

IN THE SUPREME COURT OF THE STATE OF NEVADA

JACOB DISMONT #2889638,

Petitioner

vs.

THE HONORABLE VALERIE ADAIR,
District Judge; and THE EIGHTH JUDICIAL
DISTRICT COURT of the State of Nevada in
and for the County of Clark,

Respondent,

THE STATE OF NEVADA;

Real Party in Interest.

Supreme Court Case No. _____

Electronically Filed
District Court Case No. C-13-290580-2
May 29 2015 03:08 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPENDIX TO PETITION FOR WRIT OF PROHIBITION

From the Eighth Judicial District Court, Clark County, Nevada,
The Honorable Valerie Adair, Department 21

PETER S. CHRISTIANSEN, ESQ.

Nevada Bar No. 5254

pete@christiansenlaw.com

KENDELEE L. WORKS, ESQ.

Nevada Bar No. 9611

kworks@christiansenlaw.com

CHRISTIANSEN LAW OFFICES

810 S. Casino Center Blvd., Suite 104

Las Vegas, Nevada 89101

Telephone: (702) 240-7979

Facsimile: (866) 412-6992

Attorneys for Petitioner,

Jacob Dismont

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TAB 1


CLERK OF THE COURT

IND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ROBERT B. TURNER
Chief Deputy District Attorney
Nevada Bar #006526
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

MICHAEL SOLID, aka,
Michael Samuel Solid, #2804527
JACOB DISMONT, #2889638

Defendant(s).

CASE NO: C-13-290260-2

DEPT NO: XXI

INDICTMENT

STATE OF NEVADA }
COUNTY OF CLARK } ss.

The Defendant(s) above named, MICHAEL SOLID, aka, Michael Samuel Solid and JACOB DISMONT, accused by the Clark County Grand Jury of the crime(s) of CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 199.480, 200.380); ROBBERY (Category B Felony - NRS 200.380) and MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165), committed at and within the County of Clark, State of Nevada, on or about the 16th day of May, 2013, as follows:

///

///

///

1 COUNT 1 – CONSPIRACY TO COMMIT ROBBERY

2 did then and there meet with each other and between themselves, and each of them
3 with the other, wilfully, unlawfully, and feloniously conspire and agree to commit a crime,
4 to-wit: robbery, and in furtherance of said conspiracy, Defendants did commit the acts as set
5 forth in Counts 2-3, said acts being incorporated by this reference as though fully set forth
6 herein.

7 COUNT 2 - ROBBERY

8 did then and there willfully, unlawfully and feloniously take personal property, to wit:
9 Apple iPad computer, from the person of MARCOS ARENAS, or in his presence, by means
10 of force or violence or fear or injury to, and without the consent and against the will of the
11 said MARCOS ARENAS, the defendants being responsible under one or more of the
12 following principles of criminal liability, to wit: (1) by the Defendants directly committing
13 the crime and/or (2) by the Defendants conspiring with each other to commit the offense of
14 robbery, whereby the Defendants are each vicariously liable for the reasonably foreseeable
15 acts of their co-conspirator when the acts were in furtherance of the conspiracy, and/or by (3)
16 the Defendants aiding or abetting in the commission of the crime by Defendant JACOB
17 DISMONT providing a motor vehicle to be used in the commission of the crime and by
18 Defendant MICHAEL SOLID, aka, Michael Samuel Solid, driving said vehicle to the
19 location of MARCOS ARENAS, the Defendants accompanied one another to the crime
20 scene near the intersection of Charleston and Scholl, Clark County, Nevada, wherein
21 Defendant MICHAEL SOLID, aka, Michael Samuel Solid acted as a lookout and get away
22 driver, while Defendant JACOB DISMONT exited the vehicle being driven by Defendant
23 MICHAEL SOLID, aka, Michael Samuel Solid, and approached the said MARCOS
24 ARENAS from behind and attempted to grab an Apple Ipad from his person, wherein a
25 struggle over said property ensued, and the said JACOB DISMONT took said property from

26 ///

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28 ///

1 the person and/or presence of MARCOS ARENAS, the Defendants left the crime scene
2 together with the personal property taken from MARCOS ARENAS, the Defendants
3 encouraging one another throughout by actions and/or words, the Defendants acted in
4 concert throughout each with the intent to commit robbery.

5 COUNT 3 - MURDER WITH USE OF A DEADLY WEAPON

6 did then and there willfully, unlawfully, feloniously, and without authority of law,
7 and with malice aforethought, kill MARCOS ARENAS a human being, using a deadly
8 weapon, to wit: a motor vehicle, in the following manner, to wit; by driving into and/or over
9 the body of the said MARCOS ARENAS with a motor vehicle, the actions of the defendants
10 resulting in the death of the said MARCOS ARENAS, the said killing having been (1) done
11 with premeditation and deliberation; and /or (2) committed during the perpetration or
12 attempted perpetration of a robbery, the defendants being responsible under one or more of
13 the following principles of criminal liability, to wit; (1) by directly committing the acts
14 constituting the offense and/or (2) by Defendants conspiring with each other to commit
15 robbery; and/or (3) by Defendants aiding or abetting each other in the commission of the
16 crime, by Defendant JACOB DISMONT providing a motor vehicle to be used in the
17 commission of the crime and by Defendant MICHAEL SOLID, aka, Michael Samuel Solid
18 driving said vehicle to the area where the said MARCOS ARENAS was walking, the
19 Defendants accompanied each other to the crime scene where Defendant MICHAEL SOLID,
20 aka, Michael Samuel Solid acted as a lookout and get away driver, while Defendant JACOB
21 DISMONT approached MARCOS ARENAS and attempted to grab property from the hands
22 of the said MARCOS ARENAS, resulting in a struggle over said property, wherein
23 Defendant JACOB DISMONT took the property of MARCOS ARENAS and retreated to the
24 motor vehicle being driven by Defendant MICHAEL SOLID, aka, Michael Samuel Solid
25 who thereafter struck the said MARCOS ARENAS with said motor vehicle, the actions of

26 ///

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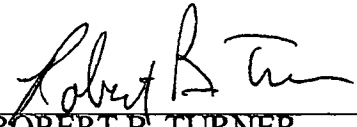
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1 the Defendants causing the death of MARCOS ARENAS, the Defendants left the crime
2 scene together, the Defendants encouraged one another throughout by actions and words, the
3 Defendants acted in concert throughout, and each with intent to commit robbery.

4 DATED this 4 day of ~~May~~^{June}, 2013.

5
6 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

7
8
9 BY


10 ROBERT B. TURNER
Chief Deputy District Attorney
Nevada Bar #006526
11

12 ENDORSEMENT: A True Bill

13
14 
15 Foreperson, Clark County Grand Jury
16
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Names of witnesses testifying before the Grand Jury:

ABELL, JEFFERY, LVMPD# 8744

BUTTELL, MINA, c/o CCDA, 200 Lewis Ave, LV, NV

DUTRA, DR. TIMOTHY, MEDICAL EXAMINER

EXUM, GACORY, 1320 KARI LEE CT #D, LV NV 89146

GUNDERSON, SCOTT, TERRIBLE HERBEST

KIESNER, JOEL, LVMPD#

ROMO, ALEJADRO, c/o CCDA, 200 Lewis Ave, LV, NV

SANBORN, TATE, LVMPD# 5450

SHANAHAN, REBECCA, 7429 COCHISE ROAD AVE, LV NV

WILSON, CAROLYN, c/o CCDA, 200 Lewis Ave, LV, NV

Additional witnesses known to the District Attorney at time of filing the Indictment:

BOUCHER, DOLPHIS, LVMPD# 4636

CUSTODIAN OF RECORDS, CCDC

CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS, LVMPD RECORDS

CUSTODIAN OF RECORDS, NV DMV

DOYLE, DONALD, 3530 PINNATE DR, LV NV 89147

IVIE, TRAVIS, LVMPD# 6405

LICARI, BRIANNA, c/o CCDA, 200 Lewis Ave, LV, NV

NICHOLAS, MATT, 8555 W RUSSELL RD #2/2011, LV NV 89113

PARENT OF GACORY EXUM, 1320 KARI LEE CT #D, LV NV 89146

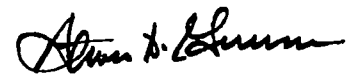
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(TK12)

TAB 2

EIGHTH JUDICIAL DISTRICT COURT

Electronically Filed
06/19/2013 02:17:33 PM

CLARK COUNTY, NEVADA



CLERK OF THE COURT

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID

DISTRICT COURT

THE STATE OF NEVADA,

Plaintiff,

vs.

MICHAEL SOLID, aka Michael Samuel
Solid, JACOB DISMONT,

Defendants.

GJ No. 13AGJ004AB

DC No. C290260

Taken at Las Vegas, Nevada

Tuesday, June 4, 2013

8:50 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danette L. Antonacci, C.C.R. No. 222

1 GRAND JURORS PRESENT ON JUNE 4, 2013

2

3 EDWARD GOLEC, Foreperson

4 JULIE SCHWERDTFEGER, Deputy Foreperson

5 ASHLEY NAPIER, Secretary

6 MALINDA RUSSELL-DANIEL, Assistant Secretary

7 SUSAN BEAUCHAMP

8 SHARON BERGER

9 GERALD BRYAN

10 MICHAEL GARCIA

11 SHIRLEY JOHNSON

12 CHARLES KNIGHTEN

13 SANDRA MERRITT

14 JOSEPH O'CONNELL

15 BRIAN RAMSEY (Present for p.m. portion only. Did not
16 deliberate.)

17 URSULA RETHMAN

18 GARY ROGERS

19 CRAIG WISE

20 RONALD WORLEY

21

22 Also present at the request of the Grand Jury:

23 Robert B. Turner & Agnes Botelho,
24 Deputy District Attorneys

25 Estee Del Padre, Grand Jury Coordinator

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1 LAS VEGAS, NEVADA, JUNE 4, 2013

2 * * * * *

3
4 DANETTE L. ANTONACCI,

5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 MR. TURNER: Ladies and gentlemen of the
10 Grand Jury, my name is deputy district attorney Brad
11 Turner. I'm assigned to prosecute this case along with
12 deputy district attorney Agnes Botelho who will be
13 present during the Grand Jury presentation with myself.
14 I'm presenting Grand Jury Case Number 13AGJ004AB.

15 The record will reflect that we have or
16 should have marked a copy of the proposed Indictment as
17 Grand Jury Exhibit 1 and that all the members of the
18 Grand Jury have a copy of it. The defendants in this
19 case are charged with conspiracy to commit robbery,
20 robbery, and murder with use of a deadly weapon.

21 I am instructed by law to advise you on the
22 elements of these three offenses.

23 Conspiracy is an agreement or mutual
24 understanding between two or more persons to commit a
25 crime. To be guilty of conspiracy, a defendant must

1 intend to commit, or to aid in the commission of the
2 specific crime agreed to.

3 In this case the crime is robbery.

4 The crime is the agreement to do something
5 unlawful. It does not matter whether it was successful
6 or not.

7 It is not necessary to prove a conspiracy,
8 it is not necessary in proving a conspiracy to show a
9 meeting of the alleged conspirators or the making of an
10 express or formal agreement. The formation and
11 existence of a conspiracy may be inferred from all
12 circumstances tending to show the common intent and may
13 be proved in the same way as any other fact may be
14 proved, either by direct testimony of the fact or by
15 circumstantial evidence, or by both direct and
16 circumstantial evidence.

17 To aid or abet means to actively, knowingly
18 or purposely facilitate or assist another individual in
19 the commission or attempted commission of a crime with
20 the intent that that crime be committed.

21 In this case again the crime is robbery.

22 Robbery is the unlawful taking of personal
23 property from the person of another, or in his presence,
24 against his will, by means of force or violence or fear
25 of injury, immediate or future, to his person or

1 property. Such force or fear must be used to obtain or
2 retain possession of the property, or to prevent or
3 overcome resistance to the taking, in either of which
4 cases the degree of force is immaterial.

5 The value of the property or money taken is
6 not an element of the offense of robbery. It is only
7 necessary that the State prove the taking of some
8 property or money.

9 Murder is the unlawful killing of a human
10 being with malice aforethought, either express or
11 implied. The unlawful killing may be effected by any of
12 the various means by which death may be occasioned.

13 Malice aforethought, as used in the
14 definition of murder, means the intentional doing of a
15 wrongful act without legal cause or excuse or what the
16 law considers adequate provocation. The condition of
17 mind described as malice aforethought may arise not only
18 from anger, hatred, revenge or from particular ill will,
19 spite or grudge towards the person killed, but also may
20 be the result from any unjustifiable or unlawful motive
21 or purpose to injure another.

22 Express malice is that deliberate intention
23 unlawfully to take away the life of a fellow creature
24 which is manifested by external circumstances capable of
25 proof. Malice may be implied when no considerable

1 provocation appears or when all the circumstances of the
2 killing show an abandoned and malignant heart.

3 There are certain kinds of murder which
4 carry with them conclusive evidence of malice
5 aforethought. One of these classes of murder is murder
6 which is committed in the perpetration or attempted
7 perpetration of a robbery. Therefore, a killing which
8 is committed in the perpetration of a robbery is deemed
9 to be murder of the first degree whether the killing was
10 intentional or unintentional or accidental. This is
11 called the Felony Murder Rule.

12 A deadly weapon means any instrument which,
13 if used in the ordinary manner contemplated by its
14 design and construction, will or is likely to cause
15 substantial bodily harm or death; any weapon, device,
16 instrument, material or substance which, under the
17 circumstances in which it is used, attempted to be used
18 or threatened to be used, is readily capable of causing
19 substantial bodily harm or death.

20 Are there any questions in regard to the
21 elements of the charged offenses as I've read them to
22 you? Yes.

23 A JUROR: Not with regard to that, but our
24 paperwork said Robert Turner. You go by Brad?

25 MR. TURNER: I go by Brad, yes. Robert

1 Bradford Turner.

2 A JUROR: Thank you.

3 MR. TURNER: Any other questions?

4 State's prepared to call its first witness.

5 MS. BOTELHO: The State calls Dr. Timothy
6 Dutra.

7 THE FOREPERSON: Please raise your right
8 hand.

9 You do solemnly swear the testimony you are
10 about to give upon the investigation now pending before
11 this Grand Jury shall be the truth, the whole truth, and
12 nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 THE FOREPERSON: Please be seated.

15 You are advised that you are here today to
16 give testimony in the investigation pertaining to the
17 offenses of conspiracy to commit robbery, robbery,
18 murder with use of a deadly weapon, involving Michael
19 Solid and Jacob Dismont.

20 Do you understand this advisement?

21 THE WITNESS: Yes.

22 THE FOREPERSON: Please state your first
23 and last name and spell both for the record.

24 THE WITNESS: Timothy Dutra.

25 T-I-M-O-T-H-Y, D-U-T-R-A.

1 MS. BOTELHO: May I proceed Mr. Foreperson?

2 THE FOREPERSON: Yes.

3 MS. BOTELHO: Thank you.

4 TIMOTHY DUTRA,

5 having been first duly sworn by the Foreperson of the
6 Grand Jury to testify to the truth, the whole truth,
7 and nothing but the truth, testified as follows:

8

9 EXAMINATION

10

11 BY MS. BOTELHO:

12 Q. Dr. Dutra, how are you employed?

13 A. I am a medical examiner at the Clark County
14 Office of the Coroner and Medical Examiner.

15 Q. How long have you been employed as a
16 medical examiner with Clark County?

17 A. Three years.

18 Q. Okay. Prior to that where did you work?

19 A. Prior to that I did a fellowship in
20 forensic pathology at the City Medical Examiner's Office
21 in St. Louis. Prior to that I worked as a hospital
22 pathologist in Los Angeles.

23 Q. Okay. Did this prior work experience
24 qualify you to be a medical examiner here in Clark
25 County?

1 A. Yes. And I am board certified. I took the
2 board exam in 2009.

3 Q. Okay. Can you please briefly tell us your
4 educational background that would qualify you to be a
5 medical examiner?

6 A. I got my MD at USC. After that I got an MS
7 in anatomy and cell biology. I went over to UCLA and
8 got a Ph.D in anatomy and cell biology. After that I
9 went to Harbor UCLA Medical Center and did my residency
10 in anatomical and clinical pathology. I practiced and
11 then I did a blood banking fellowship at University of
12 Wisconsin and then I did research and then I did my
13 fellowship in forensic pathology in St. Louis.

14 Q. Okay. During your capacity or while you
15 were employed with the Clark County Medical Examiner's
16 Office, did you come to perform an autopsy on an
17 individual by the name of Marcos Vincente Arenas?

18 A. Yes.

19 Q. Is that a 15-year old juvenile?

20 A. Yes.

21 Q. I'm going to show you what has been marked
22 as State's, excuse me, Grand Jury Exhibit Number 2. Dr.
23 Dutra, do you recognize the individual shown in this
24 photo?

25 A. Yes.

1 Q. Who do you recognize this to be?

2 A. This is the decedent Mr. Arenas.

3 Q. Okay. And this is the individual that you
4 performed an autopsy on?

5 A. Correct.

6 Q. Could you please briefly describe for the
7 Grand Jury what it is that you do when you perform an
8 autopsy.

9 A. First I review what records I have which
10 most times is just the coroner's investigator's report.
11 We have death scene investigators who go to the scene of
12 the death and then come back and give a report, a
13 written report, as to what were the circumstances of the
14 death. Then I look at the body, do an external
15 examination, review all the X-rays that have been taken
16 in the Clark County Office of the Coroner and then come
17 back and do an internal examination, what most people
18 consider to be an autopsy on the body. If I decide to
19 have fluids or tissues sent for toxicology, I do that at
20 that time. If I decide to have tissues sent for
21 preparation for microscopic slides, I do that at that
22 time too.

23 Q. Okay. While conducting the examination or
24 shortly thereafter, do you memorialize your findings in
25 what's called an autopsy report?

1 A. Yes.

2 Q. And did you do that in this particular
3 case?

4 A. Yes.

5 Q. Okay. So Dr. Dutra, you indicated that you
6 reviewed certain items prior to examining the body; is
7 that correct?

8 A. Correct.

9 Q. You also indicated that you will typically
10 conduct an internal examination.

11 A. Correct.

12 Q. Did you do that in this case?

13 A. Yes.

14 Q. And what if any findings did you find with
15 the external examination?

16 A. I'd like to refer to my notes if I may.

17 Q. Yes please, if that will refresh your
18 memory.

19 A. I brought a copy of my autopsy report with
20 me.

21 The external examination showed a young
22 male, adolescent male. He had evidence of blunt force,
23 he had evidence of medical intervention which included
24 an endotracheal tube and intravenous lines and a
25 surgical wound which had been closed with a partial

1 closure, suctioned type of closure which is what is
2 often used when the surgeons are intending to do the
3 surgery as a staged procedure, meaning come back shortly
4 thereafter. And he also had evidence of blunt force
5 injuries which included abrasions and contusions of his
6 head and some abrasions also of his body.

7 Q. Okay. And specifically where on his body
8 were there blunt force injuries?

9 A. They were mostly -- on the left side of his
10 head he had abrasions and contusions. He also had
11 abrasions and contusions of his, mostly of the front of
12 his body in the chest and abdominal region and also over
13 the hip. I believe it's the left hip region.

14 Q. Okay. And you just told the Grand Jury
15 about abrasions and contusions found throughout Marcus's
16 body. Can you please just briefly tell them what an
17 abrasion is and what a contusion is?

18 A. An abrasion is where the skin is scraped so
19 the most superficial cellular layers have been scraped
20 and it may or may not have a linear pattern on it. A
21 contusion is what is commonly called a bruise. In
22 medical terminology a contusion is reserved for a bruise
23 which occurs due to blunt force trauma to the body.

24 Q. Okay. Dr. Dutra, did you conduct an
25 internal examination of the body of Marcos Arenas?

1 A. Yes, I did.

2 Q. What if any findings did you find?

3 A. Well, I found injuries to the brain and
4 skull. The injuries to the brain were not, were mostly
5 secondary to the injuries to the skull. He had a
6 basilar skull fracture which went across the base of the
7 skull sort of passing through the pituitary fascia and
8 on the X-ray I could see a small bubble of air above the
9 pituitary fascia indicating that this basilar fracture
10 had opened a connection between the sphenoid sinus and
11 the base of the cranial cavity. He had some minor
12 hemorrhages and contusions of the brain overlying the
13 region of this basilar skull fracture but, as is usually
14 the case with, after a closed head injury, there was
15 significant swelling of the brain and that had
16 manifested itself with compression of the spaces within
17 the brain, they're called the ventricles, it's where the
18 cerebral spinal fluid is made, and also evidence that
19 this was causing the brain to try to push itself out the
20 base of the skull.

21 Q. Okay. And Dr. Dutra, you just told the
22 Grand Jury about a basilar skull fracture. Could you
23 please show us where that was located on Marcos?

24 A. It's basically across the base of the
25 skull. The vault of the skull is relatively thin boned

1 but the base of the skull is thick and complex and it's
2 the buttress of the skull. And this passed through a
3 bone called the sphenoid bone which contains the
4 pituitary and has wings of bone that extend out
5 laterally and it passed basically across the base of the
6 skull in that region.

7 Q. Okay. During your internal examination did
8 you also see indication of injury in Marcos's chest
9 area?

10 A. There were contusions and abrasions of the
11 chest area. And also he had medical intervention. He
12 had had chest tubes placed into both of the chest
13 cavities.

14 Q. And what about his abdominal area, did that
15 show any indication of internal injury as well?

16 A. Yes. When I took down the surgical wounds
17 and examined the internal aspect of the abdominal cavity
18 I found a massive laceration of the underside of the
19 liver extending across both the right and the left lobes
20 of the liver.

21 Q. So what were the significant anatomic
22 findings per your autopsy report?

23 A. The most significant, he did have some
24 pulmonary contusions too, but I think the most
25 significant anatomic findings were the basilar skull

1 fracture which had then caused the brain to be injured
2 and to swell up, and then also this massive laceration
3 of the liver which had been partially addressed
4 surgically and he had also received many units of blood
5 transfusion during his short hospitalization.

6 Q. Dr. Dutra, how much force would have to be
7 used on an individual to cause a basilar fracture such
8 that you saw on Marcos?

9 A. That's a good question. I don't think I
10 can give you a number today. I'm sure there have been
11 experimental studies that I can research and find. But
12 it takes significant force. The base of the skull is
13 the buttress of the skull and it takes a lot of force.
14 It's relatively easy to get a skull fracture in the
15 vault, but it's very difficult. It takes, today I would
16 have to say a significant amount of force to cause a
17 basilar skull fracture.

18 Q. Dr. Dutra, upon performing the autopsy and
19 also conducting an external and internal examination of
20 Marcos Arenas, were you able to determine a cause of
21 death?

22 A. Yes, I am.

23 Q. What was that, sir?

24 A. It was multiple blunt force injuries due to
25 pedestrian versus motor vehicle collision.

1 Q. So is it fair to say that the injuries you
2 saw on Marcos were consistent with Marcos being struck
3 with a motor vehicle or being thrown to the ground?

4 A. Oh yes.

5 Q. By a motor vehicle?

6 A. Yes.

7 Q. And during your examination, Doctor, were
8 you able to determine a manner of death?

9 A. The manner of death in this case, based on
10 the results of what I learned from the coroner's
11 investigator and from the preliminary police
12 investigation, I created a death certificate that day
13 and I decided that this was a homicide.

14 MS. BOTELHO: Brief indulgence.

15 I have no further questions for Dr. Dutra.
16 Do any of the Grand Jury members have any questions?

17 I see no hands. Thank you, Dr. Dutra.

18 THE FOREPERSON: Okay. By law, these
19 proceedings are secret and you are prohibited from
20 disclosing to anyone anything that has transpired before
21 us, including evidence and statements presented to the
22 Grand Jury, any event occurring or statement made in the
23 presence of the Grand Jury, and information obtained by
24 the Grand Jury.

25 Failure to comply with this admonition is a

1 gross misdemeanor punishable by a year in the Clark
2 County Detention Center and a \$2,000 fine. In addition,
3 you may be held in contempt of court punishable by an
4 additional \$500 fine and 25 days in the Clark County
5 Detention Center.

6 Do you understand this admonition?

7 THE WITNESS: Yes.

8 THE FOREPERSON: Okay. Thank you. You are
9 excused.

10 MR. TURNER: State will call Gacory Exum.

11 THE FOREPERSON: Please raise your right
12 hand.

13 You do solemnly swear the testimony you are
14 about to give upon the investigation now pending before
15 this Grand Jury shall be the truth, the whole truth, and
16 nothing but the truth, so help you God?

17 THE WITNESS: Yeah.

18 THE FOREPERSON: You are advised that you
19 are here today to give testimony in the investigation
20 pertaining to the offenses of conspiracy to commit
21 robbery and murder with use of a deadly -- number two is
22 robbery and then three is murder with use of a deadly
23 weapon, involving Michael Solid and Jacob Dismont.

24 Do you understand this advisement?

25 THE WITNESS: Yeah.

1 THE FOREPERSON: Please state your first
2 and last name, spell both for the record.

3 THE WITNESS: Gacory, G-A-C-O-R-Y, Exum,
4 E-X-U-M.

5 MR. TURNER: May I proceed, Mr. Foreperson?

6 THE FOREPERSON: Go ahead.

7 MR. TURNER: May I proceed?

8 THE FOREPERSON: You may.

9 GACORY EXUM,
10 having been first duly sworn by the Foreperson of the
11 Grand Jury to testify to the truth, the whole truth,
12 and nothing but the truth, testified as follows:

13

14 EXAMINATION

15

16 BY MR. TURNER:

17 Q. Gacory, do you also go by Cory?

18 A. Yes.

19 Q. Is it okay if I call you Cory this morning?

20 Cory, what I need you to do is answer out
21 loud yes or no because the court reporter is going to
22 have to take down everything you say. Okay? And we
23 also have a number of people in here who need to hear
24 you. So I'm going to ask you to speak right into that
25 microphone for us so everybody can hear what you have to

1 say. Is that all right?

2 Is that a yes?

3 A. Yes.

4 Q. Make sure you get right in that microphone
5 and speak into it. Okay?

6 Cory, how old are you?

7 A. Fifteen.

8 Q. And where do you go to school?

9 A. Garside Junior High School.

10 Q. And do you know or did you know a person by
11 the name of Marcos Arenas?

12 A. Yes.

13 Q. And who is Marcos?

14 A. Like a best friend to me.

15 Q. And how old was Marcos?

16 A. Fifteen.

17 Q. And how long had you known Marcos?

18 A. Almost a year.

19 Q. I'm going to take your attention back to
20 May 16th of this year. Do you recall that date?

21 A. Yes.

22 Q. Did you go to school that day?

23 A. Yes.

24 Q. Did you go to school with Marcos?

25 A. No.

1 Q. Do you recall what time you got out of
2 school?

3 A. Around 3:25.

4 Q. About 3:25. What school did you say you go
5 to?

6 A. Garside Junior High School.

7 Q. After you got out of school what did you
8 do?

9 A. I walked straight home. I was walking to
10 home.

11 Q. Walking where?

12 A. Walking from school to home.

13 Q. To home?

14 A. Yeah, walking home from school.

15 Q. Did you run into somebody?

16 A. Yes.

17 Q. Who was that?

18 A. Marcos.

19 Q. Do you remember where it was that you ran
20 into Marcos?

21 A. Yes, it was by Jack In The Box.

22 Q. And was that Jack In The Box on the corner
23 of Torrey Pines and West Charleston?

24 A. Yes.

25 Q. Cory, I'm going to show you what has been

1 marked as State's Grand Jury Exhibit 3. I'm going to
2 you have take a look at that real quick and tell me if
3 you recognize it.

4 A. Yes, I do.

5 Q. Is that a map of the intersection and area
6 around West Charleston and Torrey Pines?

7 A. Yes.

8 Q. And does that in fact show the Jack In The
9 Box that you just testified to?

10 A. Yeah.

11 Q. Cory, if you look to your left, do you see
12 that exhibit up on the screen there?

13 A. Yes.

14 Q. If you don't mind, could you stand up and
15 point to the Jack In The Box that you just testified to
16 about?

17 And you're pointing basically in kind of
18 the center of that map; is that right?

19 A. Yeah.

20 Q. And you said that you ran into Marcos at
21 that location. Were you expecting to see him or did you
22 just run into him?

23 A. No, I wasn't expecting to see him.

24 Q. When you ran into Marcos, what was he
25 wearing? Do you remember?

1 A. He was wearing a long sleeve collar button
2 up shirt and he had a black hoodie.

3 Q. Do you remember what color that shirt was
4 that he was wearing?

5 A. It was purple.

6 Q. Did Marcos have anything with him?

7 A. Yes, he had his iPad and his headphones.

8 Q. IPad and iPhones?

9 A. Headphones.

10 Q. And headphones?

11 A. Yeah.

12 Q. Can you describe that iPad to the ladies
13 and gentlemen of the Grand Jury?

14 A. The iPad had a notebook cover on it and it
15 was in his right hand. He had the headphones hooked
16 into it and he was listening to the music.

17 Q. I'm going to go ahead and have you have a
18 seat because you're a soft talker and we'll make sure we
19 get everything you say.

20 What were you wearing at the time?

21 A. I was wearing a jacket with the sleeves cut
22 off and some cargo, some black cargo shorts.

23 Q. And when you ran into Marcos what did you
24 do?

25 A. He asked -- I didn't do nothing. I said

1 "hey, what's up," and he asked me to go to Chipotle with
2 him.

3 Q. Did you do that?

4 A. Yes.

5 Q. Where is the Chipotle?

6 A. It's like right on the side of McDonald's.

7 Q. Is that shown on that map?

8 A. McDonald's is like past, the one store we
9 went to first is like, it's past it. It's not on there,
10 you can't see it.

11 Q. So you're indicating what would be east of
12 what's on that map?

13 A. Yes.

14 Q. Okay. And you guys went to Chipotle. What
15 did you do when you got to Chipotle?

16 A. We bought a burrito and a, a burrito bowl
17 and then we left.

18 Q. How long do you think you were at Chipotle
19 do you think?

20 A. Probably like five minutes.

21 Q. After you went to Chipotle what did you do?

22 A. We went to the convenience store right
23 there.

24 Q. If you would actually stand up and point
25 for the ladies and gentlemen of the Grand Jury what

1 convenience store you're referring to.

2 A. We went to this store.

3 Q. Is that a Terrible Herbst?

4 A. Yes.

5 Q. And did you guys go inside?

6 A. Yes.

7 Q. And how long do you think you were in
8 there?

9 A. No more than like three minutes.

10 Q. And did you buy anything in there?

11 A. No.

12 Q. Why not?

13 A. Because we didn't see what we wanted in
14 there.

15 Q. You can go ahead and have a seat, Cory.

16 Cory, I'm showing you what has been marked
17 as State's Grand Jury Exhibit 19. What is that?

18 A. Me and Marcos.

19 Q. Is that you and Marcos inside the Terrible
20 Herbst that you just pointed to?

21 A. Yes.

22 Q. Does that fairly and accurately depict what
23 the two of you were wearing and doing that morning in
24 the Terrible Herbst?

25 A. Yes.

1 Q. After you went to the Terrible Herbst what
2 did you do?

3 A. We went to the store across the street
4 behind Jack In The Box.

5 Q. Showing you again State's Grand Jury
6 Exhibit 3, could you step off there and show us what
7 place you went to next with Marcos?

8 A. We went across the street to the store
9 right here.

10 Q. And that's kind of up in the, if you're
11 facing it it would be in the upper kind of right hand
12 corner; is that right?

13 A. Yes.

14 Q. What did you do there?

15 A. We went and we bought some snacks and then
16 we left.

17 Q. How long were you in that store?

18 A. Same time, like five minutes probably. We
19 went in and out real quick.

20 Q. Where did you go after you went in that
21 store?

22 A. We went across the street and started
23 walking home.

24 Q. Could you show the Grand Jury the path that
25 you took when you crossed the street?

1 A. We came, we crossed right here and then we
2 walked all the way up and that's where it happened right
3 here.

4 Q. So you crossed on the west side of Torrey
5 Pines heading south across West Charleston; is that
6 correct?

7 A. Yes.

8 Q. And what did you do when you got to the
9 south side of West Charleston?

10 A. We walked. We walked and we started
11 walking all the way home.

12 Q. Can you show the ladies and gentlemen of
13 the Grand Jury what direction you walked?

14 A. We started walking --

15 Q. Would that be west on that map?

16 A. We started walking west.

17 Q. At some point did something happen to you?

18 A. Yes.

19 Q. Do you recall where you were when that
20 happened?

21 A. We was like right here.

22 Q. Okay. You're pointing to an area by
23 Scholl; is that correct?

24 A. Yes.

25 Q. And is that on the map indicated in the far

1 left hand side of the map?

2 A. Yeah.

3 Q. Is that an intersection, Scholl runs

4 perpendicular to West Charleston?

5 A. Yes.

6 Q. You can go ahead and have a seat.

7 You said something happened; is that right?

8 A. Yes.

9 Q. You and Marcos were walking west along the
10 south sidewalk of West Charleston; is that right?

11 A. Yes.

12 Q. Were you together or was one of you ahead
13 of the other?

14 A. He was ahead of me a little bit.

15 Q. By he, you mean Marcos?

16 A. Yeah.

17 Q. About how far ahead was he?

18 A. He was no more than like a foot away.

19 Q. What did he have in his hands, if anything?

20 A. He had the Chipotle bag and his iPad and I
21 had the snacks in my backpack.

22 Q. Do you remember which hand he had the iPad
23 in?

24 A. In his right hand.

25 Q. And you said something happened. What

1 happened?

2 A. A dude ran past me and went straight to
3 Marcos.

4 Q. You said a dude went past you. Did you get
5 a look at him?

6 A. Kind of, yeah.

7 Q. What did he look like?

8 A. He was a tall white dude. He was kind of
9 tall and he had a white tank top, all white, and some
10 blue pants. He didn't have on no hat. And he ran
11 towards Marcos, was struggling, he tried to get the iPad
12 and stuff.

13 Q. Let's back up a little bit. You said he
14 had blue pants. Could you tell what kind of pants they
15 were?

16 A. Not really. Just regular long pants.

17 Q. They weren't shorts?

18 A. No, they was pants.

19 Q. You said he had a white tank top on.

20 A. Yeah.

21 Q. Was it a loose tank top or like a tight
22 fitting tank top?

23 A. Kind of tight.

24 Q. You said he was tall. About how tall?

25 A. No more than like close to six foot.

1 Q. Taller than you?

2 A. Yeah.

3 Q. Taller than Marcos?

4 A. Yes.

5 Q. What was Marcos's height compared to you?

6 A. He was like two inches taller than me.

7 Q. How tall are you?

8 A. I'm like 5'7" or 5'6", whatever.

9 Q. What about the build of this white male
10 that you saw; was he big, skinny, how would you describe
11 it?

12 A. He was skinny.

13 Q. Did you notice anything else about him at
14 that time?

15 A. Not really.

16 Q. And you said that he went for the iPad?

17 A. Yes.

18 Q. What did he do when he went for the iPad?

19 A. He just went for the iPad and tried to
20 snatch it out of his hand but Marcos kept holding on.
21 And then he snatched it away. I tried to stop Marcos
22 from chasing him but he kept going. He ran into the
23 right passenger side of the car where the car was parked
24 at and there was a black dude that was driving and
25 Marcos ran and was holding onto the side of the window

1 and that's when they drove off. And I was telling him
2 to let go and he let go and that's when the impact
3 rolled him over and I ran over and he was bleeding and
4 wasn't moving or nothing.

5 Q. Let's go back a little bit and kind of go
6 through that a little bit slower. Okay? You said that
7 they went to a vehicle?

8 A. Yeah.

9 Q. Where was this vehicle located?

10 A. It was -- can I show you?

11 Q. If you could show the ladies and gentlemen
12 up on Exhibit 3.

13 A. The car was parked like right here and the
14 dude ran and went to the right side and Marcos was
15 hanging up and they drove and he let off right here.

16 Q. Is there a left hand turn lane right there
17 westbound traffic?

18 A. Yeah.

19 Q. The median breaks off?

20 A. Yeah.

21 Q. Is that where the vehicle was parked?

22 A. Yes.

23 Q. And you said they were going to that
24 vehicle; correct?

25 A. Yeah.

1 Q. Who is they?

2 A. It was one person, the white dude that took
3 the iPad.

4 Q. How were they, did they both go together
5 willingly or how was it that they were going over there?

6 A. No, it was only one person. The black dude
7 stayed in the car and kept looking straight.

8 Q. What was Marcos doing when the white guy
9 was going to that vehicle?

10 A. He was trying to run, like to chase him to
11 hold him back to get the iPad.

12 Q. And you said there was a black guy in a
13 vehicle, right?

14 A. Yeah.

15 Q. And was he driving?

16 A. Yes.

17 Q. Did you see anybody else in the vehicle?

18 A. No, it was just them two.

19 Q. Could you describe this black male?

20 A. He was kind of not that dark but in
21 between. He had a straight short haircut and he, I
22 couldn't really see him because he kept looking
23 straight, but he had a black shirt on too.

24 Q. Anything else about the shirt other than it
25 was black?

1 A. No, it was just straight black.

2 Q. Just a straight black shirt?

3 A. Yeah.

4 Q. You said the white male went to the
5 vehicle. What portion of the vehicle did he go to?

6 A. He went to the passenger side on the right
7 side.

8 Q. Would the passenger side have been facing
9 away from where you were or was it next to you?

10 A. It was facing away from me.

11 Q. You can go ahead and have a seat.

12 What were you doing during this time?

13 A. I was trying to stop Marcos from running
14 towards him.

15 Q. But Marcos was running after him to get his
16 iPad back?

17 A. Yes.

18 Q. Was anybody saying anything?

19 A. No.

20 Q. What did the white male do when he got to
21 the passenger side of the vehicle?

22 A. They just drove off.

23 Q. The vehicle that you talked about, what
24 kind of vehicle was it?

25 A. It was like a truck, but not the trucks

1 that have the back of the thing open, like a four door
2 truck.

3 Q. What color was it?

4 A. It was white and like the bottom had like a
5 tan brownish color and gray at the top of it.

6 Q. You said it was white?

7 A. Yeah, it was all white and at the bottom of
8 the car it was gray and tan.

9 Q. Along the very bottom trim was a different
10 color?

11 A. Yeah.

12 Q. You said it was a truck. What kind of
13 truck?

14 A. It's kind of hard to explain.

15 Q. Do you recall telling the police it was a
16 SUV?

17 A. Yeah, that, them type of trucks.

18 Q. So it wasn't a pickup truck?

19 A. No.

20 Q. Did you notice anything else about the
21 vehicle?

22 A. Not really. It was clean. It wasn't dirty
23 or nothing.

24 Q. Now you said that they took off; is that
25 right?

1 A. Yeah.

2 Q. They sped off?

3 A. Yeah.

4 Q. When the white male got to the door, got
5 inside the passenger side, what did Marcos do?

6 A. He held onto the side of the window.

7 Q. Would that be the side of the window on the
8 passenger side?

9 A. Yeah.

10 Q. Now from where your position was where were
11 you?

12 A. I was in the middle of the street.

13 Q. Could you see what was happening on that
14 side of the vehicle?

15 A. Not really. I was on the side where the
16 black dude was.

17 Q. And you said that vehicle began to speed
18 off?

19 A. Yes.

20 Q. What was Marcos doing when that vehicle --

21 A. He was like trying to hold on but he
22 couldn't. As it was picking up speed he couldn't run
23 fast enough and he let go.

24 Q. What happened when he let go?

25 A. And that's when the accident happened.

1 Q. You said accident. Tell the ladies and
2 gentlemen of the jury what you saw happen to Marcos.

3 A. I saw that he let go and it looked like his
4 face hit the car and the impact rolled him off and he
5 rolled on his back and he wasn't moving.

6 Q. Did you go over to Marcos?

7 A. Yeah.

8 Q. Was he responding at all to you?

9 A. No. His eyes were open, he wasn't moving
10 or nothing.

11 Q. Did you see anybody else around at that
12 time in the intersection?

13 A. Yes, it was a red car and I asked the man
14 to call the cops and he did.

15 Q. What did you do next?

16 A. Then I ran home to tell my mom and then she
17 went with me to tell his dad.

18 Q. And at some point did the police show up at
19 your home?

20 A. Yes.

21 Q. Did you provide a statement to the police?

22 A. Huh-uh.

23 Q. Did you talk to the police?

24 A. When I got like to the scene, yes.

25 Q. Did they transport you back to the scene?

1 A. Yeah.

2 Q. Did you talk to them then and tell them
3 about what happened?

4 A. Yes.

5 Q. The iPad that belonged to Marcos, did you
6 have occasion to ever look at that iPad?

7 A. Yeah.

8 Q. When he had it turned on?

9 When you turn that iPad on, was there a
10 picture there?

11 A. Yes.

12 Q. Could you explain to the ladies and
13 gentlemen of the Grand Jury what was on that picture?

14 A. It was a picture of him and his other
15 friend's little brothers and sisters.

16 Q. And you have seen that before too; correct?

17 A. Yes.

18 MR. TURNER: Grand Jury's brief indulgence.

19 I have no further questions.

20 THE FOREPERSON: By law, these proceedings
21 are secret and you are prohibited from disclosing to
22 anyone anything that has transpired before us, including
23 evidence and statements presented to the Grand Jury, any
24 event occurring or statement made in the presence of the
25 Grand Jury, and information obtained by the Grand Jury.

1 Failure to comply with this admonition is a
2 gross misdemeanor punishable by a year in the Clark
3 County Detention Center and a \$2,000 fine. In addition,
4 you may be held in contempt of court punishable by an
5 additional \$500 fine and 25 days in the Clark County
6 Detention Center.

7 Do you understand this admonition?

8 THE WITNESS: Yes.

9 THE FOREPERSON: Thank you. You are
10 excused.

11 MS. BOTELHO: State will now call Alejandro
12 Romo.

13 Actually, ladies and gentlemen of the Grand
14 Jury, our Spanish interpreter is not available yet for
15 Alejandro Romo so the State will now call Rebecca
16 Shanahan.

17 THE FOREPERSON: Please raise your right
18 hand.

19 You do solemnly swear the testimony you are
20 about to give upon the investigation now pending before
21 this Grand Jury shall be the truth, the whole truth, and
22 nothing but the truth, so help you God?

23 THE WITNESS: I do.

24 THE FOREPERSON: You are advised that you
25 are here today to give testimony in the investigation

1 pertaining to the offenses of conspiracy to commit
2 robbery, robbery, and murder with use of a deadly
3 weapon, involving Michael Solid and Jacob Dismont.

4 Do you understand this advisement?

5 THE WITNESS: Yes.

6 THE FOREPERSON: Please state your first
7 and last name and spell both for the record.

8 THE WITNESS: Rebecca Shanahan.

9 R-E-B-E-C-C-A, S-H-A-N-A-H-A-N.

10 MR. TURNER: May I proceed, Mr. Foreperson?

11 THE FOREPERSON: Yes, you may.

12 MR. TURNER: Thank you.

13 REBECCA SHANAHAN,

14 having been first duly sworn by the Foreperson of the
15 Grand Jury to testify to the truth, the whole truth,
16 and nothing but the truth, testified as follows:

17

18 EXAMINATION

19

20 BY MR. TURNER:

21 Q. Miss Shanahan, I'm going to draw your
22 attention back to May 16th of this year, a little after
23 4 o'clock p.m. Do you recall that date and time?

24 A. Yes.

25 Q. Do you recall where you were located,

1 ma'am?

2 A. I was heading westbound on Charleston and I
3 meant to turn left on Torrey Pines but missed my turn so
4 I proceeded on westbound on Charleston.

5 Q. And what was your intention to do once you
6 got past Torrey Pines and realized that you had kind of
7 missed your turn?

8 A. A U-turn.

9 Q. Where did you go to make that U-turn?

10 A. The first left turn lane that I came upon.

11 Q. And did you in fact go into that left hand
12 turn lane?

13 A. Yes, I did.

14 Q. Prior to that left hand turn lane, was
15 there any other place that you could stop in order to
16 make that U-turn?

17 A. I don't believe so.

18 Q. I'm going to show you what's up on the
19 screen there, State's Grand Jury Exhibit 3. Do you
20 recognize that?

21 A. Yes.

22 Q. And what is it?

23 A. A map.

24 Q. Is it a map of the area that you just
25 testified about?

1 A. Yes, sir.

2 Q. Can you just kind of go up there real quick
3 and point to the area where you stopped to make that
4 U-turn?

5 A. Sure.

6 It's in here.

7 Q. You're kind of pointing to the far left, if
8 we're facing the screen, the far left hand side of that
9 exhibit; is that right?

10 A. Yes.

11 Q. Where it's labeled Scholl Drive?

12 A. Yes.

13 Q. And you said you came -- did you come to a
14 stop at that location?

15 A. Yes.

16 Q. Was there any vehicles in front of you?

17 A. Yes, sir.

18 Q. And what kind of vehicle was in front of
19 you?

20 A. It was a white mid size SUV.

21 Q. Could you tell what kind of make or model?

22 A. In my statement I had said I thought it was
23 a Ford Explorer, a Ford.

24 Q. As you sit here today has your opinion
25 changed?

1 A. No, sir.

2 Q. Did you see whether it had any kind of
3 distinguishing features other than it was white?

4 A. No, sir.

5 Q. Was it solid white?

6 A. Yes.

7 Q. Did you have an opportunity to see whether
8 you could see the license plate?

9 A. I did not see the license plate.

10 Q. Did something happen that caught your
11 attention at that intersection?

12 A. Yes.

13 Q. What was that?

14 A. I was sitting waiting my turn to turn and
15 to the left up on the sidewalk I saw the victim getting
16 punched.

17 Q. Now you say to your left. If you're west,
18 would that have been to the south?

19 A. Yes, it would have been on the south side
20 of Charleston.

21 Q. And you said you see someone getting
22 punched; is that right?

23 A. Yes.

24 Q. And do you recall the relative location of
25 where that happened?

1 A. It was near the bus stop that was there.

2 Q. Is there a bus stop right on the south side
3 of that intersection?

4 A. Yes.

5 Q. Let's talk about the people that you saw
6 involved in this. How many people did you see over
7 there when you looked over there?

8 A. I saw three.

9 Q. Three. But you saw one person punching
10 another?

11 A. Yes.

12 Q. Let's talk about the person who was
13 actually punching.

14 A. Okay.

15 Q. What did that person look like?

16 A. He was white, maybe 6 feet tall, not
17 overweight but not skinny, he was muscular and had brown
18 hair.

19 Q. Okay. And do you recall what he was
20 wearing?

21 A. He was wearing a white shirt, it was either
22 a T-shirt or a tank top, and I believe he had blue pants
23 on, maybe blue jeans.

24 Q. Did you notice any other features about
25 that person?

1 A. Not really.

2 Q. Okay. And you said that there was a person
3 that he was punching; is that right?

4 A. Yes.

5 Q. Could you describe that person?

6 A. Sure. He, I identified him as being a
7 white male. He had black jeans on, purplish maroon
8 colored button down shirt that was open, I think he had
9 a black T-shirt on underneath that, and he had dark
10 brownish blackish hair, longer, not long enough, not
11 ponytail long but kind of scruffy long.

12 Q. Could you tell kind of the relative age of
13 these individuals?

14 A. The man I saw punching the victim to me
15 seemed 18, upper teens or young twenties, and the victim
16 to me seemed a teenager.

17 Q. Did you see whether the victim had anything
18 in his hands?

19 A. I didn't see anything.

20 Q. And you said that the, in terms of the
21 relative size, who was taller between the two?

22 A. The accused.

23 Q. How much taller?

24 A. Gosh.

25 Q. You can just estimate. A lot taller, about

1 the same size?

2 A. A lot taller. Six to eight inches. Maybe
3 not that tall but it seemed like he was towering over
4 the victim.

5 Q. Where was he punching the victim?

6 A. Physically?

7 Q. Uh-huh.

8 A. I saw him punching him kind of like in his
9 neck and on his back.

10 Q. There was a third person that you described
11 as being there; is that right?

12 A. Yes, sir.

13 Q. If you could describe that third person.

14 A. He seemed to me a teenage, a black teenage
15 boy. He had black pants on, a black shirt, and he was
16 carrying a backpack, black hair.

17 Q. What was his age?

18 A. Teenager definitely.

19 Q. Did he seem to be about the same age as the
20 white male that was punching or --

21 A. Younger.

22 Q. What was the victim doing when he was
23 getting punched?

24 A. He seemed in shock, didn't really know what
25 was going on. As he was being punched he kind of what

1 appeared to me was being drug out into the street and he
2 kind of looked over to me and yelled for help.

3 Q. Do you recall how it appeared to you he was
4 being drug out onto the street?

5 A. It seemed to me that his arm was being drug
6 or something because I remember his shirt, the burgundy
7 shirt was pulled open.

8 Q. At that point could you see anything in his
9 hands or the white male's hands?

10 A. I didn't. I didn't see anything.

11 Q. And you said he was being drug out into the
12 street; is that correct?

13 A. Yes, sir.

14 Q. So that would have been on eastbound
15 Charleston, eastbound lane?

16 A. Yes.

17 Q. Where did they go?

18 A. To the car in front of me.

19 Q. Would that be the white SUV?

20 A. Yes.

21 Q. And what portion of the car did they go to?

22 A. The passenger side.

23 Q. Do you recall how many doors the vehicle
24 had?

25 A. I do not. Definitely two.

1 Q. I'm sorry?

2 A. Definitely two.

3 Q. So they went to the passenger side door; is
4 that right?

5 A. Yes.

6 Q. Did they go behind the vehicle or in front
7 of the vehicle to get there?

8 A. In front.

9 Q. And this was the whole time it appeared to
10 you that the victim was getting dragged to that
11 location?

12 A. It did appear to me that way, yes.

13 Q. What happened when they got to the
14 passenger side of that white SUV?

15 A. The accused got in the car. So at some
16 point they had to have broken the struggle because he
17 got in the car and shut the door. And then the next
18 thing I know the victim is kind of hanging onto the
19 outside window. I don't know if he's being held onto or
20 if he's holding onto something, what was going on inside
21 the window, but the car started to take off with the
22 victim hanging from the window.

23 Q. How fast did the vehicle start to move?

24 A. He hit the pedal hard.

25 Q. Now you say he.

1 A. Oh. Well, sorry.

2 Q. You described the person that was in the
3 passenger side; correct?

4 A. Yes.

5 Q. You got a look at that person?

6 A. Yes.

7 Q. Did you have an opportunity to observe who
8 was in the driver's seat?

9 A. No, sir.

10 Q. But you know that one person got into the
11 passenger seat; correct?

12 A. Yes.

13 Q. So there had to be two individuals in there
14 at least?

15 A. Yes.

16 Q. The vehicle began to accelerate away?

17 A. Yes.

18 Q. What direction was the vehicle heading?

19 A. West.

20 Q. So the vehicle went back into the westbound
21 lanes?

22 A. Yes.

23 Q. And you said the vehicle was going at a
24 high rate of speed?

25 A. Yes, sir.

1 Q. What was the victim doing at that point?

2 A. Well, at first he was able to keep up with
3 the car, he was running, and then as the car continued
4 to speed up he fell to his knees and they continued to
5 drag him until they broke apart.

6 Q. Do you need a moment?

7 A. No, I'm okay.

8 Q. Did you see whether he was actually struck
9 by the vehicle?

10 A. I believed that when he, he and the vehicle
11 separated, he spun around and either clipped the right
12 tailgate of the SUV or the tire, the right back tire.

13 Q. The right back tire?

14 A. Yes.

15 Q. Would that be the passenger side tire then?

16 A. Yes, sir.

17 Q. What did the vehicle do after this
18 happened?

19 A. It just kept going.

20 Q. Did it continue to accelerate?

21 A. I believe so.

22 Q. The teenager that was hit, what did he do?

23 A. He laid lifeless.

24 Q. While all this was going on, did you see
25 what that third individual, that black male teenager was

1 doing?

2 A. I don't recall what he was doing as the
3 victim was getting beat up because my focus was on the
4 struggle. But then when the victim was lying in the
5 road he ran over and you could see the panic and then he
6 ran off towards the apartment buildings that were on the
7 south side of Charleston.

8 Q. What did you do?

9 A. Well, I was beating on my horn to try to
10 get everyone's attention and then I picked up my phone
11 and called 911.

12 Q. Did paramedics arrive?

13 A. Immediately.

14 Q. What about police?

15 A. Yes.

16 Q. And did you speak with the police?

17 A. I did.

18 Q. Did you ultimately give them both a written
19 statement as well as an audio taped statement about what
20 you saw?

21 A. Yes, sir.

22 Q. Grand Jury's brief indulgence.

23 You indicated that you gave a audio taped
24 statement to the police; is that right?

25 A. Yes, sir.

1 Q. Do you recall telling the police that you
2 thought it was a four door vehicle as you sit here
3 today?

4 A. I don't recall.

5 Q. If I showed you a copy of the transcript of
6 that audio taped statement would that assist you in
7 perhaps refreshing your recollection?

8 A. Sure.

9 Q. I'm going to ask you to go ahead and review
10 it and let me know when you're done reviewing it. Okay?

11 A. Okay. I don't -- oh, here it is. I said I
12 think it was a four door.

13 Q. Well, let me ask you this. You had an
14 opportunity to review that, right?

15 A. Sure. Yes.

16 Q. As you sit here today, after reviewing your
17 audio taped statement, has that refreshed your
18 recollection about how many doors were on that vehicle?

19 A. Sure. I remember it being boxier like a
20 four door would be boxy. And a two door, you know it's
21 always kind of more arched I guess, the roof is like --
22 I mean that's how I remember it. But I don't remember
23 seeing four doors. I didn't see the side of the
24 vehicle.

25 Q. So the shape of the vehicle in terms of its

1 design based upon your experience would be more
2 consistent with a four door even though you didn't
3 necessarily see four doors?

4 A. Sure. Yes.

5 Q. Would that be accurate?

6 A. Sure. Yes.

7 MR. TURNER: I have no further questions.

8 Are there any questions from the Grand Jury?

9 BY A JUROR:

10 Q. You stated you were pulling a U-turn
11 because you missed your turn?

12 A. Yes, sir.

13 Q. And obviously you were going to make a
14 U-turn to your left when you got behind the vehicle?

15 A. Yes, sir.

16 Q. Was there a light at that U-turn? Were you
17 waiting for a red light?

18 A. No, sir. I was just waiting for the
19 vehicle in front of me to move.

20 Q. Did you beep your horn at all? Did you
21 wait quite awhile?

22 A. I beeped my horn after I saw the struggle,
23 I started pounding on my horn, but it happened very
24 fast. I mean literally I feel like I pulled up and out
25 of the corner of my eye I saw the struggle going on.

1 There was no light there.

2 Q. Okay.

3 THE FOREPERSON: Go ahead, Craig.

4 BY A JUROR:

5 Q. You mentioned you saw him punching. Did it
6 appear like there were several, did it appear like he
7 was hit several times?

8 A. Yes.

9 Q. Okay. But did he stagger or anything like
10 that or --

11 A. I don't remember him staggering. I
12 remember him getting punched almost, like I said, from
13 behind in his either back or his neck right in here and
14 the next thing I knew he's kind of being drug into the
15 street.

16 Q. Okay.

17 THE FOREPERSON: Go ahead, Shirley.

18 BY A JUROR:

19 Q. Yes. I know it's a very traumatic
20 situation, but you sat there and you watched this go on.
21 For how long before you called?

22 A. Oh, seconds. I mean it was seconds before
23 I started pounding on my horn and I can't remember if I
24 was already on the phone with 911 when they started to
25 drag him or if I was picking up the phone and dialing,

1 but I was immediately on the phone with 911.

2 THE FOREPERSON: Go ahead, Gary.

3 BY A JUROR:

4 Q. Did you observe the car running over the
5 victim crushing him?

6 A. I did not.

7 Q. With his wheel or tires or anything as they
8 were dragging him away?

9 A. I did not see the car run over the victim.
10 I saw them drag the victim and when they parted ways he
11 spun back and I believe he clipped the back of the car.

12 THE FOREPERSON: Okay. Charles.

13 BY A JUROR:

14 Q. Miss Shanahan, could you indicate on the
15 map -- I'm trying to get an idea of when the vehicle
16 took off, the SUV, what direction did it try to turn in?
17 Was it trying to make a U-turn at the same intersection
18 you're at or did it cross over; do you remember?

19 A. He -- we were here and he was in front of
20 me, or they were in front of me, and he went this way.
21 So he kind of went back into the main part of the road.

22 Q. Okay. Thank you.

23 BY MR. TURNER:

24 Q. And just for the record, you're indicating
25 on that exhibit that he kind of went north back into the

1 westbound lanes and continued westbound on West
2 Charleston?

3 A. Yes.

4 THE FOREPERSON: By law, these proceedings
5 are secret and you are prohibited from disclosing to
6 anyone anything that has transpired before us, including
7 evidence and statements presented to the Grand Jury, any
8 event occurring or statement made in the presence of the
9 Grand Jury, and information obtained by the Grand Jury.

10 Failure to comply with this admonition is a
11 gross misdemeanor punishable by a year in the Clark
12 County Detention Center and a \$2,000 fine. In addition,
13 you may be held in contempt of court punishable by an
14 additional \$500 fine and 25 days in the Clark County
15 Detention Center.

16 Do you understand this admonition?

17 THE WITNESS: Yes, sir.

18 THE FOREPERSON: Thank you. You are
19 excused.

20 MS. BOTEHO: Hopefully the Spanish
21 interpreter is here so the State will now call Alejandro
22 Romo.

23 MR. TURNER: Continuing to have problems
24 with our Spanish interpreter so we'll be calling Mina
25 Buttell.

1 THE FOREPERSON: Please raise your right
2 hand.

3 You do solemnly swear the testimony you are
4 about to give upon the investigation now pending before
5 this Grand Jury shall be the truth, the whole truth, and
6 nothing but the truth, so help you God?

7 THE WITNESS: Yes.

8 THE FOREPERSON: You are advised that you
9 are here today to give testimony in the investigation
10 pertaining to the offenses of conspiracy to commit
11 robbery, robbery, and murder with use of a deadly
12 weapon, involving Michael Solid and Jacob Dismont.

13 Do you understand this advisement?

14 THE WITNESS: Yes.

15 THE FOREPERSON: Please state your first
16 and last name and spell both for the record.

17 THE WITNESS: Mina Buttell. M-I-N-A,
18 B-U-T-T-E-L-L.

19 MR. TURNER: May I proceed, Mr. Foreperson?

20 THE FOREPERSON: Yes.

21 MR. TURNER: Thank you.

22 MINA BUTTELL,
23 having been first duly sworn by the Foreperson of the
24 Grand Jury to testify to the truth, the whole truth,
25 and nothing but the truth, testified as follows:

EXAMINATION

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BY MR. TURNER:

Q. Miss Buttell, I'm going to draw your attention back to May 16th of this year, a little after 4 o'clock p.m. Do you recall that date and time?

A. Yes, sir.

Q. Do you recall what you were doing?

A. I was driving home.

Q. Where were you located?

A. I was a little bit past Torrey Pines on West Charleston.

Q. Heading down West Charleston on your way home?

A. West, yes.

Q. Just past Torrey Pines?

A. Uh-huh.

Q. Is that a yes?

A. Yes.

Q. Did something catch your eye?

A. It looked like there were a couple of younger people in the road kind of like messing around and there was a white SUV parked in the middle of the road next to the island.

Q. Showing you Grand Jury Exhibit 3 up there,

1 do you recognize that?

2 A. Yes.

3 Q. You said you saw a white vehicle. Could
4 you describe that white vehicle for the ladies and
5 gentlemen of the Grand Jury?

6 A. The white vehicle was a Ford four door,
7 looked like it could have been an Excursion, an
8 Expedition. It was a larger SUV.

9 Q. Do you recall what color it was?

10 A. White.

11 Q. Did you have an opportunity to see the
12 license plate?

13 A. No.

14 Q. Did it have a license plate?

15 A. Not that I could tell from the front, but
16 when the vehicle had passed me it had no license plate
17 on the back.

18 Q. But you did not notice that at the time?

19 A. No.

20 Q. And if you could just kind of stand up and
21 tell the ladies and gentlemen of the jury where it was
22 you saw that white SUV located.

23 A. My best guess, it was probably around --
24 let's see. I would say around here.

25 Q. Okay. Now you said that that SUV was in

1 what lane?

2 A. In the, if you're going forward it was in
3 the far left hand lane.

4 Q. Would that be the left hand turn lane or do
5 you recall?

6 A. I don't recall.

7 Q. Was that vehicle located at an
8 intersection?

9 A. No. It was on -- well -- no, it wasn't.

10 Q. So I guess my question is this. Was the
11 vehicle stopped in the middle of West Charleston?

12 A. Yes.

13 Q. Right in the middle of it from what you
14 recall or was it --

15 A. Well, there's like an island in the center
16 of the street dividing the two sides of the road.

17 Q. Correct.

18 A. He was parked next to it in the center.

19 Q. But you don't recall like the exact
20 location?

21 A. No.

22 Q. And you said there was people fighting in
23 the street?

24 A. It looked like it was just like a game of
25 Chinese fire drill from what it looked like. They were

1 trying, it was obvious that they were trying to get to
2 the vehicle but I couldn't tell in what context.

3 Q. Do you recall what lanes they were in? Was
4 it the westbound or eastbound lanes?

5 A. Eastbound.

6 Q. How many people were involved?

7 A. I saw about three.

8 Q. And were they all struggling with each
9 other or were there particular individuals involved in
10 it?

11 A. I saw two struggling, I saw one staying on
12 the sidewalk.

13 Q. Would that be the south sidewalk?

14 A. Yes.

15 Q. And the two people that were struggling,
16 could you describe them for the jury?

17 A. At first it had looked like a younger
18 female Hispanic, shorter brown hair, in a purple hoodie,
19 and a taller white male with lighter colored hair in a
20 white shirt.

21 Q. And could you see what they were doing
22 specifically?

23 A. They were, it looked like the taller white
24 male was tugging the female into the street almost.

25 Q. Could you see what that white male was

1 tugging on?

2 A. Huh-uh.

3 Q. Is that a no?

4 A. No. It looked like they were just pulling
5 on each other's clothes.

6 Q. Now you described the shirt that the white
7 male was wearing; correct?

8 A. Yeah.

9 Q. What kind of shirt was it?

10 A. It was a white I want to say tank top.

11 Q. Could you tell whether it was a loose tank
12 top or a tight one?

13 A. I couldn't tell.

14 Q. And the third person you said was on the
15 sidewalk?

16 Is that yes?

17 A. Yeah. Yes.

18 Q. And the other, the female, what was the
19 female doing?

20 A. The female, it looked like she was trying
21 to get, keep the white male from getting in the truck,
22 like pulling him back to the sidewalk.

23 Q. You said this was a female. What caused
24 you to think it was a female?

25 A. Just first glance from the hair and the

1 build.

2 Q. What about the relative height; how tall
3 was the white male in comparison to the female?

4 A. The white male looked to be about six, at
5 least 6-foot tall, and the female looked to be about
6 5'6", so she was much shorter.

7 Q. So based on what you observed, it looked
8 like the female was trying to keep the white male out of
9 the vehicle?

10 A. Yes.

11 Q. What portion of the vehicle did the white
12 male get into; do you recall?

13 A. He got into the driver's side of the
14 vehicle. I don't know if he got into the driver's seat
15 or the backseat on the driver's side.

16 Q. Now let's kind of describe what you're
17 doing as this is happening and you're observing it.
18 You're driving down West Charleston; correct?

19 A. Uh-huh. Yes.

20 Q. And you're approaching this as you're
21 observing it?

22 A. Yes.

23 Q. At the point where you're saying this white
24 male gets in the vehicle, what were you doing and where
25 were you located?

1 A. I was about halfway through coming up on an
2 intersection on a street called Scholl, coming up to
3 that area, and I had just passed the altercation, and
4 after I had passed it I had looked in my side view
5 mirror to see what was happening, what they were going
6 on with it.

7 Q. So as you're seeing the white male get into
8 the vehicle you're looking through your rear view mirror
9 as you're passing it?

10 A. Yes.

11 Q. And you said, what was the female doing
12 when the white male got into the vehicle?

13 A. She looked to be hanging onto the car, just
14 holding onto the SUV.

15 Q. What happened next?

16 A. The SUV proceeded to drive away westbound
17 on Charleston and the female ended up losing footing and
18 slipped under the truck.

19 Q. You saw this?

20 A. Yes.

21 Q. What portion of the truck did she slip
22 under?

23 A. It looked like she got ran over by the
24 right hand tires of the truck, like she had gone under
25 the space underneath, she had slipped underneath it and

1 then the back tires had ran her over.

2 Q. You say the right hand side. Would be the
3 driver's side or the passenger side?

4 A. The passenger side.

5 Q. What happened after it looked like this
6 female was run over?

7 A. The SUV kept driving.

8 Q. And you said it was driving westbound on
9 Charleston?

10 A. Yes. They were in the, still in that same
11 lane, in the far left.

12 Q. Kind of the far south lane then?

13 A. Yes.

14 Q. And what were you doing at this time?

15 A. I was driving through in the center lane.

16 Q. So you were also driving westbound as well?

17 A. Yes.

18 Q. What happened next?

19 A. After I had saw them run the victim over I
20 had, they were pulling up, they were coming up behind me
21 and so I pulled into the lane to get in front of them to
22 see if I could get a license plate or something, but
23 they had just went around and went forward.

24 Q. And you said they. Did you see how many
25 people were in the vehicle?

1 A. I saw the one and then when they were
2 coming up behind me to pass I saw kind of like the
3 silhouette of two people.

4 Q. And you said that they ended up going past
5 you; is that right?

6 A. Yes.

7 Q. How fast were they moving?

8 A. I couldn't tell you. I was going about 43,
9 45, and they ended up going ahead of me so.

10 Q. Now you mentioned, you testified earlier
11 that you did not see a license plate. Was it at this
12 point that you attempted to look at the license plate at
13 the back of the vehicle?

14 A. After they had pulled in front of me to get
15 around me then I noticed that there was no license plate
16 on the back of the vehicle.

17 Q. What did you do next after they pulled in
18 front of you?

19 A. I had made a U-turn to return to where the
20 victim had been run over to see if I could do something,
21 call the hospital, take them to the hospital, something,
22 but the body was not moving. So I proceeded to park my
23 car in the Jack In The Box that was ahead a little bit
24 up on Torrey Pines and I parked it there and I walked
25 back to the scene to wait for Metro.

1 Q. And did you speak with police officers at
2 that point?

3 A. Yes.

4 Q. Now the white male that you observed,
5 describe what he was wearing. What about his build; do
6 you recall his build?

7 A. He seemed taller and thinner.

8 Q. Did you notice any other distinguishing
9 features?

10 A. He may have had a tattoo on his arm. I
11 couldn't exactly tell what it was.

12 Q. As you sit here today are you sure about
13 that or are you --

14 A. I'm not 100 percent certain about that, no.

15 Q. And what about the SUV, could you tell the
16 year; was it newer, older?

17 A. It was -- no, it had to have been around at
18 least a 2005 or newer.

19 Q. I don't know if I asked you. You said
20 there were three people, two of them you saw in the
21 altercation. Is that right?

22 A. Yes.

23 Q. And then the third person was where?

24 A. On the sidewalk. It looked to be like they
25 wanted to stop it from happening but they didn't want to

1 go out in the street.

2 Q. Did you see what that person was wearing?

3 A. I couldn't -- I don't remember.

4 Q. Black, white, Hispanic?

5 A. Black.

6 Q. What about build?

7 A. Shorter, a little heavier.

8 Q. Did you see what that person did after the
9 white SUV drove off westbound?

10 A. After I made the U-turn to return to the
11 scene, that individual was in the road next to the body
12 kind of like in a panic. It looked to be the victim's
13 friend.

14 MR. TURNER: I have no further questions
15 for this witness. Ladies and gentlemen have any
16 questions?

17 THE FOREPERSON: Go ahead, Gary.

18 BY A JUROR:

19 Q. Did both of the rear wheels run over the
20 victim or just one of them?

21 A. I'm actually not sure. All I saw was the
22 passenger side back wheel make contact with the body
23 from at least the chest up.

24 Q. Okay.

25 THE FOREPERSON: By law, these proceedings

1 are secret and you are prohibited from disclosing to
2 anyone anything that has transpired before us, including
3 evidence and statements presented to the Grand Jury, any
4 event occurring or statement made in the presence of the
5 Grand Jury, and information obtained by the Grand Jury.

6 Failure to comply with this admonition is a
7 gross misdemeanor punishable by a year in the Clark
8 County Detention Center and a \$2,000 fine. In addition,
9 you may be held in contempt of court punishable by an
10 additional \$500 fine and 25 days in the Clark County
11 Detention Center.

12 Do you understand this admonition?

13 THE WITNESS: Yes.

14 THE FOREPERSON: Thank you. You are
15 excused.

16 THE WITNESS: Thank you.

17 MS. BOTELHO: We're going to try for a
18 third time. Alejandro Romo. Plus the interpreter.

19 THE FOREPERSON: Everyone is doing okay?

20 A JUROR: Uh-huh.

21 THE FOREPERSON: Okay.

22 A JUROR: Can he speak any English at all
23 or is it because it's too broken English and it's better
24 to have a translator.

25 MS. BOTELHO: It's his native language. It

1 will be easier for the Grand Jury to understand.

2 THE FOREPERSON: Please raise your right
3 hand.

4 You do solemnly swear the testimony you are
5 about to give upon the investigation now pending before
6 this Grand Jury shall be the truth, the whole truth, and
7 nothing but the truth, so help you God?

8 THE WITNESS: Yes.

9 MS. BOTELHO: And for the record,
10 Mr. Interpreter, can you please place your name on the
11 record.

12 MR. INTERPRETER: My name is Napoleon
13 Buenrostro. Last name B-U-E-N-R-O-S-T-R-O.

14 MS. BOTELHO: I'm sorry, Mr. Foreperson, I
15 didn't mean to interrupt.

16 THE FOREPERSON: You are advised that you
17 are here today to give testimony in the investigation
18 pertaining to the offenses of conspiracy to commit
19 robbery, robbery, murder with use of a deadly weapon,
20 involving Michael Solid and Jacob Dismont.

21 Do you understand this advisement?

22 THE WITNESS: Yes.

23 THE FOREPERSON: Please state your first
24 and last name and spell both for the record.

25 THE WITNESS: Do I say my name?

1 THE FOREPERSON: Yes.

2 THE WITNESS: Alejandro Romo.

3 THE FOREPERSON: Could you spell your name
4 for the record.

5 THE WITNESS: A-L-E-J-A-N-D-R-O.

6 THE FOREPERSON: And last name.

7 THE WITNESS: Romo, R-O-M-O.

8 MS. BOTELHO: May I proceed, Mr.
9 Foreperson?

10 THE FOREPERSON: Yes, you may.

11 ALEJANDRO ROMO,
12 having been first duly sworn by the Foreperson of the
13 Grand Jury to testify to the truth, the whole truth,
14 and nothing but the truth, testified as follows:

15
16 EXAMINATION

17
18 BY MS. BOTELHO:

19 Q. Good morning Mr. Romo.

20 A. Good morning.

21 Q. Mr. Romo, I want to turn your attention to
22 Thursday, May 16, 2013, at approximately 3:30, 4 o'clock
23 p.m. Where were you at that time?

24 A. I was at work.

25 Q. And where do you work, sir?

1 A. At the car wash.

2 Q. Okay. And where is that car wash located?

3 A. The address?

4 Q. Just the cross streets.

5 A. Charleston and Torrey Pines.

6 Q. What we have on the overhead is what we've
7 been referring to as Grand Jury Exhibit Number 3. Do
8 you see that, Mr. Romo?

9 Do you see how it says Torrey Pines right
10 here? And it says Charleston right here?

11 And according to the map, this is West
12 Charleston going this way. Okay?

13 Do you see the car wash that you work at
14 located here on this map? And you can stand up and
15 look, sir.

16 A. That one.

17 Q. Okay. And for the record, it's on the left
18 bottom corner, it's the second full building. Can the
19 grand jurors see that?

20 Sir, at some point did you come out to the
21 sidewalk of where that car wash is located?

22 A. The sidewalk?

23 Q. Uh-huh.

24 A. Yes.

25 Q. Okay. And what were you doing out there?

1 A. I was with a banner on the sidewalk
2 attracting customers because there was no work at that
3 time.

4 Q. While you were out there, did you come to
5 see an incident that you're going to tell the Grand Jury
6 about today?

7 A. Yes.

8 Q. Let's start out with while you were on the
9 sidewalk near your car wash. Did you see anyone pass
10 you on the sidewalk?

11 A. Yes.

12 Q. And who did you see?

13 A. First -- the first or second?

14 Q. The first time.

15 A. Two guys.

16 Q. Okay. Could you tell the age of the two
17 guys that you saw?

18 A. Between 14 and 16 years of age.

19 Q. And there's two of them; is that right?

20 A. Two.

21 Q. Could you describe one of them?

22 A. Hispanic.

23 Q. Was that Hispanic kid tall, skinny? Give
24 us a description.

25 A. Short and thin, about shoulder length hair.

1 Q. Okay. What about the second kid that you
2 saw?

3 A. Little taller, little chubby.

4 Q. And was he Hispanic, white, black?

5 A. He was African American.

6 Q. What were the kids doing when they passed
7 you?

8 A. They were walking and talking.

9 Q. Did you see anything on the kids' backs?

10 A. Backpacks.

11 Q. Is there a school near your car wash,
12 Mr. Romo?

13 A. Behind the car wash.

14 Q. Okay. Did you see anyone else pass you on
15 the sidewalk?

16 A. Yes.

17 Q. Who did you see?

18 A. A white guy.

19 Q. Now you just told the Grand Jury that you
20 saw two kids pass you. How far was the white guy that
21 you saw in relation to the two kids?

22 A. About four or five meters.

23 Q. Okay. And at some point did the white guy
24 also pass him?

25 A. To me? Pass me?

1 Q. Yes.

2 A. Yes.

3 Q. Tell us what happened.

4 A. When he passed me by?

5 Q. Yes.

6 A. They passed me by, about three or four
7 meters before me and I started to see an altercation.

8 Q. And who was the altercation with?

9 A. With the white guy and the Hispanic.

10 Q. The Hispanic kid?

11 A. Yes.

12 Q. Okay. And please tell us about the
13 altercation.

14 A. He was trying to take an iPad or an
15 iTablet, I couldn't tell what it was. They were
16 struggling. When he finally got ahold of it he crossed
17 the street. The guy took the tablet, he had the tablet
18 in his hand and he was in the opposite direction of the
19 traffic.

20 Q. Okay. Let me stop you right there. Okay,
21 Mr. Romo? When you said they or he took a tablet, who
22 is he; the white guy or one of the two kids that you
23 described?

24 A. The white guy was tugging on the tablet
25 trying to take it away from him and the Hispanic

1 wouldn't let it go, he didn't want to give it to him.

2 Q. And what, if anything, did he see the
3 younger black kid do?

4 A. What was he doing?

5 Q. Uh-huh. Yes.

6 A. The one that was accompanying the Hispanic?

7 Q. Yes.

8 A. He was desperate, shouting, asking for
9 help.

10 Q. And then what else happened between the
11 white guy and then the young Hispanic kid?

12 A. When they were struggling?

13 Q. Yes.

14 A. Well, they kept struggling. That's when
15 they ended up in the middle of the street. He all of a
16 sudden turned him. He was taller, the white guy. And
17 the Hispanic kid was tossed. He was then grabbing onto
18 the window trying to grab his tablet. Then another car
19 came by and he couldn't keep up with the speed of the
20 car.

21 Q. Okay. When you said he turned him, he
22 turned the Hispanic kid, are you talking about the white
23 guy turning the Hispanic kid to grab the tablet?

24 A. Yes. He turned suddenly, a sudden turn to
25 try to drop the Hispanic or try to throw him on the

1 floor and get in the car.

2 Q. Okay. Did the Hispanic kid fall to the
3 floor because of what the white guy did?

4 A. Yes.

5 Q. Okay. And now he mentioned the white guy
6 going to a car with the Hispanic kid's tablet?

7 A. He got into the car.

8 Q. And that's the white guy, right?

9 A. Yes.

10 Q. Where was the car that the white guy got
11 into?

12 A. On that side of the street going from this
13 to that direction.

14 Q. Okay. Can you show us on the map?

15 A. Here.

16 Q. Okay. And you're saying it's on -- well,
17 it's on the opposite way, on the opposite side of
18 Charleston, it's more on the north side of Charleston?

19 A. Yes.

20 Q. Okay. The car that the white guy got into,
21 was it moving when the white guy got into it or was it
22 staying still on the road?

23 A. It was stopped.

24 Q. Okay. And so the white guy got into that
25 car; is that right?

1 A. Yes.

2 Q. What side of the car did the white guy go
3 into?

4 A. The passenger side.

5 Q. After the Hispanic kid fell to the floor,
6 did you see him do anything else?

7 A. When he fell, the Hispanic fell on the
8 floor?

9 Q. Yes. After the white guy kind of pushed
10 him or turned to push him.

11 A. The Latino did.

12 Q. Did he get up?

13 A. Yes.

14 Q. And then what did the Hispanic kid do?

15 A. Yes, he got up and he was trying to get his
16 tablet from the window where the white guy was sitting.
17 He was trying to pull his device out. Someone else sped
18 up and he couldn't keep up with the speed of the car so
19 at that point the car started, the wheels on the car
20 were turning.

21 Q. Okay. When he said someone else sped up,
22 does he mean someone who was in the same car as the
23 white guy?

24 A. Yes.

25 Q. Okay. So there was someone else driving

1 from what he could see?

2 A. Yes.

3 Q. Okay. And so he said that the Hispanic kid
4 went through the window of the passenger side of the
5 car; is that right?

6 A. Yes.

7 Q. So the window was rolled down on the
8 passenger side?

9 A. From what I could see, yes.

10 Q. And then the driver of the car that the
11 white guy got into started to move the car; is that
12 right?

13 A. That is correct.

14 Q. And how quickly?

15 A. Aggressively.

16 Q. Aggressively?

17 A. Yes, he sped up.

18 Q. Okay. And what happened to the Hispanic
19 kid who was by the passenger window?

20 A. The car sped up and the guy couldn't keep
21 up with the speed and he fell over. I think at that
22 point he ran over him because the car was shaking a
23 little bit. That's -- he ended up in the middle of the
24 street. Exactly here.

25 Q. Okay. And sir, when you say he ended up on

1 the street and then you showed the ladies and gentlemen
2 of the Grand Jury the very top middle portion of Exhibit
3 Number 3, is it towards kind of the middle of Charleston
4 at the very top? Can you show us again please?

5 A. Here.

6 Q. Okay. So for the record it's on West
7 Charleston almost to Scholl. Westbound Charleston.

8 A. Going in that direction.

9 Q. Going east?

10 A. In that direction.

11 Q. Okay. So west?

12 A. Yes.

13 Q. Thank you, sir.

14 Okay. Were you able to see what happened
15 to the boy after he ended up, after he was run over?

16 A. Yes.

17 Q. What happened?

18 A. Yes, he ended up in the middle of the
19 street with his feet and arms out. He was facing up.
20 He had long hair and his hair was covering part of his
21 face. At that moment the ambulance showed up and they
22 tried to bring him back, they gave him first aid, and at
23 that point they took him.

24 Q. Okay. Do you know, sir, what caused the
25 boy to be run over by the car?

1 A. Why he was run over?

2 Q. Yes. How did he get run over or what
3 happened with the car?

4 A. When the white guy got in the car trying to
5 take off, the other guy was hanging onto the window,
6 when the car sped up he couldn't hold himself on there
7 or keep up with the speed, that's when he fell. And he
8 slipped.

9 Q. Okay. Sir, I want to talk a little bit
10 about the white guy that you saw take the iPad from the
11 Hispanic kid and the same white guy that you saw get
12 into a car. Okay? The car that eventually ran over the
13 Hispanic kid. How tall was he?

14 A. He was tall.

15 Q. Can you give a guess as to how tall?

16 A. I believe 6 feet or less.

17 Q. Okay. Was he taller or shorter than the
18 Hispanic kid he was taking the tablet from?

19 A. He was taller.

20 Q. Okay. Do you know approximately -- can you
21 describe his body build?

22 A. I can't tell you. I was sitting down when
23 he passed by and the sun was hitting me. When he passed
24 right in front of me I had the arrow and I just kind of
25 saw him out of the corner of my eye. So I can't give an

1 exact description of him. I can tell you that he had a
2 beard, his hair was slighter longer in the front than
3 the back and he had a tank top.

4 Q. What color was the tank top?

5 A. White.

6 Q. Could you tell what color pants he was
7 wearing?

8 A. I believe it was blue.

9 Q. Okay. Could he tell what kind of pants,
10 like was it jeans or just regular pants?

11 A. I think jeans.

12 Q. And he indicated that his hair was longer
13 on top than the rest of the sides; is that correct?

14 A. Yes.

15 Q. Does he remember whether or not the white
16 guy had anything on his head, like a hat or anything
17 else on his head?

18 A. He didn't have anything.

19 Q. Okay. Does he remember if the white guy
20 had a mustache?

21 A. He did not have a mustache.

22 Q. Okay. He mentioned earlier that the white
23 guy had a beard.

24 A. Yes. Here.

25 Q. And the witness just indicated with his

1 hands kind of from the bottom of his left and right ear
2 going all the way down to his chin?

3 A. Yes.

4 Q. How long was the hair on the beard?

5 A. It was not very long. It was simply very
6 well-defined from the bottom of the --

7 Q. Ears?

8 A. -- ears and it had a lot more volume.
9 There was more length here.

10 Q. Okay. So around kind of the jaw was not so
11 long, but right on the chin was a little bit more than
12 the jaw?

13 A. He had more here, more volume right about
14 here.

15 Q. And for the record you're indicating with
16 your hand that he had more around his chin?

17 A. Yes.

18 Q. Did you see any tattoos or scars on the
19 white guy?

20 A. No.

21 Q. I want to talk to you about the car that
22 the white guy got into. Did you see the driver of that
23 car?

24 A. No.

25 Q. What kind of car was it? Was it a truck, a

1 van, a regular four door car?

2 A. I think that's what they call them SUV, the
3 kind that you can open the trunk all the way up.

4 Q. Okay. Kind of like a hatchback but on a
5 bigger car, like an SUV?

6 A. (No audible response.)

7 Q. What color was it?

8 A. White.

9 Q. Does he remember if there were any other
10 colors on the car?

11 A. No.

12 Q. Overall condition of the car?

13 A. It looked fine.

14 Q. How many doors?

15 A. Four door.

16 Q. And at the time was he able to guess about
17 the make of the SUV, like Ford, Nissan?

18 A. Ford.

19 Q. Does he remember talking to investigators
20 or detectives after he witnessed what happened?

21 A. The same day. In the evening.

22 Q. Okay. Mr. Romo, do you remember telling
23 the detectives that you thought it was a Lexus?

24 A. Yes.

25 Q. So that day, that same day on May 16th, you

1 thought it was a Lexus?

2 A. Yes.

3 Q. But now that you've had a chance to think
4 about it have you changed your mind as to the make of
5 the car?

6 A. Yes. There was a difference in the
7 opening. The thing is I really thought it through.
8 Everything happened so fast. I did tell the detective
9 it was a Lexus, but after the detective left, at night I
10 was talking it over with my family and I told them that
11 I did think, I thought it was not a Lexus.

12 MS. BOTEHO: Okay. Grand Jury's brief
13 indulgence.

14 I have no further questions for this
15 witness. Do any of the Grand Jury members have any
16 questions?

17 A JUROR: I have a question.

18 THE FOREPERSON: Gary.

19 BY A JUROR:

20 Q. Did Mr. Romo observe, did both rear wheels
21 run over the victim or just one of them?

22 A. One of them.

23 Q. Okay.

24 THE FOREPERSON: By law, these proceedings
25 are secret and you are prohibited from disclosing to

1 anyone anything that has transpired before us, including
2 evidence and statements presented to the Grand Jury, any
3 event occurring or statement made in the presence of the
4 Grand Jury, and information obtained by the Grand Jury.

5 Failure to comply with this admonition is a
6 gross misdemeanor punishable by a year in the Clark
7 County Detention Center and a \$2,000 fine. In addition,
8 you may be held in contempt of court punishable by an
9 additional \$500 fine and 25 days in the Clark County
10 Detention Center.

11 Do you understand this admonition?

12 THE WITNESS: What you're trying to tell me
13 is that I can't say anything?

14 THE FOREPERSON: All proceedings are secret
15 and you are prohibited from disclosing to anyone
16 anything that transpired before us today.

17 THE WITNESS: Okay.

18 THE FOREPERSON: Okay. Thank you. You are
19 excused.

20 THE WITNESS: I'd like to ask a question.

21 MS. BOTELHO: I'll deal with your question
22 outside.

23 THE FOREPERSON: Ten minute recess.

24 (Recess.)

25 MS. BOTELHO: Okay. Are we ready?

1 State calls Carolyn Wilson.

2 THE FOREPERSON: Please raise your right
3 hand.

4 You do solemnly swear the testimony you are
5 about to give upon the investigation now pending before
6 this Grand Jury shall be the truth, the whole truth, and
7 nothing but the truth, so help you God?

8 THE WITNESS: I do.

9 THE FOREPERSON: Please be seated.

10 You are advised that you are here today to
11 give testimony in the investigation pertaining to the
12 offenses of conspiracy to commit robbery, robbery, and
13 murder with use of a deadly weapon, involving Michael
14 Solid and Jacob Dismont.

15 Do you understand this advisement?

16 THE WITNESS: Yes.

17 THE FOREPERSON: Please state your first
18 and last name and spell both for the record.

19 THE WITNESS: Carolyn Wilson. It's
20 C-A-R-O-L-Y-N, Wilson, W-I-L-S-O-N.

21 CAROLYN WILSON,
22 having been first duly sworn by the Foreperson of the
23 Grand Jury to testify to the truth, the whole truth,
24 and nothing but the truth, testified as follows:

25

EXAMINATION

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BY MS. BOTELHO:

Q. Hello Miss Wilson.

A. Good morning.

Q. Miss Wilson, I want to turn your attention to May 16, 2013, about 4 o'clock, 4:15 p.m. Where were you at that time?

A. I was driving on west, going west on Charleston.

Q. Okay. Which cross street were you at around that time?

A. I had passed Torrey Pines.

Q. Okay. And what kind of vehicle were you in?

A. A black Chevrolet truck, Sierra, diesel.

Q. How many lanes are there on westbound Charleston?

A. Three.

Q. And which lane were you on?

A. The left lane.

Q. The lefttest (sic) most lane?

A. Yes, ma'am.

Q. So closest to the median or center area?

A. Yes.

1 Q. Did anything happen while you were driving
2 on westbound Charleston after you passed Torrey Pines
3 that is causing you to have to testify before the Grand
4 Jury today?

5 A. Yes.

6 Q. Please tell us about what happened.

7 A. I was driving on West Charleston going west
8 and as I started there was like a break, you know,
9 because there was a street that way, you know, on the
10 far right. There was a break in the media. I, a white
11 car pulled like it was making a U-turn, pulled out, I
12 was going like this and it pulled out in front of me to
13 go, to go up West Charleston coming from East
14 Charleston.

15 Q. Okay. So for the record it appeared as
16 though you said there was a white car, and the way you
17 gestured with your hand it appeared as though you
18 believed that white car to be traveling eastbound on
19 Charleston and all of a sudden it made a U-turn into the
20 left most lane going west on Charleston where you were
21 at?

22 A. Correct.

23 Q. After the car, after the white car made
24 that move, where did it end up in relation to your car?

25 A. Well, it just kept on going.

1 Q. Going on the same way?

2 A. I pulled up to a stop. When it started
3 coming in front of me I just stopped and it just kept on
4 going.

5 Q. Based on what you saw, did it continue to
6 go in the lane that you had been on after it cut you off
7 essentially?

8 A. Yes, ma'am.

9 Q. And this white car, ma'am, what type of car
10 was it; do you recall?

11 A. It was a white -- it was a Ford. It was an
12 Expedition or one of the bigger kind of SUV's. I'm not
13 sure exactly. But it wasn't very old but it wasn't
14 brand new either. I could not tell you the year for
15 sure.

16 Q. Okay. Do you remember any special features
17 on the car?

18 A. I do not.

19 Q. Do you remember getting a driver's license?

20 A. Do I remember getting --

21 Q. I'm sorry. A license plate. Sorry.

22 A. No, I did not see a license plate. I was
23 too focused on what was happening.

24 Q. Did you see anyone at or near that car?

25 A. Yes.

1 Q. And who did you see?

2 A. I saw two young men. Actually for real
3 life from the beginning I thought it was a young lady
4 and a young man, but then it ended up being, when
5 everything ended up I knew it was two young men.

6 Q. Where was the white SUV when you noticed
7 the two younger males?

8 A. The SUV was making that turn and they were
9 running after it, coming up along that passenger side,
10 running.

11 Q. And the two males that you saw running next
12 to that SUV, you said the passenger side, could you
13 describe what one of them looked like or just give us a
14 brief description?

15 A. Yeah. The one, the one young man, smaller
16 build, kind of a purple-ish kind of a T-shirt or shirt
17 of some kind, black, regular kind of tennis shoes, not
18 gym kind, not athletic gym shoes, more like boat kind of
19 tennis shoes. And the second young man was, I'm not
20 sure what he had on. I think he had shorts on, shorter
21 pants on, and he was sort of heavysset, round faced.

22 Q. Could you tell the race of the two young
23 men?

24 A. The first young man I thought was, I
25 thought was Hispanic or maybe African American but I

1 wasn't sure until actually the accident happened and
2 then I saw him when he was laying on the ground. I
3 could tell then he was probably more Hispanic than he
4 was black.

5 Q. Okay. And with regard to the heavier set
6 young man, could you tell his race?

7 A. He was a black man.

8 Q. As the two younger men were running along
9 the passenger side of the SUV, could you tell what they
10 were trying to do or what it appeared they were trying
11 to do?

12 A. Not really. My initial thought was oh my
13 gosh, why are these kids, you know how young kids will
14 do some silly things sometimes, we all do stupid things
15 when we're teenagers, not that they were stupid, but
16 they were running after this car and I thought are they
17 just playing games or something. I thought it was just
18 something silly. And then when they kept trying to get
19 in the car, I still thought the same thing, I thought
20 exactly the same thing, they were just trying to get in
21 or they were trying to make the car stop. That was the
22 only thing that I knew that they were just trying to
23 make, and then the one -- well, you probably asked me.

24 Q. Yes. As you were watching the two younger
25 kids try to get into the car, were they ever successful?

1 A. No, they weren't.

2 Q. What happened?

3 A. The, when they'd get close to either the
4 passenger front seat or the back passenger seat on that
5 right hand side, the front, the person in the passenger
6 seat in the front would either like go like this out the
7 window to get him away, the first boy.

8 Q. And just for the record, you said the first
9 boy was on the passenger side and you could see someone
10 from inside the passenger side of the SUV?

11 A. I could just see an arm.

12 Q. Put an arm out?

13 A. Yeah. I didn't see any, I didn't see what
14 he looked like. I couldn't tell you whether he was
15 male, female or whatever.

16 Q. With that arm gesture, what did you take
17 that arm gesture to mean?

18 A. Like get away, get away. You know.

19 Q. And then what else, ma'am?

20 A. And then the second young man was chasing
21 too, but he sort of, kind of, as the white car started
22 to speed up and the first young man started even running
23 faster, the second young man sort of slowed down and
24 like he just kind of gave up, and then that's when the
25 accident happened.

1 Q. Okay. The second young man is the heavier
2 set young man; is that right?

3 A. Yes.

4 Q. And then you said, you make reference to an
5 accident. What is it that you saw that you're
6 describing as this accident?

7 A. Well, everything happened so quick. All I
8 know is all of a sudden this kid, this boy looked like
9 he had just gotten either sucked in by the car or under
10 the tire, because it went over him, the front went over
11 him twice, once with the front tire and once with the
12 back tire, and his body just flipped over right in front
13 of my vehicle.

14 Q. And could you tell, when you said it
15 appeared as though the younger male had been sucked into
16 or under the car, could you tell what side of the car he
17 was sucked to?

18 A. Yes, it was the passenger side. Everything
19 was on that passenger side, on the right hand side.

20 Q. Did you see what the heavier set younger
21 man did?

22 A. Well, he slowed down, and then the boy, you
23 know, landed in the middle of the road on his back and I
24 looked up and I'm looking and the heavier set young man
25 turned towards my vehicle right there and said, went

1 like this, like now what do we do, what do we do. I
2 couldn't hear him but I could hear his body language,
3 you know. So I picked up my phone and started calling
4 911. And I really expected him -- he went over and sort
5 of kind of touched the boy laying on the ground. I
6 really, I almost thought he was going to go over and
7 like help him up, you know what I'm saying. But then I
8 could see that wasn't happening. But I was on, I had
9 gotten 911 right away and was talking on the line with
10 them. So I just stayed in my vehicle. Cause people
11 were honking and stuff was going on so I just stayed in
12 my vehicle.

13 Q. The boy that was hit, did he ever get up
14 from off the road?

15 A. He did not.

16 Q. And the heavier set young man that appeared
17 to be his friend, did you see him go anywhere?

18 A. He left.

19 Q. Okay. The SUV, the white SUV that the kid
20 who got hit was trying to be around or get into, did
21 that SUV remain on the scene?

22 A. No. No, it kept going up West Charleston.

23 Q. And when it went up West Charleston, could
24 you describe the speed upon which it went up West
25 Charleston?

1 A. It just sped up. At that point when it
2 sped up and hit the boy I was more concerned about that
3 boy falling out in front of me. As far as I know it
4 just went, I would say 30 or 35 miles an hour, just went
5 faster. It was out of sight. I wasn't even watching
6 it. I was watching what was going on with the two young
7 gentlemen.

8 Q. Understood. Ma'am, you indicated you
9 couldn't tell who was on the passenger side, male or
10 female, race or anything like that. Did there come a
11 point where you could determine how many people or
12 persons were in the SUV?

13 A. My immediate reaction is two only because
14 you kind of see movement, you know, in the front, in the
15 driver's and the passenger seat. But there could have
16 been more in the back seat, I don't know, that's all I
17 can see.

18 Q. When you say movement, is it more like a
19 silhouette?

20 A. Yeah. Yeah. Yeah.

21 Q. Grand Jury's brief indulgence.

22 Ma'am, one final question. Earlier in your
23 testimony you described there was kind of a stopping
24 area because there was a street on the right side as you
25 were going west on Charleston. Do you recall the name

1 of that street?

2 A. Yeah, it's Scholl or Scroll or something
3 like that. And I didn't realize what that street was
4 until after the accident and I was asked to pull back
5 and go on that street to give my information, whatever
6 you want to call it.

7 Q. Okay. And the kid being hit, did it occur
8 over right in that intersection of Charleston and
9 Scholl?

10 A. Yeah. Sort of. You know to me Scholl was
11 kind of like this and the break in the medias were kind
12 of here. You know what I mean. In regard, you know,
13 like say like this is the small, but I'm saying, you
14 know, there was --

15 Q. So it didn't exactly line-up?

16 A. No, no, they didn't line-up. No, it wasn't
17 like somebody was making a turn and going down Scholl.
18 They would have, you know, you wouldn't do that.

19 Q. But it was closest to that intersection?

20 A. Yeah. Yeah.

21 Q. Of Scholl and West Charleston?

22 A. Yes. Yes.

23 MS. BOTELHO: I have no further questions
24 for this witness. Do any of the Grand Jury members have
25 any questions?

1 BY A JUROR:

2 Q. I have a question. Miss Wilson, did you
3 observe both the front wheel tire and the rear wheel
4 tire rolling over the victim?

5 A. I did.

6 Q. Was there any, that you observed, backing
7 up of the white vehicle at all?

8 A. No, sir.

9 Q. Okay.

10 THE FOREPERSON: By law, these proceedings
11 are secret and you are prohibited from disclosing to
12 anyone anything that has transpired before us, including
13 evidence and statements presented to the Grand Jury, any
14 event occurring or statement made in the presence of the
15 Grand Jury, and information obtained by the Grand Jury.

16 Failure to comply with this admonition is a
17 gross misdemeanor punishable by a year in the Clark
18 County Detention Center and a \$2,000 fine. In addition,
19 you may be held in contempt of court punishable by an
20 additional \$500 fine and 25 days in the Clark County
21 Detention Center.

22 Do you understand this admonition?

23 THE WITNESS: Yes, sir.

24 THE FOREPERSON: Thank you. You are
25 excused.

1 THE WITNESS: Thank you.

2 MS. BOTELHO: The State now calls Detective
3 Jeff Abell.

4 THE FOREPERSON: Please raise your right
5 hand.

6 You do solemnly swear the testimony you are
7 about to give upon the investigation now pending before
8 this Grand Jury shall be the truth, the whole truth, and
9 nothing but the truth, so help you God?

10 THE WITNESS: I do.

11 THE FOREPERSON: You are advised that you
12 are here today to give testimony in the investigation
13 pertaining to the offenses of conspiracy to commit
14 robbery, robbery, murder with use of a deadly weapon,
15 involving Michael Solid and Jacob Dismont.

16 Do you understand this advisement?

17 THE WITNESS: Yes.

18 THE FOREPERSON: Please state your first
19 and last name and spell both for the record.

20 THE WITNESS: It's Jeffery Abell.
21 J-E-F-F-E-R-Y, A-B-E-L-L.

22 MS. BOTELHO: May I proceed, Mr.
23 Foreperson?

24 THE FOREPERSON: Yes, you may.

25 ///

1 JEFFERY ABELL,
2 having been first duly sworn by the Foreperson of the
3 Grand Jury to testify to the truth, the whole truth,
4 and nothing but the truth, testified as follows:

5
6 EXAMINATION

7
8 BY MS. BOTELHO:

9 Q. Detective Abell, how are you employed?

10 A. With the Las Vegas Metropolitan Police
11 Department.

12 Q. How long have you been so employed?

13 A. Little over seven years.

14 Q. Are you assigned to a specialized unit
15 right now?

16 A. Yes, robbery.

17 Q. How long have you been with robbery?

18 A. A year and a half.

19 Q. During your course as a robbery detective
20 with Metro, did you come to investigate a robbery that
21 occurred on May 16, 2013 involving an iPad near the
22 intersection of Charleston and Scholl?

23 A. Yes, I did.

24 Q. Were you present during the initial
25 investigation of that particular crime?

1 A. Yes.

2 Q. And for all intents and purposes, back on
3 May 16, 2013 was an iPad robbery; is that correct, that
4 was being investigated?

5 A. Yes, that's correct.

6 Q. Were you familiar with the suspect
7 description and also the suspect vehicle description
8 coming out of that investigation?

9 A. Yes.

10 Q. Turning your attention to May 17, 2013,
11 were you asked by the homicide unit of Metro to assist
12 in their investigation?

13 A. Detective Sanborn asked my partner if we
14 would go out and help them with the investigation, yes.

15 Q. And is that because -- homicide became
16 involved with the case; is that right, Detective Abell?

17 A. Yes.

18 Q. Because the victim of the iPad robbery had
19 passed away; is that correct?

20 A. That is correct.

21 Q. Who is your partner?

22 A. Detective Turner, Linda Turner.

23 Q. So Detective Sanborn asked you to assist.
24 What did he ask you to do?

25 A. He asked if we could periodically drive by

1 the Michael Solid address to see if the white SUV had
2 shown up or had stopped in.

3 Q. Okay. So Michael Solid had become a
4 suspect; is that correct?

5 A. Correct.

6 Q. And where was Michael Solid known to live?

7 A. I'd have to look at --

8 Q. What is it that you're looking at? Would
9 it refresh your memory?

10 A. Yes, for the address, if you want the
11 address.

12 Q. Yes, please.

13 A. It was 7467 Hawk Shadow Avenue.

14 Q. Okay. And I'm going to approach you with
15 what's been previously marked as Grand Jury Exhibit
16 Number 5. Do you recognize what this is?

17 A. That's a picture of Michael Solid.

18 Q. Okay. And this is the individual that you
19 were asked to maintain surveillance on?

20 A. Well, we weren't --

21 Q. At that address?

22 A. We weren't actually asked to maintain
23 surveillance on him. They just wanted us to drive by
24 the residence every once in awhile to see if that SUV
25 ever showed up.

1 Q. Did you do that?

2 A. I first went to a different address looking
3 for the SUV.

4 Q. Okay. Which address did you go first?

5 A. 5503 Aleman Drive or Aleman Avenue.

6 Q. What led you to that address?

7 A. There was another potential suspect who I
8 believe his sister lived at that address and he also had
9 a DL at that address, a driver's license at that
10 address.

11 Q. What was the suspect's name?

12 A. I believe it was Patrick Deluise. I don't
13 know if I'm pronouncing that correct.

14 Q. I'm going to show you Grand Jury Exhibit
15 Number 7. Do you recognize what's shown in this photo?

16 A. Yes, that's Patrick.

17 Q. Okay. So this was the individual that you
18 went to 5503 Aleman Drive to try to locate?

19 A. Well, I thought that he might have been the
20 owner of the vehicle because I didn't think Solid was
21 the owner for the way he drove up in the gas station
22 because he didn't know which side the gas tank was on.
23 So I figured maybe Patrick was the owner of the vehicle
24 so I checked his address first.

25 Q. When you checked that address what, if

1 anything, did you see or observe?

2 A. Well, as soon as I pulled onto the street,
3 before I even got to the address, I saw a white SUV
4 matching the suspect vehicle parked at the end of the
5 street in a cul-de-sac.

6 Q. And was it in front of 5503 Aleman Drive or
7 a different residence?

8 A. A different residence.

9 Q. Okay. Do you recall the address of the
10 residence that the white SUV matching the description of
11 the suspect vehicle, where that was parked?

12 A. It was parked in front of 5599 Aleman.

13 Q. Okay. What did you do upon seeing this SUV
14 at that address?

15 A. I approached it from the rear to see if I
16 could get a plate. Once I got behind it, there was no
17 plate on it, so I circled back around and I got out and
18 visually looked at the vehicle, walked around it, looked
19 for damage, particularly on the right rear side. I
20 didn't see any. So I got the VIN off the vehicle to see
21 if it was stolen.

22 Q. Okay. And did you write down that VIN
23 number prior to, you know, running it to see if it was
24 stolen?

25 A. Yes, I did.

1 Q. And did you bring that piece of paper with
2 you today?

3 A. Yes.

4 Q. And would looking at that paper refresh
5 your memory regarding the VIN?

6 A. Yes.

7 Q. And if you could please read the VIN number
8 that you wrote down into the record.

9 A. Okay. It's 1FMZU62E32ZC.

10 Q. And upon running the VIN number did it come
11 back to someone being the registered owner?

12 A. There was a temporary permit that was
13 issued to a Jacob and a Richard Dismont.

14 Q. Okay. What did you do next?

15 A. I just surveilled the area around 5503
16 because I was still looking for the other white male
17 suspect Patrick. I saw a silver sedan leave the 5599
18 address so I followed it and got the plate off it to see
19 who lived at that address where the white SUV was parked
20 in front of. Once I did that I came back to the address
21 and noticed that the SUV was now gone.

22 Q. So the SUV was no longer parked in front of
23 5599 Aleman Drive?

24 A. Correct.

25 Q. What, if anything, did you see as you

1 continued surveillance?

2 A. Well, I drove around the neighborhood
3 figuring I would try to pick up the SUV to see who was
4 driving it. Then as I was coming back towards the
5 address I saw a white male, potentially I thought it
6 might be Patrick because he matched the description of a
7 tall white male around the same age frame, jumping the
8 wall right next to the 5599 address.

9 Q. And what, if anything, did you see that
10 white male jumping the fence at 5599 Aleman Drive, what
11 did that person do?

12 A. As soon as he jumped over the wall, he
13 reached back over the wall and retrieved a real small
14 bicycle, it was white in color, I remember red markings
15 on it. He got on the bicycle and drove westbound on a
16 bike path that cuts north of the apartment complex to
17 the next street.

18 Q. And what is the next street? Do you recall
19 that address?

20 A. I could look on a map.

21 Q. That's okay. Were you able to maintain
22 surveillance of the bike?

23 A. Well, I lost visual of it as he went around
24 the apartment complex, but then I went south and picked
25 him up going back southbound on the next street towards

1 Russell.

2 Q. Okay. And did you subsequently follow the
3 bike after that?

4 A. I just observed him, watched him go into a
5 neighborhood and then I lost sight of him once he turned
6 into that neighborhood south of Russell.

7 Q. Did you ever regain surveillance or visual
8 of this particular bike?

9 A. Yes. Once I realized what neighborhood
10 that was, cause I had a map of Solid's address, I
11 realized that that was where Mike Solid lived, I drove
12 into the area and down the street to where Mike Solid or
13 Michael Solid lives and I saw the bicycle laying in the
14 driveway of his residence.

15 Q. That Hawkeye (sic) address that you
16 previously told the Grand Jury about?

17 A. Correct.

18 Q. Could you just briefly describe the general
19 distance between the 5599 Aleman Drive address and the
20 Hawkeye address that you know to belong to Michael
21 Solid?

22 A. I'd say about a half mile. It's like the
23 next block down.

24 Q. Okay. And what, if anything else, did you
25 observe, Detective Abell?

1 A. Well, once I saw the bicycle I set up
2 surveillance down the street just to observe what was
3 going on. Because at that point I didn't even know who
4 the white male was on the bike. I observed a shorter
5 black male and a taller black male walk out of the
6 residence and go into a vehicle that was out front, then
7 they went back into the house, and then the white male
8 previously that I saw get on the bike came out of the
9 residence or down the driveway, I don't know if he
10 walked out of the house, but down the driveway, got on
11 the bicycle and then drove his bicycle towards me.

12 Q. Okay. And were you able to get a look at
13 the male driving or actually riding that bike at that
14 time?

15 A. Yeah, that's probably the only time I
16 really got a look at him coming right towards me.

17 Q. And at that time did you identify him to be
18 who you believed to be Patrick Deluise?

19 A. No. They were close but it just didn't
20 seem like it was him.

21 Q. I'm going to show you Grand Jury Exhibit
22 Number 6. Do you recognize what's shown in this
23 exhibit?

24 A. Yes, that's Jacob Dismont.

25 Q. Okay. Do you recognize this individual

1 based on your surveillance over at that 5599 Aleman
2 Drive address?

3 A. Yes, that's the person I saw on the bicycle
4 driving away from Michael Solid's house.

5 Q. And you indicated earlier that Patrick and
6 Jacob Dismont, Patrick Deluise and Jacob Dismont had
7 similar characteristics; correct?

8 A. Correct.

9 Q. But when you had the opportunity to view
10 the person riding away from Michael Solid's residence
11 you were able to see that it was Jacob Dismont as shown
12 in Grand Jury Exhibit Number 6; is that correct?

13 A. I didn't know at the time, but later on
14 when I saw his picture, yes, I saw it was him.

15 Q. What time was that that you saw the bicycle
16 incident going to Michael Solid's home?

17 A. I would say approximately 7:30 at night on
18 the 17th.

19 Q. On May 17th. Okay. Did you take part in
20 the investigation the following day, May 18, 2013?

21 A. I assisted homicide detectives on search
22 warrants at both residences.

23 Q. Particularly with the Dismont search
24 warrant, 5599 Aleman Drive, were you present when Jacob
25 Dismont arrived at the residence?

1 A. No.

2 Q. Okay. When you arrived at that residence
3 to assist with the search warrant, did you have an
4 opportunity to look at a white Ford Explorer located at
5 that residence?

6 A. Yes, I did.

7 Q. Did you compare the white Ford Explorer you
8 saw on the 18th when the search warrant was being served
9 to the SUV, the white SUV that you had seen the day
10 before?

11 A. Yes, it was the same vehicle.

12 Q. Okay. Were there any differences in
13 appearances as far as the way the white SUV looked on
14 the 17th and on the 18th when the search warrant was
15 being served at 5599 Aleman Drive?

16 A. Yes, there was decals added to the vehicle
17 along both sides and on the back window. Like flame
18 decals.

19 Q. Did you notice anything different about the
20 tires?

21 A. I didn't really get a good look. I
22 couldn't tell.

23 Q. Okay. But based on your observation of the
24 white SUV parked in front of 5599 the day before and
25 then your observation of it on the 18th, you believed it

1 to be the same vehicle, just with some changes to the
2 exterior?

3 A. Well, I know it was the same vehicle
4 because I remember damage to the driver's side door,
5 like a black mark damage. It had the same damage so it
6 was the same vehicle.

7 Q. Did you have an opportunity, Detective
8 Abell, at that time to compare the VIN numbers?

9 A. No, I did not, because homicide was in
10 control of the scene at that point.

11 Q. And later were you able to look at the
12 booking photo of Jacob Dismont?

13 A. Yes, I did.

14 Q. And you identified him to be the person
15 that you saw riding on that bicycle away from Michael
16 Solid's home on May 17, 2013?

17 A. Yes.

18 MS. BOTELHO: I have no further questions
19 for this witness. Do any of the Grand Jury members have
20 any questions?

21 THE FOREPERSON: Charles.

22 BY A JUROR:

23 Q. Detective, if you know, how, why, how did
24 you guys discover Michael Solid? I didn't quite get
25 that? How did you know, when did he become a suspect

1 and how did you know?

2 MS. BOTELHO: We'll have a different
3 witness answer that question, sir, if you don't mind.

4 Any other questions? No.

5 THE FOREPERSON: By law, these proceedings
6 are secret and you are prohibited from disclosing to
7 anyone anything that has transpired before us, including
8 evidence and statements presented to the Grand Jury, any
9 event occurring or statement made in the presence of the
10 Grand Jury, and information obtained by the Grand Jury.

11 Failure to comply with this admonition is a
12 gross misdemeanor punishable by a year in the Clark
13 County Detention Center and a \$2,000 fine. In addition,
14 you may be held in contempt of court punishable by an
15 additional \$500 fine and 25 days in the Clark County
16 Detention Center.

17 Do you understand this admonition?

18 THE WITNESS: Yes, I do.

19 THE FOREPERSON: Thank you. You are
20 excused.

21 MS. BOTELHO: The State calls Scott
22 Gunderson.

23 THE FOREPERSON: Please raise your right
24 hand.

25 You do solemnly swear the testimony you are

1 about to give upon the investigation now pending before
2 this Grand Jury shall be the truth, the whole truth, and
3 nothing but the truth, so help you God?

4 THE WITNESS: Yes.

5 THE FOREPERSON: You are advised that you
6 are here today to give testimony in the investigation
7 pertaining to the offenses of conspiracy to commit
8 robbery, robbery, and murder with use of a deadly
9 weapon, involving Michael Solid and Jacob Dismont.

10 Do you understand this advisement?

11 THE WITNESS: Yes.

12 THE FOREPERSON: Please state your first
13 and last name and spell both for the record.

14 THE WITNESS: First name Scott, last name
15 Gunderson. Scott, S-C-O-T-T, Gunderson,
16 G-U-N-D-E-R-S-O-N.

17 MS. BOTELHO: Thank you Mr. Foreperson.

18 SCOTT GUNDERSON,
19 having been first duly sworn by the Foreperson of the
20 Grand Jury to testify to the truth, the whole truth,
21 and nothing but the truth, testified as follows:

22

23 EXAMINATION

24 BY MS. BOTELHO:

25 Q. Mr. Gunderson, how are you employed?

1 A. I'm employed as a corporate investigator
2 for Terrible Herbst and Jet Gaming.

3 Q. What do you do as a corporate investigator
4 very briefly?

5 A. Review, one of the tasks are to review
6 video of any incidents that take place, whether it be
7 slip or falls, theft, robberies, any incidents which may
8 occur on property.

9 Q. So as a corporate investigator do you have
10 access to the surveillance systems located at the
11 Terrible Herbst properties?

12 A. Yes, I do.

13 Q. Particularly I want to call your attention
14 to a Terrible Herbst location located at Torrey Pines
15 and Charleston.

16 A. Yes.

17 Q. Do you have access to the surveillance
18 video to that particular store?

19 A. Yes, I do.

20 Q. And is there also a gas station located on
21 that property?

22 A. Yes.

23 Q. Were you called out to that location on May
24 16, 2013?

25 A. I wasn't called out. Metro robbery

1 detective called me, worked with him before in the past
2 because we do have robberies, and he asked me if we had
3 video of the intersection there. And I knew that we
4 did. And so he called me around 8:30 at night and I
5 said do you need me to come over, and he said well, he
6 didn't say yes but I knew that he needed me so, I don't
7 live that far away so I drove there and took a look at
8 the video.

9 Q. When you looked at the video, or prior to
10 taking a look, were you kind of drawn to the attention
11 of a certain time frame?

12 A. I believe he said it took place around
13 4:00, a little after 4:00. I don't know if it's 4:10,
14 4:12 or 4:16. Sometime after 4:00. And I was kind of
15 surprised it took them this long for them to get ahold
16 of me.

17 Q. With that information about a little after
18 4:00, were you able to locate the video that the
19 detectives wanted for the time frame that they wanted?

20 A. Yes, we were able to pull up the time
21 frame.

22 Q. Particularly with that particular location,
23 Mr. Gunderson, there's a clock on the video; is that
24 right?

25 A. Yes, date and times, yes.

1 Q. Was the clock or the time on that
2 particular video of the Torrey Pines and Charleston
3 location, was it accurate?

4 A. No.

5 Q. Okay. So upon your review, what was the
6 difference?

7 A. I want to say it was plus ten minutes. It
8 would be anywhere between, I would just guess here,
9 between 13 and 16 minutes, somewhere along those lines,
10 maybe a little bit more.

11 Q. And so with that information did you locate
12 like I said the video requested by police?

13 A. Yes. We were able to get anything we
14 wanted within that time frame plus or minus 20 minutes
15 easily.

16 Q. Are there different camera angles at that
17 Terrible?

18 A. Yes.

19 Q. Were you able to pull surveillance video
20 from different camera angles?

21 A. Yes.

22 Q. Did you subsequently get the different
23 camera angles for the relevant time and burn a copy of
24 the videos into a CD?

25 A. Yes.

1 Q. And did you provide a copy to the police?

2 A. Yes.

3 Q. Did you meet with Mr. Turner and I last
4 week for a pretrial conference?

5 A. Yes.

6 Q. Did we view parts of the video that you
7 provided to the police?

8 A. Yes.

9 Q. I'm going to show you Grand Jury Exhibit
10 Number 15. Do you recognize this, sir?

11 A. Yes.

12 Q. What do you recognize it to be?

13 A. My signature. Or initials, SEG.

14 Q. And what should be contained on this
15 particular video or CD?

16 A. CD of whatever was given or whatever I made
17 copies of based on the different camera angles and still
18 photos that may have been taken at that location.

19 Q. Okay. And so there should be different
20 camera angles and then the time and date for the video
21 requested by police; is that right?

22 A. Yes.

23 Q. And you recognize it based on your
24 signature and the date?

25 A. Yes.

1 Q. Brief indulgence.

2 Earlier, Mr. Gunderson, I asked you if you
3 had access to surveillance video for the various
4 Terrible Herbst stores.

5 A. Yes.

6 Q. Is that correct?

7 A. Yes.

8 Q. These surveillance videos are kept in the
9 ordinary course of business for Terrible Herbst; is that
10 correct?

11 A. Yes.

12 Q. And they're made at or near the time that
13 the incidents actually happen, plus or minus the
14 discrepancy in the clock?

15 A. Yes, exactly.

16 Q. And as the corporate investigator you have
17 access to these records or videos?

18 A. Videos, yes.

19 Q. And you're able to pull them and
20 subsequently provide them to police in the normal course
21 of business?

22 A. Exactly, yes.

23 MS. BOTEHO: I have no further questions
24 for this witness. Do any of the Grand Jury members have
25 any questions?

1 THE FOREPERSON: By law, these proceedings
2 are secret and you are prohibited from disclosing to
3 anyone anything that has transpired before us, including
4 evidence and statements presented to the Grand Jury, any
5 event occurring or statement made in the presence of the
6 Grand Jury, and information obtained by the Grand Jury.

7 Failure to comply with this admonition is a
8 gross misdemeanor punishable by a year in the Clark
9 County Detention Center and a \$2,000 fine. In addition,
10 you may be held in contempt of court punishable by an
11 additional \$500 fine and 25 days in the Clark County
12 Detention Center.

13 Do you understand this admonition?

14 THE WITNESS: Yes.

15 THE FOREPERSON: Thank you. You are
16 excused.

17 THE WITNESS: Thank you.

18 MR. TURNER: State would call Detective
19 Tate Sanborn.

20 THE FOREPERSON: Please raise your right
21 hand.

22 You do solemnly swear the testimony you are
23 about to give upon the investigation now pending before
24 this Grand Jury shall be the truth, the whole truth, and
25 nothing but the truth, so help you God?

1 THE WITNESS: Yes.

2 THE FOREPERSON: You are advised that you
3 are here today to give testimony in the investigation
4 pertaining to the offenses of conspiracy to commit
5 robbery, robbery, and murder with use of a deadly
6 weapon, involving Michael Solid and Jacob Dismont.

7 Do you understand this advisement?

8 THE WITNESS: Yes.

9 THE FOREPERSON: Please state your first
10 and last name and spell both for the record.

11 THE WITNESS: Tate Sanborn. T-A-T-E,
12 S-A-N-B-O-R-N.

13 MR. TURNER: May I proceed Mr. Foreperson?

14 THE FOREPERSON: Yes, you may.

15 TATE SANBORN,
16 having been first duly sworn by the Foreperson of the
17 Grand Jury to testify to the truth, the whole truth,
18 and nothing but the truth, testified as follows:

19

20 EXAMINATION

21

22 BY MR. TURNER:

23 Q. Detective Sanborn, where are you employed?

24 A. I'm employed with the Las Vegas
25 Metropolitan Police Department.

1 Q. In what capacity?

2 A. I'm a detective in the homicide section.

3 Q. How long have you been assigned to the
4 homicide section?

5 A. Coming up on six years.

6 Q. And Detective, in the course of your career
7 at the homicide section, how many homicides do you think
8 you've investigated?

9 A. I would have to estimate that I've been
10 primary investigator on close to 75 homicides.

11 Q. As well as secondary duties and assisting
12 in other detectives' investigations as well; correct?

13 A. Correct. I've assisted in death
14 investigations probably well over 200.

15 Q. Detective, before you were assigned to the
16 homicide section where were you assigned?

17 A. I was a detective in the robbery section
18 for four and a half years prior to transferring to
19 homicide.

20 Q. In the course of your assignment to
21 robbery, did you ever utilize surveillance videotapes or
22 videotapes in an effort to identify particular suspects?

23 A. Yes. In robbery surveillance videos play a
24 large part of the investigations as you track suspects
25 committing robberies at various convenience stores or

1 their movements from in and around crimes scenes, so a
2 lot of video review as a robbery detective.

3 Q. And that also would occur on into your
4 career in homicide as well; is that correct?

5 A. Yes.

6 Q. About how many hours do you think you've
7 spent analyzing or reviewing videotapes in efforts to
8 identify potential suspects?

9 A. I couldn't even -- I mean I couldn't even
10 guess at the amount of time I've spent watching videos,
11 rewinding videos, looking at people on videos. It would
12 be thousands of hours.

13 Q. Detective, I'm going to draw your attention
14 back to May 16th of this year, approximately 10:30 p.m.
15 Do you recall that date and time?

16 A. Yes.

17 Q. Were you assigned to investigate the
18 homicide of a teenager, a male teenager by the name of
19 Marcos Arenas?

20 A. Yes, I was.

21 Q. And you were assigned to the case
22 approximately 10:30 p.m.; is that correct?

23 A. Correct.

24 Q. The reason for the delay in the assignment
25 was because the crime was committed some time before but

1 the victim of that robbery ultimately was deceased?

2 A. Correct. I believe the initial call was
3 about 1612 or a little after 4:00 in the afternoon,
4 however the victim didn't die until a little after 10:00
5 p.m.

6 Q. Now the location that was provided to you
7 from where that robbery and homicide took place, what
8 was the address or location?

9 A. The address was at West Charleston
10 Boulevard at an intersection with a street called
11 Scholl, S-C-H-O-L-L, Las Vegas, Nevada, 89146.

12 Q. So that's here in Las Vegas, Clark County,
13 Nevada, that location?

14 A. Correct.

15 Q. Now prior to your assignment in that case
16 who was assigned to investigate the case, what section?

17 A. The robbery section conducted the
18 preliminary investigation.

19 Q. Did one of the things that the robbery
20 section do in this case was to go and canvass various
21 businesses and attempt to locate video surveillance that
22 may identify the vehicle or the individuals involved in
23 this case?

24 A. Yes.

25 Q. And did they in fact recover video that was

1 relevant to the investigation in this case?

2 A. Yes, they did.

3 Q. And where was that from?

4 A. That was from the Terrible Herbst Chevron
5 gas station at 6380 West Charleston which is right on
6 the corner of West Charleston and Torrey Pines.

7 Q. We're having a little bit of technical
8 difficulties here in terms of use of exhibits, but the
9 Grand Jury has already been shown what's been marked as
10 Grand Jury Exhibit 3. I'm going to ask you to take a
11 look at it and see if you recognize it.

12 Detective Sanborn, do you recognize State's
13 Grand Jury Exhibit 3?

14 A. Yes.

15 Q. And what is depicted on there?

16 A. This is a picture of the intersection of
17 West Charleston and Torrey Pines all the way up to the
18 actual scene of West Charleston and Scholl Drive.

19 Q. Detective, have you been out to that
20 location?

21 A. Yes.

22 Q. What is the approximate distance from the
23 parking lot of Terrible Herbst to that location at West
24 Charleston and Scholl?

25 A. I believe it would be about approximately

1 200 yards.

2 Q. Detective, I'm going to draw your attention
3 to the next day, May 17th of 2013. At that time did you
4 have information regarding two potential suspects in
5 this case?

6 A. Yes.

7 Q. And that would be a white male adult and a
8 black male adult?

9 A. Correct.

10 Q. This would be based upon witness statements
11 and interviews that were conducted prior to your
12 involvement in the case?

13 A. Correct.

14 Q. Did you have a potential suspect,
15 particular suspect for the black male adult?

16 A. Yes, I did.

17 Q. And what was that individual's name?

18 A. Michael Solid.

19 Q. I'm showing you what has been marked as
20 State's Grand Jury Exhibit 5. Do you recognize this
21 individual?

22 A. Yes, it's Mr. Solid.

23 Q. And did you have an opportunity to obtain a
24 photograph of Mr. Solid once he was identified as a
25 potential suspect?

1 A. Yes, I did.

2 Q. Now the video that you were testifying
3 about that was recovered from the Terrible Herbst, did
4 you have occasion to review that videotape during the
5 relevant time period to make a determination as to
6 whether Mr. Solid was seen at that location?

7 A. Yes, I did.

8 Q. And what was your conclusion?

9 A. Mr. Solid was depicted on the video at the
10 Terrible Herbst just prior.

11 Q. What caused you to identify Mr. Solid as
12 being at that location?

13 A. Primarily Mr. Solid was facially
14 recognizable on the video, however his height, weight
15 and his sleeve tattoos on both arms also contributed,
16 but I could recognize his face behind the counter.

17 Q. At some time after your identification of
18 Mr. Solid on the video on May 17th, did you have an
19 opportunity to see him in person?

20 A. Yes.

21 Q. Did you have an opportunity to interact
22 with him?

23 A. Yes.

24 Q. Did you see him walk and the way he moved?

25 A. Yes.

1 Q. Did anything about your interaction with
2 him change your opinion as to whether he was the
3 individual in that videotape?

4 A. No.

5 Q. As you sit here today before this Grand
6 Jury how sure are you that Michael Solid was the
7 individual depicted in that videotape?

8 A. One hundred percent.

9 Q. That same date did you have a potential
10 suspect for the white male adult?

11 A. Yes.

12 Q. And who was that?

13 A. On the 17th it was Patrick Deluise.

14 Q. I'm showing you what has been marked as
15 State's Grand Jury Exhibit 6. Strike that. State's
16 Grand Jury Exhibit 7. Do you recognize that individual?

17 A. Yes, that's Patrick Deluise.

18 Q. Now on May 17th did you have an opportunity
19 to review the videotape to determine whether Patrick
20 Deluise was depicted in that videotape?

21 A. Yes.

22 Q. And did you observe Patrick Deluise on that
23 videotape?

24 A. No, I did not.

25 Q. On May 17th were you contacted by Detective

1 Abell from robbery and given information that he had
2 observed in the course of his surveillance?

3 A. Yes.

4 Q. Fast forward to May 18th, the following
5 day. Do you recall that date?

6 A. Yes.

7 Q. Was Michael Solid taken into custody?

8 A. Yes, he was.

9 Q. Do you recall who was with him when he was
10 taken into custody?

11 A. It would have been his girlfriend, Brianna
12 Licari.

13 Q. And at the time that Mike Solid was taken
14 into custody did you have occasion to interview him?

15 A. Yes.

16 Q. And prior to your interview with him did
17 you Mirandize him?

18 A. Yes, I did.

19 Q. By that I mean did you read him all of his
20 rights?

21 A. Yes.

22 Q. Did he acknowledge those rights?

23 A. Yes.

24 Q. Did he choose to speak with you?

25 A. Yes, he did.

1 Q. Did you confront him with your observations
2 on the videotape from the Terrible Herbst, the videotape
3 that occurred shortly before the homicide took place?

4 A. Yes.

5 Q. And did he tell you -- what did he tell
6 you?

7 A. He stated that on that day he had gotten
8 into an argument with his girlfriend and he had walked
9 to that gas station from their house. As he entered the
10 parking lot a male, a black male driving a white SUV who
11 looked similar to him asked him if he had some spare
12 change for gas. Mr. Solid said that he did and that he
13 didn't want to take his money out in front of the
14 gentleman so he went into the gas station himself and
15 put a dollar's worth of gas on the pump for the
16 gentleman in the white SUV.

17 Q. You had an opportunity to review that
18 video; is that correct?

19 A. Correct.

20 Q. Did you have occasion to see Mr. Solid ever
21 interact with a second black male that matched his
22 description on that video?

23 A. No.

24 Q. The only black male that you observed was
25 Mr. Solid? In terms of coming in -- Mr. Solid gave you

1 a description of what he did; is that correct?

2 A. Correct.

3 Q. The only person that you saw would be
4 Mr. Solid that matched in terms of coming in and out of
5 that SUV?

6 A. Correct.

7 Q. That same day you had developed a second
8 potential suspect for the white male adult; is that
9 correct?

10 A. Yes.

11 Q. And who was that?

12 A. That was Jacob Dismont.

13 Q. Showing you State's Grand Jury Exhibit 6,
14 who is that?

15 A. That's a picture of Jacob Dismont.

16 Q. Did you have occasion to review the
17 videotape to determine whether Jacob Dismont was present
18 on that videotape during the time period in question?

19 A. Yes.

20 Q. And what was your conclusion?

21 A. Jacob Dismont was on the video along with
22 Mr. Solid.

23 Q. And what was it about your observations of
24 the video that caused you to identify Jacob Dismont?

25 A. Again Jacob Dismont's physical description

1 was rather unique at 6'5", 200 pounds with a thin and
2 muscular build. However when he passed in front of the
3 doors, they had a door camera shot that showed his
4 profile and he has a strong -- let me make sure I say
5 this right -- the underbite kind of that has his lower
6 jaw that kind of sticks out further than his upper jaw.
7 When I was able to interact with him in person I was
8 able to positively identify him as the male on the video
9 with Mr. Solid.

10 Q. Did you have occasion subsequent to that
11 review to see Jacob Dismont in person?

12 A. Yes.

13 Q. Interact with him as well?

14 A. Yes.

15 Q. Watch his gait, the way he walked?

16 A. Yes.

17 Q. Anything about your observation after the
18 fact that would change your opinion?

19 A. No.

20 Q. In fact did that reinforce your opinion?

21 A. Yes.

22 Q. As you sit here today in front of this
23 Grand Jury, how sure are you of your identification of
24 Mr. Dismont on that video?

25 A. One hundred percent.

1 Q. On that same date, May 18th, was Jacob
2 Dismont also taken into custody?

3 A. Yes.

4 Q. Did you have occasion to respond to his
5 address to observe a vehicle or was that at a different
6 location?

7 Did you have occasion to search a vehicle
8 belonging to Jacob Dismont?

9 A. Yes.

10 Q. Where was that at?

11 A. That search was conducted at the crime lab,
12 the LVMPD crime lab.

13 Q. How did you know it was Dismont's vehicle?

14 A. The vehicle was towed from his house to the
15 crime lab. It was sealed at the location of 5599 Aleman
16 where it was towed to the crime lab.

17 Q. Was the VIN number checked to determine
18 whether that vehicle belonged to him?

19 A. Yes.

20 Q. At this time I will publish to the Grand
21 Jury State's Grand Jury Exhibit 11 which is a certified
22 copy of a public record, that being the temporary
23 movement permit for a Ford 2002, VIN
24 number 1FMZU62E32ZC25644.

25 Detective, as you sit here today, does that

1 look like the VIN number and make and model for the
2 vehicle for Jacob Dismont?

3 A. It's definitely the make and model. The
4 VIN number I would have to say yes. I don't have the
5 VIN number memorized though.

6 Q. At the time that you observed that vehicle,
7 had you had occasion to review a vehicle on videotape?

8 A. Yes.

9 Q. The one from the Terrible Herbst?

10 A. Yes.

11 Q. And what kind of vehicle did you see on the
12 video?

13 A. Ford Explorer, SUV, white in color.

14 Q. Did that vehicle have a license plate on
15 it?

16 A. No, it did not.

17 Q. Were you also given a description of a
18 white Ford Explorer by Detective Abell from robbery?

19 A. Yes, on the night of the 17th.

20 Q. And you had occasion to see Mr. Dismont's
21 vehicle at the time of the execution of the search
22 warrant; is that correct?

23 A. Correct.

24 Q. Did you see any differences in its
25 appearance?

1 A. Yes.

2 Q. What was that?

3 A. On the day that I seen it, which was the
4 19th at the crime lab, it now had a license plate on the
5 back, a Nevada plate, 142 Union Frank Baker. There was
6 also two white stickers added to the upper part of the
7 rear window, as well as some flame stickers that were
8 added to each quarter panel in the front on the right
9 and left side.

10 Q. And you said that there was a license plate
11 on the back; correct?

12 A. Correct.

13 Q. Did you run that license plate?

14 A. Yes.

15 Q. And who did that license plate belong to?

16 A. That license plate returned on a 2003
17 Mitsubishi registered to I believe a female named
18 Jennifer Brown.

19 Q. Did you go back and search the various
20 individuals that had registered for that particular
21 Mitsubishi?

22 A. Yes.

23 Q. Was there a name that popped up that was of
24 significance to you?

25 A. Yes. I believe in 2010, either two or

1 three previous registered owners to that license plate,
2 in 2010 it was registered to a Kayrn, that's K-A-Y-R-N,
3 Licari, L-I-C-A-R-I, which is Mike Solid's girlfriend
4 Brianna's mother.

5 Q. I'm showing you what's been marked as
6 State's Grand Jury Exhibit Number 10. I'm going to ask
7 you to take a look at that, take a moment and let me
8 know when you have an opportunity to review it.

9 Have you had an opportunity to review that
10 exhibit?

11 A. Yes.

12 Q. These are the various registrations for
13 that Mitsubishi you just described, that 2003
14 Mitsubishi?

15 A. Correct.

16 Q. On the first page, is that the registration
17 for Kayrn Licari for that particular license number?

18 A. Yes.

19 Q. And what was that number again?

20 A. The license plate is 142UFB.

21 Q. And you indicated that that individual was
22 no longer registered to that particular vehicle?

23 A. Correct.

24 Q. What was the date that that individual
25 stopped being registered for that vehicle?

1 A. I believe it was 2009.

2 Q. And what happens normally, Detective, based
3 on your training and experience as a police officer,
4 when an individual is done with a plate, what are they
5 supposed to do with that plate?

6 A. License plates are typically supposed to be
7 surrendered to the Department of Motor Vehicles.

8 Q. Detective, I'm showing you Grand Jury
9 Exhibit 12, do you recognize that?

10 A. Yes.

11 Q. What is it?

12 A. That's a picture of Jacob Dismont's Ford
13 SUV in the crime lab garage.

14 Q. And does that have the license plate on it
15 that you previously testified to?

16 A. Yes.

17 Q. And I'm showing you State's Grand Jury
18 Exhibit 13, what is that?

19 A. That's a picture of the same vehicle from
20 the front in the same location in the crime lab garage.

21 Q. You indicated there were some decals on
22 that vehicle. Is that depicted in that exhibit?

23 A. Yes.

24 Q. Finally I'm showing you State's Grand Jury
25 Exhibit 14. What is that?

1 A. That's a copy of the registration from the
2 Nevada DMV which I recovered from the glove box.

3 Q. If you could, just for the record, could
4 you read in the VIN number?

5 A. Yes. The VIN number is 1FMZU62E32ZC25644.

6 Q. And that was actually recovered from the
7 vehicle?

8 A. Correct.

9 Q. Who is the registered owner of that
10 vehicle?

11 A. Registered owner Jacob Dismont and Richard
12 Dismont.

13 Q. Does it indicate or are you aware of when
14 this vehicle was purchased or registered by Jacob
15 Dismont?

16 A. The issue date was May 10, 2013.

17 Q. So about six days before the homicide took
18 place?

19 A. Correct.

20 Q. Now Detective, as part of your
21 investigation, did you receive the copy of, a complete
22 copy of the videotape from homicide? From Terrible
23 Herbst. Or from robbery.

24 A. Yes.

25 Q. I'm showing you what has been marked as

1 State's Grand Jury Exhibit 15, do you recognize that?

2 A. Yes.

3 Q. What is it?

4 A. This is a copy of the video that I made to
5 provide to you.

6 Q. And that has all the video that was sent
7 from Terrible's or produced by Terrible's and provided
8 to robbery?

9 A. Correct, it's a copy of the original.

10 Q. And did you subsequently make an edited
11 version of that video?

12 A. I did.

13 Q. What exactly did you do and why did you do
14 that?

15 A. I used a computer program called Movie
16 Maker to shorten the relevant clips so we can kind of
17 condense the video and only see clips that were
18 important to the investigation and not have to watch
19 hours and hours of video.

20 Q. Now in terms of video quality, was there a
21 difference in quality once you made an edited version of
22 that copy?

23 A. Yes. When you change the properties of the
24 video using Movie Maker you definitely lose some of the
25 quality in the original AVI clips.

1 Q. So Grand Jury Exhibit 15 would be a better
2 visual quality than the edited version that you made;
3 correct?

4 A. Yes.

5 Q. And State's Grand Jury Exhibit 27, is that
6 that edited copy that you made?

7 A. Yes.

8 Q. I'm going to ask you to put that in.
9 Agnes, could you?

10 MS. BOTELHO: Yes.

11 BY MR. TURNER:

12 Q. So Detective, I'm going to have you walk us
13 through the video. If there are any portions you think
14 are relevant pause it -- actually we'll back up a little
15 bit and start from the beginning.

16 A. Actually just leave it there and I'll do
17 it.

18 Q. Detective, what are we observing right here
19 at the beginning of your edited version?

20 A. This is a camera that's attached to the
21 outside of the Terrible Herbst building. It's at the
22 corner of Torrey Pines and Charleston. The camera is
23 looking south and slightly east. The street that's
24 running along the back is Charleston east west. And
25 Torrey Pines would be off to the far right here which is

1 out of this particular camera.

2 On this particular clip at about 15:45 and
3 a couple seconds you'll see Jake Dismont's white SUV
4 come from around the corner which would be coming from
5 the east side of the store and then passing westbound
6 into passing the front of the location.

7 Q. Detective, what's the time period listed on
8 that video?

9 A. This is --

10 Q. When this was videotaped?

11 A. This is May 16, 2013 at approximately
12 15:45. However the video was 16 minutes slow at the
13 Chevron so we'd be looking right around 4 o'clock for
14 this particular clip.

15 Q. Okay. Detective, go ahead and proceed.

16 A. There's the SUV there.

17 Q. And how many doors does that SUV have?

18 A. Four.

19 As we switch here -- as we switch here now
20 obviously we've moved to a camera affixed on the right
21 side of the doors and looking slightly south and west.
22 Now Torrey Pines is visible on the western border of the
23 property and then you can still see Charleston running
24 east west there. It's the SUV passing by the front of
25 the store making its way to the gas pumps. You can see

1 there is no license plate on it in this picture. The
2 white stickers that were on the rear window are not on
3 it and the flame stickers that were on the quarter panel
4 are not on it right now.

5 Q. What's the significance to you, Detective,
6 that the SUV that you're observing on the videotape and
7 that you're looking at now didn't have a license plate?

8 A. It's significant as an investigator that if
9 you're going to go out and commit a crime in a vehicle,
10 typically you'll remove the plates if it has them so no
11 one can get the license plate of the vehicle.

12 Q. I want to back up quickly to an area. You
13 indicated that there was a license plate on Jacob
14 Dismont's vehicle, that Ford SUV, that actually belonged
15 to a Mitsubishi; is that correct?

16 A. Correct, on the 19th, yes.

17 Q. Now are you familiar with the term cold
18 plate?

19 A. Yes.

20 Q. What does that mean?

21 A. A cold plated vehicle in law enforcement is
22 a vehicle that has the improper plate attached to it,
23 meaning a plate that belongs to another vehicle.
24 Typically you can have people cold plate for various
25 reasons. But typically you have a stolen vehicle, you

1 cold plate it to a car that's not stolen so if the
2 police run the license plate it doesn't come up to the
3 stolen vehicle. Or if you are not paying your
4 registration and insurance you can find similar vehicles
5 and put a plate on it and affix them to your car so the
6 cops, if they run the plate again they don't get that
7 response from the license plate. So we call that cold
8 plated.

9 Q. So it's designed to avoid identification?

10 A. Correct.

11 Q. Okay. Detective, you can proceed.

12 A. So you'll see the vehicle here continue
13 onto the gas pump. Once the vehicle gets set up at the
14 pump, you'll see the area between the pump and the truck
15 itself, you'll see the driver come from this area right
16 here where the driver would pass through between the
17 vehicle and this pillar once he gets parked.

18 Q. What's the time period that we're talking
19 about here on the video, Detective?

20 A. It's still, it's just a continuation of
21 that first clip. It's still May 16, 2013, just 30
22 seconds after the other one. With the time variant from
23 the store, we're still looking right around 4 o'clock, a
24 little after 4:00 p.m.

25 You see the driver there is exiting and

1 he's making his way towards the store.

2 Q. All right. Detective, can you pause that
3 real quick and give us a description for the record of
4 the individual that is depicted there?

5 A. This is a black male adult. He's in a
6 black T-shirt with a black do-rag on, dark colored
7 pants. You'll see in a better picture in the inside
8 he's got sleeve tattoos, he's wearing a large medallion
9 type chain.

10 Q. Detective, you can go ahead and proceed.

11 A. And you'll see here in this clip, shortly
12 he'll pass by a white male suspect will make his way in
13 the frame here.

14 Q. And who is that?

15 A. That's Jacob Dismont. The two appeared to
16 have some kind of communication as they passed by the
17 front of the store together, whether it was verbal or
18 nonverbal it's kind of hard to tell, but they definitely
19 had some sort of interaction as to something that was
20 going to happen.

21 Q. What was Jacob Dismont -- or what's he
22 wearing in that video?

23 A. He's wearing a gray tank top, a baseball
24 hat, blue jeans and dark shoes.

25 Q. Are both individuals depicted now?

1 see at the beginning of the clip the interaction they
2 have, I don't know if it's nonverbal or actually if
3 something is said, but clearly recognized one another
4 and motioned to each other.

5 This is from inside the store now looking
6 out. They're going to pass by one another again Jake's
7 going to come from the east. Mr. Solid's going to go in
8 and put the dollar's worth of gas onto the pump.

9 This is another interior shot. This is
10 behind the register shot. He comes in, puts the dollar
11 down and then he's going to make his way back out to the
12 truck.

13 Q. There's two individuals depicted on their
14 way in. Do you recognize who those two are?

15 A. Yes. Also depicted in this same frame is
16 the victim of the murder Marcos Arenas coming in first
17 in the purple shirt, with his friend behind him, Gacory
18 Exum.

19 Q. And what's the time on that?

20 A. It's 15:47:34. So it's just a few minutes
21 after 4:00 p.m.

22 Q. And could you actually see Michael Solid in
23 that same frame?

24 A. Yes. As Solid left, the victim and his
25 friend came in. And Marcos and Gacory appear to look

1 around. I don't think they make any purchases. But
2 Marcos is carrying his iPad in his hand in front of him
3 in a notebook type case.

4 Q. What's the time there?

5 A. 15:47:56 going on 15:48.

6 Q. Does it look like they made any purchases
7 in that location?

8 A. No, I don't believe they did.

9 And then this is them leaving the parking
10 lot, still holding his iPad out in front of him,
11 westbound towards Torrey Pines. This will be a
12 continuation of them.

13 Now they've made their way westbound off
14 the property towards Torrey Pines and are no longer
15 visible on any of the video footage.

16 SUV, you'll see that Jake exits the
17 passenger side of the SUV, passed by the front of it and
18 is now making his way in the same direction as the
19 victim and his friend, while Mr. Solid adjusts the SUV
20 to turn around so that they can put gas in on the proper
21 side:

22 Q. That would also be facing in the direction
23 where the victim and his friend left?

24 A. Correct.

25 Q. And where did Jacob go?

1 A. Jacob ends up disappearing off camera that
2 same area, the west side of the property towards Torrey
3 Pines, in the same area the victim and his friend went,
4 and is no longer seen on the video anymore.

5 You'll see that the truck gets situated
6 here and set up at the pump. And it does appear that,
7 it does appear once he gets set up that the driver gets
8 out and does pump the gas. I actually trimmed that up
9 though to just get it to where he was leaving. So now
10 it's 15:52.

11 Q. So what kind of time frame are we talking
12 about since Jacob Dismont, the victim and Cory exited
13 the video?

14 A. About two minutes the truck sits at the,
15 once it's adjusted to get the view of where Jake and the
16 victim went and the gas cap on the right side, it sits
17 for about two minutes before it starts to make its way
18 east through the parking lot.

19 Again same thing on this clip here. Most
20 notably for me, after seeing the vehicle on the 19th, no
21 flames stickers on the quarter panels.

22 He's making his way eastbound through the
23 parking lot and he's going to get himself set up at
24 another pump which gives him access to exit westbound
25 Charleston. No gas purchase had at this pump, no

1 transactions on this one.

2 Q. In fact could you see the brake lights on?

3 A. Correct. He's going to back himself in,
4 poor quality here, but he's going to get himself set up
5 and sit there.

6 Q. In what direction is that vehicle facing
7 now?

8 A. It's facing south and it's right in front
9 of the exit, the vehicle exit to the gas station which
10 would allow westbound Charleston. Vehicle is going to
11 sit for approximately three minutes before it ultimately
12 leaves the parking lot. You can see that the driver has
13 got out of the vehicle here and then makes his way to
14 this middle area.

15 Q. What's located at that middle area?

16 A. I don't know. I think it's more pumps but
17 I don't know if it was him getting a better view to the
18 west where he could see what was going on or throwing
19 something away from inside the vehicle.

20 Q. And without saying what the suspect was
21 thinking. If you were in that position would you have
22 had a better observation of what was happening farther
23 west on Charleston if you were standing in that
24 location?

25 A. Absolutely.

1 Now it's 15:56 and 14 seconds, the vehicle
2 is going to pull out onto westbound Charleston and then
3 that's the last shot of it there. Oh, it didn't stop.
4 The last shot of it, the vehicle going westbound
5 Charleston.

6 Q. Now that last shot, what was that
7 intersection that was on that video?

8 A. That was Charleston and Torrey Pines,
9 westbound Charleston and Torrey Pines. The SUV was
10 heading west toward Scholl which was just a couple
11 hundred yards up the road there.

12 Q. Now while it's not depicted on your edited
13 version, on that original version that the Grand Jury
14 has, do you see a disturbance at that intersection
15 shortly after that white SUV heads west toward Scholl?

16 A. Yes.

17 Q. What do you see?

18 A. Just under maybe 30 to 45 seconds after
19 that clip ended you see all the westbound traffic on
20 Charleston begin to slow, everyone hits their brakes and
21 traffic backs up into the intersection of Torrey Pines.
22 It gives the appearance that something has happened in
23 the roadway of the road on westbound Charleston.

24 Q. So I believe you indicated after Marcos and
25 Cory walk off camera, Jacob Dismont walks off camera in

1 the same direction. About how much time is there before
2 you see that white SUV head down towards Scholl?

3 A. Total time?

4 Q. Yes.

5 A. They end up walking off camera about 15:48
6 and 30 seconds and the truck leaves at 15:56, so we're
7 talking seven minutes. I'm no math whiz either so. Six
8 and a half minutes, seven minutes.

9 Q. Now Detective, after this was, I guess
10 after -- Jacob Dismont taken into custody on May 18th as
11 well; is that correct?

12 A. Correct.

13 Q. So both Jacob Dismont and Michael Solid
14 were taken into custody?

15 A. Correct.

16 Q. Some time after that did you receive
17 information about the possible whereabouts of Marcos
18 Arenas's iPad?

19 A. Yes.

20 Q. Did you receive information about an
21 individual with a particular name who might have
22 information regarded to that iPad?

23 A. Yes.

24 Q. Who was that?

25 A. I was advised an individual by the name of

1 Matt Nichols may know the location of the iPad.

2 Q. And did you have occasion to meet with him?

3 A. Yes.

4 Q. And do you recall what date that was?

5 A. That was on May 22nd.

6 Q. And could you explain to the ladies and
7 gentlemen of the jury where it was and kind of the
8 circumstances of how it was you met with Mr. Nichols?

9 A. My interaction with Mr. Nichols occurred in
10 my partner's LVMPD vehicle. Mr. Nichols was seated in
11 the front passenger seat, my partner Detective Ivie,
12 that's I-V-I-E, was in the driver's seat and I was kind
13 of in the middle, I was kind of in the middle of the
14 back seat kind of looking in while we were trying to
15 talk to Mr. Nichols.

16 Q. And did he provide you information or did
17 you receive information regarding an individual who
18 might have that iPad?

19 A. I did.

20 Q. And how was it that you came about getting
21 that information?

22 A. After lengthy discussion with Mr. Nichols
23 as to the whereabouts, he agreed to place a phone call
24 or attempt to place a phone call to the individual who
25 was holding the iPad so we could set up some sort of

1 meeting so I could get the iPad myself. He asked for
2 his telephone, his cellular phone, which I recovered for
3 him from the apartment, his apartment, he told me where
4 it was in the nightstand, I recovered it, brought it
5 back down to the car. His girlfriend, at this time he
6 wanted to talk to, got in the back seat behind him, I
7 still kind of stayed in the middle, and his girlfriend
8 handled the phone for him while he told her who to call
9 to try to set this up for us.

10 Q. Did you have occasion to actually see phone
11 number information on that phone for yourself?

12 A. Yes.

13 Q. And once you obtained that information what
14 did you do?

15 A. I went to the location where the telephone
16 number returned to that he was trying to get ahold of.

17 Q. And did you come into contact with an
18 individual at that location?

19 A. I did. I came into contact with a David
20 Doyle which was the name listed on the cellular phone
21 contract that Mr. Nichols was trying to call.

22 Q. Did you identify yourself?

23 A. Yes.

24 Q. Did you indicate to him what you were there
25 for?

1 A. Yes.

2 Q. And did you receive something from
3 Mr. Doyle?

4 A. Yes, Mr. Doyle provided me with Marcos
5 Arenas's iPad.

6 Q. And how do you know it was Marcos Arenas's
7 iPad?

8 A. When I turned it, when I powered it on and
9 swiped the unlock code, the screen saver comes on which
10 had a picture of Marcos Arenas and several of his
11 friends. It had like six pictures I think all together.
12 He was on, he was depicted in the pictures as well as
13 some of his friends.

14 Q. Detective, I'm showing you what's been
15 marked as -- we can probably turn that on.

16 I'm showing you what has been marked as
17 State's Grand Jury Exhibit 8. Do you recognize that
18 person?

19 A. Yes, this is Matt Nichols.

20 Q. And you, obviously we've seen an edited
21 version of the videotape. You had the opportunity to
22 see the entire videotape. At any point did you see him
23 in the videotape or any involvement with the white SUV?

24 A. No.

25 Q. Showing you State's Exhibit 9, do you

1 recognize that person?

2 A. Yes, that's David Doyle.

3 Q. And this is the individual you ultimately
4 obtained the iPad from?

5 A. Yes.

6 Q. Did you have an opportunity to observe him
7 in that video at any point?

8 A. No.

9 Q. Detective, a number of stills were made
10 from that videotape; is that correct?

11 A. Yes.

12 Q. I'll just have you identify these,
13 Detective.

14 Grand Jury Exhibit 19. Are there two
15 photographs or stills taken from that videotape depicted
16 on State's Grand Jury 19?

17 A. Yes.

18 Q. Who is depicted in those exhibits?

19 A. The victim Marcos Arenas and his friend
20 Gacory Exum.

21 Q. State's Grand Jury Exhibit 16, are there
22 four stills from the videotape on that?

23 A. Yes.

24 Q. And if you could just kind of briefly
25 explain what those stills depict.

1 A. Two of them are stills of Mike Solid
2 entering the Chevron Station at 6380 West Charleston and
3 two are of Jake Dismont. One is Dismont walking
4 westbound where he appears to have the interaction with
5 Mr. Solid and the second of Mr. Dismont is him walking,
6 it would be kind of northwest off the property in the
7 same direction that the victim had last walked.

8 Q. State's Grand Jury Exhibit 17, are there
9 also four stills on that exhibit?

10 A. Yes.

11 Q. And what's depicted in that?

12 A. It's another still of Jake Dismont
13 continuing his walk northwest off the property, as well
14 as Mr. Solid walking back to the SUV which is at the
15 pumps. And then another one of Mr. Dismont and
16 Mr. Solid both almost arrive at the SUV at the gas
17 pumps.

18 Q. And that actually depicts in that bottom
19 right hand corner both of them as they approach the SUV;
20 is that correct?

21 A. Correct.

22 Q. Both Dismont and Solid?

23 A. Correct.

24 Q. And is State's Grand Jury 18 I guess a
25 larger image of that same one that you just described?

1 A. Yes.

2 Q. State's Grand Jury Exhibit 20, what's that?

3 A. This is a still photograph of the SUV
4 traveling westbound through the parking lot as it makes
5 its initial arrival trying to get itself over to that
6 gas pump where we observed it earlier.

7 Q. Can you tell whether the license plate is
8 on it in that exhibit?

9 A. Yeah. It's a little blurry but there
10 doesn't appear to be a license plate on it.

11 Q. And State's Grand Jury Exhibit 21?

12 A. This is the still photograph of the SUV
13 making its way eastbound through the parking lot.

14 Q. State's Grand Jury Exhibit 22?

15 A. This is a still photograph of Michael Solid
16 from inside the convenience store walking out preparing
17 to exit the store.

18 Q. State's Grand Jury Exhibit 23, what is
19 that?

20 A. That is a still photograph of Jacob Dismont
21 walking through the parking lot.

22 Q. And where did you actually obtain that
23 still photo?

24 A. This is a still photograph I obtained
25 myself off of the video. I wasn't able to, I wasn't

1 able to utilize the system provided by Chevron and make
2 still images or capture images myself due to their
3 proprietary system so this is one I just took a picture
4 of the screen.

5 Q. So the quality isn't as good compared to
6 either the edited version or the original copy?

7 A. Correct.

8 Q. And finally is Grand Jury Exhibit 24 a
9 closeup of that individual?

10 A. Yes.

11 Q. Okay. And in that closeup what is he
12 wearing?

13 A. He's wearing a gray tank top, baseball hat.

14 Q. And does that match the description
15 provided by a number of witnesses that were interviewed
16 by Metro?

17 A. Yes.

18 Q. I want to talk about a couple other
19 witnesses that have not testified today and their
20 descriptions. Starting with a Mina Buttell. Do you
21 recall that name?

22 A. Yes.

23 Q. Now in the initial investigation you
24 indicated that a Patrick Deluise, I believe the correct
25 spelling would be D-E-L-U-I-S-E; is that correct?

1 A. Yes.

2 Q. Was a photographic line-up provided to
3 Miss Buttell?

4 A. Yes.

5 Q. And was she able to identify anyone from
6 that photo line-up?

7 A. Yes, she identified Patrick Deluise.

8 Q. And how sure was she in that
9 identification?

10 A. I believe she thought it was 60 percent.

11 Q. I'm showing you Grand Jury Exhibit Number
12 4. Is this the photo line-up that was provided to
13 Miss Buttell?

14 A. Yes.

15 Q. Now this is a photo line-up prepared with
16 Patrick's photo in it; is that correct?

17 A. Correct.

18 Q. So this did not include a photo of Jacob
19 Dismont?

20 A. Correct.

21 Q. Are there physical similarities between the
22 two, Jacob and Patrick?

23 A. Yes.

24 Q. And how sure was she of her identification?

25 A. Sixty to 65 percent.

1 Q. Now there was also an individual by the
2 name of Ronald Lakeman. Do you recall him giving a
3 statement?

4 A. Yes.

5 Q. And do you recall he was also going
6 westbound on Charleston when this incident occurred; is
7 that correct?

8 A. Yes.

9 Q. Do you recall him giving a description of
10 the white male as having a blue shirt that was open?

11 A. Yes.

12 Q. And in fact what he said was, "Looked like
13 he had a blue shirt on that was just open, like his
14 chest was showing. I mean I just, you know for some
15 reason I just kind of depict the picture that I got. It
16 was only, I mean it was a split second when he came
17 around."

18 A. Yes.

19 Q. Do you recall that?

20 A. Yes.

21 Q. Was he able to give any further description
22 beyond that?

23 A. No.

24 Q. And finally do you recall a statement
25 provided by a Christine Bullard?

1 A. Yes.

2 Q. And that was last name spelling
3 B-U-L-L-A-R-D. Do you recall her also traveling
4 westbound on Charleston?

5 A. Yes.

6 Q. And do you recall her giving a description
7 she believed the SUV to be blue?

8 A. Yes.

9 MR. TURNER: Grand Jury's brief indulgence.
10 I have no further questions for this
11 witness. Does the Grand Jury have any questions?

12 THE FOREPERSON: By law, these proceedings
13 are secret and you are prohibited from disclosing to
14 anyone anything that has transpired before us, including
15 evidence and statements presented to the Grand Jury, any
16 event occurring or statement made in the presence of the
17 Grand Jury, and information obtained by the Grand Jury.

18 Failure to comply with this admonition is a
19 gross misdemeanor punishable by a year in the Clark
20 County Detention Center and a \$2,000 fine. In addition,
21 you may be held in contempt of court punishable by an
22 additional \$500 fine and 25 days in the Clark County
23 Detention Center.

24 Do you understand this admonition?

25 THE WITNESS: Yes.

1 THE FOREPERSON: Thank you. You are
2 excused.

3 THE WITNESS: Thank you.

4 MR. TURNER: Ladies and gentlemen of the
5 Grand Jury, I have one more witness before I'd ask to
6 take a break. We may have additional witnesses in the
7 afternoon. Does anybody need to take a break? This one
8 should be relatively brief. The State is calling
9 Detective Joel Kisner.

10 THE FOREPERSON: Please raise your right
11 hand.

12 You do solemnly swear the testimony you are
13 about to give upon the investigation now pending before
14 this Grand Jury shall be the truth, the whole truth, and
15 nothing but the truth, so help you God?

16 THE WITNESS: I do.

17 THE FOREPERSON: Please be seated.

18 You are advised that you are here today to
19 give testimony in the investigation pertaining to the
20 offenses of conspiracy to commit robbery, robbery,
21 murder with use of a deadly weapon, involving Michael
22 Solid and Jacob Dismont.

23 Do you understand this advisement?

24 THE WITNESS: I do.

25 THE FOREPERSON: Please state your first

1 and last name and spell both for the record.

2 THE WITNESS: Joel Kisner. J-O-E-L,
3 K-I-S-N-E-R.

4 MR. TURNER: May I proceed?

5 THE FOREPERSON: Yes, you may.

6 JOEL KISNER,
7 having been first duly sworn by the Foreperson of the
8 Grand Jury to testify to the truth, the whole truth,
9 and nothing but the truth, testified as follows:

10

11 EXAMINATION

12

13 BY MR. TURNER:

14 Q. Detective Kisner, where are you employed?

15 A. I'm a detective with the Las Vegas
16 Metropolitan Police Department.

17 Q. In what capacity?

18 A. Homicide currently is where I'm assigned
19 to.

20 Q. How long have you been with homicide?

21 A. Over five years.

22 Q. Detective, I'm going to draw your attention
23 back to May 18th of this year. Were you assigned to
24 assist Detective Sanborn in the investigation of a
25 homicide of a teenager by the name of Marcos --

1 A. Arenas.

2 Q. -- Arenas?

3 A. I was.

4 Q. In particular were you asked to respond to
5 the residence of Jacob Dismont?

6 A. Yes, I was.

7 Q. And what was the address for that
8 residence?

9 A. 5599 Aleman, A-L-E-M-A-N.

10 Q. And when you arrived at that location was
11 there a vehicle there?

12 A. There was.

13 Q. What kind of vehicle was it?

14 A. It was a white Ford Explorer that was
15 backed up into the driveway facing eastbound.

16 Q. Do you have a search warrant to search that
17 particular vehicle?

18 A. I did.

19 Q. And at that time did you make entry into
20 the vehicle?

21 A. The driver's door was already open and
22 after it was photographed, yes, I did.

23 Q. And when you went into that vehicle did you
24 recover anything of evidentiary significance at that
25 time?

1 A. Yeah, there was a iPhone that was on the
2 driver's seat.

3 Q. And did you recover that?

4 A. I did.

5 Q. Did you obtain or have a search warrant to
6 search the contents of that iPhone?

7 A. The search warrant I had at that time
8 allowed me to manually check the phone. What we do is
9 we go in and secure the phone so it doesn't have
10 internet access so somebody can't remotely sign in and
11 delete things or change things and then eventually power
12 it down. And then I obtained a second search warrant to
13 have it examined the next day.

14 Q. And did you in fact have it examined?

15 A. I did.

16 Q. Can you explain to the ladies and gentlemen
17 of the jury how you go about having that cell phone
18 forensically examined?

19 A. There's a unit on our department that has
20 some training with computer forensics and smart phones
21 like the iPhone are considered to be small computers,
22 they have devices that they hookup to the phone that
23 makes a copy of what the phone has as far as the data on
24 it and then they have programs that they push all that
25 data into and the program spits everything back out and

1 I get everything from that phone in a file that I sort
2 through and I determine what things are relevant and
3 piece through everything on the phone that way.

4 Q. Now how do you ensure that that cell phone
5 is the cell phone that is ultimately, the data is given
6 back to you? Do you -- what is an event number?

7 A. An event number?

8 Q. Yes.

9 A. That's our department record of the
10 particular case that we're investigating. It can be
11 anything from a person stop to a traffic stop to a
12 murder investigation. That's how we keep track of all
13 the records related to that particular case.

14 Q. Are event numbers unique to a particular
15 case?

16 A. They are unique, yes, to a particular case.

17 Q. So if a particular item of evidence is
18 recovered under a particular event number, that event
19 number will always be assigned to that piece of
20 evidence?

21 A. Yes.

22 Q. That way you can always keep track of it;
23 is that correct?

24 A. The event number is associated with it and
25 then our records through evidence vault also assigns

1 something called an ace number which is specific to that
2 unique piece of evidence under that event and that's
3 another way we can track that actual item inside that
4 event.

5 Q. And all that information was established
6 for this particular item of evidence before it was sent
7 to be analyzed; correct?

8 A. I actually impounded it, sealed the iPhone
9 into an envelope and sealed it and hand delivered it to
10 the forensic investigator who then impounded it after he
11 made a copy of it with the forensic software.

12 Q. And basically all they do is they make a
13 copy of the information, you get it, and you're the one
14 who actually looks at the data and does your
15 interpretation of the data; is that correct?

16 A. Right. The purpose of the copying is to
17 eliminate any chance of any of the data being changed or
18 altered. So they make a copy of it and then spit it
19 back out to me in a file so I can look at the whole
20 thing and not have to worry about deleting or ruining
21 things or changing things that are important regarding
22 dates or times or other files that might be on the
23 computer.

24 Q. So that was done in this particular case,
25 they made a copy of this iPhone; correct?

1 A. Yes.

2 Q. And did you put together a report regarding
3 your findings and detailing the information that was on
4 that iPhone?

5 A. Yes.

6 Q. And I'm showing you what's been marked as
7 State's Grand Jury Exhibit 25.

8 A. Yep.

9 Q. What is that?

10 A. It is, when they make a copy of the file
11 system, part of what Apple's allow user to do is to
12 register it in their name if they choose to and the
13 actual registration on the iPhone I collected from that
14 Ford Explorer is registered to Jake Dismont and it has
15 all the rest of the particular information like the Mac
16 and the serial numbers and the stuff that are specific
17 to that phone.

18 Q. And in fact the report that you, or at
19 least the information you got back matched up with the
20 phone you impounded; correct?

21 A. Yes, including the phone number that's
22 listed there was the one that was registered to the
23 phone.

24 Q. And what was that phone number registered
25 to the phone?

1 A. (702)875-5700.

2 Q. And as part of the program that's run, does
3 that program document text messages that are issued or
4 received by that phone?

5 A. Apple stores everything in data base files
6 and even to some degree deleted file, deleted messages
7 are stored in the data base file as well. The software
8 lets us look at text messages that are actually on the
9 phone as well as messages that might have been deleted.

10 Q. Now Detective, in the course of review of
11 text messages that were recovered on that phone, did you
12 recover any text message conversations that were
13 relevant to this case?

14 A. I did.

15 Q. And in particular with a conversation with
16 a specific person?

17 A. Right.

18 Q. Who was that person?

19 A. Brian Goodwin.

20 Q. Were you able to identify Brian Goodwin and
21 his relationship with Jake Dismont?

22 A. I was. I was told he was the half brother
23 of Jake Dismont and that he had recently got released
24 from prison up north. I identified him through some
25 police records.

1 Q. And you indicated that you were able to
2 recover text message conversations between the two; is
3 that correct?

4 A. Yes.

5 Q. Did you document those conversations?

6 A. Yes.

7 Q. I'm showing you what has been marked as
8 State's Grand Jury Exhibit 26. I'm going to ask you if
9 you recognize what that is?

10 A. This is a segment of the report that was
11 generated and the forensic software is called Lantern,
12 it's specific to Apples, and this is the segment of the
13 conversation between Brian Goodwin and Jake Dismont.

14 Q. And ladies and gentlemen, for purposes of
15 the remainder of the testimony, the State is not
16 offering any statements by Mr. Goodwin. That would be
17 hearsay statements. It's only offered to give context
18 to statements that were made by Jacob Dismont. Does
19 everyone understand that?

20 Okay. Now Detective, I'm going to go ahead
21 and publish this. Hopefully the Grand Jury can see it.

22 No, maybe not. We still can't get that.

23 Well, let's see. Looking at this exhibit,
24 there are a number of arrows kind of pointing up and
25 down; is that correct?

1 A. Yes.

2 Q. What are the significance of those arrows?

3 A. The red arrow that points to the left hand
4 side of the paper, it's kind of in a downward angle, is
5 coming from Brian Goodwin. The green arrow pointing up
6 towards the right hand corner of the paper are messages
7 being sent out from the phone from Jacob Dismont.

8 Q. If you could, would you read into the
9 record the conversation, indicating who is sending and
10 who is receiving?

11 A. You want me to start from --

12 Q. Start from in kind of chronological order
13 from the beginning.

14 A. Okay. Do you care about the times
15 associated with it?

16 Q. Yeah.

17 A. Everything's on May 18, 2013.

18 Q. This would have been two days after the
19 homicide took place; correct?

20 A. Yes.

21 There's a message received to the phone
22 from Brian Goodwin at 0033 hours and 12 seconds. And it
23 says: "As much of your money as it takes to get it
24 painted. Then keep it parked with Anthony's plates
25 until you have your plates sent in the mail. You'll

1 be --

2 And then there's part of it that's not
3 there anymore.

4 The next message --

5 Q. Why would that be?

6 A. Sometimes they're cut off or maybe the
7 sender didn't send the rest of the message. It could
8 have been sent and that's all that was actually sent.

9 The next one is a second later and it says:
10 "What time do you plan on doing this? You shouldn't
11 drive it if you do take it to get painted. You're going
12 to need to tell your dad. You're gonna --

13 Here's what happened now that I'm looking
14 at this. Some phones, Apple's really good about putting
15 all of the text message into one continuous string of
16 words. If the user, probably Brian Goodwin, I don't
17 know what kind of phone he has but I'm going to think
18 from looking at this that he has the type of phone that
19 breaks the text message because it's long into segments
20 and so it was sent out of order when it looks, shows up
21 in my report. But in truth the way it would have read
22 is, the first part I read you would have been the end
23 and I have just now read you the first part of the
24 message.

25 Q. And who sent that?

1 A. This is Brian Goodwin at 0037 hours and 12
2 or 13 seconds on the 18th of May.

3 Q. What's that in kind of laymen's terms?

4 A. The time?

5 Q. Uh-huh.

6 A. That's about 33 minutes after midnight on
7 the 18th.

8 Q. Okay.

9 A. And then the third part of that message
10 shows a very long message that Brian sent to Jake is the
11 end of it where he says -- and I'm going to continue
12 from down here so it makes more sense: "You'll be fine
13 then. That truck is hot as hell the way it is though."

14 And then at 0035 and 26 seconds, this is a
15 message out from the phone saying: "I know. I got
16 money now."

17 Q. And that would have been from the phone,
18 Jacob Dismont's phone?

19 A. From the iPhone to Brian Goodwin.

20 And then received to the iPhone from Brian
21 Goodwin is another segmented message so I'm going to
22 read it kind of different here. It's 0037 and 10
23 seconds.

24 "How much do you have at your disposal for
25 this? You have to get the new tires and hopefully rims

1 plus a paint job which alone will run at least two."

2 Looks like 2,500 is what he was trying to
3 say.

4 "For a full sand down, primer and repaint
5 professionally."

6 Then at 0038 and 2 seconds the iPhone sends
7 a message to Brian Goodwin and it says "I kill."

8 Q. Does that look like that was a missend?

9 A. Well, it does look like it's a mistake
10 because Brian Goodwin responds back very quickly, within
11 a couple of minutes "huh" and then at 0042 the iPhone of
12 Jacob would have sent back out saying "know" K-N-O-W,
13 with an asterisk. So that's usually indicative of
14 probably spell check auto correcting it and he just
15 corrected so he meant looks to be "I know."

16 And then at 0043 the phone receives from
17 Brian, "All right. Well, do you have or can you get the
18 money to take care of the paint job?"

19 Next message from Brian is "Maybe come up
20 here to do it."

21 And then Jacob responds back at 0044 and
22 says: "How do I FO that?" Which is probably another
23 typo. Probably means "how do I do that" would be my
24 assumption.

25 And then a message at 0046 from Brian

1 Goodwin: "Well first off how much money do you have to
2 take care of all this? If I need to I'll fly down there
3 and help you take care of this."

4 I want to make a point if anyone in the
5 Grand Jury is going to be reading through this, the way
6 the report breaks everything down is where there's an
7 apostrophe the forensic software shows it as an at
8 symbol and then the word A-P-O-S. So that's how,
9 instead of showing me the apostrophe, it's probably
10 something with the software the way it interprets the
11 text stream. So when they're looking at it, it looks
12 kind of weird so that's why I'm kind of pausing with
13 some of the breaks there.

14 0052 Brian Goodwin sends: "And I also
15 assume from what you've told me that Anthony knows."

16 0052 Jake sends to Brian: "Tomorrow I'm
17 going to find a red eye flight."

18 Q. Now you say Jake. But just to clarify for
19 the Grand Jury, you're talking about a phone identified
20 as belonging to Jake Dismont to a phone that has been
21 identified on the iPhone as belonging to Goodwin;
22 correct?

23 A. Correct.

24 Q. Okay.

25 A. Then received to the phone from Brian

1 Goodwin at 0053: "What's a red eye flight? And you're
2 coming here, right?"

3 0053 Jake sends to Brian: "And he saw my
4 whip on the news."

5 Q. And based on your training and experience
6 as a detective with homicide, do you know what the term
7 whip means?

8 A. Car. Vehicle.

9 0054, message from Brian to Jake's phone:
10 "Dude, everyone who know that you drive that whip knows
11 you probably did it. That's why time is of the essence.
12 What do you mean by red eye flight?"

13 Then from Jake to Brian at 0055 and 39
14 seconds: "And cheap and at early times."

15 0056 from Jake to Brian: "Like now."

16 Then 0056 and 52 seconds from Brian to
17 Jacob: "Wait. What? So it's a flight to somewhere
18 else, right? You're gonna come stay with Shay and me,
19 right."

20 Then at 0057 from Jacob to Brian: "For
21 you."

22 And then from Brian to Jake at 0058: "For
23 me what?"

24 The next message at 0110 which is 10
25 minutes after 1:00 a.m. on the 18th: "Answer me

1 brother. What is a red eye flight?"

2 And then at 0122 hours from Brian to Jake:

3 "All right man, I'm here with you every step of the way.

4 Let me know before you do anything. I love you. Text
5 me ASAP."

6 Then the next message from Brian to Jake is
7 at 1130 hours on the 18th, 11:30 in the morning.

8 "What's up man? What are you up to?"

9 And then 11:34 from Jake to Brian: "Going
10 to work" is the answer for that one.

11 And then 11:34 hours from Brian to Jake:

12 "Taking dad's car?" Is what Brian asks.

13 And then 11:34:59 from Jake to Brian:

14 "Jody's."

15 Then 11:35 from Brian to Jake: "Okay. So
16 I assume that they know or still know?"

17 And then 1338 which is 1:38 in the
18 afternoon on the 18th.

19 Q. Let me see that real quick. I think what
20 we're going to do is -- on this last page, I guess it's
21 going in reverse; correct?

22 A. It is.

23 Q. So just to kind of read through who's
24 saying what, we're talking a time period if I'm correct
25 at the bottom of the page which is chronologically I

1 guess in order up to the top which would be the last
2 one; correct?

3 A. Correct.

4 Q. So that would be a conversation that takes
5 place roughly between 1:38 p.m. --

6 A. And 1600.

7 Q. -- and about 4 o'clock p.m.; is that
8 correct?

9 A. Correct.

10 Q. If you just want to read that just into the
11 record just who says what.

12 A. From Jake to Brian: "Not yet."

13 From Brian to Jake: "All right. Well
14 everything so far is going good. Just keep following
15 through with the plans."

16 From Brian to Jake: "You still working?"

17 From Jake to Brian: "Getting tires
18 changed."

19 From Brian to Jake: "Right now? Sweet.
20 When are the new plates going to get sent? Did you wipe
21 down the right side of the truck?"

22 From Brian to Jake: "What are you going to
23 do with the old tires?"

24 From Jake to Brian: "Burn them."

25 From Brian to Jake: "All right. Good."

1 What about your plate? When are they going to come?"

2 And then from Jake to Brian: "IDEK."

3 Assuming he's trying to say I don't know which is
4 usually IDK.

5 And then from Brian to Jake: "All right.
6 Well just keep it parked with Anthony's tags on for now
7 and wipe down that side."

8 From Brian to Jake: "Odds are that you can
9 never drive that Explorer again unless you get it
10 painted. It's too hot even with tires and whatnot."

11 From Jake to Brian: "Stop texting."

12 From Brian to Jake: "Kind of late for that
13 now but all right.. Erase everything in your phone about
14 it."

15 From Jake to Brian: "Okay."

16 From Jake to Brian: "I'm a text you with a
17 pinger app."

18 And from Brian to Jake: "What's that?"

19 Q. Okay. Do you know what a pinger app is?

20 A. I do.

21 Q. What is a pinger app?

22 A. It's a application on the iPhone, also on
23 non-Apple phones, the Droid I guess is another form of
24 it, and it's a free application that allows phone
25 activity on a phone that doesn't have necessarily phone

1 access. So you get a new number each time you sign up
2 with it. You don't have to have any verified way of
3 setting up the information. And it's used a lot because
4 people think it hides their identities from
5 investigations. I see it a lot in different
6 investigations.

7 Q. You say people think it does. Does it?

8 A. No. It's still tied to the Apple iPhone
9 specific in this case because it's still locked to the
10 serial number of that phone and the account set up with
11 the phone because it goes through their services.

12 MR. TURNER: At this time I have no further
13 questions for Detective Kisner. Do the ladies and
14 gentlemen of the Grand Jury have any questions?

15 THE FOREPERSON: By law, these proceedings
16 are secret and you are prohibited from disclosing to
17 anyone anything that has transpired before us, including
18 evidence and statements presented to the Grand Jury, any
19 event occurring or statement made in the presence of the
20 Grand Jury, and information obtained by the Grand Jury.

21 Failure to comply with this admonition is a
22 gross misdemeanor punishable by a year in the Clark
23 County Detention Center and a \$2,000 fine. In addition,
24 you may be held in contempt of court punishable by an
25 additional \$500 fine and 25 days in the Clark County

1 Detention Center.

2 Do you understand this admonition?

3 THE WITNESS: I do.

4 THE FOREPERSON: Thank you. You are
5 excused.

6 THE WITNESS: Thank you.

7 MR. TURNER: Ladies and gentlemen, that
8 concludes my presentation for this morning on into this
9 afternoon. I'd ask the ladies and gentlemen of the
10 Grand Jury not to deliberate yet. We may have
11 additional witnesses this afternoon following another
12 presentment. Thank you.

13 (Proceedings recessed at 12:35 p.m. and
14 resume at 3:24 p.m. Juror Brian Ramsey now present.)

15 MR. TURNER: State is recalling briefly
16 Detective Abell.

17 THE FOREPERSON: Please raise your right
18 hand.

19 You do solemnly swear the testimony you are
20 about to give upon the investigation now pending before
21 this Grand Jury shall be the truth, the whole truth, and
22 nothing but the truth, so help you God?

23 THE WITNESS: I do.

24 THE FOREPERSON: You are advised that you
25 are here today to give testimony in the investigation

1 pertaining to the offenses of conspiracy to commit
2 robbery, robbery, and the third count, murder with use
3 of a deadly weapon, involving Michael Solid and Jacob
4 Dismont.

5 Do you understand this advisement?

6 THE WITNESS: Yes.

7 THE FOREPERSON: And again please state
8 your first and last name and spell both for the record.

9 THE WITNESS: It's Jeffery Abell.
10 J-E-F-F-E-R-Y, A-B-E-L-L.

11 MR. TURNER: May I proceed, Mr. Foreperson?

12 THE FOREPERSON: Yes, you may.

13 JEFFERY ABELL,
14 having been first duly sworn by the Foreperson of the
15 Grand Jury to testify to the truth, the whole truth,
16 and nothing but the truth, testified as follows:

17
18 EXAMINATION

19
20 BY MR. TURNER:

21 Q. Detective Abell, this is the second time
22 before this Grand Jury testifying today; correct?

23 A. That's correct.

24 Q. Detective, I recalled you because I wanted
25 to clarify a point regarding your testimony.

1 You previously testified that back on May
2 17th of this year you responded to or were in the area
3 of a residence at 5599 Aleman; is that correct?

4 A. That's correct.

5 Q. And at that location you observed a white
6 SUV; is that correct?

7 A. Yes.

8 Q. What kind of vehicle was it?

9 A. It was a Ford Explorer.

10 Q. And as part of your investigation, that
11 stood out to you as it matched roughly the description
12 of a SUV that was involved in a homicide the day before;
13 is that correct?

14 A. That's correct.

15 Q. Did you go and attempt to locate the VIN
16 number for that vehicle?

17 A. I did.

18 Q. Why did you have to look at the VIN number
19 as opposed to a license plate?

20 A. There was no plates on the vehicle.

21 Q. And Detective, I think you testified or
22 read into the record a VIN number; is that correct?

23 A. Yes, I did.

24 Q. Now as you sit here today do you have any
25 recollection of what that VIN number is?

1 A. No.

2 Q. At the time that you took that VIN number
3 down, did you write it down as you were observing it?

4 A. Yeah, I had a scratch, I had a map and I
5 wrote it on the back of the map.

6 Q. Did you bring that scratch piece of paper
7 here with you today?

8 A. Yes, I did.

9 Q. When you read that I believe you indicated
10 that -- you read that into the record; is that correct?

11 A. Yes, I did.

12 Q. Did you read the entire VIN number into the
13 record?

14 A. No, I did not.

15 Q. Why is it that you didn't read the entire
16 VIN number into the record?

17 A. When I was writing it down at the scene
18 that day I was running out of space so I continued it,
19 the five last digits below it, so when I read it earlier
20 I just read the first line, didn't read the second line.

21 Q. So it was inaccurate to the extent that you
22 didn't read the entire VIN number into the record; is
23 that correct?

24 A. That's correct.

25 Q. And as you've just testified, you do not

1 have an independent recollection of that VIN number
2 absent you reviewing what you wrote down at the time; is
3 that correct?

4 A. No, it's a 17 digit number so it's a long
5 number.

6 Q. Detective, I'm going to ask you again to
7 read that complete VIN number into the record for this
8 Grand Jury.

9 A. Okay. It's going to be 1F Mary, Z zebra, U
10 union, 62, E easy, 32, Z Zulu, C Charley, 25644.

11 Q. Okay. Now you used kind of that military
12 code so I'm going to kind of confirm this with you.

13 It was 1FMZU62E32ZC25644?

14 A. Correct.

15 Q. Okay. And you confirmed that that was
16 registered on a temporary registration to who?

17 A. Yes. I called records and it was confirmed
18 that it was registered to a Jacob and a Richard Dismont
19 for a 2002 Ford.

20 MR. TURNER: I have no further questions
21 for this witness. Any questions from the Grand Jury?

22 THE FOREPERSON: Okay. By law, these
23 proceedings are secret and you are prohibited from
24 disclosing to anyone anything that has transpired before
25 us, including evidence and statements presented to the

1 Grand Jury, any event occurring or statement made in the
2 presence of the Grand Jury, and information obtained by
3 the Grand Jury.

4 Failure to comply with this admonition is a
5 gross misdemeanor punishable by a year in the Clark
6 County Detention Center and a \$2,000 fine. In addition,
7 you may be held in contempt of court punishable by an
8 additional \$500 fine and 25 days in the Clark County
9 Detention Center.

10 Do you understand this admonition?

11 THE WITNESS: Yes, I do.

12 THE FOREPERSON: Thank you. You are
13 excused.

14 THE WITNESS: Thank you.

15 MR. TURNER: Ladies and gentlemen, that
16 concludes my presentation of evidence. I'll now step
17 outside to allow you to deliberate.

18
19 (At this time, all persons, other than
20 members of the Grand Jury, exit the room at 3:29 p.m.
21 and return at 3:32 p.m.)

22
23 THE FOREPERSON: Mr. District Attorney, by
24 a vote of 12 or more grand jurors a true bill has been
25 returned against defendants Michael Solid and Jacob

1 Dismont charging the crimes of conspiracy to commit
2 robbery, robbery, and murder with use of a deadly
3 weapon, in Grand Jury Case Number 13AGJ004A-B. We
4 instruct you to prepare an Indictment in conformance
5 with the proposed Indictment previously submitted to us.

6 MR. TURNER: Was there a juror present who
7 was not present during the complete testimony?

8 A JUROR: Yes.

9 MR. TURNER: Did that juror participate in
10 the deliberations?

11 A JUROR: No, he did not.

12 THE FOREPERSON: No questions, nothing.

13 MR. TURNER: And Mr. Foreperson, if you
14 could, just for the record, could you indicate that that
15 was a negative for all grand jurors present that the
16 individual who was not present this morning did not
17 participate in the deliberations?

18 THE FOREPERSON: Right. Brian Ramsey did
19 not participant. He was present during our
20 deliberations.

21 MR. TURNER: But he did not participate in
22 your deliberations or vote?

23 THE FOREPERSON: Not at all. No
24 participation, no votes whatsoever.

25 A JUROR: No comments.

1 MR. TURNER: I will prepare the Indictment
2 per your instructions. Thank you.

3 (Proceedings concluded.)

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REPORTER'S CERTIFICATE

STATE OF NEVADA)
 : SS
COUNTY OF CLARK)

I, Danette L. Antonacci, C.C.R. 222, do hereby certify that I took down in Shorthand (Stenotype) all of the proceedings had in the before-entitled matter at the time and place indicated and thereafter said shorthand notes were transcribed at and under my direction and supervision and that the foregoing transcript constitutes a full, true, and accurate record of the proceedings had.

Dated at Las Vegas, Nevada,
June 19, 2013

/s/ Danette L. Antonacci

Danette L. Antonacci, C.C.R. 222

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the
preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER
13AGJ004AB:

X Does not contain the social security number of any
person,

-OR-

___ Contains the social security number of a person as
required by:

A. A specific state or federal law, to-
wit: NRS 656.250.

-OR-

B. For the administration of a public program
or for an application for a federal or
state grant.

/s/ Danette L. Antonacci

Signature

6-19-13

Date

Danette L. Antonacci
Print Name

Official Court Reporter
Title

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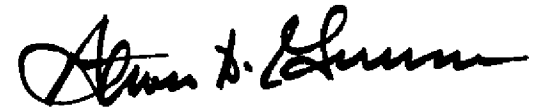
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TAB 3



CLERK OF THE COURT

MOT
PETER S. CHRISTIANSEN, ESQ.
Nevada Bar No. 5254
pete@christiansenlaw.com
KENDELEE LEASCHER WORKS, ESQ.
Nevada Bar No. 9611
klw@christiansenlaw.com
CHRISTIANSEN LAW OFFICES
810 S. Casino Center Blvd., Suite 104
Las Vegas, Nevada 89101
Telephone: (702) 240-7979
Facsimile: (866) 412-6992
Attorney for Defendant Jacob Dismont

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA;

Plaintiff,

vs.

JACOB DISMONT #2889638,

Defendant.

Case No.: C-13-290260-2
Dept. No.: XXI

**DEFENDANT JACOB DISMONT'S
MOTION TO DISMISS**

Date of Hearing:
Time of Hearing:

COMES NOW, Defendant, JACOB DISMONT, by and through his attorney of record, PETER CHRISTIANSEN, ESQ. and KENDELEE LEASCHER WORKS, ESQ., of CHRISTIANSEN LAW OFFICES, and respectfully moves this Court for an order dismissing Count 3 of the Indictment against him.

This Motion is based upon the pleadings and papers on file in this action, the Points and Authorities set forth herein, and argument to be made by counsel at the time of the hearing.

Dated this 17th day of May, 2015.

CHRISTIANSEN LAW OFFICES

/s/ Peter S. Christiansen
PETER S. CHRISTIANSEN, ESQ.
Nevada Bar No. 5254
KENDELEE LEASCHER WORKS, ESQ.
Nevada Bar No. 9611
Attorneys for Defendant Jacob Dismont

NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff; and

TO: DISTRICT ATTORNEY, its attorneys:

PLEASE TAKE NOTICE that the undersigned will bring *Defendant Jacob Dismont's*
Motion to Dismiss on for hearing in Department XXI of the above-entitled Court, on the ²⁸~~26~~
day of May, 2015, at the hour of 9:30 a.m., or as soon thereafter as counsel may be heard.

DATED this 17th day of May, 2015.

CHRISTIANSEN LAW OFFICES

By /s/ Peter S. Christiansen
PETER S. CHRISTIANSEN, ESQ.
KENDELEE LEASCHER WORKS, ESQ.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

On June 5, 2013, Defendant Jacob Dismont and his Co-Defendant, Michael Solid, were charged by way of an Indictment with the following crimes:

- Count 1. Conspiracy to Commit Robbery (acts in Counts 2-3);
- Count 2. Robbery; and
- Count 3. Murder with use of a Deadly Weapon.

See Indictment, filed June 5, 2013.

The alleged facts are as follows: Mr. Solid drove his vehicle near the intersection of Charleston and Scholl, Mr. Dismont exited the vehicle and approached Marcos Arenas, who was walking nearby. Mr. Dismont then approached Mr. Arenas, grabbed his iPad, and a struggle ensued. Mr. Dismont took the iPad from Mr. Arenas, and retreated to the vehicle. After Mr. Dismont had possession of the iPad and retreated to the vehicle, Mr. Arenas approached the vehicle as it was driving away. He attempted to run alongside the vehicle, latching onto it, until he eventually let go and was run over by the vehicle.

Despite the completion of the robbery, whereupon Mr. Dismont had possession of the iPad and retreated to his vehicle, the State has charged him with Murder with the Use of a Deadly Weapon for the death of Mr. Arenas. Count 3 of the indictment specifies that the State is proceeding under two theories: 1) that the alleged killing was done with “premeditation or deliberation;” and/or 2) the alleged killing was “committed during the perpetration of a robbery.” Premeditation and deliberation are not alleged anywhere in the indictment nor are any facts to support such a theory. There can be no dispute that the State is seeking a first degree murder conviction based upon the felony murder rule.

However, as outlined below, the charge must be dismissed as the alleged robbery was completed, Mr. Dismont had retreated to a place of temporary safety and Mr. Arenas’ own actions were a superseding, intervening cause of his death. In fact, the indictment itself alleges that Mr. Dismont “took the property of MARCOS ARENAS and retreated to the motor vehicle

1 being driven by Defendant Michael Solid. *See* Indictment on file herein, Count 3 at p. 3
2 (emphasis added). Accordingly, Defendant respectfully requests that this Court dismiss Count
3 3 of the indictment, or alternatively, instruct the Jury in this case that it must also consider the
4 lesser included offenses of 2nd Degree Murder and/or Manslaughter.

5 **II.**

6 **LEGAL ARGUMENT**

7 Pursuant to NRS 174.095, any defense or objection that is capable of determination without
8 the trial of the general issue, may be raised before trial by motion. NRS 174.135 requires that a
9 pre-trial motion that raises defenses or objections shall be determined before trial unless the
10 court orders that it be deferred for determination at the trial of the general issue. The Ninth
11 Circuit has recognized that the district court must dismiss an indictment prior to trial if it fails to
12 allege facts that constitute a prosecutable offense. *See U.S. v. Cogswell*, 637 F.Supp. 295,
13 (N.D.Cal.,1985) citing *United States v. Coia*, 719 F.2d 1120 (11th Cir.1983), reh'g denied, 724
14 F.2d 978. Here, the indictment and facts of this case do not support Count 3, which alleges
15 Murder with Use of a Deadly Weapon based upon felony murder and the predicate charges of
16 Robbery with a Deadly Weapon and Conspiracy to Commit Robbery.
17
18

19 **A. THE ALLEGED ROBBERY CONCLUDED BEFORE MR. ARENAS WAS STRUCK**
20 **BY THE VEHICLE DRIVEN BY SOLID AND THUS, IS NOT A PREDICATE FOR**
21 **FELONY MURDER.**

22 The felony murder doctrine, which is embodied by NRS 200.030, provides that a killing
23 committed “in the perpetration” of a robbery constitutes murder in the first degree. *See Payne*
24 *v. State*, 81 Nev. 503, 505, 406 P.2d 922 (1965) (citing NRS 200.030). With respect to
25 determining when a robbery concludes for purposes of establishing felony murder, the Nevada
26 Supreme Court has ruled that “the robbery [is] still in progress until the asportation of the
27 property [has] been completed; that is, until the robber [has] made an escape.” *Walker v.*
28

1 *Sheriff, Clark Cty.*, 93 Nev. 298, 300, 565 P.2d 326 (1977) (citing *State v. Foquette*, 67 Nev.
2 505, 221 P.2d 404 (1950)). In other words, a robbery concludes when the perpetrator has
3 secured complete control of the property taken from the victim. *Foquette*, 67 Nev. at 527.

4 In this case, even according to the State's own allegations, Mr. Dismont had already
5 obtained control of the iPad from Mr. Arenas and "retreated" to the vehicle. Thus, the
6 asportation of the stolen property was complete and Mr. Dismont had reached a place of safety.
7 Because the robbery had already concluded prior to Mr. Arenas being struck by the vehicle, the
8 robbery cannot be used as the predicate for first-degree murder under the felony murder
9 doctrine. The State has not alleged and cannot prove any facts to support premeditation or
10 deliberation, and thus, Count 3 of the indictment fails and should be dismissed.

11
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13 **B. IF COUNT 3 FELONY MURDER IS NOT DISMISSED, THE JURY MUST BE**
14 **PERMITTED TO CONSIDER THE LESSER-INCLUDED OFFENSES OF 2ND**
15 **DEGREE MURDER AND MANSLAUGHTER.**

16 Pursuant to NRS 175.501, the jury must be permitted to find Mr. Dismont guilty of any
17 offense necessarily included in the offense charged. Pursuant to NRS 200.010 and 200.030, all
18 murders (the unlawful killing of a human, with malice, either express or implied), aside from
19 those committed with premeditation and deliberation, or during the perpetration of an
20 enumerated felony, shall constitute 2nd degree murder. Manslaughter is the unlawful killing
21 of a human being, without malice express or implied, and without any mixture of
22 deliberation. NRS 200.040. It must be "voluntary, upon a sudden heat of passion,
23 caused by a provocation apparently sufficient to make the passion irresistible, or
24 involuntary, in the commission of an unlawful act, or a lawful act without due caution or
25 circumspection." Involuntary manslaughter on the other hand is defined as "the killing
26
27
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1 of a human being, without any intent to do so, in the commission of an unlawful act, or a
2 lawful act which probably might produce such a consequence in an unlawful manner
3 [except where the unlawful conduct and killing fall within the purview of the felony
4 murder doctrine]. NRS 200.070.

5
6 Because the robbery alleged in this case was completed prior to Mr. Arenas'
7 attempt to latch onto the vehicle driven by Co-Defendant Solid, the alleged unlawful
8 killing does not constitute felony murder and Count 3 of the indictment should be
9 dismissed. However, should Mr. Dismont be forced to stand trial on Count 3 (Murder),
10 this Court should instruct the Jury on all lesser included offenses, including 2nd degree
11 murder and Manslaughter, whether voluntary or involuntary, all of which are defined by
12 the killing of another. If the Jury is to consider whether Mr. Dismont should be held
13 responsible for the death of Mr. Arenas, the Court's instructions should not be limited to
14 just the felony murder doctrine but rather, must encompass all lesser included offenses.
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III.

CONCLUSION

Based on the foregoing facts, law, and analysis, Defendant Dismont respectfully requests that this Court enter an Order Dismissing Count 3 of the Indictment. Alternatively, if Mr. Dismont is forced to stand trial on Count 3 (Murder), he respectfully requests that this Court instruct the Jury on all lesser included offenses, including but not limited to 2nd Degree Murder and Manslaughter.

Dated this 17th day of May, 2015.

CHRISTIANSEN LAW OFFICES

/s/ Peter S. Christiansen

PETER S. CHRISTIANSEN, ESQ.

Nevada Bar No. 5254

KENDELEE LEASCHER WORKS, ESQ.

Nevada Bar No. 9611

Attorneys for Defendant Jacob Dismont

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTIANSEN LAW OFFICES, and that on this 17th day of May, 2015 I caused the foregoing document entitled *Defendant Jacob Dismont’s Motion to Dismiss* to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

/s/ Kendelea L. Works
An employee of Christiansen Law Offices