did you review camera seven?

11 A I did.

12 Q And were you able to see anyone with a firearm?

13 A Yes.

14 Q And who do you see with a firearm?

15 A Diego Garcia.

16 Q And to refresh our memory, where do we see Diego
17 before what we are about to see? Let me ask you, when the
18 fight breaks out, where do we see Diego Garcia?

19 A He's right next to Gary Rudnick.

20 Q And where do we see him when we see Cesar Villagrana
21 pointing his gun?

22 A He is behind the ATM machine from Mr. Villagrana.

23 Q Do we see anyone pointing a gun at Diego Garcia?

24 A Yes, Mr. Pettigrew.

1 Q And what do we see Diego Garcia doing around that
2 time?

3 A He is -- he's in that area.

4 Q Wasn't he -- doesn't he have his arm out toward him,
5 toward Pettigrew?

6 MR. LYON: Objection. Leading, Your Honor.

7 THE COURT: I'm going to overrule.

8 MR. LYON: And -- and -- I think we are talking
9 about another video that's not on the screen, so I'm little
10 confused.

11 THE COURT: I'm sorry. I thought it was on this
12 video.

13 MR. STEGE: It's foundational for this video.

14 THE COURT: I said you could go ahead and do with
15 this witness something unique. He's identify a witness -- one
16 of the parties.

17 MR. STEGE: Yes.

18 THE COURT: Okay. Why don't you go ahead and do
19 that.

20 BY MR. STEGE:

21 Q Let's go to -- let's start at 23:25:21. What is
22 happening elsewhere in the casino right now?

23 A The group of Hells Angels are walking down the
24 walkway, and the group of San Jose Vagos and Rudnick are in

1 front of Trader Dick's.

2 Q And so here we have people -- what are people doing
3 here?

4 A Just wondering around.

5 Q Now, here at 23:26 --

6 A Now, the fight has -- some type of altercation has
7 begun.

8 Q And what makes you say that?

9 A Because people start running toward that direction,
10 Vagos -- other Vagos members.

11 Q Here at 23:26:29, what are we seeing here?

12 A More Vagos members running towards that direction in
13 front of Trader Dick's. Then the --

14 Q Then what?

15 A People are reacting to a shot being fired.

16 Q Let me go back a little bit here. There's Diego
17 Garcia. Let me put this on a loop here. Can we get the
18 lights, please?

19 So where are we going to see Garcia come through
20 with a gun?

21 A Well, you see it twice. Once in this area right
22 here.

23 Q One frame before that?

24 A Yes. Right --

1 Q Right there?
2 A Yeah, right there.
3 Q And we see it roll through there?
4 A Yes.
5 Q And we see it once more right there?
6 A Right here.
7 Q And from watching the video, where do we see Diego
8 just prior to running over to this area?
9 A Here, the ATM machine.
10 Q And what's his path from the ATM machine to here?
11 A It's up the walkway.
12 Q Up the yellow brick road?
13 A Yes.
14 THE COURT: Do you want to turn the lights back on?
15 MR. LYON: Yes, Your Honor.
16

17 CROSS-EXAMINATION

18 BY MR. LYON:
19 Q Good morning, Detective.
20 A Good morning.
21 Q We'll just start with this video. It's your opinion
22 Mr. Garcia has a gun in his hand?
23 A Yes.
24 Q It's true no begun was recovered connected to

1 Mr. Garcia, true?

2 A It's true. That's true, yes.

3 Q No ballistic evidence to suggest if he was carrying

4 a gun that he used the gun, true?

5 A Yes, true.

6 Q I want to start back with kind of going through the

7 evidence that you recovered on scene. We went through a bunch

8 of knives that were recovered in various places?

9 A Yes.

10 Q True?

11 A True.

12 Q Fair to say none of those knives have been connected

13 to any particular individual?

14 A Yes.

15 Q That's correct, right?

16 A That's correct, yeah.

17 Q Okay. We don't know whether they were left by

18 Vagos, correct?

19 A Correct.

20 Q Hells Angels, correct?

21 A Yes.

22 Q Or patrons?

23 A Yes.

24 Q No evidence to suggest any of those knives were used

1 in any kind of assault?

2 A No.

3 Q Fair to say once the event got going, the fight,
4 people were dumping weapons around, particularly knives?

5 A It appears so, yes.

6 Q Based on what you found afterward, right?

7 A Yes.

8 Q But there's no way to connect who belonged to that
9 particular knife that you might have found?

10 A No.

11 Q Or how it may have been used or not used with
12 respect to the fight?

13 A Yes.

14 Q Now, we've seen a series of pictures of Mr. Gonzalez
15 with other Vagos members. Nothing sinister about that, true?

16 A Sinister?

17 Q Yeah.

18 A No.

19 Q I mean, he's -- I think that it's well understood
20 Mr. Gonzalez is a member of the Vagos?

21 A Yes.

22 Q Member of the San Jose Chapter?

23 A Yes.

24 Q A lot of these pictures seem to be with his San Jose

1 Chapter brothers, true?

2 A True.

3 Q Nothing unusual about that?

4 A No.

5 Q Now, when you indicated you were looking for
6 Mr. Gonzalez after the event, you had identified him through a
7 series of photographs, some taken from a website, some taken
8 in Applegate, California, correct?

9 A Yes.

10 Q And you were able to then, through your
11 investigation, get his cell phone number, and you began
12 tracking his cell phone number or his cell phone, the location
13 of his cell phone?

14 A Yes.

15 Q So at least -- and then you had gone down to LA,
16 found out that he had booked a flight to leave the country?

17 A Yes.

18 Q Fair to say Mr. Gonzalez was using his -- his cell
19 phone, correct?

20 A Yes.

21 Q Fair to say he was using his correct -- his proper
22 name?

23 A Yes.

24 Q He was using his credit cards. You were tracking

1 his credit cards, true?

2 A Yes.

3 Q So he wasn't trying necessarily to evade law

4 enforcement, true?

5 A No.

6 Q If he wanted to, he could have used somebody else's

7 cell phone, true?

8 A True.

9 Q Could have used cash to make his purchases, true?

10 A Yes.

11 Q Could have used other names to try to book his

12 flight with?

13 A Yes.

14 Q So it was consistent with him not trying to evade

15 law enforcement, but maybe the Hells Angels, true?

16 A I couldn't say that.

17 Q All right. At least you were able to track him

18 without any problem?

19 A Correct.

20 Q Now, you talked about the items that you seized from

21 his person or that was passed over to you. One of those was

22 his passport?

23 A Yes.

24 Q And had you gone through some of the various stamps

1 in there. I also notice there were stamps for travel to Paris
2 and Barcelona. You saw that as well?

3 A Yes.

4 Q So it looked like he traveled to more than just
5 Nicaragua and Mexico, correct?

6 A Correct.

7 Q And as far as the items that were seized from his
8 car, from the rental car, you had selected some sunglasses?

9 A Yes.

10 Q And those appear to be the sunglasses that he was
11 wearing that you see in the video?

12 A Yes.

13 Q And you confirmed those are prescription sunglasses?

14 A Yes.

15 Q Did you happen to go out and check what the
16 prescription was?

17 A No.

18 Q And you collected his cut here, correct?

19 A Yes.

20 Q With various patches. We have American flag, true?

21 A Yes.

22 Q A Nicaragua rocker?

23 A Yes.

24 Q Other patches designating flags, I'm not sure which

1 countries those are. Do you know what those represent?

2 A The bottom one I believe is Mexico.

3 Q Okay. Do you know what this one represents?

4 A I'd only be guessing.

5 Q Okay. Looks like a patch, "In Memory of my Vago

6 Brothers," like a memorial patch?

7 A Yes.

8 Q MF patch and a Charter Member patch?

9 A Yes.

10 Q And the standard Loki?

11 A Yes.

12 Q You never found a gun?

13 A I did not.

14 Q You found the three cell phones that you've

15 described, and all that was in the rental car as well,

16 correct?

17 A Yes.

18 Q Did you test those phones and see if they worked?

19 A Yes.

20 Q One of them was dead, correct?

21 A Yes.

22 Q Okay. And one of them belonged to a friend of

23 Mr. Gonzalez?

24 A It was in a different name.

1 Q Okay. So it at least wasn't in Mr. Gonzalez's name?
2 A Yes.
3 Q And then I think the Samsung was the phone that was
4 in Mr. Gonzalez's name?
5 A Yes.
6 Q And that I think you said that that's the phone that
7 most of the information is retrieved from?
8 A Correct.
9 Q Now, you had brought up there was a photo of
10 Mr. Gonzalez with Pastor Palafax, known as Pop-Top, the
11 international president of the Vagos. Do you remember that
12 photograph?
13 A Yes.
14 Q And that looked like they were over in Hawaii?
15 A Yes.
16 Q Nothing sinister about that, true?
17 A Nothing sinister, no.
18 Q And I believe that photograph was in February of
19 2011?
20 A Yes.
21 Q Months before the events that took place at the
22 Nugget?
23 A Yes.
24 Q Now, you discussed the fact that on the phones, you

1 had gone through and looked at the text messages, determined
2 that there had been one text message deleted, and that is
3 something -- that was the one to Mr. Rudnick indicating that
4 Mr. Gonzalez's P had a change of plan, correct?

5 A There was actually three.

6 Q Three were deleted. One had nothing to do with any
7 of the Vagos, correct?

8 A They were the communication between the two of them.

9 Q Okay. What was the third one. We heard the P, then
10 the response back, something to the extent that it's okay
11 to -- "my house is open," that was the response back from
12 Rudnick.

13 A And then Gonzalez replies, "Thanks."

14 Q Okay. So those three calls were the only calls that
15 were deleted from the text messages?

16 A Yes.

17 Q Isn't it correct there were no text messages deleted
18 that suggested Mr. Gonzalez was proud of what had taken place
19 on September 23rd, 2011?

20 A There were none that were deleted?

21 Q Right. No other deleted messages, true?

22 A Not that I saw.

23 Q Okay. So nothing -- nothing else deleted suggesting
24 that he was trying to avoid what had happened on

1 September 23rd, 2011?

2 A No. I only had from the 23rd to the 27th.

3 Q Or that he was trying to somehow get credit for what
4 had happened on the 23rd?

5 A No.

6 Q In fact, no other deleted text messages to any other
7 Vago or -- whether in San Jose or national?

8 A No.

9 Q And you have no idea what the text message meant for
10 Mr. Gonzalez, true?

11 A I have an idea.

12 Q You have your opinion?

13 A My opinion, yes.

14 Q Okay. But you don't know what he was thinking when
15 he sent that text message?

16 A No.

17 Q You don't know what texts were going on at the
18 moment he sent that text message other than he was traveling
19 down to LA?

20 A Yes.

21 Q Okay. You don't know who else he had been talking
22 to about the circumstances?

23 A Not the details of the conversations, no.

24 Q You don't even know what circumstances he's

1 referring to in the text message, true?

2 A Again, it would be my opinion.

3 Q I want to go to Exhibit 64, if I could.

4 This is your summary of the phone call data that you
5 retrieved from the various cell phones, correct?

6 A Yes.

7 Q Now, I notice you have on here, you have the date
8 the call was made, or the communication was made, true?

9 A Yes.

10 Q The time of that communication?

11 A Yes.

12 Q Who it's from?

13 A Yes.

14 Q The number from who that person was -- the number
15 used, correct?

16 A Yes.

17 Q And then the -- or the person who the communication
18 was directed to?

19 A Yes.

20 Q And that person's number?

21 A Yes.

22 Q Now, I notice on here you don't have any reference
23 at all as to the duration of the time that was the
24 communication -- the duration of the communication, true?

1 A No -- yeah, it's -- I didn't put it on there.
2 Q Yeah, but you had that information from the phone
3 record, correct?
4 A Yes.
5 Q So you're suggesting that all of these were
6 telephone conversations --
7 A No.
8 Q -- by your summary?
9 A No.
10 Q Okay. Well, we don't know whether they are all
11 telephone conversations or not, do we?
12 A They are -- no they are just calls.
13 Q Okay. But we don't even know if there was one
14 person talking to another person, do we?
15 A No, not for sure, no.
16 Q Okay. Could be as simple as a voicemail left
17 between one person and another?
18 A Yes.
19 Q Could be that the -- there wasn't even a pick up
20 line, meaning that the call was made and the other person
21 didn't even answer, so we have like a four second registry,
22 true?
23 A It's possible, yes.
24 Q Don't you think it would be important for this jury

1 to understand that information when you're putting together
2 your summary?

3 A Not really, because it basically -- I'm trying to
4 show just the communication. There's some -- they are trying
5 to communicate.

6 Q Well, what you're trying to show is that there's
7 some sort of mass conspiracy going on with the members of the
8 Vagos and the communications going on with them after the
9 September 23rd event, aren't you?

10 A Yes.

11 Q That's the impression you're trying to make with
12 this summary?

13 A Yes.

14 Q Okay. But, yet, you don't even provide us with the
15 length of the phone calls so we can even understand whether a
16 phone call was made or received, do you?

17 A No.

18 Q So we can't sit here and look at this diagram and
19 have any understanding as to the significance of all of these
20 communications that you went through in direct examination?

21 A No.

22 Q We don't even know if a conversation took place, do
23 we?

24 A No.

1 Q Now, would it seem unusual to you that there would
2 be a lot of communication between the San Jose and, for
3 example, Gary Rudnick after September 23rd?

4 A Unusual?

5 Q Yeah.

6 A Yes.

7 Q Well, Mr. Rudnick started a fight, didn't he?

8 A No.

9 Q Okay. He was involved in a fight, wasn't he?

10 A Yes.

11 Q Where two Vago members were shot?

12 A Yes.

13 Q President of the Hells Angels was killed?

14 A Yes.

15 Q Okay. You don't think that there would be increased
16 communication about those events between the San Jose Vagos
17 after the San Jose president was killed?

18 A Only if they were working together.

19 Q Right. How are you getting the fact that they were
20 working together out of just communication?

21 A Well, it's coupled with my interview with
22 Mr. Rudnick.

23 Q Okay. And you would agree that your interview with
24 Mr. Rudnick is based on the truthfulness of the information he

1 provided to you?

2 A Yes.

3 Q Okay. And Mr. Rudnick was certainly trying to
4 figure out and fix what had happened that night, true?

5 MR. STEGE: Argumentative, Judge.

6 THE COURT: Sustained.

7 BY MR. LYON:

8 Q Let me back up. We know president of the Hells
9 Angels was killed?

10 A Yes.

11 Q Do you believe that that would have some impact on
12 the San Jose Vagos?

13 A Yes.

14 Q Wouldn't it be ordinary, or wouldn't it be common
15 that there would be some communication about that between the
16 San Jose Vagos?

17 A Yes.

18 Q Because of the events that occurred on
19 September 23rd?

20 A Yes.

21 Q Has nothing to do with whether or not there was some
22 sort of plan to assassinate Mr. Pettigrew?

23 MR. STEGE: Speculation, Judge.

24 THE COURT: Sustained.

1 BY MR. LYON:

2 Q Bottom line is, you have no idea what the substance
3 of any of these conversation are about, true?

4 A True.

5 Q All you know is that there was communication between
6 one person and another?

7 A Yes.

8 Q And it's your assumptions and your conclusions that
9 you're trying to infer with Exhibit 64?

10 A I'm not assuming anything.

11 Q Well, you put together this exhibit, correct?

12 A Yes.

13 Q And what was the purpose of putting together this
14 exhibit?

15 MR. STEGE: Asked and answered.

16 THE COURT: Sustained.

17 BY MR. LYON:

18 Q Fair to say Mr. Rudnick was in trouble after the
19 events of September 23rd, 2011?

20 A Yes.

21 Q So it's no surprise that he's trying to address that
22 issue with the San Jose --

23 MR. STEGE: Argumentative, Judge. Relevance.

24 MR. LYON: -- San Jose Vagos.

1 THE COURT: It is argumentative. I'm going to
2 sustain it.

3 BY MR. LYON:

4 Q No surprise that Mr. Rudnick now -- when I say in
5 trouble, I not only mean trouble with law enforcement, but
6 trouble with the Vagos, you understand that, correct?

7 MR. STEGE: That's speculation, Judge.

8 MR. LYON: I'm asking his understanding.

9 THE COURT: I don't know if he knows that, so if you
10 have some knowledge.

11 THE WITNESS: He -- Well, he was in trouble with the
12 law, law enforcement, and he was receiving some backlash from
13 the Vagos.

14 BY MR. LYON:

15 Q In fact, he got kicked out bad, didn't he?

16 A He did. I just don't -- I can't say when that
17 happened.

18 Q Okay. So certainly his communication with the
19 national members of the Vagos would be something that wouldn't
20 be out of the ordinary, correct?

21 A I have no idea.

22 Q Okay. Well, this discussion may be going on about
23 his role or his future with the Vagos, that would be expected,
24 true?

1 A It's possible.

2 Q Now, with respect to the telephone calls that you
3 were able to go through, we know we have no telephone calls
4 between Mr. Gonzalez and Mr. Rudnick on September 23rd,
5 correct?

6 A Correct.

7 Q We have no calls between Mr. Rudnick and Dragon on
8 September 23rd, correct?

9 A Correct.

10 Q In fact, there's a big gap in Mr. Rudnick's calls on
11 September 23rd, correct?

12 A You have to be more specific which time.

13 Q Isn't it true there was no incoming or outgoing
14 calls from Mr. Rudnick's phone from approximately 10:14 p.m.
15 to 10:31 p.m.?

16 A I guess so.

17 Q So he wasn't making any calls or receiving any calls
18 up to about 20 minutes before the fight until after the fight
19 occurred, correct?

20 A I'd have to see it. I can't be sure.

21 MR. LYON: This is a summary, our summary. I'm not
22 sure what exhibit it is.

23 THE COURT: Okay. Go ahead and show counsel and
24 then you may approach.

1 BY MR. LYON:

2 Q I think I misspoke, Officer, it was 10:14 to 11:31.

3 May I approach?

4 THE COURT: You may.

5 Are you asking him if he knows what this is that you
6 just showed him?

7 MR. LYON: I'll ask him that.

8 BY MR. LYON:

9 Q Have you seen that document before?

10 A I have.

11 Q And, in fact, this is part of what you prepared in
12 preparation for your summary, correct?

13 A Yeah.

14 Q This is a detailed in-and-out from Gary Rudnick's
15 phone, correct?

16 A Yes.

17 Q The phone calls going out and phone calls coming in?

18 A Yes.

19 Q In that case, there was anonymous phone calls going
20 into Mr. Rudnick's phone or out of Mr. Rudnick's phone from
21 10:14 to 11:31, correct?

22 A Yes.

23 Q And I think you already indicated there were no
24 calls from Mr. Rudnick to Dragon?

1 A Yes.

2 Q And even though Dragon was supposedly the one that
3 had been in communication with Mr. Rudnick to instigate this
4 planned hit or planned assassination, correct?

5 A He talked to him, but not over the phone.

6 Q Okay. Your understanding is it wasn't a cell phone?
7 He didn't receive any message by cell phone?

8 A Not that I recall, no.

9 Q So if he testified differently, that's something you
10 wouldn't be aware of?

11 A It's possible that I don't recall.

12 Q Then the telephone calls between Mr. Gonzalez and
13 Mr. Nickerson, that's not unusual is it? Mr. Nickerson is
14 Mr. Gonzalez's friend, you understand that?

15 A Yes.

16 Q And again, all of these telephone calls going back
17 and forth, you have no idea what was discussed?

18 A No.

19 Q The length of the telephone calls?

20 A I do from the actual records, but I couldn't tell
21 you.

22 Q Okay. At least as far as your summary, that wasn't
23 included in that?

24 A Yes.

1 Q Now, the one -- later exhibits that you had
2 referenced, was this -- the pictures of Mr. Gonzalez with what
3 you characterize as a Glock in his pocket, do you remember
4 that picture?

5 A Yes.

6 Q Do you recall what caliber of weapon that was?
7 Could you tell by the picture?

8 A No.

9 Q If it was after 9 mm, that would be different than
10 the weapon that was fired on September 23rd, 2011?

11 A Yes.

12 Q That was a .40-caliber Glock believed to be used,
13 correct?

14 A Correct.

15 Q We don't know when that picture was taken, do we?

16 A I believe it's time stamped somewhere.

17 Q Do you recall what the date was?

18 A It's in 2011, I just can't remember the exact month.

19 Q Okay. Long before the September 2011, 23rd event?

20 A Yeah.

21 Q Now you were classified as the case agent on this
22 case, correct?

23 A Yes.

24 Q And what's the role of the case agent?

1 A It's basically I'm in charge of the direction of the
2 investigation, coordinating other efforts from other
3 detectives that are assisting, directing other detectives to
4 do certain things.

5 Q Okay. And part of your -- you receive reports from
6 these other officers --

7 A Yes.

8 Q -- that are involved in the investigation, true?

9 A Yes.

10 Q Now, there were undercover officers at the Nugget on
11 the evening of September 23rd, were there not?

12 A Yes.

13 Q How many undercover officers were present?

14 A Approximately five at least, that I know of.

15 Q Okay. Well there was undercover officers from
16 federal agencies, correct?

17 A Yes.

18 Q How many?

19 A Federal, I don't think anybody from a federal
20 agency.

21 Q Okay. Do you recall testifying previously that you
22 believed that there were undercover officers from federal
23 agencies?

24 A It's possible.

1 Q All right. But right now you don't recall. You
2 don't recall how many?

3 A I think there's -- I can think of five off the top
4 of my head, right now.

5 Q And that would include task force officers, Effusion
6 officers?

7 A Task force officers, yes.

8 Q And officers working from other states undercover?

9 A Yes.

10 Q Any other -- any undercover officers from Washoe
11 County or Reno PD?

12 A Washoe County.

13 Q Do you recall how many of those?

14 A Just one.

15 Q And it's true, is it not, that the there hasn't been
16 one report turned over by any of these undercover officers
17 indicated that they observed anything suggesting that the
18 fight and the subsequent shooting was a planned event, true?

19 A No.

20 Q Not true or --

21 A Or that is a true statement, yes.

22 Q And you would expect if they're on the floor that
23 night, correct?

24 A Yes.

1 Q And if there was some suggestion that there was some
2 sort of planned event going on, that they would have had the
3 opportunity to intervene before it took place, correct?

4 A If they knew about it, yes.

5 Q Okay. They could have made appropriate calls?

6 A Yes.

7 Q Take some action to avoid the problem?

8 A Yes.

9 Q And we know no officers made any calls to try to
10 stop the fight because they didn't see a problem, correct?

11 A Yes.

12 Q We have no reports detailing any efforts by the
13 undercover officers to stop the fight?

14 A Which fight?

15 Q The fight between Mr. Pettigrew and Mr. Villagrana
16 or Mr. Rudnick?

17 A No.

18 Q And doesn't that suggest the spontaneity of the
19 fight?

20 A No.

21 Q Well, isn't it true, Mr. Rudnick indicated that
22 there was somewhere around 85 to 87 Vagos that new about the
23 pending attack on Mr. Pettigrew?

24 MR. HALL: Objection.

1 THE COURT: Sustained.

2 BY MR. LYON:

3 Q During the course of your investigation, how many
4 Vagos did you learn were aware of the planned assassination of
5 Mr. Rudnick -- or Mr. Pettigrew?

6 A Besides Mr. Rudnick?

7 Q Uh-huh.

8 A No one.

9 Q No one else knew?

10 A That I confirmed with, yes.

11 Q Okay. You were present at Mr. Rudnick's interview
12 on February 15th, 2011, correct?

13 A Yes.

14 Q How many did he say was involved?

15 A Upwards of 20.

16 Q Do you recall him saying somewhere around 85 to 87?

17 A Yeah, that was after the fact, yes.

18 Q Okay. So he made multiple descriptions of the
19 numbers of Vagos that were aware of this planned attack?

20 A Yes.

21 Q One point he said 20, at some point he said 80, 85?

22 MR. STEGE: Your Honor, that misstates the --

23 Mr. Rudnick's statement.

24 THE COURT: I have no idea whether it does or not.

1 MR. LYON: Just asking this officer's recollection.

2 MR. STEGE: He's confusing the beforehand and people
3 learning after the fact.

4 THE COURT: Do we have the transcript?

5 MR. LYON: We do.

6 Is a transcript available?

7 THE COURT: Counsel, approached.

8 While we are all talking here ladies and gentlemen
9 of the jury, just stand and stretch a little bit, get a little
10 air into your lungs. You can too, Officer, if you want.

11 I(Discussion at the bench.)

12 THE COURT: Do we have something for the officer to
13 look at while you're asking these questions?

14 MR. LYON: I don't know. Maybe I could approach.

15 THE COURT: Well, maybe the State has a copy.

16 MR. HOUSTON: Your Honor, I happen to have one.

17 THE COURT: Okay.

18 MR. HOUSTON: May I, Your Honor?

19 THE COURT: You may.

20 MR. HOUSTON: Here you go.

21 THE WITNESS: Thank you.

22 THE COURT: So the objection was sustained in part,
23 and so I'm going to let you go ahead and go back, direct the
24 officer to the section and ask a question.

1 BY MR. LYON:

2 Q If you could turn to page 89. This is the
3 February 15th, 2011, interview -- or 2012, yeah February 15th,
4 2012, interview of Mr. Rudnick.

5 A Okay.

6 Q That last line there. And then if you go to page
7 90.

8 THE COURT: Officer you have to read a little bit
9 above the last line so you can get the context of what's being
10 asked.

11 Okay. Who's phone is going off?

12 MR. HOUSTON: I'll check to see if it's mine, Your
13 Honor.

14 BY MR. LYON:

15 Q Have you had a chance to read that?

16 A Yes.

17 Q So I believe my question is relating to your
18 understanding at least from Mr. Rudnick's interview as to how
19 many people knew or were aware of the planned assassination on
20 Mr. Pettigrew. Do you recall that question?

21 A Yes.

22 Q And Mr. Rudnick indicated that he thought that there
23 was upwards of 80 to 85 -- "85 to 87 of us," correct?

24 A Yes.

1 Q And he talking about, "Our wrecking crews knew,"
2 correct?

3 A Yes.

4 Q "They were guys, you know, packed and carried guns
5 and carried knives"?

6 MR. STEGE: Judge, again, he's taking it out of
7 context.

8 MR. HALL: We move for admission of Mr. Rudnick's
9 statement at this time, the complete statement pursuant to
10 NRS 47.020.

11 THE COURT: Okay. Let's mark it, we'll start there.
12 So if you'll retrieve the copy. Have you got one to mark?

13 MR. HALL: I've got one right here if I may approach
14 the clerk.

15 THE COURT: You may.

16 THE COURT CLERK: Thank you. Exhibit 160 marked.

17 (Exhibit 160 marked for identification.)

18 THE COURT: Ladies and gentlemen of the jury, I'm
19 going to ask that you step outside, we are going to have a
20 little discussion here on the law. Do not form or express any
21 opinion about the ultimate outcome of this matter, do not
22 discuss the case amongst yourself or with any other person, do
23 not allow anyone to attempt to influence you or attempt to
24 speak of it to you. Do not attempt to read any news media

1 accounts or any other accounts regarding this case, and do not
2 make any independent investigation or inquiry into any of the
3 facts and circumstances around the case. If any of this
4 admonition is violated, let me know immediately. Go ahead and
5 go into the jury room.

6 (The following proceedings were held outside the presence of
7 the jury.)

8 THE COURT: Please be seated.

9 MR. HOUSTON: Thank you.

10 THE COURT: Okay. So, there's an offer of 160.

11 MR. LYON: Yeah, we -- you know, we would object to
12 the whole thing coming in, Your Honor. I guess I'm unclear as
13 to why I think I'm misrepresenting what Mr. Rudnick told or
14 what Detective Patton understood coming from Mr. Rudnick. As
15 I understand it, Detective Patton testified that Mr. Rudnick
16 had indicated -- my question to him was how many people knew
17 of this planned assassination. And Detective Patton indicated
18 there were -- Mr. Rudnick had said 20 people. And then I
19 asked him if he was aware of Mr. Rudnick's testimony that
20 there had been 80, 85 people that may have known about the
21 planned assassination. The detective said he could not recall
22 that, and so that prompted obtaining the transcript to refresh
23 his recollection. I think it has refreshed his recollection.
24 I think the transcript talks about, "85 or 87 of us, wrecking

1 crews, which those guys are the guys, you know, pack, carry
2 guns, carry knives, carry gloves." So I don't think I've been
3 misleading at all.

4 THE COURT: When you read the whole thing, though,
5 he backtracks from the 85 to 87 in the transcript and says --
6 he's talking about the wrecking crew, there's that many, and
7 then he says San Jose knew, LA knew, National knew, a lot of
8 nomads knew.

9 MR. LYON: Correct.

10 THE COURT: So the question of 85 to 87 is not
11 specific. So as you asked the question, you made it sound
12 like Mr. Rudnick made a specific answer to the question that
13 there were 85 or 87, that's when he's talking about wrecking
14 crews, that's the way I read the transcript. I have not read
15 the whole transcript. All I've read is page 85 to 90 that you
16 showed me.

17 MR. LYON: The question before that, did all Vagos
18 know it was going to go down, or is there people that didn't,
19 going -- you know, know that it was going down this planned
20 assassination. So that question, he says yeah.

21 THE COURT: Right. But in the transcript it shows
22 that he's talking about two different things.

23 MR. LYON: No, he's include --

24 THE COURT: -- the planned assassination and the

1 fight that precipitated it, right? Isn't that what 89 talks
2 about?

3 MR. LYON: I think it's all the same, Your Honor.
4 How many people knew that he was going to start this --

5 THE COURT: That's certainly argument you all can
6 argue. But I'm reading 89 and 90 and I see two things
7 Mr. Rudnick is talking about: A planned assassination and was
8 it going to start then, especially when you read this and he
9 says that everyone told me to back down, that we weren't ready
10 to do it yet. I mean, you read this, and it's very -- it
11 isn't the way you're representing it. So if you want to put
12 it in, great. You can put the whole thing in. I don't know
13 if the whole transcript should come in, but certainly that
14 portion.

15 MR. HOUSTON: Your Honor, I think we should put the
16 whole transcript in. I'd love to have it for closing, so I'll
17 stipulate it in. I think Mr. Lyon would as well.

18 THE COURT: Okay. Then you're still offering it,
19 160?

20 MR. LYON: Yes.

21 MR. STEGE: So we can move on.

22 THE COURT: Okay. Now does that mean closing is
23 going to take a couple of days?

24 MR. HOUSTON: Probably.

1 MR. HALL: His is going to take a couple days
2 anyway.

3 MR. HOUSTON: I think once Karl brings in the phony
4 phone calls that's going to take a few days as well.

5 THE COURT: Okay, gentlemen. Shall we proceed?

6 MR. HOUSTON: Yes, your Honor.

7 Bring the jury back in.

8 160 is admitted.

9 (Exhibit 160 admitted into evidence.)

10 (The jury entered the courtroom.)

11 THE COURT: I'd ask the audience to be seated,
12 please. Thank you.

13 Counsel, will you stipulate to the presence of the
14 jury?

15 THE BAILIFF: Your Honor, we -- no.

16 THE COURT: Oh, don't stipulate yet.

17 Now do you stipulate?

18 MR. LYON: Yes, Your Honor.

19 THE COURT: Thank you.

20 Okay, Counsel?

21 MR. LYON: Thank you, Your Honor.

22 BY MR. LYON:

23 Q Okay, Detective, going back, there were some -- you
24 were present at Mr. Rudnick's interview, correct?

1 A Yes.

2 Q And there were discussions with Mr. Rudnick about
3 how many people knew about the fight, right?

4 A Yes.

5 Q What's your understanding of how many people knew
6 about the fight?

7 MR. STEGE: Objection. Vague.

8 MR. LYON: The fight between Mr. Pettigrew and
9 Mr. Rudnick.

10 THE COURT: At what point?

11 MR. LYON: Prior to.

12 THE COURT: Before or after?

13 MR. LYON: Prior to.

14 THE COURT: So the question is how many people? How
15 many?

16 BY MR. LYON:

17 Q What's his understanding, based on your sitting
18 through the interview of Mr. Rudnick, how many Vago members
19 knew about the fight before it took place between Mr. Rudnick
20 and Mr. Pettigrew?

21 MR. STEGE: Is he talking the fight or the
22 conspiracy? The fight or the plan?

23 THE COURT: He said the fight, correct? That's your
24 question.

1 MR. LYON: Correct, that's my question.

2 THE WITNESS: Upwards of 80, 85.

3 BY MR. LYON:

4 Q Now, how many people, Vago members, knew about the
5 planned assassination before that fight took place based on
6 your sitting through the interview of Mr. Rudnick?

7 A Approximately 20.

8 Q Okay. So let's go back to the fight issue. So if
9 approximately 80 to 85 members knew about the fight and it's
10 your understanding they knew because they were going to be
11 participating in the fight, correct?

12 A Yes.

13 Q Mr. Rudnick talked about wrecking crews, correct?

14 A Yes.

15 Q Talked about Vagos carrying knives and guns?

16 A Yes.

17 Q All in anticipation of this pending fight with
18 Mr. -- between himself and Mr. Pettigrew, correct?

19 A Yes.

20 Q But yet, none of the undercover officers there saw
21 anything to suggest that the fight was going to take place
22 prior to it taking place, correct?

23 A They didn't indicate any, no.

24 Q Okay. We didn't have any reports about that?

1 A No.

2 Q Certainly didn't have any of them come in and
3 testify about their observations, correct?

4 A I don't know if they did or not.

5 Q Okay. Again, suggestive that the fight in and of
6 itself was a spontaneous event, correct?

7 A Can you repeat the question?

8 Q Yeah. That suggested that the fight just was a
9 spontaneous event versus a planned event?

10 MR. STEGE: That's argumentative, Judge.

11 THE COURT: Sustained.

12 BY MR. LYON:

13 Q It's consistent with a spontaneous event,
14 inconsistent with a planned event?

15 MR. STEGE: Compound and argumentative.

16 THE COURT: Sustained as to compound.

17 BY MR. LYON:

18 Q Consistent with --

19 THE COURT: Is your question is -- what is
20 consistent? We've lost your question so far back.

21 MR. LYON: Okay. Let me back up.

22 BY MR. LYON:

23 Q The fact that no undercover officers reported
24 knowing in advance that they were able to view 80 to 85 Vagos

1 getting ready for a fight, that would suggest that that didn't
2 take place, correct?

3 A That's -- there's no way to tell.

4 Q And it's suggestive that the fight was a spontaneous
5 event?

6 A No.

7 MR. STEGE: Argumentative.

8 THE COURT: Sustained.

9 MR. LYON: I'll move on, Your Honor.

10 BY MR. LYON:

11 Q We do know that Sparks Police was called earlier at
12 the Oyster Bar?

13 A Yes.

14 Q And, in fact, someone came over and -- because there
15 was tensions between the Hells Angels and the Vagos at that
16 point in time, correct?

17 A Yes.

18 Q And one of the officers did arrive on scene to
19 evaluate the situation?

20 A Yes.

21 Q There was -- she felt there was no need to stay,
22 correct?

23 A Yes.

24 Q Because the tensions had defused between the Vagos

1 and the Hells Angels at that point in time?

2 A That's what she was told.

3 Q Okay. Well that's what she observed, isn't it? At
4 least your understanding?

5 A My understanding is she didn't go inside.

6 Q Okay. Your understanding is she didn't go in, have
7 a look around?

8 A That's my recollection.

9 Q No other officers were called, correct?

10 A No.

11 Q And it's your understanding that things diffuse
12 because Vago membership came down and talked with
13 Mr. Pettigrew and the Hells Angels?

14 A It appears so, yes.

15 Q In your opinion, isn't that consistent with the
16 fight being a spontaneous event?

17 A No.

18 MR. STEGE: Argumentative, Judge. Lack of personal
19 knowledge.

20 THE COURT: Sustained.

21 MR. LYON: Court's indulgence?

22 THE COURT: Yes.

23 MR. LYON: That's all I have, Your Honor. Thank
24 you.

1 THE WITNESS: Do you want this back?

2 THE COURT: No, just leave it right where it is.

3 You're not, I don't think, done.

4 THE WITNESS: Yeah.

5 THE COURT: You just saw Mr. Stege stand up, so. . .

6 THE WITNESS: Yeah.

7 MR. LYON: I'm just going to put this over here.

8 THE COURT: Okay. That's fine. Thank you.

9 Okay. Mr. Stege.

10

11 REDIRECT EXAMINATION

12 BY MR. STEGE:

13 Q You have the transcript in front of you, and I want
14 to talk about the subject of who was at the meeting when they
15 got the green light for Pettigrew. If you'll turn to page 25.

16 A Okay.

17 Q In fact, you yourself asked him at line nine, "How
18 many people do you think were at the side meeting"; isn't that
19 right?

20 A Yes.

21 Q And what was his answer?

22 A His answer was 10 to 15. Do you want me to read the
23 whole thing?

24 Q Yes.

1 A "10 to 15. I mean, I imagine -- I mean, I didn't
2 take a head count, but San Jose was there, I was there,
3 Candyman was there, Lunch Box was there, you have, I mean LA
4 Charter was there, and San Jose Charter. Then they had Dragon
5 and a couple of other national people there."

6 Q So he then goes on to describe who Dragon and these
7 people were?

8 A Yes.

9 Q So did he ever describe 70 or 80 people being at
10 this meeting or being in on the plan to green light Pettigrew?

11 A No.

12 Q Or that that many people were aware of the green
13 light on Pettigrew?

14 A No.

15 Q What was this -- this big number that Mr. Lyon
16 mentioned?

17 A That was just people that were told that there
18 was -- something was going to go down.

19 Q That something was brewing?

20 A Yes.

21 Q But not that it was a green light?

22 A Not specifics, yes.

23 Q It was a small group who knew about the green light?

24 A Yes.

1 Q Now, you were -- it was -- let's talk about the
2 phone calls. Now we went over the summary of the phone calls,
3 didn't we?

4 A Yes.

5 Q On direct.

6 But you also provided, and they've been admitted by
7 stipulation, the raw data that you used to come up with that
8 information, didn't you?

9 A Yes.

10 Q And that is contained, for example in Exhibit 70,
11 right?

12 A Yes.

13 Q 70-B. This is some of the raw data, right?

14 A It is.

15 Q And in fact, going through this kind of briefly, but
16 the remainder of this entire binder, isn't it the raw data you
17 used to come up with your chart?

18 A Yes.

19 Q Your summary?

20 A Yes.

21 Q I'd have you confirm that. But trial Exhibit 4
22 contains all the raw data?

23 THE COURT: Counsel, approach.

24 (Discussion at the bench.)

1 THE COURT: Okay the Court finds that 70-B is
2 cumulative to 70-A, so the Court is admitting 70-A, and that's
3 what the witness will identify. And the same in the 71
4 series. Only 71-A is admitted. 71-B is cumulative.

5 So you want him to look at 70 --

6 (Exhibits 70-A and 71-A admitted into evidence.)

7 BY MR. STEGE:

8 Q 70-A, isn't that the raw data that you used to
9 recreate the chart?

10 A Yes.

11 Q And 71-A is also data you used to create that chart?

12 A Yes.

13 Q And that contains the --

14 A Calls.

15 Q Call times? All sorts of information?

16 A Yes.

17 Q And it in fact tells you where the call -- the cell
18 phone was at the time it made the call?

19 A Yes.

20 Q So that's how you were able to determine that at the
21 time there's the deleted text messages, the phone was headed
22 toward southern California?

23 A It was in Southern California.

24 Q Where Mr. Rudnick lived?

1 A Yes.

2 Q How many of those calls were hang-ups or voicemails
3 that were in that summary exhibit as you sit here today?

4 A I know there were some. I couldn't tell you exactly
5 how many.

6 Q But you didn't feel that chart was just hang-ups and
7 voicemails?

8 A They were any kind of call, so . . .

9 Q Now, the defense attorney was asking, well, are
10 these phone calls indicative of a mass conspiracy, right? I
11 mean, was -- were the phone calls consistent with the
12 conspiracy as laid out by Mr. Rudnick?

13 A Yes. It confirmed a lot of things Rudnick told me
14 in the interview.

15 Q For example what?

16 A Just the communication that he had with Mr. Gonzalez
17 and other San Jose members.

18 Q And, in fact, what is the increase in communication
19 with San Jose indicate as it pertains to the conspiracy?

20 MR. LYON: Objection, argumentative.

21 THE COURT: Sustained.

22 BY MR. STEGE:

23 Q But these calls did confirm what Rudnick was telling
24 you?

1 A Yes.

2 MR. LYON: Objection, leading.

3 THE COURT: He's already testified to that.

4 BY MR. STEGE:

5 Q Were there any other -- we are talking about the
6 subject of deleted texts. Were any other deleted texts
7 related to the defendant's plans? Or put another way, what
8 cell phone messages, text messages did the defendant delete?

9 A I only found three.

10 Q And all three of those were to?

11 A Mr. Rudnick.

12 Q And those talked about what?

13 A That Mr. Gonzalez had changed -- his P had changed
14 his plans.

15 Q Talking about his plans with Rudnick, and after the
16 fact, deleted it?

17 A Yes.

18 MR. LYON: Objection. Leading.

19 THE COURT: Sustain.

20 THE WITNESS: Sorry.

21 BY MR. STEGE:

22 Q There was a series of questions about whether the
23 defendant was evading police. Do you remember that line of
24 questioning?

1 A Yes.

2 Q Well, where did the defendant go after this, in the
3 days after this shooting?

4 A He went to the San Jose area.

5 Q And after that?

6 A Los Angeles.

7 Q And after that?

8 A Oh, correction. He went to San Jose, then San
9 Francisco, and then Los Angeles.

10 Q And then he was --

11 A Went then back to San Francisco.

12 Q Right. And did -- was he -- how close to his home
13 was the hotel that he had been staying in?

14 A It was -- it's not that close.

15 Q And, in fact, the car that he was arrested in was
16 closer to his house than to the hotel he was staying in?

17 A Yes.

18 Q And did he rent the car in his own name?

19 A No.

20 Q And did he have a large amount of cash on him?

21 A He did.

22 Q And was he getting the aid of others to evade
23 police?

24 MR. LYON: Objection, leading.

1 BY MR. STEGE:

2 Q Was he getting the aid of anyone during this time?

3 A Yes.

4 Q Who was he getting aid from?

5 A Norma Maijia.

6 Q In fact, didn't you speak with Mr. Nickerson?

7 A Yes.

8 Q And what did he tell you about the last time he saw?

9 MR. LYON: Objection, hearsay.

10 THE COURT: Okay. Are you asking him to look at 70

11 or 71?

12 MR. STEGE: No, I'm asking him about the interview

13 he had with Mr. Nickerson.

14 THE COURT: Okay. 160. Mr. Nickerson?

15 MR. STEGE: Yes.

16 THE COURT: I'm sorry. I thought you were asking

17 him to read something.

18 MR. STEGE: No, no.

19 THE COURT: I'm going to sustain the objection if

20 it's a statement made by a non-party.

21 MR. STEGE: Right. But it's a prior inconsistent

22 statement of Mr. Nickerson who has testified.

23 THE COURT: Okay. Approach, please.

24 (Discussion at the bench.)

1 MR. HOUSTON: Thank you, Your Honor.

2 THE COURT: Sustained.

3 BY MR. STEGE:

4 Q Mr. Nickerson -- Mr. Nickerson proves he testified
5 he was down in southern California with the defendant in the
6 case after the shooting. Is that consistent with your
7 investigation?

8 A No.

9 Q And why not?

10 A Mr. Nickerson told me that.

11 MR. LYON: Objection. Hearsay.

12 THE COURT: Sustained.

13 BY MR. STEGE:

14 Q Is that consistent with the phone records involving
15 numerous phone calls between the defendant and Nickerson days
16 after the shooting?

17 A No.

18 Q Why not?

19 A Because there's lot of communication, meaning that
20 they are not together.

21 Q If they were together, why would they be calling
22 each other?

23 A Exactly.

24 Q Were you asked about the series of photographs from

1 the computer, and the question was asked, "Well, do you
2 consider any of them sinister?"

3 A Yes.

4 Q Right.

5 Do you consider the photograph shown here of the
6 defendant posing, the defendant and another Vago posing with
7 guns sinister?

8 A It's disturbing. Sinister is a pretty strong word,
9 so . . .

10 THE COURT: What are you showing the jury? Make a
11 record, please.

12 MR. STEGE: This is from --

13 THE COURT: Just the number on the back is fine.

14 MR. STEGE: It's Exhibit 47.

15 THE COURT: Okay.

16 BY MR. STEGE:

17 Q In fact, if you do want to know the date, you were
18 asked about the date, you say you can look also in this same
19 exhibit to the date on it, right?

20 A Yes.

21 Q That's how it comes up in the report, you can click
22 on the thumbnail and go to the picture?

23 A Yes.

24 Q What's the date associated with this picture?

1 A July 1st, 2011.

2 Q On the subject of the vest, do you know what the red
3 Loki patch on the front of this vest symbolizes?

4 A No.

5 Q And you never found the gun, right?

6 A No.

7 Q Is that indicative of someone evading police?

8 MR. LYON: Objection.

9 THE COURT: Sustained.

10 MR. LYON: Leading.

11 BY MR. STEGE:

12 Q Let's talk about the subject of no calls between
13 10:14 and 11:31. Based on your review of the case, where was
14 the defendant during that time?

15 A The -- Mr. Gonzalez?

16 Q Yes.

17 A He was in front of Trader Dick's.

18 Q And where was Mr. Rudnick?

19 A In front of Trader Dick's.

20 Q And where was Cesar Morales?

21 A In front of Trader Dick's.

22 Q And where were the rest of the people associated in
23 these phone calls?

24 A In front of Trader Dick's.

1 Q Was Dragon Man, Albert Perez, was he seen between
2 that time on the floor?

3 A He was seen briefly.

4 Q Could that be an explanation why there was no phone
5 calls between them?

6 MR. LYON: Objection. Leading.

7 THE COURT: Sustained.

8 BY MR. STEGE:

9 Q Are they standing together during this time?

10 A Yes.

11 Q On the subject of the officers being in the casino,
12 did anyone call for police during this initial confrontation
13 near Trader Dick's?

14 A No.

15 Q I'm sorry, the confrontation at the Oyster Bar?

16 A No.

17 Q Well, why did G. Mary Walsh show up?

18 A I'm not real sure on the details of how she ended up
19 over there, but there was some communication through security
20 through the organizer of the event.

21 Q So a uniformed officer in fact did show up?

22 A Yes.

23 Q And the purpose of an undercover -- well, I'll move
24 on from there.

1 We talked about the interview of Rudnick, the
2 development of this plan, this green light on Pettigrew. Did
3 the -- was the video consistent with there being a conspiracy?

4 MR. LYON: Objection. Leading and foundation.

5 THE COURT: I'm going to sustain that.

6 MR. STEGE: Did -- where do you see in terms of the
7 actions of the people in front of Trader Dick's when this
8 fight broke out?

9 MR. LYON: Objection. Vague and ambiguous.

10 THE COURT: Okay. Counsel approach.

11 (Discussion at the bench.)

12 THE COURT: Sustained.

13 BY MR. STEGE:

14 Q Final subject. You watched the video of Diego
15 running through there with the gun?

16 A Yes.

17 Q Could you tell at the time when Diego is in the
18 casino if he's wearing a cut, his cut?

19 A In the casino?

20 Q Yes.

21 A Yes.

22 Q What else is he wearing in the casino?

23 A Gloves.

24 Q And do you see either gloves, or cut, or a gun when

1 you're outside with Diego?

2 A No.

3 Q Do you know what became of those items?

4 A I do not.

5 MR. STEGE: Nothing further.

6

7 RECROSS-EXAMINATION

8 BY MR. LYON:

9 Q Okay. Detective, so you have the binder there with
10 all the raw data?

11 A Yes.

12 Q So you had at your fingertips the ability to include
13 in your summary the amount of time each communication lasted?

14 MR. STEGE: Judge, so did Mr. Lyon, so I object.

15 MR. LYON: It wasn't my summary, Your Honor.

16 THE COURT: It's argumentative. We know the summary
17 is in, it's admitted. The raw data is admitted. So beyond
18 that I don't see any relevance to your question.

19 BY MR. LYON:

20 Q With respect to Mr. Gonzalez's movement after the
21 fight, you indicated you went to San Jose?

22 A Yes.

23 Q And that's where his charter is, correct?

24 A Yes.

1 Q And he went to San Francisco, that's where his home
2 was, correct?

3 A Yes.

4 Q Went down to LA, that's where the national
5 leadership of the Vagos are located, correct?

6 A Yes.

7 Q And he went back up to San Francisco where his home
8 is, correct?

9 A Yes.

10 Q And were you aware whether or not the Hells Angels
11 knew where he lived?

12 A No.

13 Q If he did, it would be fair to say he wouldn't want
14 to go back to his house, correct?

15 A If they did?

16 Q If they did.

17 A Probably not.

18 Q Wouldn't be a safe environment under those
19 circumstances, true?

20 A True.

21 Q And were you aware that the other San Jose Vagos
22 they had to also relocate out of concern for the Hells Angels?

23 MR. STEGE: Argumentative.

24 MR. LYON: I'm asking him if he knew.

1 MR. STEGE: Speculation as well.

2 THE COURT: I'm not sure what his knowledge is, if
3 it's relevant, so I'll sustained on relevancy.

4 BY MR. LYON:

5 Q Now, you talked about the telephone calls or the
6 lack of calls on Mr. Rudnick's phone basically being a
7 consequence because according to you, everybody was to gather
8 in front of Trader Dick's. Do you recall that testimony?

9 A Yes.

10 Q Okay. Now, following -- you've seen all the video,
11 correct?

12 A Yes.

13 Q And you've seen after the Oyster Bar video
14 Mr. Gonzalez leaves the video frame for a period of time,
15 correct?

16 A Yes.

17 Q Did you understand he was over at In-N-Out Burger?

18 A No.

19 Q He wasn't with Mr. Rudnick during that period of
20 time, correct?

21 A I have no idea.

22 Q And the video showing that the congregation in front
23 of Trader Dick's, it's fair to say people are coming in and
24 out of that video the entire time, correct?

1 A Some are.

2 Q Okay. Mr. Gonzalez leaves the frame and comes back?

3 A Yes.

4 Q A couple of times, correct?

5 A Yes.

6 Q As does Mr. Rudnick?

7 A Yes.

8 Q In fact, there's a fair significant portion of that

9 video where neither of them are together, correct?

10 A Yes.

11 Q And that would be true for all the other players in

12 this -- in this story line and the fight, correct?

13 A I'd say it's accurate, yeah.

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

15 MR. STEGE: Nothing further.

16 THE COURT: Okay. Thank you. You may step down.

17 THE WITNESS: Thank you.

18 THE COURT: The binder goes to the clerk. I think

19 that's a good idea.

20 THE WITNESS: And this copy?

21 THE COURT: Just leave it for the clerk right now.

22 Call your next witness --

23 ///

24 ///

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LES SKELTON,
having been first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. HALL:

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

A Name is Les Skelton. S-K-E-L-T-O-N.

Q What is your occupation?

A I'm a detective with the Arizona Department of
Public Safety assigned to the GIITEM State Task Force.

Q What does GIITEM stand for?

A GIITEM stands for Gang Immigration Intelligence team
Enforcement Mission.

Q What does GIITEM do?

A GIITEM's main function in the community is to
identify, document, and basically weed out gang members within
our community.

Q Can you tell the ladies and gentlemen of the jury a
little bit about your background, training, and experience
with respect to your law enforcement career?

A Yes. I started back in 1993 with Avondale Police
Department which is a smaller agency just west of Phoenix,

1 Arizona. In 1993, September of 1993, I lateralled over to the
2 Department of Public Safety which is basically, for
3 comparisons, a Highway Patrol. Our duties are Highway Patrol,
4 traffic collisions, patrolling freeways, things like that.
5 While I was assigned to the Highway Patrol, I believe in 1996
6 to 2001, I spent five years working on what's called a vehicle
7 collision unit which is basically I investigated vehicular
8 homicides. The time I spent in the vehicle crimes unit, I
9 spent a lot of time going to training which included physics
10 classes for vehicle dynamics, autopsy classes, and homicide
11 classes for types of deaths you might encounter in vehicle
12 collisions or homicide related.

13 After that, I returned back to the road to patrol
14 for three years.

15 And then in January of 2004, I moved over to our
16 criminal investigations division which is where GIITEM is
17 housed and I have been in GIITEM since 2004.

18 Q Have you been to any conferences that discuss outlaw
19 motorcycle gangs?

20 A Yes, I have. I've been to one that's called IOMGIA.
21 It's International Outlaw Motorcycle Gang Investigators
22 Association. I attended 2007 conference in Florida, the 2010
23 conference I believe in San Diego. And the 2011 conference in
24 St. Louis, and Arizona hosted a 2012 conference in Scottsdale.

1 Q And what is discussed at those conferences?

2 A The conference is international, so we have
3 international gang investigators coming together to basically
4 share intelligence. There's -- it's two pronged. You have
5 classes during the day that discuss the trends of what's going
6 on in outlaw motorcycle gang communities. Something that
7 might be going on back east, we might be seeing here later and
8 vice versa. So it's an information sharing opportunity. The
9 classes debrief cases. So they may bring in undercover
10 officers that actually infiltrated a certain group, whether
11 it's the Hells Angels, the Vagos, the Outlaws, the Pagans,
12 different groups like that. They'll discuss the tactics that
13 were used to be able to create a situation where an
14 infiltration is done, a full-blown infiltration with an actual
15 group of police officers who are riding motorcycles.

16 We also have the opportunity when you have an
17 officer who brings in what we call a confidential informant
18 who's willing to talk to officers on a panel, and that
19 confidential informant will take questions from the group of
20 officers in the room as to what his experience was as a member
21 of a particular group. Some of them that I've sat through
22 include members of the Hells Angels, some of them were
23 Outlaws, some of them were Vagos. So I've had quite a good
24 background to be able to listen to what those individual's

1 experience was as being part of a member of an outlaw
2 motorcycle club.

3 Q Have you been involved in any investigations into
4 any outlaw motorcycle clubs, specifically the Vagos and Hells
5 Angels?

6 A Yes, I have.

7 Q And can you give us an example?

8 A In August of -- August 21st of 2010, there was a
9 shootout between the Hells Angels and the Vagos in Chino
10 Valley, Arizona. The case was actually investigated by
11 Detective Dave Zavaos of the Yavapai County Sheriff's Office,
12 but I was called in to assist him with the gang side of it as
13 far as the Hells Angels and the Vagos and the conflict that
14 had been going on between them in the State of Arizona.

15 Q Was Top Hat at that particular shootout?

16 A Yes. Top Hat is a street name for William Pyzel who
17 is one of the members of the Vagos International Nomad
18 Chapter.

19 Q Did you have an opportunity to interview him?

20 A Yes, I did.

21 Q Did you interview other Vagos?

22 A I did.

23 Q Did you interview any Hells Angels?

24 A Yes.

1 Q Did you -- were you able to determine or during the
2 course of your career, have you ever been able to determine
3 whether or not there was a rivalry between the two gangs?

4 A Yes, I have.

5 Q And what's your basis for that?

6 A The basis for the rivalry goes back to intel sharing
7 what's going on in certain parts of the country and also
8 what's going on in Arizona. The use of sources and criminal
9 informants along with just the obvious fights that are
10 occurring and assaults, aggravated assaults that are going on.

11 Q Do you recall interviewing an individual by the name
12 of Figueroa?

13 A Yes. It's Aurelio Figueroa was the Tri State
14 Chapter of the Vagos, and his street name is 45.

15 Q Are you familiar with the history of the Vagos?

16 A Yes, I am.

17 Q Have you taught classes about outlaw motorcycle
18 gangs?

19 A Yes. When I went over to the criminal
20 investigations division, under GIITEM, one of the things I was
21 tasked with was obviously learning what I was going to be
22 working. Part of that transition through older officers is to
23 share the information and also start teaching the subject.
24 With repetition of teaching it, you become obviously more

1 knowledgeable in the subject. So I started teaching almost
2 immediately, because I do have general instructor background.
3 So I would co-teach with my sergeant who is Sergeant Sean
4 Wood. And I would teach at the Basic Academy and I would also
5 teach at large conference from 2002 to current.

6 Q Now, do officers throughout Arizona and, I guess,
7 the west share information about, specifically, the Vagos in
8 their various regions?

9 A Yes, we do. A lot of us know each other personally.
10 A lot of us talk -- sometimes if not weekly, monthly, we all
11 have each other's phone numbers for the most part in different
12 states. I have contacts in Nevada. I have contacts in Utah,
13 California, a few back in Missouri, Florida. So when things
14 happen, we are on the phone talking to discuss what tensions
15 may be coming our way that I need to be aware of in Arizona.

16 Q All right. So when you say "things," what are you
17 referencing?

18 A Any type of little altercation. Something as simple
19 as -- in this type of situation, the Hells Angels or Vagos
20 being in the same location at the same time where there was
21 some tensions that were seen, or anticipating the two groups
22 coming together at a certain type of run where we need to plan
23 on making sure there's enough officers there to kind of keep
24 them separated and diffuse whatever tensions may be going on

1 at that particular run.

2 Q Can you explain the history of the Vagos?

3 A The Vagos were actually formed in the mid 1960s.
4 Prior to the Vagos being around, there was a group of
5 motorcycle rider's or a club called the Psychos. The Psychos
6 Motorcycle Club had an internal conflict, and some of the
7 members broke off and formed the Vagos. And it was mostly at
8 the time Hispanic in nature. They were formed in the San
9 Bernardino area. Once they started forming, they were wearing
10 the California bottom rocker. And that's where you start
11 seeing the challenges, so to speak, because of like street
12 gangs, the California bottom rocker, the Arizona bottom
13 rockers, whatever state, that is indicating you're -- the
14 club's area of territory. So where street gangs have
15 neighborhoods as territory, motorcycle clubs typically have
16 states that they refer to. Support clubs may have cities they
17 would put on their bottom rocker as opposed to California. If
18 I use a set of cuts, it would be easier to explain so you guys
19 understand.

20 Q We have some right here. How many would you like?

21 A Actually, I would like to start of with showing
22 maybe the back of the cuts.

23 MR. HALL: Ms. Clerk, do we have a hanger around
24 here? I thought we had one somewhere.

1 THE COURT CLERK: We do. I'm not sure where.

2 BY MR. HALL:

3 Q All right. Well, we can start --

4 There it is. Thanks.

5 Can you see it all right?

6 A Yes. So what you have here is a set of cuts. The
7 cuts in the motorcycle world, we are talking about a vest. It
8 can be denim. It can be leather like that.

9 As you go through the ranks into membership into
10 becoming what we refer to as a full-patch member, you start
11 off as a hangaround. A hangaround is somebody who's going to
12 hangaround the club to see if they have the ability and the
13 loyalty to the club to be accepted in as a full-patch member.
14 During the hangaround phase, you might have -- you're going to
15 have a hangaround that's going to be basically under the
16 direction of a full-patch member. So anything he does is
17 going to be done at the direction of a full-match member. It
18 can be something as simple as doing errands, maybe cleaning up
19 a clubhouse, maybe making sure a bar inside a clubhouse is
20 stocked, making sure there's kits available for the full-patch
21 member or their sponsor. What I mean by kits, you may have a
22 hangaround or prospect kit which might include needle or
23 thread so if somebody earns a new patch, and I'll explain that
24 in a second, it can be sewn onto the cuts. It could be

1 aspirin so if somebody has a headache, they can give their
2 person an aspirin. Condoms, so if at a party somebody needs a
3 condom, that's available. Pins, any kind of little thing they
4 may need on a run is supposed to be made available by that
5 hangaround. When they get to parties, hangarounds are
6 typically the ones that stay outside of the party and guarding
7 the bikes, making sure people don't mess with their bikes.

8 They are also typically designated to do counter
9 surveillance on law enforce lists. So if they are having a
10 party in a neighborhood club or somebody's house, they are
11 going to be typically set up on the corners of the
12 neighborhood to watch traffic that's coming and going. So
13 really what they are doing as a hangaround or a prospect is
14 they are starting to learn the culture which is also
15 antipolice, and they are learning what they need to do to
16 protect the integrity of the club, and more importantly the
17 patch.

18 Once they move from hangaround to prospect, really
19 their jobs are the same, but the patches change. They haven't
20 earned what's called a full patch. A prospect will wear just
21 a bottom rocker. On that one I think it says Nicaragua. It's
22 kind of wrinkled for me, but it will be the bottom batch for
23 the State they are in. So you might have San Diego Vagos.
24 The bottom rocker for that would be California. Our Havasu

1 Chapter, the bottom rocker was Arizona. So it tells you what
2 state they are flying with.

3 Once they get voted into the club, they will receive
4 what's called a full patch. What you're looking at, the full
5 patch is you're looking at the top rocker which is the word
6 Vago. You also look for the patch MC which stands for
7 motorcycle club. That's important for an investigator like
8 myself because new clubs pop up all the time. An MC patch to
9 me is a club I've got to pay attention to because that
10 particular club could become a rival to the Mongols, Vagos,
11 the Hells Angels.

12 There's also what's called RC patches which are
13 riding club patches. They are not on the same level as a
14 motorcycle club.

15 With this particular patch, you've got Loki, which
16 is the devil, the red devil. He's the God of mischief, the
17 Norse God of mischief, and Vagos means traveling gypsy or kind
18 of like a vagabond person.

19 Inside each chapter underneath the national chapter
20 is structure. There's a president. There's a vice president.
21 There's a sergeant-at-arms. Sometimes there's road captain.
22 And then you also have a treasurer, and a secretary. The
23 president basically has the ultimate responsibility of the
24 club. He's directing, basically, the chapter. He kind of

1 rules, I guess you would say, with an iron fist. Below that
2 is the vice president who's usually picked by the president
3 sometimes depending on the chapter they are voted in.

4 Below that, you have your sergeant-at-arms. The
5 sergeant-at-arms are there to make sure that things are
6 somewhat kept in check. For example, if there's beef between
7 two club members, the sergeant-at-arms is there to make sure
8 that those two handle it in a fair fight, if that's what's
9 chosen to be done, a fair fight for example with the Hells
10 Angels. They will take the two members to a certain place, a
11 lot of time they will fight it out. The fight is over once
12 one person hits the ground.

13 The sergeant-at-arms can also be the guy who's
14 responsible for assessing fines and making sure those fines
15 are paid to the secretary-treasurer. An example of a fine
16 might be something as simple as disrespect. Wearing a patch
17 that's not authorized. With the Hells Angels, it can include
18 being on a bike with as close as they ride in their packs.

19 MR. HOUSTON: Excuse me. May we approach for a
20 moment?

21 THE COURT: Yes.

22 (Discussion at the bench.)

23 MR. HOUSTON: Thank you, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury, it is

1 time for the second break, so this is a good time to take it.
2 During this recess, remember the admonition I've given you at
3 all the other breaks and we'll take a 20-minute break now.

4 Court is in recess.

5 (End of morning session.)
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1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.
3

4 I, SUSAN CULP, an Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, State of Nevada, DO HEREBY CERTIFY:

7 That I am not a relative, employee or
8 independent contractor of counsel to any of the parties, or a
9 relative, employee or independent contractor of the parties
10 involved in the proceeding, or a person financially interested
11 in the proceedings;

12 That I was present in Department No. 4 of the
13 above-entitled Court on August 2, 2013, Morning Session, and
14 took verbatim stenotype notes of the proceedings had upon the
15 matter captioned within, and thereafter transcribed them into
16 typewriting as herein appears;

17 That the foregoing transcript, consisting of
18 pages 1 through 175, is a full, true and correct transcription
19 of my stenotype notes of said proceedings.

20 DATED: At Reno, Nevada, this 9th day of
21 September, 2013.

22 /s/ Susan Culp

23 SUSAN CULP, CCR No. 343
24

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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF WASHOE

7 THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

8 -oOo-

9 STATE OF NEVADA,)

10 Plaintiff,) Case No. CR11-1718B

11 vs.)

12 ERNESTO MANUEL GONZALEZ,) Dept. No. 4

13 Defendant.)

14 _____)

15
16 TRANSCRIPT OF PROCEEDINGS

17 FRIDAY, AUGUST 2, 2013

18 AFTERNOON SESSION

19 RENO, NEVADA

20 COPY

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23
24 Reported By: MARCIA FERRELL, CCR No. 797

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17 INDEX

18 Witness: Direct Cross Redir Recross

19 Les Skelton 3 14 49 54

20 Eric Bennett 57 80

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1 RENO, NEVADA, FRIDAY, AUGUST 2, 2013, 12:10 P.M.

2 --oOo--

3 THE COURT: Counsel, are you ready to proceed?

4 MR. HALL: Yes.

5 THE COURT: Okay, please bring the jury in.

6 (Jury present.)

7 THE COURT: Counsel, will you stipulate to the
8 presence of the jury?

9 MR. HALL: Yes.

10 THE COURT: Thank you, please be seated. Mr. Hall,
11 you may continue.

12 LES SKELTON

13 called as a witness by the State
14 who, having been previously sworn, was examined
15 and testified further as follows:

16 DIRECT EXAMINATION

17 (Continued)

18 BY MR. HALL:

19 Q. We mentioned or you mentioned the bottom rocker, and
20 earlier we mentioned rivalry. So are you aware that there's
21 a rivalry between the Hells Angels and the Vagos?

22 A. Yes.

23 Q. And with respect to the bottom rocker, would that
24 have any play or impact on a rivalry between the Vagos and

1 the Hells Angels?

2 A. Yes, it does. And comparing it to a street gang,
3 the bottom rocker with California, just like Arizona and the
4 other states, indicates that's their territory. A rival club
5 like the Hells Angels wears an Arizona bottom rocker or a
6 California bottom rocker. That, based on like an Arizona
7 confederation of clubs, the Vagos aren't allowed to wear, by
8 the Hells Angels, that bottom rocker. And that's really what
9 the conflict is over, is the ability to wear that California
10 or Arizona bottom rocker. The claim of territory.

11 Q. All right, now, have you seen Vagos with side
12 rockers?

13 A. Yes, I have.

14 Q. And what are those?

15 A. Those side rockers usually indicate where they are
16 from. Sometimes it's where they have still close friends or
17 dealings with other clubs. With the Vagos, for example, in
18 Arizona you might see a Vago chapter wearing their Arizona
19 bottom rocker, and if it's a Lake Havasu chapter they would
20 have Lake Havasu on the side rocker. Same thing with
21 Phoenix.

22 Q. So for example, if we have a bunch of guys from San
23 Jose and they had a San Jose side rocker, would that be a
24 chapter affiliation?

1 A. Yes, it would.

2 Q. Now, are you familiar with particular conduct,
3 status and customs of the Vagos?

4 A. Yes, I am.

5 Q. And is some of those customs, practices, outlined in
6 their bylaws, or at least mentioned in their bylaws?

7 A. Yes, their bylaws basically kind of indicate what is
8 expected of each member who joins a club.

9 Q. All right, and have you had an opportunity to look
10 at Exhibit 136, which was admitted by stipulation?

11 A. Yes, I have.

12 Q. And is this a copy of the international, national
13 bylaws of the Vagos?

14 A. Yes, and I believe it's the 2011 version.

15 Q. All right, just to look at the table of contents.
16 We've got the purpose and interpretation of the bylaws, usage
17 of the bylaws, duties and obligations. Can you tell me a
18 little bit, just briefly discuss duties, obligations, and the
19 rights?

20 A. The duties and obligations in the bylaws is
21 basically going to outline what is expected of each member
22 through their different roles as they make their way through
23 going from hang-around to prospect to member. And then also
24 the duties of the officers within the club.

1 Q. So one of the main tenets of the Vagos is all
2 members will help each other at all times?

3 A. Yes. What that's in relation to is, you know, it's
4 the brother connection. It's a brotherhood, so to speak, is
5 what they refer to it as. And that goes for something as
6 simple as if they're on a run together, and a bike breaks
7 down, you're expected to help your brother fix his bike and
8 get back on the road. Same thing applies to a fight. If
9 your brother is in a fight, you're expected to stand up and
10 help him during the fight.

11 Q. All right, then some of the other customs that they
12 have or common practices would deal with some of the language
13 that they use, like Vagos forever, forever Vagos, what other
14 things can you think of that would be discussed in these
15 bylaws?

16 A. I'm sorry, repeat the question again?

17 Q. We're talking about customs, practices, particular
18 conduct of the Vagos. Can you describe what their -- some of
19 their customs and conduct?

20 A. Yes, a good example is they're required to go to
21 runs during the year. One of the runs that's required of
22 them is their national run, which is held in I believe it's
23 Reno, it's the Street Vibrations. Where that involves me
24 being in Arizona, and more specifically Phoenix, is again,

1 the investigators from around the area for the Street
2 Vibrations run are wanting to know who is coming from Arizona
3 up to Street Vibrations. So they can kind of prepare for the
4 numbers that are going to be coming there to the Street
5 Vibrations.

6 Q. Do the Vagos have any particular codes of conduct
7 that they follow? Referencing things like respect?

8 A. They do. Respect is a big thing. Again, it goes
9 back to that parallel with the criminal street gang. Most of
10 your fights within outlaw motorcycle gangs, doesn't really
11 matter what club it is, it's over respect. One of the
12 sayings is we give what we get, and that is a term that is
13 used to identify with respect. The Hells Angels have a few
14 terms of their own. One is three can keep a secret if two
15 are dead, and another one is we take care of business.

16 And the Hells Angels are probably one of the
17 largest motorcycle clubs in the world, and they do recruit
18 some of probably the worst motorcycle members in the world.
19 And they typically do what their slogans say, they take care
20 of business. However, when you get to that street gang level
21 of respect, much like a street gang member that I deal with
22 in Westside City, and parallel it with an outlaw motorcycle
23 gang, it's respect and territorial based.

24 Q. All right. Now, have the Vagos, are you aware of

1 the Vagos commonly committing crimes punishable as a felony?

2 A. Yes. In Arizona we look at the felony statutes and
3 crimes that are committed by them, because that's what we
4 have to look at to determine whether or not an individual
5 could be documented as a criminal street gang member. So
6 some of the things we look at are sales of drugs, narcotics,
7 assaults, possession of stolen property, which can be
8 anything, you know, from weapons to motorcycles, motorcycle
9 parts, all the way to aggravated assault and homicide.

10 Q. Do you have Vagos in Arizona?

11 A. I'm sorry?

12 Q. You have Vagos in Arizona, correct?

13 A. Yes, we do.

14 Q. You discussed that Chino Valley shoot-out between
15 some Hells Angels and some Vagos, is that right?

16 A. Yes.

17 Q. Now, do Vagos nationwide follow the same bylaws we
18 were just looking at, Exhibit 136?

19 A. Yes, they do.

20 Q. And do they all follow pretty much the same codes of
21 conduct, have the social customs, that sort of thing?

22 A. Yes, they do.

23 Q. Do they have their own language or common terms that
24 they would use?

1 A. Yes.

2 Q. What types of terms would be -- would Vagos
3 typically use?

4 A. Well, for one, they call each other brother. You'll
5 see that all the time. Again, their patches. Live Vago, Die
6 Vago. That's kind of parallel on a street gang, again, to
7 blood in, blood out. Although in their bylaws they do talk
8 about the ability to retire, and retire and maintain the
9 patch.

10 Some other terminology that the Vagos have that is
11 a little bit different than a street gang is with their
12 tattoos. They're able to wear and display tattoos based on
13 the times put forth in their bylaws, but there is also an out
14 good and an out bad scenario. An out good might be a simple
15 retirement, where they're walking away from the club. An out
16 bad might be where they've done something to cross the trust
17 of another brother or the club, and they're out bad, which
18 can, depending on the scenario, constitute either a beat-down
19 or, you know, retaliation.

20 And that's common when you have someone who is --
21 who has turned, or the term that we use in law enforcement is
22 flipped, or they've become a snitch. That person could be
23 facing serious cons -- problems with the club.

24 Q. So a snitch would be somebody that's cooperating

1 with law enforcement?

2 A. Yes.

3 Q. Is that counter to Vago rules?

4 A. That is.

5 Q. Now, is there politics involved in -- between the
6 Hells Angels and Vagos?

7 A. There's always politics between not just those
8 clubs, but other clubs. You could mix in the models in
9 there, the Pagans the Banditos, the Warlocks, it's across the
10 country.

11 Q. Now, you're familiar with the facts and
12 circumstances of the Nugget fight? Somewhat?

13 A. Somewhat. I've had an opportunity to read some of
14 the reports, and what triggered the -- the shooting.

15 Q. All right, and you watched some of the video at the
16 Oyster Bar?

17 A. Yes, I did watch some of the video.

18 Q. You watched some of the video over there at Trader
19 Dick's?

20 A. Yes.

21 Q. Now, do you have an opinion as to how Mr. Gonzalez's
22 shooting Mr. Pettigrew in the back would be for the benefit
23 of or in affiliation with the Vagos?

24 A. Absolutely. Going back to that time, there was kind

1 of, again, going to that territorial rivalry. San Jose
2 Vagos, San Jose chapter of the Hells Angels. In the circles,
3 intelligence circles within law enforcement, we knew there
4 was tension, but we didn't know how bad it was. And a lot of
5 it was done -- a lot of the tension was there because the
6 Vagos, in biker terms, and from what I have talked to sources
7 on -- excuse the language on the terminology, but they were
8 being treated as a bitch club. Meaning they couldn't expand,
9 they were being held down by the Hells Angels. Which is
10 typical. Same thing is happening in Arizona.

11 What happens is at some point these motorcycle
12 members from the Vagos are going to start standing their
13 ground. And based on what happened in the Nugget, there's
14 just the mere fact that the two patches are in such a close
15 area -- and when I say two patches, I'm talking Hells Angels
16 members and Vago members -- that in itself creates a very
17 volatile situation, just based on the colors and the cuts
18 involved, and the history.

19 Q. All right, so how would shooting Jethro Pettigrew,
20 the president of the San Jose chapter of the Hells Angels,
21 benefit the Vagos?

22 A. By removing the president of the Hells Angels
23 chapter, that's going to take away the power and the ultimate
24 control from the Hells Angels, that will allow the Vagos to

1 expand in the area with minimized issues.

2 Q. Is that going to create issues if the Vagos --

3 A. What I mean by minimized issues is they're going to
4 be able to expand without the current problems that they're
5 having, because now they are no longer viewed as a bitch
6 club. They have stood their ground, they have -- they have
7 kind of made a statement that, hey, we give what we get.
8 Live Vago, die Vago. And we're now going to start making our
9 efforts to expand in San Jose. And by removing that
10 particular person, by killing them, he's going to be looked
11 at by his fellow Vago gang members as somebody to respect a
12 little bit more.

13 In fact, in some instances, and I believe even with
14 the Vagos, there's a patch for a reward for something like
15 that.

16 Q. Now, is it one of their common practices and customs
17 to generate a defense fund for Vago members who may get
18 thrown in jail for various crimes?

19 A. Yes. The Hells Angels and the Vagos do hold what
20 are called defense fund parties or defense fund runs, where
21 they may sell T-shirts and ask for donations to raise the
22 funds to pay for attorneys and defense counsel.

23 Q. All right. And there was some testimony provided
24 that the green light on Pettigrew was at the direction of

1 Tata. Do you know who Tata is?

2 A. Yes, Tata is Pastor Palafox, who lives in I believe
3 San Bernardino. He's also the national president of the
4 Vagos.

5 Q. All right, so based upon the information that you
6 know that was provided by Gary Rudnick, saying that they were
7 looking like they were being disrespected by the Hells
8 Angels, by being -- the Hells Angels being at the national
9 meeting which was held at the Nugget, along with the other
10 incidents that Mr. Rudnick mentioned, would that be at the
11 direction of the Vagos, that Tata or Dragon -- and you know
12 who Dragon is?

13 A. Yeah.

14 Q. Albert Perez?

15 A. Yeah, Dragon is Perez, who is the nephew of Jess
16 Florez, who is the president of the Phoenix chapter of the
17 Vagos. So there's a family connection that also leads over,
18 too. But yeah, if it came down from Tata for a hit to be
19 taken place, yeah, that would definitely be at the direction
20 of the club, and also for the benefit of the club.

21 Q. Would killing Pettigrew benefit the club?

22 A. Absolutely. It gains what's called street
23 credibility. When you take out a gang member, you have
24 inflated your status within your community and your

1 surrounding supporters.

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

3 THE COURT: Counsel.

4 MR. HOUSTON: Thank you, your Honor.

5 CROSS-EXAMINATION

6 BY MR. HOUSTON:

7 Q. Good afternoon, sir.

8 A. Good afternoon.

9 Q. Sir, I'd kind of like to start where we left off. I
10 think you were talking with Mr. Hall that you're basing at
11 least some of your opinion concerning what occurred on
12 September 23rd on your contact with Mr. Rudnick?

13 A. No.

14 Q. Did you -- no, you never had contact with him, did
15 you?

16 A. No, sir.

17 Q. Never had a chance to interview him?

18 A. No

19 Q. Never had a chance to test the accuracy of his
20 statement?

21 A. No.

22 Q. If it appeared in parts of his statement that he
23 contradicted himself, that would take away a little
24 credibility for you, wouldn't it?

1 A. It could.

2 Q. If it appeared he lied in parts, that would take
3 away credibility, wouldn't it?

4 A. It could.

5 Q. If you learned he was offering a statement in order
6 to avoid a life sentence, that might add some motivation
7 issues, wouldn't it?

8 A. It could.

9 Q. So it really requires perhaps maybe a more in-depth
10 discussion with Mr. Rudnick to get the grasp of what he's
11 saying, right?

12 A. I believe that based on the totality of the
13 circumstances, not just Mr. Rudnick included, that forms my
14 opinion.

15 Q. Let's talk about the totality. Were you there?

16 A. No, sir.

17 Q. Do you know anything about Ernesto Gonzalez other
18 than the September 23rd event?

19 A. I know that he's the president of the Nicaragua
20 chapter.

21 Q. Right, and when did you learn that?

22 A. Several months ago.

23 Q. Okay, that was after September 23rd, 2011, right?

24 A. True.

1 Q. So prior to that time he wasn't on your radar
2 screen, was he?

3 A. He was probably in charts, but not -- not on a radar
4 screen, because of where I -- where I'm at. Obviously, I
5 focus on Phoenix, Havasu, and Chino Valley area.

6 Q. And I noted you said he was probably on. In other
7 words, you didn't see yourself, right?

8 A. Not that I recall distinctively.

9 Q. Okay. So really your testimony today isn't, per se,
10 about the actions or activities of Ernesto Gonzalez on the
11 evening of September 23rd, 2011, right?

12 A. Not that we've discussed so far, no.

13 Q. Okay. In other words, you have an opinion in
14 general as it concerns the Vagos in general, true?

15 A. Absolutely.

16 Q. And it sounds like an opinion in general as it
17 concerns the HAS?

18 A. You know, I don't know if I would say it's in
19 general. I have a very strong opinion based on what I have
20 seen, working with sources, working with confidential
21 informants, and talking to members themselves is where I
22 formed my opinion on both the Hells Angels and the Vagos.

23 Q. How many Vagos have you actually worked with, talked
24 to, in the sense of CIs?

1 A. Probably -- well, three. Probably about three.

2 Q. Okay, how many Vagos are there as members?

3 A. Patched Vago members only?

4 Q. Yeah.

5 A. In estimation on the actual patch Mongols, somewhere
6 between, and it fluctuates, 5 to 600.

7 Q. Did you say Mongols?

8 A. I'm sorry, Vagos.

9 Q. You think there's only 5 or 600 Vagos?

10 A. Full patch.

11 Q. Worldwide?

12 A. Full patch. It's an estimation. Again, their
13 numbers fluctuate, they go up and down, some people include
14 what's called the Green Nation, some people include the Green
15 Machine, their support clubs, and other --

16 Q. Let me ask you this. How many charters do the Vagos
17 have?

18 A. Approximately 24, 25.

19 Q. Across the world.

20 A. Approximately 24 to 25.

21 Q. You're aware they have charters in Italy?

22 A. Huh?

23 Q. Italy?

24 A. No.

1 Q. Nicaragua?

2 A. Yes.

3 Q. South Pacific?

4 A. Yes.

5 Q. Hawaii?

6 A. Yes.

7 Q. Japan?

8 A. Not familiar with that one.

9 Q. Canada?

10 A. Yes.

11 Q. So when was your last update on how many charters
12 there were?

13 A. Probably about two weeks ago we discussed it.

14 Q. How many Vagos -- when I said worldwide, you said 4
15 or 500. So how many of those 4 or 500 are in the U.S.?

16 A. I would be guessing, I don't know.

17 Q. Do you know the heads of all the independent
18 charters?

19 A. Not all of the independent charters, but again, the
20 ones that I work with most often, yes.

21 Q. Have you ever talked to those guys?

22 A. Yes, I have.

23 Q. Have you talked to Dragon?

24 A. Not -- not Dragon.

1 Q. Have you talked to Tata, Pastor Palafox?

2 A. No, but I have been to his house.

3 Q. Okay, great, but did you actually have a chance to
4 converse with him about what the Vagos are about?

5 A. No, I've had a chance to converse with Jess Florez
6 and several of the Vagos in the Phoenix, Arizona area, where
7 I'm from.

8 Q. All right, and we know you've worked with three CIs,
9 true?

10 A. Yes.

11 Q. CIs working off a beef?

12 A. No, not all of them are. Some of them are actually
13 just providing information. And some of them -- some of the
14 people that I'm talking to that I get the information from
15 were patched Vago members that weren't receiving any money,
16 they were just passing out information.

17 Q. Well, you said you talked to three CIs, right?

18 A. Yes.

19 Q. Okay, so why don't we break them down. How many of
20 them were actually working off a beef -- a case?

21 A. All three.

22 Q. Okay, thank you. All right now, you've had general
23 conversations with other Vagos, true?

24 A. Yes, I have.

1 Q. Now, we've heard testimony that a lot of Vagos are
2 decent, hard working people. Would you agree with that?

3 A. Not necessarily, no.

4 Q. Okay, so in your opinion, all Vagos are bad.

5 A. I didn't say all.

6 Q. What's your percentage, then?

7 A. I think that would be guessing.

8 Q. Well, exactly. But --

9 A. I'm not going to guess on a percentage on that.
10 There are some guys that have jobs, and they work hard.
11 However, when they put on the patch, they are inclined to
12 commit crimes.

13 Q. All right, the doctors among those?

14 A. I'm not aware of a doctor that's among them.

15 Q. Lawyers? Not aware of that?

16 A. Not aware of that, either.

17 Q. Accountants?

18 A. Not -- not in my area, with what I've dealt with.

19 Q. Well, I understand that. You deal in the area of
20 Arizona, true?

21 A. Absolutely, yes.

22 Q. Who is the president in the Reno, Nevada chapter?

23 A. I don't know.

24 Q. This event occurred in Nevada, right?

1 A. Yes.

2 Q. All right, and so what you're doing is taking your
3 information from your home state in Arizona, and you're
4 expanding that to include essentially all of the charters,
5 wherever they be located, true?

6 A. Yes, but that's also based on networking with other
7 law enforcement officers, and watching the other cases that
8 have come down. Not only in Arizona, but Nevada, California,
9 and other parts of the nation.

10 Q. How many Vagos are felons?

11 A. Don't know, that's -- an assumption answer you're
12 looking for.

13 Q. Can't you check that?

14 A. I can check it, but I obviously can't do that right
15 now.

16 Q. Well, no, of course not. But you're the expert who
17 is coming forward to testify as to your vast knowledge of
18 Vagos, true?

19 A. Yes.

20 Q. All right, but what you can't tell us is, for
21 instance, where they're located, as far as all of the
22 countries they're in, true?

23 A. Okay, yes.

24 Q. You can't tell us the actual number of members,

1 true?

2 A. I think the actual number fluctuates.

3 Q. All right, good point. You can't tell us how many
4 of them have committed felonies, correct?

5 A. I can tell you in Arizona who has committed a
6 felony.

7 Q. I didn't ask about Arizona, sir, I appreciate you're
8 from Arizona. I'm asking about in general.

9 A. In general is kind of a bad way to put out a number.
10 Because in general, you can't -- I don't think that as crimes
11 are being committed you can say how many, and come up with a
12 number that nobody can argue over.

13 Q. Well, sir --

14 A. There are felons within the Vagos, and that is why I
15 consider them to be a gang.

16 Q. Okay, so --

17 A. They meet the criteria.

18 Q. How many felonies were committed by Los Angeles
19 police department in the Rampart scandal, do you know?

20 A. I have no idea.

21 Q. Is that a criminal gang?

22 A. Who?

23 Q. LAPD?

24 A. No.

1 Q. Of course not. Just because they have felons in
2 their ranks doesn't mean the whole organization is bad, does
3 it?

4 A. Well, in order to have a criminal gang nexus you
5 have to have a person within that gang that is documented as
6 a criminal gang member based on criteria that's put out by
7 state law. And I don't --

8 Q. All right, and criteria is what?

9 A. Criteria?

10 Q. Sure. They have to have a what, a club color?

11 A. Have to have a club color.

12 Q. How about a rocker?

13 A. Have to have rockers.

14 Q. LAPD is blue, their rocker is on their shoulder.

15 Right?

16 A. I would believe those are uniforms.

17 Q. Right, exactly. And you don't call that a uniform,
18 right?

19 A. That is not a uniform.

20 Q. And in fact the badge is the same as a patch, isn't
21 it?

22 A. No. It's not.

23 Q. Well, you give your location and your name, your
24 number --

1 A. In fact -- in fact, talking about patches, they wear
2 what's called a 1 percent diamond, which is on the cut in the
3 upper right, and that is -- that is a patch that is earned.
4 And the history on that patch comes from the Hollister run,
5 up in Hollister, California, where there was a big motorcycle
6 brawl between the Boozefighters. The American Motorcycle
7 Association came out and said 99 percent of people who ride
8 motorcycles are law abiding citizens. It's the 1 percent
9 that are causing the problems.

10 Outlaw motorcycle gangs grabbed onto that patch and
11 turned it into a 1 percenter to say we're the 1 percenters,
12 we're the ones that are causing the problems.

13 Q. Okay, you're talking about Hollister. Was that back
14 in the 50s?

15 A. 47, I believe.

16 Q. In fact, I think Marlon Brando was in the movie,
17 right?

18 A. In a movie done on it called The Wild One.

19 Q. Did you see the movie?

20 A. I'm sorry?

21 Q. Did you see the movie?

22 THE COURT: It's not relevant.

23 MR. HOUSTON: Sorry, your Honor.

24 THE COURT: And I don't want to encourage the jury

1 to see anything.

2 MR. HOUSTON: Good point.

3 BY MR. HOUSTON:

4 Q. Sir, you don't know how many felons are in the
5 Vagos, we've established that, true?

6 A. Yes.

7 Q. And you're aware that Vagos that commit a crime may
8 not be committing a crime for the benefit of the charter,
9 true?

10 A. Not all the time.

11 Q. Not all the time. Isn't it kind of an individual
12 thing?

13 A. Not all the time, no.

14 Q. Well, no, nothing is all the time, you would agree
15 with me on that?

16 A. I agree with you on that.

17 Q. We've got Vagos that are people, true?

18 A. Yes.

19 Q. People are different, right?

20 A. Yes.

21 Q. You've got some people that are good people, true?

22 A. Sure.

23 Q. You've got some people that are bad people.

24 A. Sure.

1 Q. And as a consequence, isn't it a bit unfair to brand
2 a whole organization as bad because it has some bad people?

3 A. Not if they fit the criteria of the gang statutes of
4 the state.

5 Q. Okay, and that's a criteria created by folks like
6 you, right?

7 A. Not by me. I didn't -- I just have to follow what's
8 put on the books.

9 Q. Right and --

10 A. However, it's the laws that we follow.

11 Q. What we do know is you don't know the percentage of
12 the Vagos that are felons, right?

13 A. No, because that's a very broad guess.

14 Q. Well, if you know the membership, you can check a
15 person's name to see who in fact has a criminal history and
16 who doesn't, can't you?

17 A. Do you have some time for me to do that? I mean, we
18 can probably have --

19 Q. Sir, I'm not --

20 A. -- months to take that and do it. And then while
21 I'm doing it, I would have to add to the crimes that are
22 still being committed.

23 Q. So in other words, it would take too long to
24 adequately research that?

1 A. Absolutely. And to get it to the exact number that
2 you're looking for.

3 Q. Right, well, you could get a pretty good idea of a
4 percentage if you get a little of it, couldn't you?

5 A. I don't think that would be something that you would
6 settle on.

7 Q. Not important?

8 A. Not important.

9 Q. All right. Now, you talked about the bylaws, true?

10 A. Yes.

11 Q. Now, the bylaws indicate in there they have to help
12 each other, right?

13 A. Yes.

14 Q. And that doesn't mean in just fights, does it?

15 A. No, not at all. Like I said, they're a brotherhood,
16 and one of my examples was if their bike breaks down, that
17 they should help their brother get their bike back up and
18 running.

19 Q. Or if somebody gets injured, hold a party, raise
20 money and help them pay rent?

21 A. Absolutely. There's a patch that they get for if a
22 brother donates a bike to another brother or \$2500.

23 Q. Well, that's not bad, is it?

24 A. Well, that depends on how they raised the money and

1 how they got the bike.

2 Q. Right, but if we assume that they're raising money
3 simply to help a brother, that's not a bad thing.

4 A. But again, we shouldn't assume we're doing this --

5 Q. Well, you're assuming they're --

6 A. You're wanting to put out percentages and you're
7 wanting to assume things. I mean, their bylaws indicate this
8 is how you earn the patch. And now, yeah, it is an
9 assumption on how they get it.

10 Q. Right.

11 A. However, there have been times when a Vago has been
12 found in possession of a stolen gun that was given to him by
13 a brother.

14 Q. Well, how many times?

15 A. That's out there. I don't know, again, now we're
16 getting into --

17 Q. Okay, right.

18 A. -- assumptions.

19 Q. We're getting in to try to establish specific
20 numbers as opposed to a general, "they're all bad."

21 A. Absolutely.

22 Q. Okay. If you're a member of an organization that
23 has problem people, does that mean you're automatically
24 deemed to be a problem person?

1 A. It depends on what your background is.

2 Q. All right, that's fair. So if a person has no
3 criminal history, that's a good indicator, isn't it?

4 A. It's a start. It doesn't mean that they're not in
5 the process of changing, or being influenced.

6 Q. Right, so I guess once you put on the vest,
7 according to you, you adopt everything bad, true?

8 A. No, not necessarily. It depends on the person.
9 Again --

10 Q. Right.

11 A. There are people within probably the Vagos, I know
12 there's one within the HA, that he earned his patch because
13 of his ability to make websites.

14 Q. Right.

15 A. He's able to do something for the club. That
16 ability to build a website is also the ability to put
17 clothing on there and sell it to raise money for the club.
18 So again, it's having that ability to do something for the
19 club.

20 Q. And have you heard people actually just being given
21 a patch?

22 A. No.

23 Q. Never happens?

24 A. Not -- no. Not -- I'm sure -- I'm sure there's

1 probably a scenario that might be out there, but I can tell
2 you in the confidential informants that I've had, patched, it
3 was not given to them.

4 Q. Okay, and again, you've had three of those.

5 A. Yes.

6 Q. Okay. And you think the total membership is 4 to
7 500.

8 A. It's approximately.

9 Q. So what's 3 as far as a percentage of 4 to 500?

10 A. Small.

11 Q. Pretty infinitesimal?

12 A. Again, but you bring it down to Arizona numbers.

13 Q. Right.

14 A. That's more than one per charter.

15 Q. How far is Arizona from here?

16 A. 400 miles. Approximately.

17 Q. Approximately; you don't want to be specific, right?

18 A. It's about an hour and 45 minute flight.

19 Q. Right. So and again, you're based in Arizona, true?

20 A. Yes.

21 Q. Who is the president of the local Hells Angels?

22 Here, Reno.

23 A. Local, in Reno? I don't know.

24 Q. How do they get along?

1 A. With?

2 Q. Vagos, HAs.

3 A. It's a conflict that has kind of gone across the
4 United States.

5 Q. Okay, so you think every charter of HAs and every
6 charter of Vagos is at odds with each other.

7 A. There is internal tension and conflict.

8 Q. Even though you haven't talked to every charter of
9 HAs and every Vago, right?

10 A. No, but I have had the opportunity to talk to --

11 Q. Those in Arizona?

12 A. Those in Arizona that are connected to national
13 members for the Vagos national chapter.

14 Q. Okay.

15 A. Which would be --

16 Q. If we had other witnesses that have testified there
17 is no rivalry, and they're actually Vagos and Hells Angels,
18 do you disagree with them?

19 A. Yes, I would. I think at that point now you've
20 got -- you've got a Hells Angel and maybe a Vago that might
21 be testifying to the fact that they don't want to get up here
22 and tell the truth because of the club bylaws, and they don't
23 want to be snitches. And as I've been told by sources, paid
24 and unpaid, you know, there is retaliation for coming up here

1 and claiming that there's a beef.

2 Q. I thought they weren't supposed to talk to law
3 enforcement at all.

4 A. They aren't, but sometimes we get lucky enough and
5 they'll talk to us.

6 Q. Would it surprise to you that a number of Hells
7 Angels and Vagos have sat right where you're sitting and
8 given testimony in this courtroom?

9 MR. HALL: Objection, your Honor, I don't recall a
10 number of them. There was a couple of --

11 MR. HOUSTON: There's always a number.

12 MR. HALL: We know what it is.

13 THE COURT: Okay.

14 MR. HALL: I'll withdraw it, never mind. Go ahead.

15 BY MR. HOUSTON:

16 Q. If Vagos and HAS have testified in this courtroom,
17 that's contrary to your belief of what they would do, right?

18 A. No, it's contrary to my belief of them always
19 getting up here and telling 100 percent of the truth.

20 Q. Okay, so --

21 A. It's also -- it's also against them working with law
22 enforcement. That's typically what happens.

23 Q. Right.

24 A. Now, they may get up here and testify, and depending

1 on what they testify about, they may pay for it later when
2 they get back to their club.

3 Q. How about when they agree to give statements to law
4 enforcement during the course of the investigation?

5 A. I think that was -- on my end in Arizona, the Vagos
6 that gave recorded statements are no longer in the Vagos
7 because of the contact with law enforcement.

8 Q. Do you think you could be wrong about whether or not
9 some of them would come to court and tell the truth?

10 A. It's possible.

11 Q. Okay. In other words, you didn't sit in here and
12 listen to any testimony, did you?

13 A. No, I haven't been able to sit in here and listen.

14 Q. Right. Now, as far as your particular person,
15 you've never infiltrated the Vagos, have you?

16 A. Myself?

17 Q. Yeah, you.

18 A. No, I've not infiltrated the --

19 Q. Ever sat in on a meeting?

20 A. No.

21 Q. Other than the three CIs, have you ever had a chance
22 to sit and actually converse with a Vago without being
23 represented as a police officer?

24 A. No.

1 Q. Now, as I understand it, do you have any advanced
2 degrees in sociology?

3 A. No.

4 Q. Psychology?

5 A. No.

6 Q. Any advanced degrees?

7 A. No.

8 Q. And so basically your information that you're
9 offering us comes from your conversation with the three CIs,
10 true?

11 A. The three CIs --

12 Q. And the other law enforcement.

13 A. -- law enforcement, and several other Vago members
14 that I have talked to working different runs.

15 Q. Who are they? Your several other Vago members?

16 A. Well, Mike Yusky, you've got -- let me start -- let
17 me back up. We've got 88, who is with the Chino Valley
18 chapter. You've got Mike Diecks. There's Dragon. I haven't
19 talked to Dragon, I've just been around him. I've been
20 around Lozano --

21 Q. I want to know who you talked to, not who you hung
22 around --

23 A. Aurelio Figueroa. Danny Archila.

24 Q. Right. Don't forget Mr. Rudnick. Did you talk to

1 him?

2 A. No.

3 Q. Okay, sorry.

4 A. Is that supposed to be funny?

5 Q. No, sir, I thought you may have.

6 A. You asked earlier.

7 Q. Well, I asked if you sat in on his debrief. Didn't
8 mean you didn't talk to him some other time, right?

9 A. That's right.

10 Q. Okay now, just talking again about the international
11 bylaws, isn't one of their international bylaws to do with
12 drugs, that if they're caught messing around with drugs that
13 they get kicked out?

14 A. Yes. However, if that was true --

15 Q. Well, no, sir, I asked you if it was a bylaw. And
16 it is, true?

17 A. It is a bylaw.

18 Q. All right, and you're going to say for instance
19 based upon your Phoenix experience that doesn't necessarily
20 hold water?

21 A. I would agree.

22 Q. All right. But again, you haven't infiltrated other
23 charters in other states, true?

24 A. No.

1 Q. You don't know what they do, correct?

2 A. No.

3 Q. You don't know what the Vago principle as far as
4 this enforcement may be in Reno, Nevada

5 A. It's probably going to be similar to Arizona.

6 Q. Okay, but again, that's a probably going to be
7 because of your own prejudice, true?

8 A. No, because I haven't talked to the local person
9 that's working the Vagos here.

10 Q. All right, then, why would you come to the
11 conclusion that it must be bad?

12 A. Like I've explained several times, my dealings with
13 them in Arizona, criminal charges with them in Arizona.

14 Q. Right.

15 A. Network of law enforcement, conferences that I've
16 been to, debriefing different members of motorcycle gangs.

17 Q. Are there any good 1 percent motorcycle clubs?

18 A. No, that's against the nature of what they stand
19 for.

20 Q. Don't they stand for independence?

21 A. They could.

22 Q. Don't want to be told what to do.

23 A. That could be a fair statement.

24 Q. Help each other.

1 A. Yes.

2 Q. Help a brother when they need it, right?

3 A. Yes.

4 Q. At least according to the bylaws, they won't put up
5 with people using drugs at their meetings.

6 A. I agree with that.

7 Q. Okay, and according to the bylaws, they have a
8 prohibition against people being involved in hard drugs,
9 correct?

10 A. They have that in their bylaws, but I disagree with
11 it.

12 Q. You just don't think they live by their bylaws.

13 A. No, I believe that with my experience and current
14 experience, that I'm really not even sure I can bring it up.

15 Q. Well, probably then you shouldn't.

16 A. Yeah, that's why I'm trying to tap dance around it.

17 Q. All right.

18 A. But you know, there are current charges that involve
19 use of cocaine.

20 Q. Right, in fact we heard from a former Vago that was
21 involved in smuggling kilos of cocaine and methamphetamine by
22 the name of Gary Rudnick. That would surprise you, wouldn't
23 it?

24 A. Not at all.

1 Q. In fact, some of the Vagos actually commit crimes,
2 because they're criminals, right?

3 A. Yes.

4 Q. And I think as we've established, some of the Vagos,
5 as you've said, are hard work guys that have a job and are
6 raising a family.

7 A. Yes.

8 Q. And they shouldn't be painted with the same brush,
9 in fairness, true?

10 A. It depends on the individual.

11 Q. Well, that's I think the point. They're individual,
12 true?

13 A. Until they come together collectively and create --
14 and commit their crimes.

15 Q. I see. So all Vagos, when they get together,
16 regardless, are going to commit crimes.

17 A. You're generalizing, I'm not.

18 Q. You said when they come taking and commit crimes, so
19 I was just asking that question.

20 A. That's the way you put it, not me.

21 Q. How do you put it, sir?

22 A. I would say that when they get together, because of
23 the patch, again there's going to be opportunity for a fight
24 over territory.

1 Q. Okay.

2 A. And that is what creates the tension between them
3 and other clubs.

4 Q. Possibly a fight over a girl, too, right?

5 A. Absolutely.

6 Q. Now, you've talked about you've been to a number of
7 runs, is that correct?

8 A. Yes.

9 Q. How many?

10 A. Again, if I had to estimate --

11 Q. Please do.

12 A. -- which you probably want, I would say well over
13 50.

14 Q. Well over 50. How many times have Vagos shot HAs at
15 those runs?

16 A. At those runs? They haven't.

17 Q. Well, when they get --

18 A. However --

19 Q. When they -- excuse me. When they get together they
20 certainly peacefully coexist, at least in the 50 runs you're
21 talking about, right?

22 A. Well, the 50 runs that I'm talking about, not all
23 the time was HA and Vago together. The one run that I did
24 and they were together was drag races up in Las Vegas

1 approximately 2007 and 2008. The Hells Angels had a booth
2 set up, the Vagos came en masse and they walked right by the
3 Hells Angels booth to show their numbers.

4 At the time the tension was high there. Not only
5 for I'm sure the two clubs, but law enforcement. We started
6 calling in extra police officers, and we created a situation
7 to separate the two groups so that we wouldn't have a
8 conflict.

9 Q. Are you sure they weren't walking by to go where
10 they were headed?

11 A. Absolutely positively, because I saw it.

12 Q. Were you part of that group?

13 A. I saw it.

14 Q. Did you talk to anybody?

15 A. I saw what happened.

16 Q. Right, they walked by a Hells Angels booth.

17 A. They walked by, staturing themselves, and basically
18 saying we're able to walk right by your booth, what are you
19 going to do about it.

20 Q. Couldn't everybody walk by that booth?

21 A. Not without that kind of tension.

22 Q. Okay.

23 A. I walked by it and I didn't get looked at. However,
24 when the Vagos walked by the booth, it turned into a

1 situation where it could have quickly escalated into
2 something that would have been dangerous.

3 Q. But it didn't, right?

4 A. Because law enforcement had the opportunity to
5 separate the groups.

6 Q. Okay. And law enforcement had an opportunity to
7 separate the groups on September 23rd, 2011 here, didn't
8 they?

9 A. I wasn't here that day.

10 Q. Right. Well, if we had testimony that law
11 enforcement was present and they thought everything was
12 calmed down --

13 A. I think some of that goes to the experience of the
14 law enforcement there. If you have an average officer on the
15 road that doesn't know that the two are rival clubs, they may
16 look at it and say okay, I'm not really sure what I see. But
17 you have somebody who has been working these clubs for some
18 times and you see these two groups get together, you know at
19 that point you need to start making plans to have more
20 officers come in.

21 Q. And you're aware that Street Vibrations as an event
22 has gone on here for what, 15 or 16 years?

23 A. I know it's been going on for some time.

24 Q. Are you aware that the HAS and the Vagos were also

1 there during those years?

2 A. Yes.

3 Q. Are you aware that --

4 MR. HALL: Objection, your Honor, there's no
5 testimony that they were there for those years. The
6 testimony yesterday, Mr. McNulty said they were there the
7 year before. Primarily they were in Reno.

8 MR. HOUSTON: Your Honor, I beg to differ. I think
9 we've got more than one person indicating that they had been
10 together the last 15 or 16 years.

11 THE COURT: It's for the jury to decide what the
12 testimony is, and how it is being represented.

13 MR. HOUSTON: Right.

14 THE COURT: But there's really no relevance in that
15 question, and I think I'm going to sustain an objection as to
16 whether or not he knows about it. I don't think it goes to
17 his -- any of his testimony.

18 BY MR. HOUSTON:

19 Q. Well, you're talking about the issues that occurred
20 in Arizona prior to what happened up in Nevada on September
21 23rd, 2011, true?

22 A. Yes.

23 Q. Okay, approximately when is the issue in Arizona
24 occurring?

1 A. It's been going on since the Vagos came there in
2 2005.

3 Q. Okay, so since 2005 you're talking about one
4 incident?

5 A. No, several. In fact -- in fact, when the Vagos
6 showed up there -- and again, I go back to that bottom
7 rocker. California, obviously in California. Arizona, in
8 Arizona. The issue with the Vagos in Arizona was when they
9 came over, they didn't want to put on that Arizona bottom
10 rocker, because Arizona is considered a Hells Angels state,
11 or a red and white state. They knew that if they put on that
12 Arizona bottom rocker that it was going to create issues.
13 And yes, I have talked to people about that. That is why
14 they did not put it on.

15 Q. Who did you talk to?

16 A. What they did -- what they did -- Mike Pariano, who
17 is the president of the Havasu chapter, what they did is they
18 put on a Colorado River bottom rocker. Once they had enough
19 members in Arizona, then they put on the Arizona bottom
20 rocker. And that's when we started having the problems in
21 Arizona, was over the bottom rocker.

22 Q. And the bottom rocker I think as you said indicates
23 the state, right?

24 A. Indicates the state, yes.

1 Q. Okay. Now, if we had testimony indicating in the
2 San Jose area that there was not a problem between the HAs
3 and the Vagos, from Hells Angels and Vagos, do you have any
4 specific personal knowledge about San Jose?

5 A. No.

6 Q. Okay. And you're aware this dispute was between San
7 Jose Vagos and HAs, in part?

8 A. Yes.

9 Q. Would you agree with me that in large, disputes are
10 settled by discussion?

11 A. With street gangs, no. Street gangs settle disputes
12 through acts of violence and intimidation.

13 Q. Okay, now, you indicated they're not a street gang,
14 they're an outlaw motorcycle gang. Is that true for them,
15 too?

16 A. Absolutely, and it's a parallel. It's a parallel.

17 Q. So if we had testimony that's the way things were
18 done, you would disagree with that, as well?

19 A. Absolutely, and I think that would go to the fact of
20 an incident that I talked to William Pizel about, which is
21 like you're talking about, that they would talk out their
22 problems.

23 William Pizel -- let me explain this in a little
24 bit more detail so you understand. In Arizona, there's

1 what's called the Confederation of Clubs. The Confederation
2 of Clubs is run by the Hells Angels. They decide who is
3 allowed to wear that Arizona bottom rocker.

4 William Pizel, who is an international Nomad, was
5 invited, after asking somebody, if he could go to a
6 Confederation of Club meeting to discuss the situation in
7 Arizona between the Vagos and the Hells Angels. He was told
8 that he could go to that meeting to discuss it. It's a
9 Confederation of Clubs meeting. That's where -- that's where
10 the conflicts are supposed to be resolved.

11 However, when it was learned that the Hells
12 Angels -- when the Hells Angels learned that he was going to
13 go to the Confederation of Club meeting, he was called and
14 told not to go to the meeting. He decided to try to go to
15 the meeting anyway, to settle and resolve the issues.

16 On his way to the meeting, he was somewhat
17 forcibly, the way he describes it, pulled over by Hells
18 Angels members, and beat, in a convenience parking lot.
19 Because he is not a member of the confederation, and he could
20 not go there to settle that beef. It was handled on the
21 street.

22 Q. And this information comes from whom?

23 A. William Pizel himself, and I believe it's on an
24 audio recording that we should have here.

1 Q. Okay, and as far as Mr. Pizel, where is he from?

2 A. He I believe lives in Dewey, Arizona.

3 Q. Okay, and we're essentially back to Arizona with
4 Mr. Pizel, true?

5 A. Yes.

6 Q. Now, what about the state of Nebraska, what's the
7 problem there?

8 A. I don't know.

9 Q. How about the state of New York?

10 A. Don't know.

11 Q. New Jersey?

12 A. Don't know.

13 Q. Nevada?

14 A. We have issues here.

15 Q. Yeah, obviously. But before that, what was the
16 state of affairs?

17 A. With what clubs?

18 Q. Yeah.

19 A. You had an issue between the Hells Angels and the
20 Mongols.

21 Q. I'm talking about the Vagos, sir.

22 A. I understand that, but they all kind of go together..

23 Q. Well, so you kind of just blend them all into one
24 thing.

1 A. No, you don't blend them. You don't blend them.

2 Q. Right.

3 A. There is an issue with these clubs. For example, in
4 Arizona --

5 Q. Excuse me. Which clubs is these clubs, sir?

6 A. I was getting ready to clarify that.

7 Q. Okay, thank you.

8 A. In Arizona the Vagos are a rival to the Hells
9 Angels. The Mongols are a rival to the Hells Angels. The
10 Vagos and the Mongols have been communicating together
11 because of the threat of the Hells Angels and the beat-downs
12 that these groups take.

13 Q. And you know that because?

14 A. I talked to Jess Florez on June 27th, which was just
15 a few months ago, when I assisted on a search warrant at his
16 house.

17 Q. And he's one of the CIs, or no?

18 A. No, he was -- he is the president for the Phoenix
19 chapter of the Vagos.

20 Q. So we're back to Arizona.

21 A. You asked, yes.

22 Q. Okay, good. So I want to take you back then in
23 time, just in summary. As far as Mr. Gonzalez is concerned,
24 you have no personal knowledge of the event that occurred on

1 September 23rd?

2 A. No.

3 Q. And you weren't there to know what happened or who
4 did what.

5 A. No, I've just seen video.

6 Q. Right, you don't know why, as far as talking to the
7 individuals involved?

8 A. I think why can be --

9 Q. No, I want to know if you've talked to anybody, sir.
10 Not surmised.

11 A. Okay. No.

12 Q. Do you get some of your information from the
13 internet?

14 A. No. Well, I mean obviously we all search it, I go
15 to the Vagos website to see what they put up there. I go to
16 Hells Angel websites to see what they put up.

17 Q. And do you think everything you read on the internet
18 is true?

19 A. No.

20 Q. Okay, so you've got to kind of filter it out, right?

21 A. Oh, absolutely. And that's what sources and
22 criminal informants are for, is to basically check them out,
23 and make sure that what they're putting out is legitimate
24 information.

1 Q. And sources and criminal informants, I think as we
2 have agreed, may have their own bias?

3 A. They may. But again, that's where it's up to us to
4 filter out the information, whether or not it's legitimate.

5 Q. Right. And part of that purpose would be not coming
6 to the conclusion that all Vagos are bad simply because they
7 wear a patch.

8 A. Absolutely.

9 Q. Okay, thank you.

10 A. Uh-huh.

11 REDIRECT EXAMINATION

12 BY MR. HALL:

13 Q. Now, Mr. Skelton, what we're talking about is this
14 particular incident. And this particular incident was
15 national run; what's a national run?

16 A. It's a required --

17 Q. Again.

18 A. I'm sorry?

19 Q. I just said again. A national run would be --

20 A. National meeting that the Vagos were to attend in
21 Sparks, Nevada.

22 Q. Okay, so if the information was there was 4 or 500
23 Vagos here, that would be the approximate amount of Vagos?

24 A. It would be acceptable. It would be acceptable,

1 reasonable.

2 Q. Okay. And then if -- so that would be all the
3 different chapters, correct?

4 A. Yes.

5 Q. From throughout the west, or throughout the nation?

6 A. From wherever they came from.

7 Q. Okay.

8 A. And again, that's where I would rely on coworkers,
9 or networking of law enforcement, when they get done to do
10 their debriefs, and put out the information as we had X
11 amount of Vagos, we had X amount of, you know, Hells Angels,
12 or whatever club was there.

13 Q. So in this particular instance there were -- I mean,
14 you saw the video, you read some of the reports, there were a
15 number of different charter members involved in the same
16 fight? Is that fair to say?

17 A. Okay. Yes.

18 Q. So that would mean that it's just not each
19 particular chapter, but it's the Vagos working together as a
20 team in this particular fighting effort.

21 A. Yes, again, it's to back up your brother.

22 Q. And with respect to the statute, what you look to --
23 and you've reviewed the statute, right?

24 A. Yes.

1 Q. So you look to see if they have a common code of
2 conduct -- common code of conduct, status, customs, language,
3 indicative of a group of people that belong to a gang,
4 correct?

5 A. Yes.

6 Q. Identifying symbol?

7 A. Yes, they have the patch.

8 Q. And if they commit crimes commonly these people that
9 are members of the Vagos --

10 MR. HOUSTON: Objection, leading, your Honor.

11 MR. HALL: Commonly commit crimes punishable as a
12 felony.

13 MR. HOUSTON: Your Honor, it's leading.

14 MR. HALL: It's a predicate question.

15 THE COURT: Okay, to?

16 BY MR. HALL:

17 Q. To commit crimes punishable as a felony.

18 A. Yes.

19 THE COURT: Predicate to what?

20 BY MR. HALL:

21 Q. To this question: So what crimes are you familiar
22 with Vagos committing?

23 A. Aggravated assault, simple assault, possession of
24 narcotics, possession of narcotics for sale, possession of

1 stolen property, all the way up to murder.

2 Q. These are Vago members?

3 A. Yes.

4 Q. That you personally are familiar with.

5 A. Yes.

6 Q. Over what period of time?

7 A. Over the last 10 years.

8 Q. And currently involved in -- I'll just stop there.

9 Now, would one of those crimes -- some of the crimes that
10 they commit, involve fights with deadly weapons, assault with
11 a deadly weapon, battery with a deadly weapon?

12 MR. HOUSTON: Objection, leading, your Honor.
13 Leading, your Honor.

14 THE COURT: Sustained.

15 BY MR. HALL:

16 Q. Okay. Other violent crimes, can you think of any
17 violent crimes that a Vago might commit?

18 A. I'm sorry, repeat the question.

19 Q. Are you familiar with any violent crimes that Vagos
20 might commit?

21 A. Yeah, the beat-downs, intimidation. You know, I
22 mean intimidation through their beat-downs is how they gain
23 their respect.

24 Q. Does the rivalry that you believe exists sometimes

1 result in violent conflict with use of deadly weapons?

2 A. Yes, it does.

3 Q. When you have Vagos and Hells Angels fight would you
4 expect that it would evolve into the use of deadly weapons?

5 A. Yes. Many of them carry knives. In Arizona, we're
6 kind of what's considered an open carry state, so they can
7 carry their weapons on them. If you aren't a prohibited
8 possessor, meaning you haven't been convicted of a felon -- a
9 felony, you can wear a weapon. And those are some of the
10 people in Arizona that they look to recruit, as well.
11 Because they can carry a weapon openly, which again, you get
12 eight to ten of these people together in a pack with a
13 weapon, there's that intimidation factor. Along with the
14 weapons to back it up.

15 Q. Now, Mr. Houston asked you a question about Vagos
16 coming in to testify, and there was a couple of Vagos that
17 came in and testified that were friends of the defendant.
18 Would you expect them to say that there is a rivalry between
19 the Hells Angels, or would you expect them to say oh, no,
20 we're good buddies?

21 A. I would expect them to basically take his back, and
22 they're good buddies, and not acknowledge that there's a
23 rivalry.

24 Q. Would that benefit the club, coming in and saying

1 oh, there's no rivalry, my guy was just acting on the spur of
2 the moment defending his buddy?

3 A. I think not only does it -- not only does it benefit
4 the club, but it kind of fits the unwritten biker code of
5 conduct, which is, you know, if this guy beat me down -- and
6 a good example would be in Arizona, where we had a Hells
7 Angels member beat down a Vago in a bar. Nobody wanted to
8 report it, so we didn't have victims. Without a victim, we
9 don't have the ability to have the crime.

10 And that's where in these situations, they don't
11 want a report taken, it's very hard to try to press forward
12 with a case.

13 MR. HALL: Thank you, I have no other questions.

14 THE COURT: Do you have something?

15 MR. HOUSTON: Just a couple, your Honor.

16 RECROSS-EXAMINATION

17 BY MR. HOUSTON:

18 Q. You were talking about benefit to the club, right?

19 A Yes.

20 Q. Would it be a benefit to the San Jose charter for
21 members to quit?

22 A. Yes, it would be.

23 Q. Really? So they get more dues when there's less
24 people?

1 A. No, it would be a benefit for them to quit if they
2 talk to law enforcement, to avoid their beat-down.

3 Q. How about if they had to leave because of fear of
4 retaliation?

5 A. That would be another one.

6 Q. That would be a benefit for them.

7 A. For them, yeah, to get out, because the beat-downs
8 can be pretty -- pretty bad.

9 Q. Right. And would it be a benefit to the club to
10 create a situation of open hostility?

11 A. Which club?

12 Q. Vagos, HAs.

13 A. I don't know exactly that I understand what your
14 question is.

15 Q. Well, open hostility sort of attracts the attention
16 of guys like you from law enforcement, doesn't it?

17 A. Yeah, but I don't think they want it for us to be
18 involved in it. They want it, again, so they can have their
19 territory. It goes back to that patch.

20 Q. A moment ago you were talking to the State about
21 crimes that are committed, and you named some crimes, and you
22 kept using the word Vagos commit, Vagos commit. True?

23 A. Yes.

24 Q. People commit. Right?

1 A. They're Vago members, I believe.

2 Q. Some. Right?

3 A. I believe the ones that I'm talking about are also
4 Vago members. They're people, but they're also Vago members.

5 Q. Right, and a very perhaps small percentage of the
6 total members, right?

7 A. Again, I think we can argue percentages all day
8 long.

9 Q. Well, that's your job. What's a percentage?

10 A. I'm not going to give you a percentage, I don't have
11 it.

12 Q. You don't know, do you, sir? You don't know.

13 A. Not an accurate number.

14 MR. HOUSTON: Thank you. Nothing further.

15 MR. HALL: Thank you, no further questions.

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

18 THE WITNESS: Thank you.

19 ERIC BENNETT

20 Called as a witness by the State
21 who, having been first duly sworn,
22 testified as follows:

23 THE CLERK: Thank you, please be seated at the
24 witness stand.