

IN THE SUPREME COURT OF THE STATE OF NEVADA

ASHLEY BENNETT,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

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Case No. 82495

RESPONDENT'S APPENDIX
Volume 2

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DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

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STATE OF NEVADA

Plaintiff

vs.

ASHLEY WILLIAM BENNETT

Defendant

CASE NO. C175914

DEPT. NO. XI

Transcript of
Proceedings

BEFORE THE HONORABLE MICHAEL L. DOUGLAS, DISTRICT JUDGE

JURY TRIAL - DAY 6
TUESDAY, JANUARY 29, 2002
VOLUME VI

APPEARANCES:

For the State:

MELISA DE LA GARZA
Deputy District Attorney

For the Defendant:

SCOTT L. BINDRUP, ESQ.
MELINDA SIMPKINS, ESQ.

Also Present:
For Anthony Gantt

KRISTINA WILDEVELD
Deputy Special Public Defender

COURT RECORDER:

CATHY NELSON
District Court

TRANSCRIPTION BY:

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COUNTY CLERK

RA148 **CE05**

1 LAS VEGAS, NEVADA, TUESDAY, JANUARY 29, 2002, 1:00 P.M.

2 (Court is called to order)

3 (Jury is not present)

4 THE COURT: We're going to come back on the record
5 outside the presence of the jury in State of Nevada versus
6 Bennett. The jury is not present at this time, as indicated
7 by that statement.

8 I understand we have an outside-the-presence matter
9 that needs to be at least placed before the Court.

10 MS. DE LA GARZA: Just briefly, Your Honor, as I
11 notified Mr. Bindrup, I anticipate that Anthony Gantt will be
12 testifying after the crime scene analyst Nielson-Hanes this
13 morning. In anticipation of his testimony I have given Mr.
14 Bindrup a copy of the guilty plea memo. I also made copies
15 for this Court. And I do anticipate that I'll be introducing
16 the guilty plea agreement, as well as the agreement to testify
17 into evidence for the jury.

18 I know that pursuant to NRS 175.282 that certain
19 items should be redacted, and that's why I have given it to
20 Mr. Bindrup to make decisions about what he wants to be
21 redacted. So I imagine we can do that actually before Mr.
22 Gantt's testimony.

23 Additionally, Your Honor, for the last several days
24 I have been attempting to give Mr. Bindrup my schedule and
25 tell him when different witnesses are going to be on. I did

1 tell him yesterday, in fact, that Anthony Gantt was
2 anticipated to be on today right after Ms. Nielson-Hanes.
3 Just right now before walking into court Mr. Bindrup supplied
4 me with a letter that supposedly Mr. Gantt had written to the
5 defendant.

6 Now, I anticipate probably that he's going to try
7 and cross-examine -- cross-examine the witness on this letter.
8 I have not had any opportunities to speak with my witness
9 about this letter. And, speaking with Mr. Bindrup, apparently
10 he received this last week, and, like I said, I just received
11 it this afternoon. So if I could just have a couple of
12 minutes before Mr. Gantt goes on the stand just to ask him
13 about the letter.

14 THE COURT: Any other issues?

15 MS. DE LA GARZA: I don't believe so, Your Honor.

16 THE COURT: Any issues from the defense?

17 MS. SIMPKINS: Not at this time, Your Honor.

18 THE COURT: You need to talk to your counsel.

19 Ms. De La Garza, while they're conversing, do you
20 have any projected time in terms of what it's going to take to
21 get Ms. Nielson-Hanes --

22 MS. DE LA GARZA: Judge, I anticipated maybe an
23 hour, and that does include cross-examination. I just have
24 the rest of the testimony to go through with her, and I was
25 hoping that maybe your clerk could mark the evidence that has

1 -- that was impounded by Ms. Nielson-Hanes. If we can do that
2 now, then maybe we can move through it a little bit more
3 quickly.

4 THE COURT: If there's no -- and you need to speak
5 with defense. If there's no issues as to chain of custody
6 with that, that would be the -- one of the central issues.

7 MS. DE LA GARZA: I will ask them.

8 THE COURT: Okay. Tell the jury probably about
9 another ten minutes before we're ready to do that so they can
10 finish some housekeeping on marking and some other things.

11 (Court recessed)

12 (Jury is present)

13 THE COURT: We're back on the record in State of
14 Nevada versus Bennett. And our jurors are here, and I think
15 they brought with them that good weather from the Northeastern
16 United States. Mr. Bennett and counsel, both sides are
17 present.

18 We will recall our last witness, Ms. Nielson-Hanes.
19 We would reinform her she is still under oath at this time.

20 State can continue with their direct examination.

21 MS. DE LA GARZA: And, Your Honor, may I just bring
22 her down to the diagram again?

23 THE COURT: Yes. Yes.

24 SANDRA NIELSON-HANES, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

25 //

NIELSON-HANES - DIRECT

DIRECT EXAMINATION (Continued)

BY MS. DE LA GARZA:

Q Now, Analyst Nielson-Hanes, we ended up yesterday with Item Number 22, and that was up here, and that was a .38 Super casing; is that correct?

A Correct.

Q Now, as to Item Number 23 here on your diagram, did you find that to be unrelated to this incident?

A Yes, we did.

Q Okay.

A It would be this item right here.

Q And you're pointing to just the west of Car D; is that correct?

A Correct.

Q All right. Now, we've kind of gone down south, starting at --

(Off-record colloquy)

MS. DE LA GARZA: And I just need to ask the jury if they can see the diagram at that point if she's over there.

You'll just kind of be a part. Okay. I'm sorry.

BY MS. DE LA GARZA:

Q As to Item Number 16 -- and the only reason that we're going around is because where is that located?

A Item 16 would be behind or the west of 2531.

Q Okay. So is that why you went out -- didn't go

NIELSON-HANES - DIRECT

1 chronologically when we're looking at your numbers here?

2 A Well, we had actually gone -- we started here
3 marking evidence, come around, went back here, because this
4 was pointed out by an officer who was standing in this area,
5 that there was evidence back here or possible evidence.

6 Q Okay. And, Analyst Nielson-Hanes, when you say
7 "back here," for the record we need you to say what you're
8 talking about. So when you said "here," you're talking about
9 Item 1, you kind of moved through the numbers, 5, 6, 7, you
10 pass 15, and you go around the back to 16 on the west side; is
11 that correct?

12 A Correct.

13 Q And when you said there is an officer back in that
14 area, are you talking about kind of west of this scene,
15 basically to the northwest of 2531 --

16 A Correct.

17 Q -- and to the southwest of 2535?

18 A Correct.

19 Q Okay. That's just for the record.

20 Tell me about 16. What are we looking at here?

21 A 16 was a pair of bloody socks, pair of socks with a
22 little bit of blood on them that were -- it looked like it had
23 been stuffed in the bushes behind this apartment building.

24 Q And again, were pictures taken of that?

25 A Yes, there was.

NIELSON-HANES - DIRECT

1 Q And was there -- was that item marked before a
2 picture was taken additionally?

3 A Yes, it was.

4 Q I'm showing you what's been marked as State's
5 Proposed Exhibits 39 and 40. Generally can you tell me what
6 we're looking at here.

7 A This is the west of 2531 or the rear of that
8 building. There is a number, Item Number 16, Placard Number
9 16, to the west of the bushes. Diagram Exhibit Number 40
10 shows the socks nestled in between two bushes with the
11 number --

12 Q So it's 40 basically in closeup?

13 A Correct.

14 Q All right. And again, those are true and accurate
15 as to the way you found those items on that date of March 3rd?

16 A Yes.

17 MS. DE LA GARZA: And I'd move for the admission of
18 State's Proposed Exhibit 39 and 40.

19 THE COURT: Any objection?

20 MS. SIMPKINS: No objection, Your Honor.

21 THE COURT: So admitted, 39 and 40.

22 (Plaintiff's Exhibits 39 and 40 admitted)

23 BY MS. DE LA GARZA:

24 Q And again, Analyst, when you're going through this
25 do you know particularly that those things are related to the

NIELSON-HANES - DIRECT

1 crime scene?

2 A No, we don't. At the time that we arrive we look at
3 anything that doesn't appear to be weathered, doesn't appear
4 to have been there for a long period of time. We don't know
5 -- our information is we've got a shooting, so we're looking
6 for the obvious, bullets, projectiles, casings, guns, that
7 sort of thing. But anything that appears to have a red
8 substance we would mark and we would factor that in.

9 Q And do you leave that for the detectives to make
10 some type of determinations later as to what will be tested,
11 and then he can go through the scene and, having the whole
12 picture, can make some determinations?

13 A Correct.

14 Q Okay. We went through 22, 23. How about Item
15 Number 24. First of all, where is that on our diagram?

16 A Item Number 24 is 55 feet, 2 inches west of the pole
17 and 17 feet, 2 inches south of the line. And it was located
18 near this car, Car Number F.

19 Q Car Number F?

20 A Correct.

21 Q And again, we took photographs of those; is that
22 correct?

23 A Yes.

24 Q And I'm showing you what's been marked as State's
25 Proposed Exhibit 41 and 42. Just briefly, what are we looking

1 at here?

2 A We're looking at a closeup with the Placard Number
3 24 and a casing next to a tire, and then we're looking at an
4 orientation photo of Number 24 next to the rear tire.

5 Q And again, when we we're talking about a tire, I am
6 assuming that it's attached to a car. And what car is that on
7 your diagram?

8 A By F.

9 Q And again, those are true and accurate?

10 A Yes.

11 MS. DE LA GARZA: Move for the admission of State's
12 Exhibit 41 and 42.

13 MS. SIMPKINS: No objection.

14 THE COURT: 41 and 42 admitted.

15 (Plaintiff's Exhibits 41 and 42 admitted)

16 BY MS. DE LA GARZA:

17 Q So we're now at Item Number 25. What are we looking
18 at here?

19 A You are looking at a .32 R&P casing. It was located
20 48 feet west of the pole and 22 feet, 10 inches south of the
21 line, measurement line.

22 Q What about 27?

23 A 26?

24 Q Oh. Sorry. 26.

25 A 26 is an A-MERC 9 millimeter casing located 46 feet

NIELSON-HANES - DIRECT

1 west of the pole, 10 feet, 11 inches south of the measurement
2 line.

3 Q And when we're looking at your diagram, where is
4 that located?

5 A 26. The number 26 is right here.

6 Q And when you say "right here," are you talking about
7 in between the cars that are F --

8 A Between the two cars, F and G.

9 Q And 27?

10 A 27 through -- well, 27 is a Win Luger 9 millimeter
11 casing located here behind G, 42 feet west of the pole, 23
12 feet, 10 inches south of the measurement line.

13 Number 28 is a Win Luger 9 millimeter casing located
14 38 feet west of the pole and 24 feet, 1 inch south of the
15 line.

16 Number 29 is also behind G and H. It's a Win Luger
17 9 millimeter casing, 38 feet, 11 inches west of the pole,
18 25 feet, 4 inches south of the line.

19 Q And again, photographs were taken here?

20 A Correct.

21 Q I'm showing you what's been marked as State's
22 Proposed Exhibit 43. Do you recognize that?

23 A Yes, I do.

24 Q What are we looking at here, which item numbers?

25 A We're looking at Item Number 25, 27, 28, and 29.

NIELSON-HANES - DIRECT

1 Q Now, is there anything different on that picture for
2 28 and 29 when we're talking about positioning, as opposed to
3 your diagram?

4 A 29 appears to be a little bit more west than 28.
5 This is the view of the parking lot, looking west. So
6 Number 29 should be located in this area.

7 Q And when you say "in this area," again I'm going to
8 give you the marker and I'm going to ask you to correct your
9 diagram.

10 So again, you've done a line, and then you've put a
11 little black dot where 29 is more accurately shown, and that
12 is according to the pictures?

13 A Photographs.

14 Q And these pictures would have been taken before
15 anybody was out there from the North Las Vegas Police
16 Department, moving anything or collecting anything; is that
17 correct?

18 A They would have been taken prior to collection of
19 the evidence.

20 MS. DE LA GARZA: And at this time, Your Honor, I'd
21 move for the admission of State's Proposed Exhibit 43.

22 MS. SIMPKINS: No objection, Your Honor.

23 THE COURT: 43 so admitted.

24 (Plaintiff's Exhibit 43 admitted)

25 //

1 BY MS. DE LA GARZA:

2 Q Now, I'm going to show you what's been marked as
3 State's Proposed Exhibit 44, 45, 46, 47, and 48. Officer, is
4 that just closeups of 25, 26, 27, 28, and 29?

5 A Yes, they are.

6 Q And again it's an accurate representation?

7 A Yes.

8 MS. DE LA GARZA: And I'd move for the admission of
9 48 -- or 44 through 48, Your Honor.

10 MS. SIMPKINS: No objection.

11 THE COURT: 44 through 48 so admitted.

12 (Plaintiff's Exhibits 44 through 48 admitted)

13 BY MS. DE LA GARZA:

14 Q So we've gotten through 29. How about 30?

15 A 30 is also a Win Luger 9 millimeter casing located
16 44 feet west of the pole and 35 feet, 9 inches south of the
17 line.

18 Q 31?

19 A 31 was a live Win Luger 9 millimeter located 34
20 feet, 4 inches west of the pole and 34 feet south of the line.

21 Q Okay. When you say, "live," how is that different
22 from what you've been saying in the -- in the past? I think
23 before you've just been saying "casings," but now you're
24 saying "live."

25 A It hasn't been shot. It hasn't been expended. It

NIELSON-HANES - DIRECT

1 hasn't been put in a gun and fired.

2 Q So prior when we were talking about casings, we're
3 talking about the outside of the bullet, is that correct --

4 A Correct.

5 Q -- that's going to be expended when there's a shot
6 made?

7 A It's the shell that the gunpowder and other items go
8 into to make a bullet.

9 Q So when we talk about live, it hasn't been shot yet?

10 A Correct.

11 Q Okay. And 32.

12 A 32 is a Win Luger 9 millimeter casing located
13 34 feet west of the pole and 34 feet south of the line.

14 Q And I'm showing you what's been marked as State's
15 Proposed Exhibit 49. Do you recognize that, and what are we
16 looking at?

17 A We're looking at photograph of the parking lot, and
18 in the photograph Placards Number 25, 27, 28, 29, 30, 31, and
19 32 are located -- marked.

20 Q Okay. So, as opposed to the last photos we were
21 looking at, what we've added in this particular picture is 30,
22 31, and 32; is that correct?

23 A Correct.

24 Q And again, these are true and accurate
25 representations of the way the scene looked?

1 A Yes.

2 Q Now, once again, when we're looking at the
3 relationship here between 30 and then 31 and 32, are there any
4 differences when you look at the photos?

5 A 31 and 32 appear to be -- could have possibly been
6 moved to the east. They appear to be closer than 28, 29. 30
7 is separated from 31 and 32 by a short distance.

8 Q Okay. Additionally, would you say that 30 is a
9 little more south of 31 and 32?

10 A Yes.

11 Q Okay. So if we had to adjust that on this diagram,
12 how might we do that?

13 And again for the record, you've just basically
14 drawn a little line and a little dot where it would more
15 accurately reflect Number 30; is that correct?

16 A Yes.

17 MS. DE LA GARZA: And again at this time, Your
18 Honor, I would move for the admission of State's Proposed
19 Exhibit 49.

20 MS. SIMPKINS: No objection, Your Honor.

21 THE COURT: 49 so admitted.

22 (Plaintiff's Exhibit 49 admitted)

23 BY MS. DE LA GARZA:

24 Q And as we've stated earlier, the only thing that's
25 new in that picture that we just gave to the jury, which is

NIELSON-HANES - DIRECT

1 Number 49, are Items 30, 31, and 32.

2 I'm showing you what's been marked as State's
3 Proposed Exhibit 50, 51, and 52. Are we simply looking at
4 closeups of 30, 31, and 32?

5 A Yes, we are.

6 Q And again they're true and accurate?

7 A Yes.

8 MS. DE LA GARZA: I'd move for the admission of 50,
9 51, and 52, Your Honor.

10 MS. SIMPKINS: No objection.

11 THE COURT: 50, 51, and 52 so admitted.

12 (Plaintiff's Exhibits 50, 51, and 52 admitted)

13 BY MS. DE LA GARZA:

14 Q Item 33, I believe.

15 A 33 is located here, directly behind H in the parking
16 lot. It's a .38 Super casing. It was located 82 feet,
17 10 inches west of the pole and 14 feet, 2 inches south of the
18 line.

19 Q And I'm showing you what's been marked as State's
20 Proposed Exhibit 53. Do you recognize that?

21 A Yes, I do.

22 Q And what is that?

23 A That is a .38 Super casing.

24 Q And that's a closeup of that?

25 A Yes.

NIELSON-HANES - DIRECT

1 Q And that's a true and accurate representation?

2 A Yes.

3 MS. DE LA GARZA: I'd move for the admission of
4 State's Exhibit 53.

5 MS. SIMPKINS: No objection.

6 THE COURT: 53 so admitted.

7 (Plaintiff's Exhibit 53 admitted)

8 BY MS. DE LA GARZA:

9 Q Now, in looking at this diagram and looking at these
10 photos I don't see a Number 34. Why is that?

11 A 34 was missing from our box of numbers, so we had to
12 improvise, and we skipped 34 and used the next placard that
13 was available, which was 35.

14 Q Okay. So it's not that we missed evidence here or
15 that we didn't take a photo of something that was 34; we just
16 didn't have a placard, so we jumped to 35?

17 A Correct.

18 Q Okay. So if we jump to 35 on your crime scene
19 diagram, what are we looking at?

20 A 35 is located to the rear of Automobile G. It was a
21 projectile, and it's located in the rubber molding of the
22 trunk.

23 Q And what type of projectile was that? Could you
24 determine?

25 A No, I couldn't.

NIELSON-HANES - DIRECT

1 Q Now, when you say the rear of G, I notice that you
2 pointed to the north side of G, rather than the south side.
3 It would appear normally that a car would have pulled in there
4 straight. That would be the front of it. Was G positioned
5 differently?

6 A Yes, it was. It was backed in.

7 Q And I'm showing you State's Proposed Exhibit 54.
8 What are we looking at here?

9 A We're looking at a closeup with Placard Number 35
10 and a copper-looking piece of metal protruding from the rubber
11 molding.

12 Q And that's the projectile?

13 A Correct.

14 Q And that's a true and accurate representation of
15 where you found it on that day?

16 A Correct.

17 MS. DE LA GARZA: I'd move for the admission of
18 State's Proposed Exhibit 54.

19 MS. SIMPKINS: No objection.

20 THE COURT: So admitted, then, 54.

21 (Plaintiff's Exhibit 54 admitted)

22 BY MS. DE LA GARZA:

23 Q We talked a little bit about the positioning of that
24 vehicle. I'm showing you -- and that was Vehicle G; am I
25 correct?

NIELSON-HANES - DIRECT

1 A Yes.

2 Q What type of vehicle was that?

3 A A brown Oldsmobile.

4 Q I'm showing you what's been marked as State's
5 Proposed Exhibit 55. Do you recognize that?

6 A Yes, I do.

7 Q And what is that?

8 A This is the brown Oldsmobile that we found the
9 projectile in the rear trunk.

10 Q So it is State's Exhibit 55G --

11 A Yes.

12 Q -- on your diagram?

13 A Yes.

14 Q And again, it's a true and accurate representation
15 of the way it was positioned on that day?

16 A Yes, it was.

17 MS. DE LA GARZA: I'd move for the admission of
18 State's Exhibit 55.

19 MS. SIMPKINS: No objection.

20 THE COURT: So admitted, 55.

21 (Plaintiff's Exhibit 55 admitted)

22 BY MS. DE LA GARZA:

23 Q Now, in addition to finding that projectile there in
24 the -- in the trunk of G, were there any other items that were
25 found that were relevant to that particular vehicle?

NIELSON-HANES - DIRECT

1 A There were bullet strikes or curvature indentions in
2 two of the vehicles.

3 Q Which vehicles were those?

4 A G and H.

5 Q Okay. So specifically right now we're talking about
6 G. Were there -- how many strikes in G?

7 A I don't recall. I believe there were -- were two,
8 possibly three.

9 Q I'm showing you what's been marked as State's
10 Proposed Exhibit 57. Does that help to refresh your
11 recollection as to the number of marks there in Car G?

12 A Yes, it does.

13 Q And how many marks are we looking at?

14 A Looks to be two strikes.

15 Q And again, is that a true and accurate
16 representation of the way the scene looked on that day?

17 A Yes.

18 Q And through your training and experience did you
19 determine those to be bullet strikes?

20 A They appear to be.

21 MS. DE LA GARZA: I'd move for the admission of
22 State's Exhibit 57

23 MS. SIMPKINS: No objection.

24 THE COURT: 57, then, so admitted.

25 (Plaintiff's Exhibit 57 admitted)

NIELSON-HANES - DIRECT

1 THE CLERK: Was 56 admitted?

2 MS. DE LA GARZA: No. I'm going to back up.

3 THE COURT: Has not brought that one yet.

4 BY MS. DE LA GARZA:

5 Q Now, I'm showing you what's been marked as State's
6 Exhibit 56. Now, on that can you see the bullet strikes, as
7 well?

8 A Not very well.

9 Q But what's important in that photo that we're
10 looking at?

11 A In this photo there was a casing that is to the left
12 of the back rear light, that was sitting on the bumper as it
13 curled around to the side. It's just laying there.

14 Q And I'll ask you -- this picture looks a little bit
15 dark. Why is that?

16 A It could have been flash didn't go off, it could
17 have been any number of things. I'm sorry. Could have been
18 any number of things. It was nighttime.

19 Q Okay. Now, when you were called out to the scene
20 originally, it's about 4:00 o'clock in the afternoon; is that
21 correct?

22 A Correct.

23 Q Is that your testimony from yesterday?

24 A Yes.

25 Q Approximately how long were you out on this scene?

NIELSON-HANES - DIRECT

1 A About 10 hours.

2 Q Ten hours that night?

3 A Yes.

4 Q So as we're starting to take some pictures, it's
5 getting lighter -- excuse me, it's getting darker. We're
6 talking about nightfall here; is that correct?

7 A Yes.

8 Q But was it important on that date to still process
9 the scene right away?

10 A Yes. Once we arrive at a scene, we do not stop
11 until the scene is complete.

12 MS. DE LA GARZA: I'd move for the admission of
13 State's Proposed Exhibit 56.

14 MS. SIMPKINS: No objection.

15 THE COURT: 56, then, so admitted.

16 (Plaintiff's Exhibit 56 admitted)

17 BY MS. DE LA GARZA:

18 Q And then, Analyst, I'm going to show you Exhibit 59
19 and 58. Are those merely closeups of those shots that we've
20 showed on G previously?

21 A Yes.

22 Q And again, they're true and accurate
23 representations?

24 A Yes, they are.

25 MS. DE LA GARZA: I'd move for the admission of 58

1 and 59.

2 MS. SIMPKINS: No objection.

3 BY MS. DE LA GARZA:

4 Q Now --

5 THE COURT: 58, 59 --

6 MS. DE LA GARZA: I'm sorry, Your Honor.

7 THE COURT: -- admitted. Go ahead.

8 (Plaintiff's Exhibits 58 and 59 admitted)

9 BY MS. DE LA GARZA:

10 Q Now, in looking at these shots to that car and in
11 making a determination as to whether they're relevant or not,
12 is there anything about the paint on this car that tells you
13 whether it's an older strike or a newer strike or anything of
14 that sort?

15 A I would determine that they were a fairly fresh
16 strike due to the pieces of paint that are just hanging on by
17 a very slim connection. Normally when you have an older
18 strike you'll get rusting in the middle, the paint flicks will
19 disappear, either by wind or by washing or whatever means, and
20 you don't see the lifting of the paint.

21 MS. DE LA GARZA: Thank you, Officer.

22 Judge, I'm not sure that I asked for the admission
23 of these two.

24 THE COURT: 58, 59 were the last two admitted.

25 MS. DE LA GARZA: Thank you, Your Honor.

NIELSON-HANES - DIRECT

1 BY MS. DE LA GARZA:

2 Q What about Item 36?

3 A Item 36 was an A-MERC 9 millimeter casing. It was
4 found under the Cadillac when we moved the Cadillac.

5 Q Now, when you say "Cadillac," can you give us a
6 color on that vehicle? What are we talking about here?

7 A That would be Vehicle Number H. That would be a
8 light-blue Cadillac bearing Nevada 578MCN.

9 Q And do you know if this is the Cadillac that was
10 later determined to belong to the victim?

11 A I don't know.

12 Q Okay. And that's fine. If that's not something
13 that you handled, then it's not something you handled.

14 But yet, nonetheless, you say 36 was found under
15 that Cadillac --

16 A Correct.

17 Q -- when it was towed; is that correct?

18 A Correct.

19 Q I'm showing you what's been marked as State's
20 Proposed Exhibit 60. What are we looking at there?

21 A A closeup of Placard Number 36 and a casing.

22 Q And that would have been true and accurate the way
23 you found it on that date?

24 A Correct.

25 MS. DE LA GARZA: Move for the admission of State's

1 Exhibit 60.

2 THE COURT: As to 60?

3 MS. SIMPKINS: No objection.

4 THE COURT: So admitted.

5 (Plaintiff's Exhibit 60 admitted)

6 BY MS. DE LA GARZA:

7 Q Now, you described a vehicle for us just a moment
8 ago. I'm showing you what's been marked as 62 and 63. What
9 are we looking at there?

10 A 63 is a closeup of the back of the blue Cadillac,
11 showing the license number 578MCN, and it has an A placard
12 attached to the driver's-side rear light.

13 And 62 is a photograph of the front of that vehicle.

14 Q Same vehicle?

15 A It appears to be -- it appears to have been taken
16 later on.

17 Q Later on that evening as you were out there?

18 A Yes.

19 Q Okay.

20 A And it's -- the lighting isn't real -- real good in
21 that photograph.

22 Q But nonetheless, you attempted to take a shot of
23 both the front and the back of the vehicle; is that correct?

24 A Officer Heredia did, yes.

25 Q But you were there and you viewed it, and you know

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1 it to be true and accurate?

2 A Yes.

3 MS. DE LA GARZA: I'd move for the admission of 62
4 and 63, Your Honor.

5 MS. SIMPKINS: No objection.

6 (Off-record colloquy - Clerk)

7 THE COURT: 62 and 63 so admitted.

8 (Plaintiff's Exhibits 62 and 63 admitted)

9 BY MS. DE LA GARZA:

10 Q Now, Officer, you talked about Placard A that was on
11 the rear of Vehicle H; is that correct?

12 A Yes.

13 Q And it's in I believe Picture 62. But you can't --
14 it's not real clear exactly what Placard A is, is that
15 correct, when you looked at those photos previously?

16 A Correct.

17 Q I'm showing you now what's been marked as State's
18 Proposed 64. What are we looking at here?

19 A We're looking at a closeup of the taillight with a
20 bullet hole in the taillight, with a Placard A just below it.

21 Q And why did we change from 1, 2, 3, 4, 5 numbers to
22 letters?

23 A Numbers are for collection of evidence. A through Z
24 would be for depicting other evidence that needs to be
25 photographed so that you can determine the difference.

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1 Q Okay. And when you say it needs to be photographed,
2 is that because it's something that you cannot take to the
3 lab?

4 A Correct.

5 MS. DE LA GARZA: Okay. I'd move for the admission
6 of State's Proposed Exhibit 64.

7 MS. SIMPKINS: No objection.

8 THE COURT: 64, then, so admitted.

9 (Plaintiff's Exhibit 64 admitted)

10 BY MS. DE LA GARZA:

11 Q And I'm now showing you what's been marked as
12 State's Proposed 65. What are we looking at there?

13 A This is the driver's door of that blue Cadillac,
14 with Placard Number B attached just above a -- what appears to
15 be a bullet strike.

16 Q And State's Proposed Exhibit 66?

17 A It is a closeup of that marking on the car, with
18 Placard B.

19 Q And again, these are accurate representations?

20 A Yes.

21 MS. DE LA GARZA: I move for the admission of
22 State's 65 and 66.

23 MS. SIMPKINS: No objection.

24 THE COURT: 65 and 66 so admitted.

25 (Plaintiff's Exhibits 65 and 66 admitted)

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1 BY MS. DE LA GARZA:

2 Q Now, Officer, is there any other evidence on this
3 particular diagram that we didn't talk about? We seem to have
4 gone through the numbers.

5 A The blood evidence that we located directly in front
6 of 2535 and to the east along the sidewalk.

7 Q Okay. And what are we talking about there?

8 A Blood spots.

9 Q And again, do you know whether those were related to
10 the scene?

11 A At the time that I diagramed the -- and did the
12 processing of the scene, I did not know.

13 Q Okay.

14 A Now I was told that they were not related.

15 Q Okay. And even though at the time -- well, because
16 at the time you weren't sure if they were related, did you
17 collect samples from that little trail going up there?

18 A Yes, I did.

19 Q Additionally, I believe there were some markings on
20 a wall there, almost by the pole. Can you tell me about
21 those.

22 A We had three strikes in -- on the west side, the
23 outside west portion of the block wall that circles the
24 garbage bin.

25 Q And again, you took photos of that?

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1 A Correct.

2 Q Showing you what's been marked as State's Proposed
3 67, do you recognize that?

4 A Yes, I do.

5 Q And what is that?

6 A That is a photograph of the outside west wall of the
7 trash bin, with three circular-type divots in the wall.

8 Q Did you know what those were at the time?

9 A At the time, we assumed that they were bullet
10 strikes, because we found fresh concrete just below on the
11 sidewalk.

12 MS. DE LA GARZA: We'd move for the admission of
13 State's Proposed Exhibit 67.

14 THE COURT: Any objection?

15 MS. SIMPKINS: No objection, Your Honor.

16 THE COURT: So admitted.

17 (Plaintiff's Exhibit 67 admitted)

18 BY MS. DE LA GARZA:

19 Q Was there also another divot that you found that
20 hasn't been marked on this crime scene diagram, in a wall?

21 A The front of 2535 there was a bullet strike.

22 Q And I'm showing you what's been marked as State's
23 Proposed 68. What are we looking at here?

24 A This is a closeup of a -- of Placard Number D, with
25 a circular divot out of the stucco.

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1 Q And that would have been the divot in front of 2535
2 that you mentioned?

3 A Correct.

4 MS. DE LA GARZA: I'd move for the admission of
5 State's Proposed Exhibit 68.

6 THE COURT: Any --

7 MS. SIMPKINS: No objection.

8 THE COURT: So admitted.

9 (Plaintiff's Exhibit 68 admitted)

10 BY MS. DE LA GARZA:

11 Q And, Analyst Hanes, earlier when you were speaking
12 about the vehicles there, was there a vehicle there in that
13 parking lot that had a license plate 517MWA?

14 A Yes. That's Vehicle Number F. That was a yellow
15 Lincoln Town Car.

16 Q And you've noted that there was some evidence there
17 just to the east of that vehicle; is that correct? And I
18 think we've previously spoke about it.

19 A Okay. Correct.

20 Q I'm showing you what's been marked as State's
21 Proposed Exhibit 70. What are we looking at?

22 A We're looking at a photograph of that yellow
23 Lincoln, bearing Nevada 517MWA. We're looking at -- to the
24 passenger's rear tire there is a circular chalk line around a
25 casing.

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1 Q And would that have been one of the casings that you
2 previously described?

3 A Correct.

4 MS. DE LA GARZA: I'd move for the admission of
5 State's Proposed Exhibit 70.

6 MS. SIMPKINS: No objection, Your Honor.

7 THE COURT: 70, then, is so admitted.

8 (Plaintiff's Exhibit 70 admitted)

9 BY MS. DE LA GARZA:

10 Q Now, before I let you go up -- back to the witness
11 stand, I want to ask you a little bit about the legend that
12 you've created on this crime scene diagram. Can you tell us
13 exactly what this is in the colored writing here on the right-
14 hand side of the diagram.

15 A When I'd originally responded, collected, measured
16 the casings, my original diagram reflected a numerous collage
17 of numbers to the center, just massive. So I tried color
18 coding them to the different rounds that were found in the
19 different areas to help distinguish between what rounds were
20 found in what areas. The A-MERC 9 millimeter are done in the
21 pink. The Win Luger 9 millimeter are done in green, are
22 these. The R&P .32 casings are done in red. And the
23 .38 Super casings are done in the purple.

24 Q Now, in looking at those colors do you notice
25 anything in particular about the numbers there on your diagram

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1 in relationship to --

2 A The numbers are color coded to the casings. The
3 purple are located in this area, which are the .38 Super.

4 Q And when you say --

5 A This is also a .38 Super.

6 Q -- "this area," you mean?

7 A In front -- in front of 2531.

8 Q Well, what about the green, the Win Luger
9 9 millimeter?

10 A The Win Luger are found basically in the center of
11 the parking lot, and they're done in green. The R&P .32 are
12 done in red, and those were found behind G, Cars F and G, in
13 that area. And the A-MERC 9 millimeter were done in the pink,
14 which were basically around the H car, the Cadillac, and in
15 front of G and to the side.

16 Q Would you characterize those as clusters of bullets
17 -- or casings? I'm sorry.

18 A Yes.

19 THE COURT: Can we get a --

20 THE WITNESS: Groupings, yes.

21 THE COURT: -- as to whether they were -- the
22 specific question was as the casings or bullets. If we can
23 have a definitive.

24 MS. DE LA GARZA: Judge, I believe we have a little
25 bit of both. We had some live rounds, and then we had some

1 casings. But they still fall under those groupings.

2 THE COURT: If we have a cluster and that's the
3 explanation, fine.

4 BY MS. DE LA GARZA:

5 Q I'm going to ask you to go back up to the witness
6 stand.

7 MS. DE LA GARZA: And I believe I'm going to have to
8 change our microphones again, Your Honor.

9 BY MS. DE LA GARZA:

10 Q Now, Analyst, you said you were out at this crime
11 scene nearly 10 hours; is that correct?

12 A Yes.

13 Q Now, after you went through and you measured all of
14 these pieces of evidence that you've told us about and you
15 marked them and you took photographs of them, then was it your
16 duty to then turn around and impound them?

17 A Yes, collect them.

18 Q And how do you usually go about that process?

19 A The item is collected, it's placed into a container
20 or baggie. The baggie is then sealed, evidence tape is placed
21 on the seal, initials and information are placed on the
22 envelope, and a chain of custody is then started.

23 MS. DE LA GARZA: Court's indulgence.

24 THE COURT: That's fine.

25 MS. DE LA GARZA: May I approach, Your Honor?

1 THE COURT: Yes.

2 MS. DE LA GARZA: Thank you.

3 BY MS. DE LA GARZA:

4 Q You made some mention of actually taking this
5 evidence, putting it in envelopes, and marking them in a
6 particular way; is that correct?

7 A Yes.

8 Q I'm showing you what's been marked as State's
9 Proposed Exhibit 80. Do you recognize that?

10 A Yes, I do.

11 Q And how do you recognize that?

12 A I recognize it by my first initial, last initial,
13 and P number in the "Booked by Officer" box. This is my
14 writing. I booked it in on 3/3/2001.

15 Q Do you additionally put an event number on this
16 particular evidence?

17 A Yes, we do. Case number on this envelope is
18 01-4117.

19 Q What is the purpose in using a case number?

20 A To keep the evidence -- to keep track of the
21 evidence. This evidence will be kept with this case number
22 and items from this case number.

23 Q So do we know that every piece of evidence that was
24 collected at this particular crime scene will be under that
25 case number?

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1 A Yes.

2 Q Additionally, do you try and put some type of
3 description there on the evidence envelope?

4 A Yes, you do.

5 Q And what is the purpose in doing that?

6 A So that when you pick up the envelope you know
7 basically what's in the envelope.

8 Q Okay. So when you did that in this particular --
9 excuse me. When you did that under this particular case
10 number or event number, how did you mark these items?

11 A I marked the items beginning with Item Number 1. I
12 wrote a description of the item that was encased in this
13 envelope. The type of crime classification was homicide. The
14 location was the location that I collected this piece of
15 evidence.

16 Q Okay. When we talk about the item number that you
17 used, I'm showing you in particular State's Proposed 80, does
18 that Item Number 1 correspond not only with your crime scene
19 diagram, but additionally with the photos that have been shown
20 to the jury?

21 A Yes, they do.

22 Q And you did that just for the ease of everything, so
23 everything's marked the same; is that correct?

24 A Correct.

25 Q Okay. I'm going to have to ask you to open each

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1 envelope, and I'm just going to ask as you do that -- I'm
2 going to try and keep a flow here, because we are talking
3 about so many items, nearly 35 items here.

4 A Correct.

5 Q So if you could just tell the jury what proposed
6 exhibit number we're looking at and what is in that and how it
7 corresponds to the item number.

8 A Okay.

9 Q And here you go.

10 MS. DE LA GARZA: And, Judge, I would ask if there's
11 any objection from the defense at this point for the admission
12 of State's Proposed Exhibit 80.

13 MS. SIMPKINS: No objection, Your Honor.

14 THE COURT: 80, then, would be so admitted.

15 (Plaintiff's Exhibit 80 admitted)

16 THE WITNESS: Proposed Exhibit Number 80 is Item
17 Number 1, which on the diagram reflects a fragment. And it is
18 a baggie containing a bullet fragment.

19 Did you want to staple these, or paperclip them?

20 MS. DE LA GARZA: I'll have them clipped.

21 THE WITNESS: Okay.

22 BY MS. DE LA GARZA:

23 Q Now, Analyst, in addition to having your name on
24 this baggie, are there other names that come after you?

25 A Yes.

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1 Q And what is the purpose in that? What are these
2 other names?

3 A Anybody that has touched this envelope has had to
4 maintain the chain of custody on the envelope.

5 Q And what type of persons might additionally touch
6 this envelope?

7 A The vault people, possibly somebody picking it up to
8 take it to Metro for ballistics. They would have to sign.
9 Ballistics would have to sign when they receive it. The
10 transporting person from Ballistics back to the vault, they
11 would have to sign it.

12 Q And then it comes back to you after being in the
13 vault for you to bring it in to court; is that correct?

14 A Correct. And I had to sign it, also.

15 MS. DE LA GARZA: Again, I'd move for the admission
16 of State's Proposed Exhibit 80.

17 MS. SIMPKINS: No objection.

18 THE COURT: 80 has been admitted. What are we doing
19 in terms of the --

20 MS. DE LA GARZA: And 80A, Your Honor. I believe
21 it's the clerk's preference to mark the items inside the
22 envelope as A through Z, whatever they may be.

23 THE COURT: Any objection as to 80A, the fragment?

24 MS. SIMPKINS: No objection, Your Honor.

25 THE COURT: Thank you. So admitted.

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1 (Plaintiff's Exhibit 80A admitted)

2 THE WITNESS: Okay. So you want to continue?

3 BY MS. DE LA GARZA:

4 Q Yes. Which envelope are you opening now?

5 A Item Number 2.

6 Q And it's been marked as?

7 A State's Proposed Exhibit 81.

8 Q And just briefly what are we looking at?

9 A We're looking at a casing, A-MERC 9 millimeter.

10 Inside the envelope is a casing.

11 MS. DE LA GARZA: And I move for the admission of
12 State's Exhibit 81 and contents, A.

13 MS. SIMPKINS: No objection.

14 THE COURT: 80 and 81 -- excuse me. 81 and 81A so
15 admitted.

16 (Plaintiff's Exhibits 81 and 81A admitted)

17 THE WITNESS: State's Proposed Exhibit 82 is a
18 casing, A-MERC 9 millimeter.

19 BY MS. DE LA GARZA:

20 Q And the contents is?

21 A A 9 millimeter casing.

22 MS. DE LA GARZA: And, Your Honor, I'd move for the
23 admission of State's Proposed Exhibit 82 and contents of A.

24 MS. SIMPKINS: No objection.

25 THE COURT: 82 and 82A so admitted.

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1 (Plaintiff's Exhibits 82 and 82A admitted)

2 THE WITNESS: State's Proposed Exhibit 83 is an
3 expended casing, Americ 9 millimeter. Inside is a plastic
4 Baggie containing a casing, Americ 9 millimeter.

5 MS. DE LA GARZA: And I'd move for the admission of
6 State's Exhibit 83 and contents, A.

7 MS. SIMPKINS: No objection.

8 THE COURT: Both so admitted, 83 and 83A.

9 (Plaintiff's Exhibits 83 and 83A admitted)

10 THE WITNESS: State's Proposed Exhibit Number 84 is
11 a fragment.

12 BY MS. DE LA GARZA:

13 Q And again, Analyst, I need you to say what item
14 number we're talking about.

15 Q Item Number 5 is a bullet fragment.

16 MS. DE LA GARZA: And I'd move for the admission of
17 State's Proposed Exhibit 84 and contents, A.

18 MS. SIMPKINS: No objection.

19 THE COURT: 84 and contents, A, so admitted.

20 (Plaintiff's Exhibits 84 and 84A admitted)

21 THE WITNESS: State's Proposed Exhibit Number 85,
22 which is Item Number 6 on the diagram, the projectile. Inside
23 the envelope is a Baggie containing a projectile.

24 MS. DE LA GARZA: State would move for the admission
25 of State's Proposed Exhibit 85 and contents, A.

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1 MS. SIMPKINS: No objection.

2 THE COURT: 85 and contents, A, so admitted.

3 (Plaintiff's Exhibits 85 and 85A admitted)

4 MS. DE LA GARZA: Court's indulgence.

5 THE COURT: That's fine.

6 BY MS. DE LA GARZA:

7 Q Analyst Hanes, I'm showing you what's been marked as
8 State's Proposed Exhibit 86. Is that any different from the
9 envelopes that I've been showing you thus far?

10 A Yes. This bag contains a plaid shirt that had been
11 cut off the victim, and a beeper.

12 Q Okay. Now, when we were looking at the photos of
13 this plaid shirt it looked like they had some blood on them;
14 is that correct?

15 A Yes.

16 Q And you also marked that on your diagram; is that
17 correct?

18 A Yes, I did.

19 Q So if we opened this now, might we be talking about
20 some biohazard material?

21 A Yes, we would.

22 Q So just for the sake of not injuring any of our
23 jurors or anybody here in the courtroom, I will not ask you to
24 open that. But you do know that in fact this is the plaid
25 shirt and the beeper that were found at Position Number 7; is

1 that correct?

2 A Yes.

3 MS. DE LA GARZA: And I'd move for the admission of
4 State's Proposed Exhibit 88 -- 86.

5 MS. SIMPKINS: No objection.

6 THE COURT: 86 admitted, and the unopened content.

7 MS. DE LA GARZA: And the contents. But we won't
8 need to mark the contents.

9 (Plaintiff's Exhibit 86 admitted)

10 BY MS. DE LA GARZA:

11 Q Showing you what's been marked as State's Proposed
12 Exhibit 87.

13 A It is Item Number 8. It's an expended casing,
14 Americ 9 millimeter.

15 Q And if you would open that, please.

16 A It's a Baggie containing an expended casing.

17 MS. DE LA GARZA: I'd move for the admission of
18 State's Proposed Exhibit 87 and contents, A.

19 MS. SIMPKINS: No objection.

20 THE COURT: 87 and contents, A, admitted.

21 (Plaintiff's Exhibits 87 and 87A admitted)

22 THE WITNESS: State's Proposed Exhibit 88 is Item
23 Number 9. It's an expended casing, Americ 9 millimeter, and a
24 fragment. The Baggie containing a fragment and a casing.

25 //

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1 BY MS. DE LA GARZA:

2 Q So in this particular Baggie we have two items; is
3 that correct?

4 A Correct.

5 Q But they were both marked as Item Number 9 on your
6 diagram. Additionally, we took a picture with one placard of
7 Item Number 9; is that correct?

8 A Correct.

9 Q So the contents is one Baggie with two items?

10 A Yes.

11 MS. DE LA GARZA: So the State would move for the
12 admission of State's Proposed Exhibit 88 and contents, A.

13 MS. SIMPKINS: No objection.

14 THE COURT: 88 and contents, A, admitted.

15 (Plaintiff's Exhibits 88 and 88A admitted)

16 BY MS. DE LA GARZA:

17 Q Showing you what's been marked as State's Proposed
18 Exhibit 89.

19 A Exhibit 89 is Number 10 on the diagram. It is an
20 expended casing, Americ 9 millimeter, and an expended casing
21 R&P 32.

22 Q So again, in this particular envelope you put more
23 than one item?

24 A Yes.

25 Q And why -- why is it in some envelopes we have one

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1 item, and then in some envelopes we have just a couple?

2 A The numbers on the envelope correlate with the
3 measurements and the placard that it was photographed with.
4 Number 9 had both items and was measured at the same
5 measurement. Item Number 10 had two measurements, one for
6 each item.

7 Q So in this particular instances [sic] the items were
8 so close together that you just grouped them as one item?

9 A They were grouped together, yes. Packaged
10 separately, but grouped together.

11 MS. DE LA GARZA: State would move for the admission
12 of State's Proposed Exhibit 89 and contents, that is two
13 Baggies, A and B.

14 MS. SIMPKINS: No objection.

15 THE COURT: 89, A and B, as well, being admitted.

16 (Plaintiff's Exhibits 89, 89A, and 89B admitted)

17 BY MS. DE LA GARZA:

18 Q Now, Analyst Nielson-Hanes, as you were going
19 through and collecting these different type of items were you
20 looking for the manner in which they were weathered?

21 A Yes. We look -- when we originally get to a scene,
22 the officers have sometimes marked items that they feel are
23 relevant. We look for items that appear to be fresh,
24 something that hasn't been out in the element. If it's an
25 outside scene, something that hasn't been left outside for a

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1 long period of time, showing dust, dirt, the weathered look.

2 Q And these particular area that we're talking about
3 -- and let me be more specific. When I'm talking about in
4 front of 2531 and when I'm talking about in front of 2535, are
5 these somewhat dirt areas?

6 A Yes, they are.

7 Q So would we expect something that had been found out
8 there and left let's for days or for months to have dirt on
9 them and to be somewhat dusty and dirty?

10 A Yes.

11 Q Additionally, is this a type of area where we have a
12 lot of high traffic, foot traffic?

13 A There is foot traffic. This is an apartment
14 complex.

15 Q And what type of dirt are we talking about? Is this
16 some kind of dirt that's very hard and ground -- ground down?

17 A It's -- it was fairly soft dirt. It wasn't -- it
18 wasn't compact, it wasn't hard and compact.

19 Q So kind of dusty out there?

20 A It wasn't dusty.

21 Q Okay. If we had additionally found items that had
22 been there for extended amount of times, might they be crushed
23 down into the ground there?

24 A They could have been.

25 Q Did you find any items of that sort?

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1 A Nothing that I collected was bent, damaged. In the
2 way of casings, they all appeared fairly fresh to me.

3 Q So they didn't appear as if they had been stepped on
4 and weathered and just basically abused from being out in the
5 elements?

6 A No.

7 Q Showing you what's been marked as State's Proposed
8 Exhibit 90.

9 A This is an envelope with expended casings. There
10 are two R&P .32 autos.

11 Q And again, one Baggie, two casings; is that correct?

12 A Yes.

13 MS. DE LA GARZA: State would move for the admission
14 of State's Proposed Exhibit 90.

15 MS. SIMPKINS: No objection.

16 MS. DE LA GARZA: And contents, A.

17 THE COURT: 90 and contents, A, also, so admitted.

18 (Plaintiff's Exhibits 90 and 90A admitted)

19 THE WITNESS: State's Proposed Exhibit 91 is an
20 envelope containing two expended casings, R&P .32.

21 (Off-record colloquy - Clerk)

22 THE WITNESS: This is a Baggie containing two
23 casings, R&P.

24 MS. DE LA GARZA: And again, that's Item Number 12,
25 and it's State's Proposed Exhibit 91. State would move for

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1 the admission of 91 and Baggie, A.

2 MS. SIMPKINS: No objection.

3 THE COURT: 91 and Baggie, A, or content, A,
4 admitted.

5 (Plaintiff's Exhibits 91 and 91A admitted)

6 THE WITNESS: State's Proposed Exhibit 92 is Item
7 Number 13 on the diagram, containing three bullet fragments.

8 MS. SIMPKINS: Judge, may we approach?

9 THE COURT: Yes.

10 (Off-record bench conference)

11 BY MS. DE LA GARZA:

12 Q Officer, do you have a Baggie there in front of you
13 right now?

14 A Yes, I do, containing three fragments.

15 Q And again, this is Item Number 13. You have three
16 fragments, and these could not be identified as to any
17 particular brand of Americ or the R&P, .38 Super or the other
18 9 millimeter?

19 A Those are projectile fragments.

20 MS. DE LA GARZA: Okay. State would move for
21 admission of State's Proposed Exhibit 92 and contents, A.

22 MS. SIMPKINS: No objection.

23 THE COURT: 92 and contents, A, so admitted.

24 (Plaintiff's Exhibits 92 and 92A admitted)

25 THE COURT: Ladies and gentlemen of the jury, we're

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1 going to take a short recess, probably about 10 minutes or so,
2 give us a chance to try to get the remainder of our evidence
3 that has been bagged put in a position so we can try to move
4 this portion along somewhat.

5 So 10 minutes. And the admonition, as always, not
6 to converse among yourselves or anyone else as to any subject
7 matter that might be connected with the trial. Please refrain
8 from reading, watching, or listening to any commentary, should
9 there be any. But most importantly, you've not been charged.
10 The Court would ask that you not form or express any opinion
11 as to the outcome of the subject matter until this case is
12 submitted to you at its conclusion.

13 Wait for Mr. Sewell. He will come and get you when
14 we are ready to put this back in in about 10 minutes. Thank
15 you.

16 (Court recessed)

17 (Jury is not present)

18 THE COURT: We're back on the record outside the
19 presence of the jury at this time. Before we bring our jury
20 back in, Mr. Bennett had indicated he wished to address the
21 Court.

22 Is there anything, Mr. Bennett, that you need to
23 address the Court as to at this time?

24 MR. BINDRUP: No. We're just willing to proceed,
25 Your Honor.

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1 THE COURT: Thank you.

2 We'll go back off the record. We'll get our jury
3 back in and get them seated.

4 (Jury is present)

5 THE COURT: We're back on the record. At this time
6 all of our jurors are present and accounted for, counsel for
7 both sides, Mr. Bennett.

8 We're still with the direct examination of Ms.
9 Nielson-Hanes. She's still under oath at this time.

10 Counsel, please continue.

11 BY MS. DE LA GARZA:

12 Q Analyst Nielson, we've talked about all of the
13 evidence that you went through and you diagramed, you took
14 photos of and in fact that you impounded. I'm handing you a
15 number of envelopes, in fact, from State's Proposed Exhibit 93
16 all the way through State's Proposed Exhibit 114, excluding
17 State's Proposed Exhibit 102, which we know is not related to
18 this scene. Are those accurate envelopes, and are those the
19 envelopes that you actually put the evidence in that you
20 collected at this crime scene?

21 A Yes, it is.

22 Q So as to these envelopes, you picked up evidence,
23 you put it in these envelopes, you marked these envelopes, you
24 took it down to the evidence vault, it might have had some
25 testing, but then it stayed there until you brought those to

1 court --

2 A Correct.

3 Q -- with you today?

4 A Correct.

5 MS. DE LA GARZA: State would at this time, Your
6 Honor, move for the admission of State's Proposed Exhibit 93
7 through 114, with the exclusion of State's Proposed Exhibit
8 102.

9 MS. SIMPKINS: No objection.

10 THE COURT: 90 [sic] through 114 admitted subject to
11 102 not being admitted at this time.

12 (Plaintiff's Exhibits 93 through 101 and
13 103 through 114 admitted)

14 THE COURT: And just as to clarification, when we're
15 talking about 93 through 114, is that and content, or --

16 MS. DE LA GARZA: Yes, Your Honor. And I believe
17 that your clerk has marked it as such.

18 THE COURT: The designated contents of those --

19 THE CLERK: They are A.

20 THE COURT: They will be so numbered, the content
21 items. Thank you.

22 BY MS. DE LA GARZA:

23 Q Now, Crime Scene Analyst, was that basically the
24 evidence that you went through, Items 1 through 33 that you
25 had collected --

NIELSON-HANES - DIRECT

1 A Yes.

2 Q -- or in fact 36?

3 A Yes.

4 Q Additionally, you pointed out to the Court earlier
5 that you had taken some samples of some blood that was kind of
6 in a trail right there in 2535, is that correct, in front of?

7 A Yes.

8 Q I'm asking you to review these packages, State's
9 Proposed Exhibit 115 through 118. Do you recognize those?

10 A Yes.

11 Q And again, how do -- how do you recognize those?

12 A Case number, they have my P number and my first
13 initial, last initial.

14 Q And again, you put the event number on those?

15 A Correct.

16 Q And is this evidence that you collected?

17 A Yes, it is.

18 Q And basically what type of evidence are we looking
19 at here?

20 A Blood sample and control sample.

21 Q Okay. And again, you took that blood sample,
22 control sample, put it in the envelope, marked the envelope,
23 impounded that, and then brought it with you here to court
24 today?

25 A Correct.

1 Q And it's in substantially the same condition as when
2 you did that?

3 A Correct.

4 MS. DE LA GARZA: State would move for the admission
5 of State's Proposed Exhibit 115 through 118.

6 THE COURT: Those are so admitted.

7 (Plaintiff's Exhibits 115 through 118 admitted)

8 BY MS. DE LA GARZA:

9 Q Now, Crime Scene Analyst, we went ahead and opened
10 up some of the other envelopes to show the jury the casings
11 and the live rounds that you had collected. Is there a reason
12 that we're not opening these particular envelopes?

13 A Those are blood samples. They could be biohazard,
14 and I was told after processing the scene that they were not
15 relevant to the case, that it was a little girl with a bloody
16 nose.

17 MS. DE LA GARZA: No further questions, Your Honor.

18 THE COURT: Thank you.

19 Cross at this time.

20 MS. SIMPKINS: Thank you, Your Honor.

21 May I approach, Your Honor?

22 THE COURT: Yes.

23 CROSS-EXAMINATION

24 BY MS. SIMPKINS:

25 Q Ms. Nielson-Hanes, I am showing you what is marked

1 as State's Exhibit 10. Is that a true and accurate
2 representation of what -- what was there at the time?

3 A Yes. Are you talking about the number placards, the
4 evidence?

5 Q Yes.

6 A Yes. This is in front of 2535, Apartment 2535.

7 Q Can you tell me, are there any chalk lines around
8 there, around those pieces of evidence?

9 A No, there is not.

10 Q Now, you had indicated earlier that officers at the
11 scene were involved -- uniformed officers were involved in
12 drawing chalk lines around evidence or casings that they
13 found; is that correct?

14 A Correct.

15 MS. SIMPKINS: May I approach, Your Honor?

16 THE COURT: Yes.

17 BY MS. SIMPKINS:

18 Q Now showing you what's been marked as Proposed
19 Defense Exhibits D through H. Could you tell me if those are
20 true and accurate representations of the scene at the time,
21 please?

22 A Okay. I have -- D appears to be to the north of
23 2531, looking from west to east. I'm sorry. Put that there.
24 Item E appears to be in front of 2535. Item F appears to be
25 to the east side of 2535. Actually, it looks across the

1 street. Item -- sorry, is that G or C?

2 Q G.

3 A Item G is a front photograph of Building 2529 and
4 part of the parking lot. And Item H is the front of 2531, to
5 the east, showing a patrol car and a crime scene van.

6 Q And are those true and accurate representations of
7 the area on March 3rd of this year?

8 A Correct. Yes.

9 Q And Ms. Nielson-Hanes, are there officers in every
10 picture, please, if you could -- I'm sorry.

11 A In D, yes. In H, yes. In G, yes. And in F, yes.
12 And at E, yes.

13 Q And do those officers appear to be marking evidence?

14 A No. They appear to be standing. No, they do not
15 appear to be marking evidence.

16 Q And they are all within the crime scene tape area?

17 A Yes.

18 MS. SIMPKINS: And the -- okay. Request permission
19 -- actually, move for admission of Exhibits D through H, I
20 believe, Defense Exhibits D through H.

21 MS. DE LA GARZA: No objection, Your Honor.

22 MS. SIMPKINS: May I publish these?

23 THE COURT: D, E, F, G, and H admitted. And you can
24 publish them.

25 (Defendant's Exhibits D through H admitted)

1 BY MS. SIMPKINS:

2 Q Now, Ms. Nielson-Hanes, you indicated that there
3 were several, for lack of a better word, mistakes on your
4 crime scene diagram; is that correct? Specifically Items 11,
5 13, 14, 29, and 30 were not depicted exactly in the place
6 where they were at the scene?

7 A Well, it's not drawn to scale, but, yes.

8 Q Now, you also indicated that Items 31 and 32 had
9 been moved or appear to have been moved to the left, I believe
10 you indicated earlier; is that correct?

11 MS. DE LA GARZA: Objection, Your Honor. I think
12 that's a misstatement of the testimony.

13 THE COURT: I will ask Counsel to restate her
14 question, please.

15 BY MS. SIMPKINS:

16 Q Did you indicate -- well, let me start over.

17 You indicated that Item 30, is that correct, had
18 been moved to the south of 31, 32 in the picture, which was
19 not depicted on the crime scene diagram?

20 A The photograph was correct in the location of the
21 items. It was -- it was off to the side on my diagram.

22 Q But you -- maybe I'm mistaken. Didn't you say that
23 it looked like 31 and 32 had been moved to the left? Wasn't
24 that your testimony?

25 A In the diagram, or the photograph?

1 Q In the photograph.

2 A No, they had not been moved.

3 Q Okay. Now, in addition -- now, in addition, you
4 indicated earlier that the layout of the buildings, you did
5 not measure those; is that correct?

6 A Correct.

7 MS. SIMPKINS: Okay. And may I approach, Your
8 Honor?

9 THE COURT: Yes.

10 BY MS. SIMPKINS:

11 Q I am showing you --

12 MS. DE LA GARZA: Your Honor, I would ask that she
13 show this to the witness before it be displayed to the jury.

14 BY MS. SIMPKINS:

15 Q I'm showing you what's been marked as Defense
16 Proposed Exhibit P. Does this properly show the layout of the
17 buildings, the slant of the buildings themselves? Is it more
18 accurate as to the layout of where the buildings actually are?

19 A They are cantered off to the side, yes.

20 MS. SIMPKINS: May I publish to the jury, Your
21 Honor?

22 THE COURT: At this -- at this point we haven't had
23 it admitted or anything else.

24 MS. SIMPKINS: Move for admission of Defense Exhibit
25 P.

1 MS. DE LA GARZA: Judge, I would object at this
2 time. I don't know that she said this is to scale, I don't
3 know if this is an accurate representation of the entire
4 scene. She has talked about the slant of the buildings on
5 top. I have no idea if it's to scale, et cetera. I don't
6 know who prepared this.

7 THE COURT: Admission denied at this time. If you
8 need to ask further questions, please do so.

9 MS. SIMPKINS: Thank you, Your Honor. May I
10 approach, Your Honor?

11 THE COURT: Yes.

12 BY MS. SIMPKINS:

13 Q I'm showing you what's Proposed Defense Exhibit I
14 through M. Could you please tell us what those depict.

15 A Exhibit I is the area in front of or to the south of
16 2535, apartment. It shows a shirt in the dirt area. It shows
17 crime scene tape to the west. It appears two different crime
18 scene tapes are up. One is just west of the other one. It is
19 daylight.

20 Exhibit J is the back of the light-blue Cadillac
21 bearing Nevada 578MCN. It is daylight.

22 Exhibit K is -- the sun has gone down. It's the
23 south side or the front of 2535. It has cones on the east
24 side -- I'm sorry, this is the southeast, depicting blood
25 stains. Some cones are on their sides, some cones are

1 upright. The upright cones are to display 90-degree-angle
2 blood stains. The ones that are on their side show the
3 direction of travel.

4 Exhibit L is daylight. It is the front of 2535.
5 The photograph was taken from the east towards the apartment
6 and parking lot.

7 Item Number M is the trash bin area, the east side
8 of a building, 2535, and part of the light-blue Cadillac.

9 Q Now, Ms. Nielson-Hanes, each one of those pictures
10 depicts the front of 2535 and that window in the lower right-
11 hand corner of that building; is that correct?

12 A Yes, it does.

13 Q Does that window appear to be broken?

14 A No, it does not.

15 MS. SIMPKINS: Move for admission of Defense
16 Exhibits I -- move for admission of Defense Exhibits I through
17 M at this time, Your Honor.

18 MS. DE LA GARZA: No objection, Your Honor.

19 THE COURT: I through M so admitted.

20 (Defendant's Exhibits I through M admitted)

21 MS. SIMPKINS: May I publish?

22 THE COURT: Yes, you may.

23 BY MS. SIMPKINS:

24 Q Now, Ms. Nielson-Hanes, how many how many shell
25 casings did you recover from that area?

1 A Nine .38, seven .32, five Luger casings, and one
2 live Luger casing, 9 millimeter, and eight Americ 9
3 millimeter.

4 Q So what's -- do you happen to know the total on
5 that?

6 A Twenty-eight.

7 Q And would you agree that a major portion of those
8 casings came from the parking lot and were shot -- and the
9 bullets were shot towards 2535?

10 MS. DE LA GARZA: Objection as to speculation.

11 THE COURT: Sustain the objection as a compound
12 question. If you want to ask the question, do it in two
13 parts.

14 MS. SIMPKINS: Thank you, Your Honor.

15 BY MS. SIMPKINS:

16 Q Would you agree that the casings were -- a major
17 portion of the casings were located in the parking lot?

18 A I would say yes, that most of the casings were
19 located in and around the parking lot.

20 Q And you'd indicated earlier that Items 6 and 7,
21 that's around where the body was located? Actually, that's a
22 plaid shirt; is that correct?

23 A That's an assumption on my part, since there was
24 blood at the scene, there was a shirt that had been cut off, I
25 assume by paramedics, that that is where the victim fell.

NIELSON-HANES - CROSS

1 MS. SIMPKINS: May I approach, Your Honor?

2 THE COURT: Yes.

3 BY MS. SIMPKINS:

4 Q I'm showing you what's been admitted as State's
5 Exhibit 1, State's Exhibit 1.

6 THE COURT: If you'd put your clip up higher.

7 BY MS. SIMPKINS:

8 Q Now, this is an aerial photo of the area; is that
9 correct?

10 A It appears to be, yes.

11 Q Okay. Could you please point to where 2535 would be
12 located on this map.

13 A 2535 would be this building right here.

14 Q And that is slanted? Does it appear to be slanted
15 on there?

16 A Yes, it does.

17 Q And would you agree that -- would you agree that
18 Defense Exhibit P more accurately reflects the slant of that
19 building?

20 THE COURT: Counsel, it's -- just put it down,
21 please.. Please approach.

22 (Off-record bench conference)

23 BY MS. SIMPKINS:

24 Q Now, Ms. Nielson-Hanes, you indicated that on your
25 diagram Number 16 was a pair of socks, and you said that that

1 was unrelated or may be unrelated; is that correct?

2 A The socks located behind 2531 had blood on them.
3 They were photographed, collected, and prior to collection
4 they were measured.

5 Q And you indicated that they were -- or may be
6 unrelated; is that correct?

7 A We collect any items that appear to be related to
8 the crime scene, anything with a red substance that appears to
9 be blood, anything that appears to be related to the crime
10 scene.

11 Q Do you know if these socks were related or not?

12 A No, I do not.

13 Q Now, as we indicated earlier, 2535 is in fact on a
14 slant. And you indicated earlier that you measured from the
15 building to the curb; is that correct?

16 A On 2535?

17 Q Yes.

18 A Yes, I did.

19 Q Okay. And because this building is on a slant, that
20 measurement is only going to be correct at one point?

21 A The measurement was taken from the southeast to the
22 curb line.

23 Q So it would be only correct, that measurement, at
24 that point, because that building is slanted?

25 A Correct.

NIELSON-HANES - CROSS

1 Q Now, you also indicated that in the Cars H, G, and
2 -- maybe not F, it was H and G. H and G had been struck by
3 bullets; is that correct?

4 A Yes.

5 Q And they were fresh strikes?

6 A They appeared to be.

7 Q And on the face of 2535 you indicated that there was
8 a single divot mark; is that correct?

9 A Yes.

10 Q Where on that building was that divot mark?

11 A It was located in the front portion of the southeast
12 apartment.

13 Q Did you not measure where that divot mark was?

14 A I don't believe I did.

15 Q And it is not on this map, this crime scene diagram?
16 Excuse me.

17 A No, it's not on the crime scene diagram. The
18 measurement was done, Officer Heredia photographed the strike
19 on the wall, 3 feet, 6 inches.

20 Q Three feet, six inches from where?

21 A From --

22 Q Do you know?

23 A From the base up.

24 Q From the ground, you mean?

25 A Correct.

NIELSON-HANES - REDIRECT

1 Q But you're not exactly sure on the wall where it
2 was? That's a big wall. That's why I'm asking.

3 A It should be reflected in a photograph.

4 MS. SIMPKINS: May I approach, Your Honor?

5 THE COURT: Yes.

6 MS. SIMPKINS: Thank you.

7 BY MS. SIMPKINS:

8 Q Now I'm showing you State's Exhibit 68. Could you
9 tell me what that is, please.

10 A This is a picture of a divot in the stucco.

11 Q Does that depict which divot that is, can you tell
12 me?

13 A There was only one strike in the building, I
14 believe.

15 Q Would this be the divot on 2535, then?

16 A Yes, it would.

17 Q And does that show where it is on the wall?

18 A No, it doesn't.

19 MS. SIMPKINS: I have no further questions, Your
20 Honor.

21 THE COURT: Any redirect at this time?

22 MS. DE LA GARZA: Just briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. DE LA GARZA:

25 Q Crime Scene Analyst, you were shown a picture of

NIELSON-HANES - REDIRECT

1 some officers standing inside the crime scene tape, and you
2 were asked whether they were marking evidence or if they were
3 just standing inside the crime scene tape; is that correct?

4 A Correct.

5 Q Is it their job to collect the evidence, or is it
6 yours?

7 A It's my job.

8 Q As a crime scene analyst?

9 A Correct.

10 Q Those officers that were standing out there were
11 patrol officers; is that correct?

12 A Correct.

13 Q And is it their job to secure the scene?

14 A Yes.

15 Q However, you did mention earlier that they sometimes
16 do some chalk marks. Is it their job to do the chalk marks?

17 A No, it's not.

18 Q But why do they do that?

19 A To assist in preserving that evidence.

20 Q So might it just be in an instance maybe where they
21 see that it's going to be something that gets easily hit or
22 easily knocked, they're trying to tell everybody else, as well
23 as yourself, watch out, there's something right here?

24 A Correct.

25 Q They're not going to do that for every piece of

NIELSON-HANES - REDIRECT

1 evidence, are they?

2 A No, they are not.

3 Q In fact, it's your job to go out there and mark all
4 the evidence?

5 A Yes.

6 Q Were they out there for 10 hours doing that?

7 A Day shift was relieved by swing shift.

8 Q Okay. So all they had to do was kind of make sure
9 nobody crossed that tape?

10 A Correct.

11 Q Let's kind of clear up this confusion about the 31,
12 32.

13 MS. DE LA GARZA: Might I approach, Your Honor?

14 THE COURT: Yes.

15 BY MS. DE LA GARZA:

16 Q Analyst Nielson-Hanes, was it not your testimony
17 that your numbers on the diagram should have been moved?

18 A Correct.

19 Q And you actually made a mark here from 30 to move it
20 to the left so the others would be more to the right of it; is
21 that correct?

22 A Yes.

23 Q You didn't say, and correct me if I'm wrong, that
24 they should have been moved on the photograph?

25 A Correct.

NIELSON-HANES - REDIRECT

1 Q And you didn't say anybody moved them on the
2 photograph; is that correct?

3 A Correct.

4 Q You were just saying these should have been moved?

5 A That number should have been to the south of 31 and
6 32.

7 Q Okay. I just wanted to be clear about that. Was
8 that the testimony, and did I understand it right?

9 A Yes.

10 Q Now, when you arrived on the scene you said there's
11 this bloody shirt and the beeper and a bullet, and you've kind
12 of marked them on your diagram as 6 and 7, and you put some
13 red around there to illustrate some blood. The body wasn't
14 there, was it?

15 A No, it was not.

16 Q Okay. Do they normally make somebody who's in the
17 process of possibly dying sit there and wait for the crime
18 scene analyst so that they can take pictures?

19 A No, they don't. They --

20 Q Okay. So that has to be done at the hospital or at
21 the coroner's office?

22 A Correct.

23 Q You can only document what's there when you get
24 there?

25 A Correct.

NIELSON-HANES - REDIRECT

1 Q Now, you were also asked about some of your
2 measurements. Is it true that you measured every piece of
3 item from a couple of fixed points?

4 A Yes.

5 Q And how did you do that again, just briefly?

6 A For the evidence that was laying on the ground, it
7 was measured west of the pole and north or south of the
8 measurement line.

9 Q And that measurement line you used an area kind of
10 parallel, just going straight through the scene; is that
11 correct?

12 A Correct.

13 Q Okay. So you didn't use that building to measure
14 any of your evidence?

15 A No, we did not.

16 Q So are the measurements that you told us throughout
17 all of your testimony true and accurate?

18 A Yes.

19 Q And additionally, the photos that you took were true
20 and accurate?

21 A Yes.

22 Q And on this crime scene you attempted to be true and
23 accurate?

24 A Yes.

25 Q But how many pieces of evidence did you have here?

NIELSON-HANES - RECROSS

1 A Thirty-nine -- well, thirty-six.

2 Q And so you've acknowledged that some of them weren't
3 to scale, and we moved them a bit based on the photos?

4 A Correct.

5 Q But those photos are true and accurate?

6 A Yes.

7 MS. DE LA GARZA: No further questions, Your Honor.

8 THE COURT: Anything additional from defense?

9 MS. SIMPKINS: Very quickly, Your Honor. May I
10 approach?

11 THE COURT: Yes.

12 RECROSS EXAMINATION

13 BY MS. SIMPKINS:

14 Q Ms. Nielson-Hanes, could you point and tell me where
15 the tape, the crime scene tape was placed around this area.

16 A There was -- there was tape in several locations.
17 There was tape to the back of this building, there was a tape
18 located in this area, there was a tape I believe back here.

19 MS. SIMPKINS: May the record reflect that she
20 pointed between 2535 and 2531, tape located in the area.

21 THE COURT: Record will so reflect.

22 THE WITNESS: I'm sorry. And then to the south of
23 2529 there was a tape, and there was tape in this area.

24 MS. SIMPKINS: May the record reflect to the east of
25 2529?

NIELSON-HANES - RECROSS

1 THE COURT: So reflect.

2 BY MS. SIMPKINS:

3 Q Okay. Ms. Nielson-Hanes, as to the tape between
4 2531 and 2535, can you tell me, that dissects the area where
5 shell casings were found; is that correct?

6 A Yes, it did.

7 Q Did you have them move that tape at some point?

8 A No, I did not.

9 MS. SIMPKINS: May I approach, Your Honor?

10 THE COURT: Yes.

11 BY MS. SIMPKINS:

12 Q I am showing you Proposed Defense Exhibit N and O.
13 Can you tell me what those are, please?

14 A Exhibit N is a sidewalk with cones standing upright
15 and leaned over to the side. Exhibit O is a photograph of a
16 sidewalk, a beer can, crime scene tape, cones standing upright
17 and then over to the side. Both photographs are taken at
18 night.

19 Q Do they appear to be the same photograph, but from
20 different angles?

21 A Yes, they do.

22 Q Can you tell me where they are located on this map,
23 please.

24 A That would be in front of 2535 and to the -- to the
25 north of 2535.

NIELSON-HANES - RECROSS

1 Q Could you point, please.

2 A They would have been in here.

3 Q Now, in one of these photographs there is crime
4 scene tape right in front of what looks to be a sidewalk right
5 there; is that correct?

6 A It appears to be, yes.

7 Q And on this photograph, this would be the same
8 sidewalk, only from a different angle, and there is no crime
9 scene tape there?

10 A There is no crime scene tape. The lighting may be
11 -- it doesn't appear that there's crime scene tape, but the
12 lighting after the second cone is not real good.

13 Q Does there --

14 A This does appear to be the car in this photo. The
15 side view in N does appear to be the car in O, the front of
16 the car.

17 Q And in O there is crime scene tape, but in N there
18 doesn't appear to be any crime scene tape? Is that your
19 testimony?

20 A Well, it's not visible. But the lighting towards
21 the third cone from the bottom of the picture, the third cone,
22 it does get quite dark.

23 Q But you can still see the sidewalk in both areas
24 right there?

25 A Well, there is a sidewalk in both photographs.

NIELSON-HANES - RECROSS

1 MS. SIMPKINS: Move for admission of Defense Exhibit
2 O and N.

3 MS. DE LA GARZA: No objection, Your Honor.

4 MS. SIMPKINS: May I --

5 THE COURT: O and N so admitted. You can publish.

6 (Defendant's Exhibits N and O admitted)

7 BY MS. SIMPKINS:

8 Q Now, Ms. Nielson-Hanes, were they still moving crime
9 scene tape around when you arrived, or was that in place?

10 A The tape in front of 2535?

11 Q Yes.

12 A I don't recall.

13 MS. SIMPKINS: I have no further questions, Your
14 Honor.

15 THE COURT: Anything additional from the State?

16 MS. DE LA GARZA: No, Your Honor.

17 THE COURT: You're excused. You can step down.
18 Thank you very much.

19 Ladies and gentlemen, I want to take -- have you
20 take about a real curt five-minute break, give you just a
21 chance to stand up, walk around, use the facilities, and we're
22 going to get you right back down here and get our next witness
23 on the stand.

24 Again the admonition not to converse among
25 yourselves or anyone else as to any subject matter that might

1 be connected with the trial. Additionally, please refrain
2 from reading, watching, or listening to any commentary, should
3 there be any. But most importantly, you've not been charged.
4 The Court would ask that you not form or express any opinion
5 as to the outcome of the subject matter until the case is
6 submitted to you at its conclusion.

7 With that, about five minutes, real curt, ladies and
8 gentlemen, once you finish viewing those pictures.

9 (Jury is not present)

10 THE COURT: Before we recess, we'll go back on the
11 record outside the presence of our jury.

12 Our next witness in this matter -- the gallery has
13 been very good up to this point. I just want to put on the
14 record, so you understand, if we have any facial gestures, any
15 movements, any comments, the bailiff will ask you outside the
16 courtroom during the next witness. You have been so warned.
17 Thank you.

18 (Court recessed)

19 (Jury is present)

20 THE COURT: We're back on the record. At this time
21 all of our jurors are present and accounted for, the parties,
22 Mr. Bennett, likewise.

23 If the State would call its next witness, please.

24 MS. DE LA GARZA: State would call Anthony Gantt,
25 Your Honor.

GANTT - DIRECT

1 THE COURT: Mr. Gantt, would you please stand so you
2 can be sworn by our clerk.

3 ANTHONY GANTT, PLAINTIFF'S WITNESS, SWORN

4 THE CLERK: You may be seated. State and spell your
5 name for the record.

6 THE WITNESS: Anthony, A-N-T-H-O-N-Y G-A-N-T-T.

7 DIRECT EXAMINATION

8 BY MS. DE LA GARZA:

9 Q Mr. Gantt, you understand that this is the trial of
10 Mr. Ashley Bennett; is that correct?

11 A Yes.

12 Q Do you know Mr. Bennett by any other name?

13 A No.

14 Q Do you know him as Ashley Bennett?

15 A Yes.

16 Q There was no other name that you knew him by?

17 A No.

18 Q Are you aware why we're here today?

19 A Yes. To testify on Ashley Bennett.

20 Q Isn't it true that you've given some prior
21 statements in this case?

22 A Yes.

23 Q And isn't it true at that time that you identified
24 Ashley Bennett as Face?

25 A Yes.

GANTT - DIRECT

1 Q Did you know him as Face, or did you know him as
2 Ashley Bennett?

3 A Face.

4 Q Now, in this trial you're aware that we're talking
5 about a murder that occurred on March 3rd, 2001; is that
6 correct?

7 A Yes.

8 Q Earlier in the year were you additionally charged
9 with this murder of -- occurring on March 3rd, 2001?

10 A Yes.

11 Q Because you were charged, did you make an agreement
12 with the State to testify in this case?

13 A I did, but --

14 Q But what?

15 A I ain't testifying.

16 Q You're not going to testify here today?

17 A Yes.

18 Q Are you going to testify or not?

19 A No.

20 THE COURT: Ladies and gentlemen of the jury, I'm
21 going to have to have you take a short recess at this time.
22 Please go back to jury services. And again the admonition not
23 to converse among yourselves or anyone else as to any subject
24 matter that might be connected with the trial. Please refrain
25 from reading, watching, or listening to any commentary, should

1 there be any, as to this trial. But most importantly, you've
2 not all -- heard all the evidence. Court would ask that you
3 not form or express any opinion as to outcome of the subject
4 matter until this case is submitted to you at its conclusion.

5 (Jury is not present)

6 THE COURT: If we can have the courtroom cleared of
7 all spectators at this time.

8 THE BAILIFF: Please leave the courtroom.

9 THE COURT: Arthur, would you check to see, once
10 they're clear, to see if Department 12 is empty.

11 MS. DE LA GARZA: May I approach, Your Honor?

12 THE COURT: Just -- just hold.

13 -- Gantt step down the stand, go with his -- his
14 counsel only at this time, and the investigator, just as
15 security, and discuss. And then after that we'll come back.

16 (Court recessed)

17 (Jury is not present)

18 THE COURT: We're back on the record at this time
19 outside the presence of our jury and our spectators.

20 Mr. Gantt is in the witness box at this time.

21 Mr. Gantt, for the record, you previously were asked
22 reference to testifying as to the events of March 3 of last
23 year, a murder. At that time you indicated that you would not
24 testify. The Court took a recess, allowed you to go and speak
25 with your counsel outside the presence of either State or

1 defense. After talking to your counsel, what is your wish at
2 this time, sir?

3 THE WITNESS: To go forward.

4 THE COURT: By going forward, does that mean you're
5 going to testify, or does that mean you're not going to
6 testify?

7 THE WITNESS: Going to testify.

8 MS. DE LA GARZA: Your Honor, at this time State
9 would request that all the spectators be excluded from the
10 courtroom. In speaking with Mr. Gantt's attorney,
11 specifically Ms. Kristina Wildeveld, she noted that not only
12 is a codefendant in herè, there is one of his cousins, and
13 there's some other people that we're concerned might be
14 affiliated with Gerson Park Kings, and it's at this point
15 intimidating this witness, and basically the State is viewing
16 it as a veiled threat by having him in here. I know that
17 there were some letters sent earlier by Mr. Bennett to Mr.
18 Gantt, saying that he was going to try and have a lot of
19 people in here, in the courtroom, to see what Mr. Gantt was
20 going to say, and basically, again, a veiled threat to Mr.
21 Gantt about his testimony. So it would be the State's request
22 that the spectators be excluded from the courtroom at this
23 time.

24 THE COURT: Mr. Bindrup or Ms. Simpkins?

25 MR. BINDRUP: Your Honor, there -- it is a

1 constitutional right to have an open and public forum. There
2 is no case law that permits the Court to change that
3 particular requirement. If a witness's testimony cannot stand
4 the light of day, and there's certainly a problem with that,
5 there is no direct indication or evidence of any threat, there
6 was -- the Court took every precaution, the Court warned any
7 individuals that were listening or watching that they would be
8 forcefully dealt with if they took any action, made any
9 motion, said anything at all to disrupt this forum at all. To
10 allow a witness to shield his testimony from the light of day,
11 to allow a witness to shield his testimony from a public and
12 open forum as guaranteed by our Constitution from day one --

13 THE COURT: Could you -- as you continue to repeat
14 that phrase, can you point me to a section of the Constitution
15 in terms of what you are quoting?

16 MR. BINDRUP: Your Honor, due --

17 THE COURT: There's an absolute right as to
18 confrontation by the accused. The Court, if I'm not mistaken,
19 can in its discretion determine when it's appropriate and when
20 it's inappropriate. But I have heard that three times on the
21 record. So since you're making a record and you keep
22 repeating that phrase, if you have a specific quote, I'd like
23 to hear it now, Mr. Bindrup.

24 MR. BINDRUP: It is a speedy and public trial,
25 Article 6 of the Constitution. And if there was some evidence

1 of any kind of threat -- and I don't believe the Court has
2 seen it, I certainly haven't seen any of the pressure that has
3 been alluded to -- the Court is free to make inquiry as to Mr.
4 Gantt. We're not hearing that from him at this time. So
5 without more, it would be inappropriate to lock out the public
6 from this particular hearing.

7 MS. WILDEVELD: And, Your Honor, for the record
8 again, Kristina Wildeveld. My client is 16 years old. He's
9 still a juvenile, although he has been certified adult for
10 purposes in this proceeding. For other -- and all intents and
11 purposes, he is still a juvenile, and in juvenile courts they
12 make special provisions for juveniles and have a closed
13 courtroom.

14 THE COURT: Court understands that. The difficulty
15 I have today is this is not juvenile court. We do not have as
16 a standard situation a closed courtroom.

17 As to the specific issue before the Court as to
18 whether or not the courtroom should be open for spectators,
19 because the issue is not as to confrontation by Mr. Bennett of
20 Mr. Gantt, because the Court understands our long-standing
21 principle in terms of the right of confrontation, the issue is
22 whether or not the Court has any basis or grounds to close our
23 courtroom under the circumstance.

24 And, Mr. Bindrup, I appreciate the argument that you
25 are advancing on behalf of your client. But this Court is not

1 as foolish as you wish to present it. But, having said that,
2 there still must be some kind of objective representation on
3 the record for the Court to consider. And as you have
4 correctly pointed out, there is none in the record at this
5 time.

6 Mr. Gantt, the issue for the Court at this time is
7 your testimony. You've indicated that you are willing to
8 testify. If the Court calls the jury to come back in and
9 calls the spectators to come back in to sit and observe the
10 direct and the cross-examination, are you still willing to
11 testify, sir?

12 THE WITNESS: I don't know.

13 THE COURT: Why don't you know, if you can say?

14 MS. WILDEVELD: Your Honor, my client called me up
15 to the stand. Can I go up to --

16 THE COURT: No. He needs -- he needs to take
17 whatever position he wishes to take as to why or why not. He
18 wishes not to testify, the Court -- if he wishes to testify,
19 fine, I'll bring my jury back in and put people in the
20 audience. If he does not wish to testify, I need to know that
21 and the why nots.

22 Mr. Gantt.

23 THE WITNESS: Yes, I'll testify.

24 THE COURT: And that is even with the Court allowing
25 spectators back in the courtroom?

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1 THE WITNESS: Yes.

2 THE COURT: We'll take about five minutes, and we
3 will reassemble and go forward with this matter.

4 Take Mr. Gantt back next door. Let his counsel only
5 talk to him, and we'll take five minutes, we'll get back on.

6 (Court recessed)

7 (Jury is present)

8 THE COURT: We're back on the record in State of
9 Nevada versus Bennett.

10 At this time Mr. Anthony Gantt is on the stand. All
11 of our jurors are present and accounted for. Mr. Bennett
12 likewise is present.

13 State if you would restate your question, please.

14 DIRECT EXAMINATION (Resumed)

15 BY MS. DE LA GARZA:

16 Q Mr. Gantt, do you remember being charged as a
17 codefendant for the murder of Joseph Williams that occurred on
18 March 3rd of 2001?

19 A Yes.

20 Q Now, once you were charged, did you make an
21 agreement with the State to testify against the other
22 codefendants in this case?

23 A Yes.

24 Q And did you enter into that agreement with the State
25 on November 26, 2001?

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GANTT - DIRECT

1 A Yes.

2 Q Now, in addition to yourself being charged, who were
3 the other people that were charged with you?

4 A Their real names?

5 Q Tell me what you know.

6 A Face.

7 Q Is Face known as Ashley Bennett, also?

8 A Yes.

9 Q And do you see him here in the courtroom?

10 A Yes.

11 Q Would you please point to him and describe something
12 that he's wearing.

13 A Right there, tuxedo, on the left -- far left to my
14 side.

15 MS. DE LA GARZA: Would the record reflect
16 identification of the defendant.

17 THE COURT: What color tie is he wearing, please?

18 THE WITNESS: A red tie.

19 THE COURT: Thank you. So reflect.

20 BY MS. DE LA GARZA:

21 Q Who else was charged with you?

22 A Lailoni.

23 Q Is that Lailoni Morrison?

24 A Yes.

25 Q Who else?

GANTT - DIRECT

1 A T-Wack and Chew-Wack.

2 Q Two-Wack -- or T-Wack, do you know him as Antwon
3 Graves?

4 A Yes.

5 Q And additionally you said Chew-Wack?

6 A Yes.

7 Q Is he -- is his real name Louis Matthews?

8 A Yes.

9 Q And do you see him in the courtroom, also?

10 A Yes.

11 Q Where is he?

12 A In the far back, with the jersey on.

13 Q When you say "jersey," what color jersey are you
14 talking about?

15 A Red and blue.

16 MS. DE LA GARZA: Will the record reflect
17 identification of Chew-Wack, also known as Louis Matthews?

18 THE COURT: Record will so reflect.

19 BY MS. DE LA GARZA:

20 Q Do you know who else was charged with you?

21 A T-Wack.

22 Q And that's Antwon Graves?

23 A Yes.

24 Q Do you remember anybody else?

25 A And that's it.

GANTT - DIRECT

1 Q Now, once you were charged, you said that you
2 entered into agreement to testify; is that correct?

3 A Yes.

4 Q And as part of that agreement both you and the State
5 agreed that you would receive a sentence of 10 to life on a
6 second-degree murder; is that correct?

7 A Yes.

8 Q Additionally, the State would retain the right to
9 argue as to your sentence on conspiracy to commit murder; is
10 that correct?

11 A Yes.

12 Q And part of that agreement is that we agreed upon
13 that sentence, rather than the other sentences that you could
14 have received; is that correct?

15 MR. BINDRUP: At this point, Your Honor, I'd -- I
16 object to the continuing leading. I think we've been lax.
17 I --

18 THE COURT: Objection noted. Overruled --

19 MR. BINDRUP: Thank you.

20 THE COURT: -- in terms of these questions.

21 BY MS. DE LA GARZA:

22 Q And pursuant to that guilty plea agreement, are you
23 going to testify here today?

24 A Yes.

25 Q Now, Mr. Gantt, how old are you? 〰

GANTT - DIRECT

1 A Sixteen.

2 Q Back on March 3rd, 2001, how old were you?

3 A Fifteen.

4 Q On March 3rd, 2001, do you remember being at a
5 gathering?

6 A Yes.

7 Q Where was that gathering?

8 A At L-Wack house.

9 Q L-Wack?

10 A Yes.

11 Q Do you know L-Wack's real name?

12 A No.

13 Q That's the only way you know him, is as L-Wack?

14 A Yes.

15 Q What was the reason for being over at L-Wack's
16 house?

17 A 'Cause his little brother got killed.

18 Q And who was his little brother?

19 A Mark Doyle.

20 THE COURT: Ms. De La Garza, I'm going to stop you
21 there. Mr. Bindrup had lodged an objection as to leading.
22 The preliminary I didn't have a problem with. But as we get
23 into specific areas, we need him to say what he needs to say,
24 whatever that is.

25 MS. DE LA GARZA: I'm sorry.

GANTT - DIRECT

1 BY MS. DE LA GARZA:

2 Q Okay. And we ended off with who is L-Wack's
3 brother.**

4 A Mark Doyle.

5 Q And do you know when he was killed in relation to
6 March 3rd?

7 THE COURT: Could I have -- stop right there. Could
8 I have counsel approach.

9 (Off-record bench conference)

10 BY MS. DE LA GARZA:

11 Q So why were you gathered on March 3rd at L-Wack's?

12 A 'Cause Mark Doyle got killed.

13 Q When was that?

14 A March 2nd.

15 Q Who was gathered over at L-Wack's?

16 A Me, Face, T-Wack, Chew-Wack, Henry, and Lailoni.

17 Q Approximately what time did you go over there?

18 A Around 11:00, 12:00, afternoon.

19 Q In the afternoon? While you were over there did
20 there come a time when there was a plan to leave?

21 A Yes.

22 Q What was that plan?

23 A They're going to shoot up Big Mama house, the Hunts'
24 house.

25 Q How do you know that was the plan?

GANTT - DIRECT

1 A 'Cause I heard it.

2 Q Who said it?

3 A Face.

4 Q Who went with you to do that?

5 A Me and Face, Lailoni, T-Wack, and Chew-Wack.

6 Q What'd you do?

7 A Walked toward the Hunts' house.

8 Q So L-Wack's house is in what area of town?

9 A In the far back in the Carey Arms.

10 Q Is that in North Las Vegas, Clark County, Nevada?

11 A Yes.

12 Q You said in the far back?

13 A Yes.

14 Q And where is Big Mama's house?

15 A In the front.

16 Q In the front of it?

17 A Yes.

18 Q Do you know what direction that is?

19 A Martin Luther King and Cartier.

20 Q And when you say "front," what do you mean? Can you

21 give us a direction as to north, west, east --

22 A North.

23 Q Now, you called it two different things. You called

24 it Big Mama's house and the Hunts' house. Why?

25 A 'Cause Big Mama, that's the owner of the house.

GANTT - DIRECT

1 Q Do you know her name?

2 A No.

3 Q And why the Hunts' house?

4 A Because all the Hunts kick it over there.

5 Q Now, why were you going over there to shoot it up?

6 A Because they're the 60s.

7 Q What do you mean when you say 60s?

8 A Rolling 60.

9 Q And what does Rolling 60 have to do with you?

10 A It's a gang, and they plot -- we beefing.

11 Q When you say "we're beefing" --

12 A Feuding.

13 Q Who's feuding?

14 A The 60s and the Gersons.

15 Q And so when you say "we," are you including yourself
16 in the Gersons?

17 A No.

18 Q Why do you say "we"?

19 A 'Cause you said where was we on our way to. And I
20 told you we was on our way to the Hunts' house.

21 Q So when you say "we," are you referring to the other
22 people with you being part of the Gersons?

23 A Yes. Yes.

24 Q Specifically, the people that were with you, who do
25 you know as a Gerson?

GANTT - DIRECT

1 A T-Wack, Chew-Wack, Lailoni, and Face.

2 Q When you guys are going over to Big Mama's how are
3 you getting over there?

4 A Walking.

5 Q Are you -- are you just walking in a group?

6 A Yes.

7 Q What happens as you're walking to Big Mama's?

8 A Security came. Security walked past, so everybody
9 turned around.

10 Q Now, were you with everybody when they turned
11 around?

12 A No.

13 Q Where were you?

14 A In Toy parking lot.

15 Q What is Toy parking lot?

16 A In front of her house, in the parking lot where the
17 murder was -- occurred at.

18 Q Do you know what address she lives at?

19 A No.

20 Q Do you know what street she lives on?

21 A No.

22 Q But you know that the murder occurred in front of
23 her house?

24 A Yes.

25 Q So if I said to you 2535 Morton, would that sound

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1 correct?

2 A Yes.

3 Q It's in that area?

4 A Yes.

5 Q So you're actually over in Toy circle. Where are
6 you in that circle?

7 A On the sidewalk, just before you hit the parking
8 lot.

9 Q And where does everybody else encounter security?

10 A On the side of Toy house.

11 MS. DE LA GARZA: May I approach, Your Honor?

12 THE COURT: Yes, you may.

13 (Off-record bench conference)

14 THE COURT: When we're set up, just go forward with
15 your questions.

16 BY MS. DE LA GARZA:

17 Q Mr. Gantt, where does Toy live in what you've been
18 referring to as a circle?

19 A 2535.

20 THE COURT: And just for clarification of the
21 record, what is the document he's pointing to?

22 BY MS. DE LA GARZA:

23 Q And I'm showing you what's been marked as State's
24 Exhibit 2. Do you recognize that?

25 A Yes.

GANTT - DIRECT

1 Q And you recognize that as Toy circle?

2 A Yes.

3 Q And what you -- and why do you call it Toy circle?

4 A 'Cause she live in that circle.

5 Q Okay. Now, you said you're walking across -- where
6 are you when you split up with the group?

7 A Right here between 2535 and 2531.

8 Q Which direction were you walking from?

9 A Over here through the park.

10 Q When you say "over here through the park," you
11 referred to the west side of 2529; is that correct?

12 A Yes.

13 Q So you're walking from which direction?

14 A From the west of the park, behind 2535.

15 Q Which direction are you going into?

16 A Between 2535 and 2531.

17 Q I'm going to ask you -- I'm going to hand you a
18 green marker, and I want to have you kind of do a little dash
19 and some arrows as to which direction you were walking and
20 where. I might have to go through a couple of pens here.

21 Now, you've created a line going from the east --
22 from the west to the east between 2531 and 2535. At that
23 point when you're walking there, is the rest of the group with
24 you?

25 A No.

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1 Q You're alone?

2 A Yes.

3 Q When did you separate from the group?

4 A Soon as we hit between 2535 and 2531.

5 Q Put an X on that display where you separated from
6 the group.

7 So you continue west or east. Which way does the
8 group go? You might as well just stand up there.

9 So the group continues north?

10 A Yes.

11 Q But where do you stop?

12 A Right here.

13 MS. DE LA GARZA: Court's indulgence.

14 BY MS. DE LA GARZA:

15 Q Why does the group continue on and you stop?

16 A Because they was going to shoot up the Hunts' house.

17 Q Did you not want to go along with that?

18 A No.

19 Q But then you said there comes a point at which they
20 come across a security guard.

21 A Yes.

22 Q Do you know where that happens?

23 A On the side of 2535.

24 Q Is that basically where you've ended your arrow?

25 A Yes.

GANTT - DIRECT

1 Q So then what happens once they come into contact
2 with that security guard?

3 A They start coming back towards the parking lot.

4 Q Is anybody encountered when they start coming back
5 through the parking lot?

6 A Yes.

7 Q Who is that?

8 A Dough Boy.

9 Q Where is Dough Boy when you first see him?

10 A Coming out the apartment.

11 Q And I'm going to ask you to write a V.

12 What happens once you see Dough Boy?

13 A Face said, there go the 60 nigger, and started
14 shooting.

15 Q What happens once he starts shooting?

16 A Dough Boy tried to run.

17 Q Where did he try to run to?

18 A Where they was coming from on the side of 2535.

19 Q Kind of draw a little dash line to where he's
20 running to. I think you put an X there; right?

21 A Yes. Yes.

22 Q Is that the only place that he runs to?

23 A Yes.

24 Q And then what happens?

25 A He get killed.

GANTT - DIRECT

1 Q Does he get killed right there?

2 A Yes.

3 Q Now, once Face says -- or makes that statement and
4 he starts shooting, does anybody else start to shoot?

5 A Yes. Everybody starts shooting.

6 Q And who is everybody?

7 A Me, T-Wack, Lailoni, and Chew-Wack.

8 Q How do you guys know to start shooting?

9 A Because he went to the trunk to try to reach -- try
10 to get something.

11 Q Now, you just kind of indicated previously that he
12 went east and he kind of started going back around 2535. Now
13 you're saying he went to the trunk. Tell me where he went.

14 A As he walked out, he was coming toward the trunk
15 when he saw us.

16 Q So where was he when you saw him, then?

17 A Right somewhere down here.

18 Q And you've drawn another X. But it's --

19 A Yes.

20 Q -- it's just north of the parking lot?

21 A Yes.

22 Q Had he hit the sidewalk yet?

23 A Yes, he was on the sidewalk.

24 Q And what happens once he hits the sidewalk, then?

25 A That's when Face said, there go the 60 nigger, and

GANTT - DIRECT

1 then everybody spreaded out and started shooting.

2 Q Now, when they spread out, where do they go?

3 A Everywhere in the parking lot.

4 Q Okay. And let's start with Face. Where does he go?

5 Put an F.

6 Who else did you say? You said T-Wack?

7 A Yes.

8 Q Put a T for where he is.

9 Who else was there?

10 A Lailoni.

11 Q Put an L for where Lailoni was.

12 What about you? Where are you? What kind of symbol
13 did you do for you?

14 A A W.

15 Q A W. Okay. Who else was there?

16 A Chew.

17 Q Where's Chew?

18 Now, you said Face makes a statement, and then
19 everybody starts shooting?

20 A Yes.

21 Q Do they start shooting right away from the side of
22 2535?

23 A No.

24 Q How does it happen? You gotta tell us.

25 A They started walking, spreading out behind him.

GANTT - DIRECT

1 Q When you say "behind him," are -- you mean Dough
2 Boy?
3 A Dough Boy.
4 Q Do they start shooting before they spread out?
5 A No.
6 Q After they spread out?
7 A Yes.
8 Q Okay. Tell me what you see.
9 A Saw Dough Boy coming out the house, and saw T-Wack,
10 Chew and Lailoni and Face come from on the side of 2535, and
11 they said, there go the 60 nigger, they splitted up in the
12 parking lot and started shooting.
13 Q Let me ask you, what kind of gun does Lailoni have?
14 A A .38 Super.
15 Q How do you know that?
16 A I saw it.
17 Q What kind of gun do you have?
18 A A .32.
19 Q What kind of gun does T-Wack have?
20 A A 9.
21 Q What's a 9?
22 A A 9 millimeter.
23 Q What about Chew?
24 A Nine millimeter.
25 Q What about Face?

GANTT - DIRECT

1 A A 9 millimeter.
2 Q When you say everybody starts shooting, is there
3 just one shot?
4 A No.
5 Q How many shots?
6 A A whole bunch.
7 Q Can you give us a number?
8 A Around 20 shots.
9 Q What does it sound like to you at that time?
10 A Like Fourth of July or something.
11 Q Do you know how many shots each person did?
12 A No.
13 Q But would you say more than one?
14 A Yes.
15 Q What happens after -- after everybody shoots into
16 Dough Boy?
17 A They started running separate ways.
18 Q Do you know who shot first?
19 A Yes.
20 Q Who was that?
21 A T-Wack.
22 Q How do you know that?
23 A 'Cause I saw him.
24 Q Do you know the next order that everybody starts
25 shooting in?

GANTT - DIRECT

1 A No.

2 Q Do you know who shoots last?

3 A Yes.

4 Q Who's that?

5 A Chew-Wack.

6 Q And how do you know that?

7 A 'Cause I saw him.

8 Q And what does he do?

9 A Go up to him and shoot him.

10 Q Do you know how far away he is when he shoots him?

11 A Close up.

12 Q Now, when you see Dough Boy initially coming out of

13 that house and going towards the sidewalk, does he have any

14 type of weapon on him?

15 A No.

16 Q Does he do anything that makes you think he has a

17 weapon on his person?

18 A No.

19 Q Why did you start firing on him?

20 A 'Cause he was going towards the trunk.

21 Q Now, you've said that these other people were

22 feuding --

23 A Yes.

24 Q -- with the 60s. You've said that the Gerson were

25 feuding with the 60?

GANTT - DIRECT

1 A Yes.

2 Q How do you know Face is Gerson?

3 A Tattoos.

4 Q Have you seen them?

5 A Yes. Yes.

6 Q Do you remember where they are?

7 A Yes.

8 Q Where?

9 A On his chest.

10 Q What about Lailoni? How do you know he's Gerson?

11 A Tattoo.

12 Q Have you seen it?

13 A Yeah.

14 Q Is there any other way that you know Lailoni's

15 Gerson?

16 A By him saying it.

17 Q He says --

18 A Talking about it.

19 Q He always talks about it to you?

20 A Yep.

21 Q What about Face?

22 A Tattoo. And he always talking about it, too.

23 Q And when you say "talking about it," what do you

24 mean?

25 A Representing it, like saying it's Gerson.

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1 Q What about T-Wack?

2 A By his name.

3 Q What do you mean when you say "by his name"?

4 A 'Cause it's a Wack clique out the Gerson.

5 Q A Wack clique?

6 A Yes.

7 Q What does that mean?

8 A A clique out the Gerson.

9 Q Do you know -- why is it Wack?

10 A I don't know.

11 Q Do you know what Wack means? Does Wack have a

12 special meaning?

13 A No.

14 Q It's just a clique of the Gerson?

15 A Yeah.

16 Q What about Chew?

17 A The Wack.

18 Q He's a Wack, also?

19 A Yes.

20 Q And how do you know that?

21 A 'Cause we call him Chew-Wack.

22 Q Are you a member of the Gerson?

23 A No.

24 Q Why are you hanging out with other Gerson?

25 A Because I was born and raised and I knew 'em since I

GANTT - DIRECT

1 was little.

2 Q So can anybody just go in and hang out with the
3 Gerson?

4 A No.

5 Q Why do you have a special privilege?

6 A 'Cause I was born and raised when I was little, and
7 my uncle and my daddy known from Gerson.

8 Q Your uncle and your daddy are from Gerson?

9 A Yes.

10 Q What's your dad name in Gerson?

11 A Anthony Wayne Gantt.

12 Q Does he have a Gerson name?

13 A Master G.

14 Q And so you were raised Gerson?

15 A Yeah.

16 Q So that means that you don't have to do anything
17 else?

18 A No.

19 Q Tell me what happens after the shooting.

20 A Everybody went their separate ways.

21 Q Did you notice which ways they went?

22 A No.

23 Q Which way did you go?

24 A Behind 2531 on West Street.

25 MS. DE LA GARZA: May I approach, Your Honor?

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1 THE COURT: Yes.

2 BY MS. DE LA GARZA:

3 Q I'm showing you what's been marked as State's -- or
4 State's Exhibit 1. Can you -- do you recognize this area at
5 all?

6 A It's a little backwards.

7 Q You say it's a little backwards. What do you mean?

8 A Oh, yeah, yeah, I recognize -- I recognize it now.

9 Q Okay. So when you say that you're going towards
10 West Street, which direction are you going in?

11 A Towards that way.

12 MS. DE LA GARZA: And I guess the record reflect
13 he's going west.

14 THE COURT: Record'll so reflect that he's going
15 west.

16 BY MS. DE LA GARZA:

17 Q Can you get the pointer and show me which route you
18 took.

19 A That way. That way.

20 Q So if we have Morton Avenue marked here on State's
21 Exhibit 1, and this is 2529 Morton, where do you start?

22 A Right here and go that way into the other apartment.

23 Q So you cross this field?

24 A Yes.

25 Q What's there in that field?

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1 A Basketball court and a park.

2 Q Now, when you run across that field is anybody with

3 you?

4 A Yes.

5 Q Who is that?

6 A Henry.

7 Q Henry. You didn't mention Henry before when you

8 gave the list of people here that were involved in the

9 shooting. Why is that?

10 A 'Cause Henry wasn't involved in the shooting.

11 Q Where was Henry in that he could run with you?

12 A He was on the sidewalk of 2529.

13 Q Can you take that black marker and just put an H

14 where Henry is.

15 Do you know if Henry had a gun?

16 A Yes.

17 Q What kind of gun did he have?

18 A A .357.

19 Q Do you know what kind of gun is -- that is? Is that

20 a revolver?

21 A A revolver.

22 Q How do you know that he was not shooting?

23 A Because I didn't see him shoot.

24 Q Were you facing him during the shooting?

25 A No.

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1 Q Which direction were you facing?

2 A Facing towards 2535.

3 Q So is that north?

4 A Yes.

5 Q So would Henry have been in front of you, or in back
6 of you?

7 A Behind me.

8 Q So that makes it a little bit difficult to see.

9 A Yes.

10 Q So the only reason that you're saying he wasn't
11 shooting is because you didn't see him?

12 A Yes.

13 Q Did you hear anything from behind you?

14 A Yes.

15 Q What did you hear?

16 A Bullets flying past my head.

17 Q Now, once the shooting is over, where do you and
18 Henry run to? You said you run across that field. Where are
19 you going?

20 A To Amber and Kizzy house.

21 Q Repeat that for me.

22 A To Amber and Kizzy house.

23 Q And for the record, I think that's Amber, A-M-B-E-R,
24 and Kizzy?

25 A Yes.

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1 Q Why are you going to Amber and Kizzy's house?
2 A Just to go over there.
3 Q And who's with you at that time?
4 A Henry.
5 Q And what street was that on?
6 A West.
7 Q What happens once you get to Amber and Kizzy's?
8 A Henry start loading his gun back up.
9 Q Started loading it back up?
10 A Yes.
11 Q Tell me what you see.
12 A Him putting bullets back in the gun.
13 Q Were there already bullets in the gun?
14 A Yes. But he threw 'em in the trash can.
15 Q So were they live rounds, or were they already
16 expended?
17 A They was already expended.
18 Q So he takes those out and puts them in the trash?
19 A Yes.
20 Q Do you know how many?
21 A I think six.
22 Q And then what does he do?
23 A Puts some more bullets back in.
24 Q And what are you doing?
25 A Watching him.

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1 Q How long do you stay over there at Amber and
2 Kizzy's?

3 A For about three to four hours.

4 Q What are you doing while you're there?

5 A Just looking out the window.

6 Q What are you looking at?

7 A At the detectives.

8 Q Why are you looking at the detectives?

9 A Seeing what they doing.

10 Q Does anybody else show up while you're there at
11 Amber and Kizzy's?

12 A Yes. R-Wack.

13 Q Had you seen R-Wack anytime earlier that day?

14 A No.

15 Q Not at any time that day?

16 A Not at that point.

17 Q I'm not saying --

18 A Earlier that day I did.

19 Q When earlier?

20 A Mark Doyle's get-together.

21 Q Did you see him at any time after Mark Doyle's get-
22 together?

23 A Yes. When he came over Amber and Kizzy house.

24 Q Was there any time in between that that you saw him?

25 A No.

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1 Q Where'd you get your gun?

2 A From R-Wack.

3 Q When did you get your gun?

4 A Earlier that day.

5 Q When?

6 A At Mark Doyle's.

7 Q What happened at Mark Doyle's that you got your gun?

8 A I just got the gun from him.

9 Q Tell me how that went down.

10 A I told him let me use his gun.

11 Q And you were there at Mark Doyle's?

12 A Yes.

13 Q Do you remember giving a statement previously about
14 having met Mark Doyle and the gun?

15 MR. BINDRUP: Objection. Leading and insufficient
16 foundation.

17 THE COURT: I'll sustain the -- I'll sustain the
18 objection.

19 BY MS. DE LA GARZA:

20 Q What happened at Mark Doyle's? Tell me how you went
21 about getting the gun from R-Wack.

22 A When I saw R-Wack I told him let me hold his gun.
23 And he gave it to me.

24 Q And he let --

25 A Yeah. Yes.

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1 Q Did you just give it back right away?

2 A No.

3 Q What'd you do with it?

4 A I went with Face, Lailoni, T-Wack, and Chew-Wack
5 towards Big Mama house, the Hunts' house.

6 Q What else?

7 A And I gave it back to him after we went to Kizzy and
8 Amber house.

9 Q So in between that time you had used that gun to
10 shoot Dough Boy; is that correct?

11 A Yes.

12 Q And then your friend took that gun back?

13 A Yes.

14 Q How long are you over there at Amber and Kizzy's?

15 A For about three or four hours.

16 Q And then what'd you do?

17 A Left and went home.

18 Q Did you ever meet back up with Face and Chew and
19 T-Wack to talk about this?

20 A No.

21 Q When you said that you were shooting there in the
22 parking lot, did you shoot into the body of Joseph Williams?

23 A Yes.

24 MS. DE LA GARZA: Court's indulgence.

25 THE COURT: That's fine.

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1 MS. DE LA GARZA: No further questions.

2 THE COURT: Cross at this time.

3 MR. BINDRUP: Thank you.

4 CROSS-EXAMINATION

5 BY MR. BINDRUP:

6 Q Do you know a security guard by the name of James
7 Golden?

8 A Yes.

9 Q As you were fleeing the scene did you happen to see
10 James Golden?

11 A No.

12 Q Are you aware that he identified you to police as
13 fleeing the scene?

14 A Yes.

15 Q When you were fleeing did -- were you fleeing with
16 two other young juveniles right next to you?

17 A No.

18 Q If Mr. Golden had indicated that he saw you with two
19 other young juveniles running from the scene, would that be a
20 lie?

21 A Yes.

22 Q You were running and -- just you and Henry?

23 A Yes.

24 Q And there was nobody else?

25 A No.

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1 Q At what -- did you ever as you were fleeing put the
2 gun in your pants?

3 A No.

4 Q As you were running away, where did you put your
5 gun?

6 A Nowhere. I had it in my hand.

7 Q So you kept your gun -- kept the gun in your hand
8 from the time that you shot until the time you got into the
9 apartment?

10 A Yes.

11 Q And you never put it in your pants or pant pocket?

12 A No.

13 Q So if, for instance, Mr. Golden had seen you putting
14 a gun in the front of your pants pocket, that would be
15 incorrect?

16 A Yes.

17 Q Are you sure you weren't running from the scene with
18 a Jermaine Webb, also known as Wing?

19 A No.

20 Q Was Jermaine Webb there?

21 A No.

22 Q You're good close friends with Jermaine Webb, aren't
23 you?

24 A Yes.

25 Q Is there a reason that you're lying about him not

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1 being there?

2 MS. DE LA GARZA: Objection as to the form of the
3 question.

4 THE COURT: Sustain the objection. Restate.

5 BY MR. BINDRUP:

6 Q Are you saying Jermaine Webb wasn't there because
7 he's your closest friend?

8 A No.

9 Q He really wasn't there?

10 A He wasn't there.

11 Q And he didn't see anything going down?

12 A No.

13 MS. DE LA GARZA: Objection as to speculation.

14 THE COURT: Answer stands. Next question.

15 BY MR. BINDRUP:

16 Q As you were there, either before, during, or after
17 the shooting, did you see an individual by the name of Pam
18 Neal?

19 A No.

20 Q Do you know who she is?

21 A Yes.

22 Q And how do you know who she is?

23 A Because I saw her around.

24 Q You've known her for years, then?

25 A No.

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1 Q How long have you known Pam Neal?

2 A I never did know her. I just used to see her
3 around.

4 Q If Pam Neal had indicated that Lailoni Morrison
5 fired the first shot, would that be incorrect?

6 A Yes.

7 Q You're testifying today it wasn't Lailoni -- Lailoni
8 Morrison that shot first?

9 A No.

10 Q And who are you saying shot first?

11 A T-Wack.

12 Q And that's Antwont [sic] Graves?

13 A Yes.

14 Q And did you see him today?

15 A Yes.

16 Q Where is he?

17 A In the back. In the back.

18 Q So you're telling me the individual you saw shoot
19 Dough Boy first is here in court at this time?

20 A Yes.

21 Q Pamela Neal indicated that it was you that fired the
22 last shot into Dough Boy as he was on the ground. Would that
23 be a lie?

24 A Yes.

25 MS. DE LA GARZA: Objection.

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1 THE COURT: Question and answer stand.

2 BY MR. BINDRUP:

3 Q You didn't shoot Dough Boy as he laid on the ground?

4 A No.

5 Q You were not the last one that shot Dough Boy as he
6 laid on the ground?

7 A No.

8 Q And who was the person that shot him last as he laid
9 on the ground?

10 A Chew-Wack.

11 Q And that is Louis Matthews?

12 A Yes.

13 Q And you're sure about that?

14 A Yes.

15 Q So you just shot at the victim sometime during the
16 period when Mr. Graves and Mr. Matthews started and finished
17 shooting?

18 A Yes.

19 Q Other than noticing Matthews shooting first and --
20 excuse me. Other than noticing Mr. Graves shooting first and
21 Mr. Matthews shooting last, you really don't know the order of
22 any shooting, do you?

23 A Yes.

24 Q What is the order you -- during --

25 A T-Wack -- T-Wack shot first.

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1 Q Okay. After the first shots, though, you said
2 everybody started shooting.

3 A Everybody started shooting.

4 Q After that first shot you weren't paying attention
5 to who was shooting, were you?

6 A No.

7 Q You were more involved with what you were doing;
8 right?

9 A Yeah.

10 Q You were worried for your life; right?

11 A Yes.

12 Q You thought Dough Boy was going for a gun, didn't
13 you?

14 A Yes.

15 Q And because you thought your life was in jeopardy,
16 you shot?

17 A Yes.

18 Q And you're really not sure the sequence of shots or
19 who shot; correct?

20 A No.

21 Q And you really don't know as you sit here today
22 whether or not Mr. Bennett actually shot a gun, do you?

23 A Yes.

24 Q Yes what?

25 A I know.

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1 Q You know what?

2 A He shot a gun.

3 Q So as you're shooting, you were paying attention to
4 Mr. Bennett --

5 A Yes.

6 Q -- what he may be doing?

7 A Yes.

8 Q You were present at a preliminary hearing on June
9 5th last year; correct?

10 A Yes.

11 Q And you were present when Pamela Neal took the
12 witness stand and testified against you?

13 A Yes.

14 Q Is it your testimony today, then, that Pamela Neal
15 was not telling the truth at her June 5th preliminary hearing?

16 MS. DE LA GARZA: Objection as to form of the
17 question, Your Honor.

18 THE WITNESS: Yes.

19 THE COURT: Sustained. We'll strike the answer and
20 the question. Can I have a new question, please.

21 BY MR. BINDRUP:

22 Q Do you recall Pamela Neal pointing you out as the
23 shooter that finished Dough Boy as he laid on the ground? Do
24 you recall that?

25 A Yes.

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1 Q And that was a lie against you?

2 A Yes.

3 MS. DE LA GARZA: Objection as to form of the
4 question.

5 THE COURT: I'll allow the question to stand as
6 stated. Please --

7 BY MR. BINDRUP:

8 Q Why was she lying against you?

9 A I don't know.

10 MS. DE LA GARZA: Objection, Your Honor.

11 THE COURT: Objection overruled.

12 BY MR. BINDRUP:

13 Q You don't know why Pamela Neal said that about you
14 if it was not true?

15 A Because she was trying to get her case dropped.

16 Q So you believe -- do you know she got her case
17 dropped?

18 A Yes.

19 Q Are you saying she falsely testified against you
20 because her case was -- her case was getting dropped?

21 MS. DE LA GARZA: Objection as to speculation, Your
22 Honor.

23 THE COURT: I'll sustain the objection as to the
24 question.

25 //

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1 BY MR. BINDRUP:

2 Q Was -- did you ever see Ms. Neal outside before,
3 during, or after the shooting?

4 A No, I didn't.

5 Q Do you know whether or not Pam Neal was there and
6 witnessed this?

7 MS. DE LA GARZA: Objection as to speculation.

8 MR. BINDRUP: That is not --

9 THE COURT: I'll let -- I'll let the question -- him
10 restate the question.

11 BY MR. BINDRUP:

12 Q Do you know whether or not Pam Neal was there to
13 witness the shooting?

14 MS. DE LA GARZA: Objection as to speculation.

15 THE COURT: Overruled. The question stands.
16 Question is does he know.

17 THE WITNESS: Yes, I -- yes, I know she wasn't
18 there.

19 BY MR. BINDRUP:

20 Q And how do you know that?

21 A 'Cause nobody was out there.

22 Q Do you recall Ms. Neal's demeanor or how she acted
23 on June 5th at the time of her preliminary hearing?

24 MS. DE LA GARZA: Objection as to relevance, Your
25 Honor.

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1 MR. BINDRUP: I'm just asking if he knows.

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

3 BY MR. BINDRUP:

4 Q Do you know Eric Bass?

5 A Yes.

6 MS. DE LA GARZA: Objection as to relevance, Your
7 Honor.

8 THE COURT: I'll let him ask the question.

9 Please continue, Counsel.

10 MR. BINDRUP: Pardon?

11 THE COURT: Please continue.

12 MR. BINDRUP: I'm sorry. I didn't hear. May I ask?

13 THE COURT: Yes. Yes.

14 BY MR. BINDRUP:

15 Q Do you know Eric Bass?

16 A Yes.

17 Q And how do you know him?

18 A From around.

19 Q And do you know that he was killed?

20 A Yes.

21 Q Do you know whether or not Eric Bass had a
22 relationship with Pam Neal?

23 A No.

24 Q No, you don't know, or they didn't?

25 A I never knew they was family.

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1 Q Are you aware of whether or not Pam Neal blamed Chew
2 or Louis Matthews for the killing of Eric Bass?

3 MS. DE LA GARZA: Objection as to speculation here.

4 THE COURT: I'll let the question stand, if he
5 knows.

6 BY MR. BINDRUP:

7 Q Do you know?

8 A Yes.

9 Q And what do you know about that?

10 A She said she thought it was Lailoni Morris [sic]
11 that killed Eric Bass.

12 Q Is that the reason why she lied against you at
13 preliminary hearing?

14 MS. DE LA GARZA: Objection as to speculation.

15 THE COURT: I'll sustain the objection as to the
16 form of the question. Please restate your question.

17 BY MR. BINDRUP:

18 Q You are aware that Pamela Neal blamed a Gerson group
19 for the killing of Eric Bass?

20 MS. DE LA GARZA: Objection. That's a misstatement
21 of the testimony.

22 THE COURT: Please restate.

23 MR. BINDRUP: I believe it's not a --

24 THE COURT: I asked you to restate.

25 MR. BINDRUP: I'll do that, Your Honor.

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1 BY MR. BINDRUP:

2 Q Just yes or no. Are you aware that Pam Neal blamed
3 the Gerson group for the killing of Eric Bass? Do you know
4 that, whether --

5 MS. DE LA GARZA: Objection, Your Honor. That's a
6 misstatement of the testimony. He said that --

7 THE COURT: I'll let the question -- the question's
8 going to stand.

9 THE WITNESS: No.

10 BY MR. BINDRUP:

11 Q Do you know a Wyatt King, 16-year-old individual
12 that goes by the nickname Face?

13 A No.

14 Q Because of the charges against you, you were facing
15 a potential sentence, if convicted, of life without the
16 possibility of parole; is that correct?

17 A Yes.

18 Q So if convicted, you were looking at spending the
19 rest of your life in prison; right?

20 A Yes.

21 Q And you understood that that meant that you might
22 never return to your family for the rest of your life?

23 A Yes.

24 Q That you would die in prison? Did you understand
25 that?

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1 MS. DE LA GARZA: I believe it's been asked and
2 answered, Your Honor.

3 THE COURT: I'll let the question stand.

4 THE WITNESS: Yes.

5 BY MR. BINDRUP:

6 Q And if convicted of first degree murder with use of
7 a deadly weapon, you were looking at a potential life term
8 imprisonment without the possibility of parole?

9 A Yes.

10 Q And the best scenario, the very best scenario, if
11 you were convicted of first degree murder with use of a deadly
12 weapon, would be a minimum of 40 years in prison. Did you
13 understand that?

14 A Yes.

15 Q So 40 years added to -- you're -- you're exactly how
16 old now?

17 A Sixteen.

18 Q You understood fully, then, if convicted that the
19 best scenario for you --

20 MS. DE LA GARZA: Objection. Asked and answered,
21 Your Honor.

22 THE COURT: I'll let the question -- him continue
23 his question. Let him finish his question before you object,
24 Counsel.

25 //

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1 BY MR. BINDRUP:

2 Q It was your understanding that if convicted of first
3 degree murder with use of a deadly weapon for this killing
4 that the best scenario that you would look at would be not
5 being eligible to be released until you were over 56 years of
6 age?

7 A Yes.

8 Q You actually added it and computed it, didn't you?

9 A Yes.

10 Q And you had an attorney that represented you?

11 A Yes.

12 Q And that attorney added it and computed it for you,
13 too; right?

14 A Yes.

15 Q You entered a plea of guilty to what counts, then?

16 A Second degree murder without the use of a deadly
17 weapon, and Count 2, conspiracy to commit murder.

18 Q And what is the punishment options for a second
19 degree murder conviction?

20 A Ten to life.

21 Q Now, do you have a sentencing date?

22 A Yes.

23 Q And when is that?

24 A February 5th.

25 Q And who will sentence you? Which judge will

1 sentence you?

2 A Michael Douglas.

3 Q At that sentencing you don't expect to get -- you
4 said the sentence range was 10 to life. You know you're not
5 getting a life sentence; correct?

6 A Yes.

7 Q What do you know you're getting?

8 A Ten to life.

9 Q You know, don't you, that you're looking at a
10 stipulated sentence of just 10 years? Do you understand that?

11 MS. DE LA GARZA: Objection, Your Honor.

12 THE COURT: Sustained. That's a misstatement of the
13 sentencing. Sentencing range is 10 to life, Counsel. You
14 know better. Please state your questions correctly.

15 BY MR. BINDRUP:

16 Q Are you aware that the parties stipulated to a
17 sentencing range that would allow you the possibility of
18 parole after 10 years?

19 A Yes.

20 Q And that's a much better, easier punishment than a
21 lifetime in prison; correct?

22 A Yes.

23 Q And that's obvious; correct?

24 A Yes.

25 Q And your attorney recommended that you take this;

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1 correct?

2 A Yes.

3 Q And you'd much rather get out in your mid-twenties
4 than possibly never get out of prison; correct?

5 MS. DE LA GARZA: Objection.

6 THE WITNESS: Yes.

7 BY MR. BINDRUP:

8 Q The Count 2 charge, do you know how much time you're
9 looking at on that?

10 A Two to ten.

11 Q Do you know whether or not the Court will run that
12 consecutively, added --

13 THE COURT: Counsel, please approach.

14 (Off-record bench conference)

15 BY MR. BINDRUP:

16 Q Mr. Gantt, was there any recommendation or deal
17 about what would happen on that two-to-ten Count 2,
18 conspiracy?

19 A The State would argue to run it concurrent.

20 Q Who told you that it would run concurrent?

21 A Nobody.

22 Q Would it surprise you to learn that the State was
23 free to argue one way or the other as to Count 2?

24 A No.

25 Q It wouldn't surprise you, or it would surprise you?

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1 A It wouldn't.

2 MR. BINDRUP: May I approach, please?

3 THE COURT: Yes. Mr. Bindrup -- just -- the State.

4 (Off-record bench conference)

5 BY MR. BINDRUP:

6 Q Mr. Gantt, I'm showing which [sic] appears to be a
7 guilty plea agreement. Do you recall seeing this before?

8 A Yes.

9 Q Directing your attention to line 23 to 24, would you
10 just please read this sentence here just to yourself. And
11 just tell me when you're done.

12 A I'm done.

13 Q Isn't it correct that the -- at least the guilty
14 plea agreement says that the State or the District Attorney at
15 time of sentencing can argue for concurrent or consecutive,
16 that it's up in the air?

17 A None of 'em.

18 Q Pardon?

19 A None of 'em. Say it retains the right to argue.

20 Q Retains the right to argue as to Count 2?

21 A Yes.

22 Q Wasn't your understanding -- you just testified that
23 it was your understanding that Count 2 would run concurrently
24 or together with the other sentence?

25 A Yes.

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1 Q Doesn't the language of the guilty plea agreement
2 say that -- otherwise?

3 A Yes.

4 Q Please read on page 2 just lines 16, 17, and 18, and
5 tell me when you're done reading that, please.

6 MS. DE LA GARZA: Your Honor, I'm going to object.

7 THE COURT: Parties approach.

8 (Off-record bench conference)

9 BY MR. BINDRUP:

10 Q If I let you read just three sentences, would that
11 refresh your memory as to what your negotiation was with the
12 State?

13 A Yes.

14 Q Would you just please read page 2, lines 16 through
15 18, and just tell me when you're done. Are you done?

16 A Yes.

17 Q Isn't it true, Mr. Gantt, that whether or not you
18 get consecutive time or concurrent time on Count 2 is up in
19 the air?

20 A Yes.

21 Q So how you testify today may well determine what
22 your ultimate sentence will be; correct?

23 A Yes.

24 Q Isn't it true that if you testify according to how
25 the State wants you to testify that you will be more likely to

1 get a concurrent sentence?

2 A Yes.

3 Q Isn't it true that you would say just about anything
4 to take advantage of this good negotiation?

5 A No.

6 Q Are you lying about Ashley Bennett today just to
7 take advantage of the opportunity of being released in 10
8 years?

9 A No.

10 Q The guilty plea agreement was signed on -- it
11 appears to be signed on November 26. Do you recall signing it
12 that day?

13 A Yes.

14 Q Do you recall going to court that day?

15 A I don't think.

16 Q Do you recall going to court on Monday, November 26,
17 to change your plea to guilty pursuant to the guilty plea
18 agreement?

19 A Yes.

20 Q Do you recall changing your mind and deciding you
21 didn't want to plead guilty that day?

22 A Yes.

23 Q Do you recall your case being passed one day for you
24 to think about changing your plea?

25 A Yes.

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1 Q And then it was only the next day that you actually
2 changed your plea?

3 A Yes.

4 Q And you agreed to -- or you changed your mind --
5 your changing of your mind, was that just your decision?

6 A Yes.

7 Q No one pressured you into doing that?

8 A No.

9 Q Your attorney didn't suggest that you take it?

10 MS. DE LA GARZA: Objection, Your Honor.

11 THE COURT: I'll overrule the objection. Question
12 stands.

13 BY MR. BINDRUP:

14 Q Your attorney didn't suggest --

15 A Yes.

16 Q Your attorney suggested real strongly for you to do
17 it?

18 A Yes.

19 Q You came into court today and said you didn't want
20 to testify; correct?

21 A Yes.

22 Q After you said that, you had a chance to talk to
23 your attorney again; right?

24 A Yes.

25 Q And your attorney strongly suggested that you change

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1 your mind and get back in there; right?

2 A Yes.

3 Q Because you want to take advantage of that good
4 deal; right?

5 A Yes.

6 Q And you won't get the good deal unless you testify
7 against Mr. Bennett; right?

8 A Yes.

9 Q Do you recall filing a motion with the Court to have
10 your attorney removed?

11 A Yes.

12 Q Do you recall when you filed that motion?

13 A No.

14 THE COURT: Parties approach.

15 (Off-record bench conference)

16 BY MR. BINDRUP:

17 Q After you pled guilty to Count 1, second degree
18 murder, Count 2, conspiracy to commit murder, you filed a
19 motion to dismiss counsel and appointment of alternate
20 counsel; correct?

21 A Yes.

22 Q And that's because you changed your mind?

23 A No. My mom and them told me to file a motion to
24 withdraw counsel.

25 Q Did you file the motion because your attorney had

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1 pressured you into taking the deal?

2 MS. DE LA GARZA: Objection, Your Honor. Asked and
3 answered. He's already said it was because of his mother.

4 THE COURT: Objection sustained.

5 BY MR. BINDRUP:

6 Q Why did you file that motion?

7 MS. DE LA GARZA: Objection, Your Honor. Asked and
8 answered.

9 THE COURT: Sustained.

10 BY MR. BINDRUP:

11 Q What happened to that motion to dismiss counsel? Do
12 you know?

13 A Denied.

14 Q You filed a -- you signed and filed a motion;
15 correct?

16 A Yes.

17 Q Did you ask that that motion be granted, or not?

18 A Not.

19 Q So you changed your mind once you got to court?

20 A Yes.

21 Q So first you wanted your counsel dismissed, and then
22 later in court you changed your mind; correct?

23 A Yes.

24 Q So you basically took back what you had said before
25 in your motion to dismiss counsel; right?

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1 A Yes.

2 Q Did you ever, when you were -- after your entry of
3 plea did you ever send Mr. Bennett a letter?

4 A Yes.

5 Q One letter, more than one letter?

6 A One letter.

7 Q And about when did you send that to him?

8 A I think last month.

9 Q And do you remember what you said in the letter?

10 A Yes.

11 Q What did you say in the letter?

12 A I told him I wasn't testifying.

13 Q You told him what?

14 A I wasn't testifying.

15 Q Did you also tell him that you had lied and you
16 weren't going to lie against him again?

17 A No.

18 Q Did you ever -- did you mention to him that you had
19 lied?

20 A No.

21 Q Did you mention to him that you had pled guilty
22 because you were pressured into doing that?

23 A Yes.

24 Q Do you recall in the letter saying that you would
25 tell the Judge that you were being peer pressured into lying?

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1 A No.

2 MR. BINDRUP: May I approach, please?

3 THE COURT: Yes.

4 BY MR. BINDRUP:

5 Q Showing you what has been -- sorry. Showing you
6 what has been marked as Defendant's Proposed Exhibit R, would
7 you please review that and specifically -- is this letter
8 written by you?

9 A Yes.

10 Q I am pointing to the second -- to the center
11 portion, the center portion of the letter. Would you just
12 please read to yourself where I'm pointing, and tell me when
13 you're done.

14 A I'm done.

15 Q Are you done?

16 A Yes.

17 Q Do you remember writing in your letter that your
18 attorney was peer pressuring you into lying?

19 A No. I didn't write that part.

20 Q What part did you write?

21 A All the rest of it.

22 Q Do you recall your attorney requesting a psychiatric
23 evaluation to be conducted upon yourself?

24 A Yes.

25 Q Did you actually see a psychiatrist and be

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1 interviewed by a psychiatrist?

2 A Yes.

3 Q Do you recall who that was?

4 A I forgot her name.

5 Q So it was just one psychiatrist?

6 A Yes.

7 Q Did you have more than one interview with her?

8 MS. DE LA GARZA: Objection, Your Honor.

9 THE COURT: I'll sustain the objection.

10 BY MR. BINDRUP:

11 Q Do you recall whether or not your attorney
12 petitioned the Court for a psychiatric evaluation of yourself
13 to determine whether or not you were competent?

14 A Yes.

15 MS. DE LA GARZA: Objection.

16 THE COURT: Question stands. Answer stands.

17 BY MR. BINDRUP:

18 Q Is part of the reason you were evaluated by a
19 psychiatrist --

20 MS. DE LA GARZA: Objection, Your Honor. May we
21 approach?

22 THE COURT: Yes.

23 (Off-record bench conference)

24 BY MR. BINDRUP:

25 Q Do you know why your counsel requested that a

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1 psychiatric evaluation as to your competency be performed?

2 A No.

3 THE COURT: Counsel, before you get into your next
4 question, there's a request from some of our jurors. They
5 need a bathroom break.

6 Ladies and gentlemen, it has been a long day. We're
7 not finished. Let's take a 10-minute recess. Again the
8 admonition not to converse among yourselves or anyone else as
9 to any subject matter that might be connected with the trial.
10 Additionally, please refrain from reading, watching, or
11 listening to any commentary, should there be any. But most
12 importantly, you've not been charged. The Court would ask
13 that you not form or express any opinion as to the outcome of
14 the subject matter until this case is submitted to you at its
15 conclusion. Down in Jury Services area, please.

16 And, Arthur, they may have to be in the large room.
17 I don't know if there's somebody in the small room or not.
18 There might be a class.

19 (Court recessed)

20 THE COURT: We're back on the record. Mr. Gantt is
21 on the stand. We're in the middle of our cross.

22 Mr. Bindrup, please continue.

23 BY MR. BINDRUP:

24 Q Is R-Wack Ryan Valton [phonetic]?

25 A I don't know his real name.

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1 Q You just know him as R-Wack?

2 A Yes.

3 Q And wasn't he there and shooting on the day in
4 question?

5 A No.

6 Q He wasn't anywhere around?

7 A No.

8 Q The only time you saw him was prior to the shooting?

9 A Yes.

10 Q Did you see R-Wack's mom?

11 A Who?

12 Q R-Wack's mother.

13 A No.

14 Q Do you know her?

15 A No.

16 Q You didn't see her that day?

17 A No.

18 Q Now, what is your nickname?

19 A Wacky-G.

20 Q Now, I thought you said this -- this Wack nickname
21 went with the Gerson group.

22 A It do.

23 Q And so is that why you're known as Wacky, because
24 you're part of --

25 A It's not Wack.

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1 Q So Wacky doesn't have anything to do with the Wack?

2 A No.

3 Q Do you have any tattoos?

4 A No.

5 Q What kind of tattoo does Lailoni Morrison have?

6 A A crown.

7 Q And where is that at?

8 A On his arm.

9 Q What kind of tattoo does Jermaine Webb, also known
10 as Wing, have?

11 A I don't know.

12 Q And Louis Matthews, does he have a particular
13 tattoo?

14 A I don't know.

15 Q What about Lailoni Morrison? You know he has a
16 tattoo?

17 A A crown.

18 Q And where is that at?

19 A On his arm.

20 Q Antwont Graves, have you seen him with a tattoo?

21 A No.

22 Q You never really saw Mr. Bennett -- whether or not
23 he had a tattoo, do you?

24 A I saw it.

25 Q Since the time of your arrest, through your

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1 attorney, you've been furnished a copy of all the police
2 reports and all the witness statements; right?

3 A Yes.

4 Q And you've had a chance since your arrest on this
5 charge to be familiar with all the exhibits and the testimony
6 of witnesses; correct?

7 A Yes.

8 Q That diagram that you pointed to to your immediate
9 right, you've seen that before, too; right?

10 A Yes.

11 Q And there's -- there's a piece of paper blocking
12 part of that. You know what's underneath that, don't you?

13 A Yes.

14 Q And what is underneath that?

15 A The names of the guns that was used in the crime.

16 MR. BINDRUP: May I remove the piece of paper,
17 please, Your Honor?

18 THE COURT: For our jury's information, that was put
19 up at defense's request.

20 MR. BINDRUP: At my request.

21 THE COURT: You can remove it.

22 BY MR. BINDRUP:

23 Q So as you sit here today, this wasn't the first time
24 you've seen this. You've seen it on several occasions; right?

25 A Yes.

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1 Q And in fact police officers, when they interviewed
2 you previously, showed you this diagram; right?

3 A Yes.

4 Q When police officers talked to you before about the
5 incident they told you needed to place people shooting at the
6 location around where projectiles were found; correct?

7 A Yes.

8 Q So you knew to have a credible story you had to
9 place the shooters at or about the areas where they found
10 evidence; right?

11 A Yes.

12 Q And you knew if you were to put an individual off in
13 the street or to an alley or behind a building, that they
14 wouldn't believe your story; correct?

15 A No.

16 Q And what tattoo did you say Mr. Bennett had?

17 A A crown.

18 Q And you're absolutely positive you saw that on his
19 chest?

20 A Yes.

21 Q Prior to March 3rd of last year you never socialized
22 at all with Mr. Bennett, did you?

23 A No.

24 Q You didn't even know Mr. Bennett's name until police
25 told you what his name was; right?

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1 A Yes.

2 Q The first time you knew that Mr. Bennett was a
3 target of the police investigation was when they told you;
4 right?

5 A Yes.

6 Q You never ate with Mr. Bennett?

7 A No.

8 Q You never went to a party with Mr. Bennett?

9 A No.

10 Q You never hung out with Mr. Bennett?

11 A Sometimes.

12 Q Prior to March 3rd you only knew him by his
13 nickname; right?

14 A Yes.

15 Q On March 3rd you didn't even know where Mr. Bennett
16 lived, did you?

17 A No.

18 Q And you knew nothing about his personal life, did
19 you?

20 A No.

21 Q This gathering that took place before the shooting,
22 you mentioned individuals that were there. There were also
23 other individuals there, hanging out; correct?

24 A Yes.

25 Q And name those other individuals that were there.

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1 Who else was there?

2 A A whole bunch of people.

3 Q Well, that whole bunch of other people that you
4 haven't named today, would you please, Mr. Gantt, tell us who
5 they were.

6 MS. DE LA GARZA: Objection as to relevance, Your
7 Honor.

8 THE COURT: I'll allow the question to stand.

9 BY MR. BINDRUP:

10 Q Would you please answer that. Who else was there?

11 A R-Wack and Henry.

12 Q R-Wack, Henry. Who else?

13 A And some more other people. I don't know who they
14 was. His family.

15 Q Would it be accurate to say that there was a large
16 group there, gathered?

17 A Yes.

18 Q People coming and going?

19 A Yes.

20 Q And this was their -- out of respect, just to show
21 respect; correct?

22 A Yes.

23 Q This wasn't any kind of Gerson gathering or anything
24 like that?

25 A No.

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1 Q There were a lot of children there, too?

2 A Yes.

3 Q There were a lot of ladies and young girls there?

4 A Yes.

5 Q Isn't it possible that Mr. Bennett really wasn't at
6 that gathering, that you just hooked in with him later?

7 A No.

8 Q Isn't the name Gerson simply a geographical area,
9 apartments that used to be named that?

10 A Yeah.

11 Q Isn't that group just part of individuals that used
12 to live there or used to know somebody there?

13 A Yes.

14 Q Do you know Dough Boy as Joseph Williams?

15 A Yes.

16 Q And had you had any contact with Mr. Williams before
17 this date?

18 A No.

19 Q You'd never had any run-ins with him?

20 A Yes.

21 Q You had a run-in with him?

22 A Yes.

23 Q When?

24 A When I used to go to the Hunts' house.

25 Q Did you have an altercation with him before?

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1 A No.

2 Q Argument?

3 A No.

4 Q So you had no tension between you and Mr. Williams?

5 A No.

6 Q Did you have anything against him at all?

7 A No.

8 Q And you having shot him had nothing to do with him
9 being a 60s or other people being a Gerson, did it?

10 A No.

11 Q You just shot him because you thought he was going
12 for a gun?

13 A Yeah.

14 Q To protect yourself?

15 A Yeah.

16 Q Do you recall giving a statement to police on March
17 21st, 2001, or your first statement to police?

18 A Yes.

19 Q Do you recall where you were at at that time?

20 A Juvenile.

21 Q You were hoping to get released?

22 A Yes.

23 Q Was part of the reason that you gave a statement to
24 police on March 21st, 2001, because you thought it might help
25 get you released?

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1 A No.

2 Q Do you recall them asking you about the shooting of
3 Mr. Williams?

4 A Yes.

5 Q And what did you tell them?

6 A Told them I didn't know.

7 Q Did you talk with them about other shootings?

8 A Yes.

9 Q And did you do that to help the police officers so
10 that they might help you?

11 A No.

12 Q Why did you talk about other killings, then?

13 A 'Cause he asked me.

14 Q Were the police officers pressuring you at all to
15 make a statement?

16 A Yes.

17 Q Is that why you told them about other shootings?

18 A Yes.

19 Q Did they tell you that they thought you were lying?

20 A Yeah.

21 Q Do you recall on May 7th, 2001, being interviewed
22 again by police officers?

23 A Yes.

24 Q And do you remember who interviewed you, or you
25 don't remember their names?

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1 A Yes.

2 Q Who -- what are their names?

3 A Detective Bodnar.

4 Q Do you know who else was there?

5 A No.

6 Q When you gave that statement on May 7th where were
7 you at?

8 A In Juvenile.

9 Q Is part of the reason that you gave them a statement
10 on May 7th is that you hoped that you could get released from
11 Juvenile?

12 A No.

13 Q Were you worried about being sent away to Elko?

14 A No.

15 Q Do you recall telling them that you had talked to
16 somebody about Elko and they had suggested that you tell 'em
17 what happened?

18 A Yes.

19 Q Do you feel that that was pressure being exerted
20 upon you?

21 A No.

22 Q What about the police officers on May 7th? Did they
23 keep pressuring you to make a statement?

24 A Yes.

25 Q Did you finally make a statement?

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1 A Yes.

2 Q Was it because in large part that they had forced or
3 coerced you into making that statement?

4 A Yes.

5 Q The statement you gave on May 7th, then, wasn't
6 freely and voluntarily given?

7 MS. DE LA GARZA: Objection, Your Honor.

8 THE COURT: I'll let the question stand. Please
9 restate the question.

10 BY MR. BINDRUP:

11 Q Was the statement of May 7th that you gave to police
12 officers freely and voluntarily given?

13 A No.

14 Q Did they pressure you by talking about your family?

15 A Yeah.

16 Q Did they talk about your mother and grandma?

17 A Yes.

18 Q How else did they pressure you into doing this?

19 A By saying if I didn't I was getting the death
20 penalty.

21 Q That you would what?

22 A Death penalty.

23 Q So you gave that statement in part because they told
24 you that you would lose your life if you didn't tell them?

25 A Yes.

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1 Q They let you know that if you -- if you talked and
2 said what they wanted you to say, that that'd help you?

3 A Yes.

4 Q And that you'd have a chance of getting released?

5 A Yes.

6 Q And that you'd have a chance not to have to go to
7 Elko?

8 A No.

9 Q But that you'd have a chance not to go to prison for
10 the rest of your life?

11 A Yes.

12 Q And definitely that you wouldn't ever suffer the
13 death penalty because of your actions; right?

14 A Yes.

15 Q And because of this pressure, you felt it was in
16 your best interest to make the statement?

17 A Yes.

18 Q Wasn't the pressure so great that you in fact were
19 willing to lie in your May 7th statement?

20 A No.

21 Q So did you tell the truth, then --

22 A Yes.

23 Q -- in your May 7th statement?

24 Did you ever see Lailoni Morrison after the
25 shooting?

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1 A No.

2 Q Did he ever go to the house that you were in to
3 change his clothes?

4 A No.

5 Q Do you recall on your May statement to police
6 indicating that Lailoni had gone there to change his clothes?

7 A No.

8 MR. BINDRUP: May I approach, please?

9 THE COURT: Yes.

10 MS. DE LA GARZA: I'm sorry. Page, Counsel?

11 BY MR. BINDRUP:

12 Q Showing you what appears to be an interview of
13 Anthony Gantt on May 7, 2001, and directing your attention to
14 page 17, lines 19 through 21, would you please read that to
15 yourself and tell me when you're done.

16 A I'm done.

17 Q Are you done? Isn't it true at least in May that
18 you told police officers in response to the question of,
19 "Where did you go that --" in part, "Lailoni came back because
20 he had to change his clothes"?

21 A Uh-huh. Yes.

22 Q You recall saying that?

23 A Yes.

24 Q Now today you're saying Lailoni Morrison never came
25 back to change his clothes. Which is it?

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1 A You said he came to the house where I was and
2 changed clothes.

3 Q So he did go to the house that you were at?

4 A No. That's what you said.

5 Q I'm just asking what happened. Were you aware of
6 him going to change his clothes?

7 A Yes.

8 Q Did you see him change clothes?

9 A No.

10 Q How did you know he changed clothes?

11 A 'Cause he had on something different.

12 Q So you assumed he had changed clothes?

13 A Yes.

14 Q Do you recall telling officers then that during the
15 shooting you were on the basketball courts at first?

16 A Yes.

17 Q And was that a lie?

18 A Yes.

19 Q Do you recall also telling them next -- well, strike
20 that.

21 After you told them you were on the basketball
22 court, you changed your story; right?

23 A Yes.

24 Q And was that in part because of the pressure they
25 were exerting on you?

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1 A Yes.

2 Q Do you recall telling police that you and Henry were
3 at the bottom of Pam Neal's apartment complex?

4 A Yes.

5 Q Were you at the bottom of Pam Neal's apartment
6 complex?

7 A Yes.

8 Q When you were there did you -- you testified
9 previously you did not see Pam Neal.

10 A Yes.

11 Q Do you recall police asking you specifically in May
12 during that interview whether or not Pam Neal was outside or
13 if you ever saw her or talked to her?

14 A Yes.

15 Q And when you talked to police did you make it clear
16 to them that you never saw Pam Neal?

17 A Yes.

18 Q Did you ever mention anything about Pam Neal's
19 daughter?

20 A Yes.

21 Q Did you ever see or talk to Pam Neal's daughter?

22 A Yes.

23 Q Do you recall telling police also that during the
24 shooting you were ducking to avoid bullets?

25 A Yes.

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1 Q Was that true? Were you actually during the
2 shooting ducking?

3 A Yes.

4 Q And was that because of Henry behind you, shooting?

5 A Yes.

6 Q Did any of the bullets that you fired hit Joseph
7 Williams that day?

8 A Yes.

9 Q And where did you hit him at, what part of his body?

10 A In the leg.

11 Q You actually saw one of your bullets go into his
12 leg?

13 A Yes.

14 Q You know one of your bullets went into his leg?

15 A Yes, 'cause it --

16 MS. DE LA GARZA: Objection. Asked and answered.

17 THE COURT: Answer stands. Can we move the
18 question.

19 THE WITNESS: Yes, 'cause I was shooting at the --
20 towards the ground, and it hit him in the leg.

21 BY MR. BINDRUP:

22 Q Do you know if any of your other bullets hit him
23 there -- or in the body, other parts of the body?

24 A No.

25 Q How many rounds did you shoot at him?

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1 A Six.

2 Q Did you empty your gun, then?

3 A Yes.

4 Q Were you trying to kill him?

5 A No.

6 Q Do you recall telling police that you were behind
7 T-Wack, Antwont Graves, when you were firing?

8 A Yes.

9 MR. BINDRUP: May I approach, please?

10 THE COURT: Yes.

11 BY MR. BINDRUP:

12 Q In the diagram that you drew today you don't place
13 him behind you, do you?

14 A No.

15 Q Where do you place him?

16 A On the side of me.

17 Q Okay. Just, without saying anything, point to where
18 you place T-Wack or Antwont Graves. Point again with your --
19 with the pointer. That's a better idea.

20 A Right there.

21 Q So T for T-Wack; correct?

22 A Yeah.

23 Q And again, you were where? You were the duckee?

24 A Yes.

25 Q So when you testified previously in your May

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1 statement that you were behind T-Wack, would that be
2 incorrect?

3 A Yes.

4 Q So were you mistaken, or is that just you lied about
5 it?

6 A I was mistaken on that statement, 'cause I wasn't
7 telling them all the truth.

8 Q Isn't it true that you only admitted to shooting
9 into his leg after the police officers suggested that you
10 shoot in -- that you might have shot just the leg and not --

11 A Yes.

12 Q -- another part of the body?

13 A Yes.

14 Q Showing you your statement again from May 7, 2001,
15 isn't it true that on page 43 is the first time that you admit
16 to shooting him in the leg? Correct?

17 A Yes.

18 Q On the page before that, page 42, isn't it true that
19 the police officer suggested the following in the form of a
20 question, "'Cause I can shoot you in the --"

21 MS. DE LA GARZA: Objection, Your Honor, as to the
22 form of the question.

23 THE COURT: I'll sustain the objection.

24 BY MR. BINDRUP:

25 Q Before you admitted to shooting him in the leg, the

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1 police officer suggested that if you admit to shooting him in
2 the leg it'd be easier on you than if you admitted shooting
3 him in the heart or on the torso; isn't that correct?

4 A Yes.

5 Q Isn't the only reason you admitted shooting him in
6 the leg is because the police officer suggested that?

7 A No.

8 Q You knew, then, after the cop stated it, that you'd
9 get more in trouble if your bullet killed him than if it
10 didn't; right?

11 A Yes.

12 Q You really don't know where the bullets to your gun
13 went, did you?

14 A Yes.

15 Q You know they went into Joseph Williams's body,
16 don't you?

17 A In the leg.

18 Q And you're saying it's not possible that one of the
19 bullets you fired in the direction of Joseph Williams struck
20 him in the heart, struck him in the lungs, or struck him some
21 other place?

22 A No.

23 Q Before you admitted to shooting him in the leg,
24 police officer told you there'd be a different penalty for
25 somebody that killed somebody or someone that just shoots him

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1 in the leg; right?

2 A No.

3 MR. BINDRUP: May I approach, please?

4 THE COURT: Yes.

5 BY MR. BINDRUP:

6 Q Please read, then, the question posed by the
7 detective on page 42, lines 3 and 8, and tell me when you're
8 finished reading that, please.

9 A I'm done.

10 Q Are you done reading?

11 A Yeah.

12 Q Now, the police officer suggested to you that
13 someone's bullet that would kill the victim would have a worse
14 sentence than someone that had just shot him in the leg;
15 correct?

16 A Yes.

17 Q Is that why -- sorry. Is that why you then decide
18 to tell him that you just shot him only in the leg?

19 A No, I didn't tell him I shot him in the leg.

20 Q You never mentioned to police in your May 7th
21 interview that Mr. Bennett had made a statement about going
22 after this 60s guy, did you?

23 A No.

24 Q Isn't it true that when you talked to police in May
25 that you had said T-Wack, Mr. Graves, is the only one that had

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1 made a statement?

2 A Yes.

3 Q And what statement did T-Wack or Mr. Graves make?

4 A "There go the 60."

5 Q So it wasn't Mr. Bennett that said that, it was Mr.
6 Graves that said that; right?

7 A Well, I was lying to the detectives.

8 Q You were lying to the detectives about what?

9 A About the statement.

10 Q So when you told detectives that T-Wack said, I'm
11 going to smoke this dude, that that was a lie?

12 A Yes.

13 Q You had already mentioned Mr. Bennett's name;
14 correct?

15 A Yes.

16 Q So you're telling me you -- you lied about, I'm
17 going to smoke this dude, and T-Wack saying it?

18 A Yes.

19 Q Did you just forget to mention in May that Mr.
20 Bennett had made this statement?

21 A It was really Face that said it.

22 Q It was Mr. Bennett that said, I'm going to smoke
23 this dude?

24 A Yes.

25 Q I thought you said the statement was about a 60s

1 guy.

2 A It was.

3 Q Well, just yes or no, did anybody make this
4 statement, I'm going to smoke this dude?

5 A Yes.

6 Q And who made that statement?

7 A Face.

8 MR. BINDRUP: May I approach, please?

9 THE COURT: Yes.

10 BY MR. BINDRUP:

11 Q Referring you to page 47, lines 20 through 24, when
12 you were asked, "When you guys saw Dough Boy coming out, what
13 was said? How did you guys all know that you were going to
14 shoot Dough Boy" --

15 MS. DE LA GARZA: Objection, Your Honor.

16 THE COURT: I'll overrule. Please continue.

17 BY MR. BINDRUP:

18 Q -- that your answer was, "T-Wack, he saw Dough Boy
19 come out. T-Wack said, I'm going to smoke this dude." Is it
20 true that that was your response to this question?

21 A Yes.

22 Q And you're telling me now that was a lie?

23 A Yes.

24 Q You're telling me now Mr. Bennett said that?

25 A Yes.

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1 MS. DE LA GARZA: Objection. Asked and answered.

2 THE COURT: Objection's sustained. Can we move.

3 BY MR. BINDRUP:

4 Q The first time you mentioned to anybody -- the first
5 time you mentioned to anybody, there goes that 60s nigger, was
6 after you changed your plea, wasn't it?

7 A No.

8 Q I just showed you a statement of May 7th, 2001, and
9 that statement isn't anywhere in the interview at all. Isn't
10 it true that the first time that you mention that was after --

11 MS. DE LA GARZA: I'm going to object at this point
12 to the form of the question, Your Honor.

13 THE COURT: Question's argumentative. Let's get a
14 new question on the floor.

15 BY MR. BINDRUP:

16 Q Mr. Gantt, you -- prior to entering your plea, you,
17 through your attorney, negotiated with the District Attorney's
18 Office; correct?

19 A Yes.

20 Q As part of that negotiation you were required,
21 weren't you, to give a full interview?

22 A Yes.

23 Q And that interview was conducted on November 21st;
24 right?

25 A Yes.

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1 Q And when you gave that interview you knew you were
2 going to plead guilty and get the deal?

3 A Yes.

4 Q And you -- the first time that you mentioned that
5 statement about, there goes that 60s --

6 MS. DE LA GARZA: Asked and answered, Your Honor.

7 MR. BINDRUP: No, it --

8 MS. DE LA GARZA: I think you've asked that
9 question.

10 THE COURT: Counsel, can I have parties approach.

11 (Off-record bench conference)

12 BY MR. BINDRUP:

13 Q Mr. Gantt, I'm just focusing in on that statement
14 about, there goes that 60s, okay? In your -- in your
15 statement to police on May 7th you never brought out that
16 statement, did you?

17 MS. DE LA GARZA: Objection. Asked and answered.

18 THE COURT: I'm going to allow the question to
19 stand. Overruled.

20 THE WITNESS: No.

21 BY MR. BINDRUP:

22 Q The first time you mentioned that statement was
23 November 21st, when you had entered the deal with the State;
24 correct?

25 A I haven't entered the deal yet.

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1 Q Well, when you had agreed to enter the deal.

2 A Yes.

3 Q The only reference to statements, then, in your May
4 7th interview was one that T-Wack made; correct?

5 A Yes.

6 Q You're telling me now that was a lie, though?

7 A Yes.

8 Q You gave a third interview to police, then, in
9 November 21st of last year; correct?

10 A Yes.

11 Q And the purpose of that interview is -- it was
12 required to get the deal, right, that you interview with them?

13 A Yes.

14 Q You recall denying that you were not in any gang?

15 A Yes.

16 Q That you're only associated in the gang; right?

17 A Yes.

18 Q Do you recall in that statement telling them that it
19 was not Mr. Bennett or anybody -- anybody's idea to go over to
20 the Hunts' house? Do you recall saying that?

21 A Yes.

22 Q So today, earlier, you suggested that it was Mr.
23 Bennett, but that isn't really so, is it?

24 A Yes, it is.

25 MR. BINDRUP: May I approach, please?

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1 THE COURT: Go ahead.

2 BY MR. BINDRUP:

3 Q Showing you a November 21st of last year statement,
4 on page 10, lines 15 through 20. Would you please review that
5 quickly and just tell me when you're done reading that. Are
6 you done?

7 A Yes.

8 Q And isn't it true at least on November 21st that
9 when asked if it was any particular person's idea to go over
10 there, being to Toy circle, you said no; is that correct?

11 A Yes.

12 Q You weren't really sure what these other individuals
13 were going to do after you were at that gathering, did you?

14 A Yes. I was going to Toy circle. They was going to
15 the Hunts' house.

16 Q Do you remember in your statement suggesting that
17 probably that's what they were going to do but you didn't
18 really know?

19 A No.

20 Q Directing your attention to page 13, would you
21 please read from line 11 to line 14 and tell me when you're
22 done.

23 MS. DE LA GARZA: Which page is that, Your Honor?
24 I'm sorry.

25 MR. BINDRUP: Page 13, lines 11 through 14.

GANTT - CROSS

1 BY MR. BINDRUP:

2 Q Is it true that when asked about the purpose of
3 going to the Hunts' house that you mention probably that's
4 what they were going to do?

5 A Yes.

6 Q You didn't know for sure, did you?

7 A Yes. He said to go shoot it up.

8 Q But you weren't going to do that, were you?

9 A No.

10 Q Do you recall saying that when Dough Boy went to the
11 trunk that he was smiling?

12 A Yes.

13 Q How was he smiling? Was it a taunting smile?

14 MS. DE LA GARZA: Objection as to speculation, Your
15 Honor.

16 THE COURT: I'll sustain the objection as to the
17 form of the question.

18 BY MR. BINDRUP:

19 Q How was he smiling?

20 A Smiling at us.

21 Q Mr. Williams got to the trunk of his car?

22 A Almost.

23 Q Did he stop before he got to his trunk?

24 A Yes.

25 Q Within inches, or a few feet, or how close?

GANTT - CROSS

1 A Inches.

2 Q Do you recall testifying -- or in your statement of
3 November 21st saying that he actually opened his trunk?

4 A No. The detective said, did he open the trunk.

5 Q So he never actually opened the trunk?

6 A No.

7 Q Did you know Dough Boy well enough to know whether
8 or not he had a weapon in the car?

9 A No.

10 Q Did you believe he had a weapon in his car?

11 A Yes.

12 Q You said that at the end it was Chew that shot last?

13 A Yes.

14 Q Actually stood over him?

15 A Yes.

16 Q As Mr. Williams was down on the ground?

17 A Yes.

18 Q As he was doing that, were the others already
19 scattering?

20 A Yes.

21 Q And if Pam Neal had suggested that you were the
22 person shooting last, standing above him, that would be a lie?

23 A Yes.

24 Q Do you remember at first in your November statement
25 telling the police that Henry didn't have a gun?

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1 A No.

2 Q Directing your attention to page 40, lines 4 and 5,
3 when asked, "Did Harry [sic] have a gun," wasn't your
4 response, "I don't think so?"

5 A Yes. Yes.

6 Q Was that incorrect?

7 A Yes.

8 Q Were you trying to protect Henry?

9 A Yes.

10 Q Yes?

11 A Yes.

12 Q Because you're friends with Henry?

13 A Yes.

14 Q Is his last name Schneider?

15 A Yes.

16 Q So did he or did he not have a gun?

17 A He had a gun.

18 Q Did you feel police pressured you into changing the
19 story on Henry having a gun or not?

20 A Yes.

21 Q On your November 21st statement those same
22 detectives were there, weren't they?

23 A Yes.

24 Q And there were other people there, too; right?

25 A Yes.

GANTT - CROSS

1 Q Your attorney?

2 A Yes.

3 Q Was there a Deputy District Attorney there?

4 A Yes.

5 Q Who?

6 A Ms. De La Garza.

7 Q Anybody else there?

8 A I think the chief of Detective Bodnar.

9 Q And your testimony today is that Henry did have a
10 gun and he went and reloaded?

11 A Yes.

12 Q But he didn't shoot?

13 A I said I didn't know -- I didn't think he shot, but
14 I heard shots coming behind my head.

15 Q And point again to where Henry was at. And he would
16 have been -- you would have been basically between where Henry
17 was shooting --

18 A Uh-huh.

19 Q -- and where Joseph Williams was?

20 A Yes.

21 Q A dangerous place to be; right?

22 A Yes.

23 Q And you were worried about getting struck by Mr.
24 Schneider's bullets?

25 A Yes.

GANTT - CROSS

1 Q Because you were worried, did you move, did you duck
2 at all during this time period?

3 A Yes.

4 Q And during this chaos you were concerned enough
5 about your own life that you really weren't paying any
6 attention to the --

7 MS. DE LA GARZA: Objection, Your Honor.

8 THE COURT: I'll sustain the objection.

9 BY MR. BINDRUP:

10 Q Now, before November, in your two previous
11 statements to police you talked freely about other shootings
12 that you thought you had information on; right?

13 A Yes.

14 Q On your November 21st statement you were told not to
15 talk about anything else, weren't you?

16 A Yes.

17 Q And your attorney told you not to talk about
18 anything else; right?

19 A Yes.

20 Q And is that because she --

21 MS. DE LA GARZA: Objection as to speculation.

22 BY MR. BINDRUP:

23 Q Why is it --

24 THE COURT: Sustain the objection.

25 MR. BINDRUP: Thank you.

GANTT - CROSS

1 BY MR. BINDRUP:

2 Q Why is it that your attorney told you not to talk
3 about anything else?

4 MS. DE LA GARZA: Objection, Your Honor.

5 THE COURT: Sustained.

6 BY MR. BINDRUP:

7 Q Do you know why your attorney told you not to talk
8 about any other incident in this incident?

9 A Yes.

10 MS. DE LA GARZA: Objection.

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

12 MR. BINDRUP: I'll move on.

13 BY MR. BINDRUP:

14 Q You had mentioned before that Mr. Williams never got
15 his trunk open.

16 A Yes.

17 Q Do you recall on page -- directing your attention to
18 page 74 of the November 21st statement --

19 A Yes.

20 Q -- that when you were asked, "Did he get the trunk
21 open," that you responded, "Yeah"?

22 A Yes.

23 Q And that when you were asked who shut the trunk,
24 that you responded, "I don't know. I wasn't sitting there
25 watching"?

GANTT - CROSS

1 A Yes.

2 Q So which is it? During the statement at one point
3 you -- strike that, please.

4 You've just testified he didn't open the trunk. And
5 November 21st you said he did open the trunk.

6 A Uh-huh.

7 Q Which is the truth?

8 A He went to the trunk. He didn't get a chance to
9 open the trunk.

10 Q So your statement, then, saying that he opened the
11 trunk, was that incorrect?

12 A Yes.

13 Q Were you just mistaken then, or were you lying about
14 it then?

15 A I was telling them anything.

16 Q You just wanted to get the statement over with?

17 A Yes.

18 Q You wanted to move on and get out of there?

19 A Yes.

20 Q During the November 21st interview do you recall the
21 detective point blank asking you --

22 MS. DE LA GARZA: Objection, Your Honor.

23 MR. BINDRUP: May I ask the question first?

24 THE COURT: Objection overruled.

25 //

GANTT - CROSS

1 BY MR. BINDRUP:

2 Q Do you recall during your statement of November 21st
3 the -- one of the detectives asking you if you knew the
4 difference between 10 years and 40 years?

5 A Yes.

6 Q And do you know why he talked to you like that?

7 A Yes.

8 MS. DE LA GARZA: Objection. Speculation, Your
9 Honor.

10 THE COURT: He's already indicated -- he said yes.
11 Answer stands.

12 BY MR. BINDRUP:

13 Q And what did you mean that to mean?

14 A The difference between 40 and 10.

15 Q Was this another instance of pressure by the
16 detective to get you to talk that day?

17 A No.

18 Q Today you testified that Lailoni Morrison got his
19 gun from who?

20 A From nobody.

21 Q Do you know who Lailoni Morrison got his gun from?

22 A No.

23 Q Directing your attention to page 82 of that same
24 interview, do you recall being asked on lines 5 through 7 as
25 to where Lailoni had gotten his gun from?

GANTT - CROSS

1 A Yes.

2 Q Did you tell him in November, at least, that he got
3 it from Henry?

4 A Yes.

5 Q So which is it today, that you don't know, or did he
6 really get it from Henry?

7 A No, he did not get it from Henry.

8 Q So you don't know?

9 A No.

10 Q So were you lying?

11 A Yes.

12 Q So you were lying when you said that Lailoni had
13 gotten a gun from Henry?

14 A Yes.

15 Q How do you know Orlando Walker?

16 A That was my codefendant when I went to Juvenile.

17 Q And did they ask you questions about Orlando Walker?

18 A Yes.

19 Q Do you recall telling them during the interview who
20 Orlando Walker had gotten a gun from?

21 A Yes.

22 Q And who did you tell?

23 A Lailoni.

24 Q Now, is that the truth?

25 A Yes.

GANTT - CROSS

1 Q Do you recall telling them in the November interview
2 that Jermaine Webb's gun was a .357?

3 A Yes.

4 Q I thought you said today that Jermaine Webb was not
5 there, not involved in the shooting.

6 A He wasn't.

7 Q Why did -- why did you tell police officers, then,
8 about Jermaine Webb and where he got a gun from?

9 A 'Cause he asked me where did Henry get the gun from.
10 And I told him Jermaine Webb.

11 Q Your testimony today is that Jermaine Webb
12 absolutely was not involved; correct?

13 A No.

14 Q If Jermaine Webb, also known as Wing, was not
15 involved, why does your agreement to testify include
16 testifying against Jermaine Webb?

17 A Say it again.

18 Q If Jermaine Webb was not involved in this shooting,
19 why does your agreement to testify involve testifying against
20 Jermaine Webb?

21 MS. DE LA GARZA: Objection, Your Honor. That's a
22 misstatement. It says, "and/or," based on the fact that he
23 said that he wasn't involved.

24 THE COURT: Objection sustained.

25 //

GANTT - CROSS

1 BY MR. BINDRUP:

2 Q Is your understanding of the plea agreement that if
3 asked to testify against Jermaine Webb, that you are supposed
4 to?

5 A Yes.

6 Q You said this gathering was about 11:00 or 12:00
7 o'clock?

8 A Yes.

9 Q And the shooting occurred about what time?

10 A About 2:00 or 3:00.

11 Q Wasn't there a gap between the time that you saw
12 these individuals at the gathering and the shooting?

13 A Yes.

14 Q So it was several hours?

15 A Yes.

16 Q And you're telling me that during this entire time
17 period that you were there these other gentlemen were there,
18 too?

19 A Yes.

20 Q So you were there at that house for two to three
21 hours?

22 A Yes.

23 Q And you're sure about that?

24 A Yes.

25 Q And likewise Antwont Graves, also known as T-Wack,

GANTT - CROSS

1 he was there for two to three hours?

2 A Yes.

3 Q And Chew-Wack, Louis Matthews, was also there for
4 two to three hours?

5 A Yes.

6 Q And Louis Matthews, also known as Chew, he was also
7 there for two to three hours?

8 A Yes.

9 Q And you guys didn't show up at the same time and
10 leave exactly the same time, did you?

11 A We didn't show up at the same time, but we left at
12 the same time.

13 Q Antwont Graves, again, had what kind of gun?

14 A A 9.

15 Q And you're sure about that?

16 A Yeah.

17 Q And was that black or silver, what kind?

18 A Black.

19 Q And Louis Matthews or Chew had what kind of gun?

20 A A 9.

21 Q Was it black, silver?

22 A Black.

23 Q And you're sure about that?

24 A Yeah.

25 Q And Mr. Bennett had what kind of gun?

GANTT - CROSS

1 A A 9.

2 Q Black or silver?

3 A Black.

4 Q And you're absolutely sure about that?

5 A Yes.

6 Q And you had a .32?

7 A Yes.

8 Q Now, a .32, is that a revolver or a 9?

9 A Automatic.

10 Q Now, as an automatic, it has how many rounds in it?

11 A Eight.

12 Q And you're sure that you fired then all eight rounds

13 from that gun; right?

14 A No.

15 Q How many did you fire from that?

16 A Six.

17 Q How are you sure you fired six and not the full

18 eight?

19 A 'Cause I had two more bullets left.

20 Q Do you recall telling police earlier that you had

21 fired all the rounds from your gun?

22 A No.

23 Q Lailoni Morrison, he had what kind of gun?

24 A A .38 Super.

25 Q What color was it?

GANTT - CROSS

1 A Chrome and black.

2 Q And Henry, again, what color was his gun?

3 A Black.

4 Q And your .32 automatic was?

5 A Black and brown.

6 Q Do you know why Henry threw the bullets in the trash
7 and reloaded?

8 A 'Cause they were empty.

9 Q You said during the time after the shooting that you
10 were in the apartment that you kept looking out the window and
11 looking at the detectives?

12 A Yes.

13 Q Could you see them from where you were at?

14 A Yes.

15 MR. BINDRUP: May I approach, please?

16 THE COURT: Yes.

17 BY MR. BINDRUP:

18 Q Using your pointer, would you please point to the
19 location where you at after the shooting. You pointed to some
20 trees.

21 A Right here. Pointed right there.

22 MS. DE LA GARZA: May I approach, Your Honor?

23 THE COURT: Yes.

24 BY MR. BINDRUP:

25 Q Now, when you're pointing -- see where my finger is

GANTT - CROSS

1 at?

2 A Yes.

3 MR. BINDRUP: May the record reflect my finger is
4 directly under the 2529 Morton designation, between the T and
5 the O.

6 BY MR. BINDRUP:

7 Q Is that the building that you were actually in?

8 A Yes. Looking towards --

9 Q And that was whose house --

10 A Kizzy --

11 Q -- or apartment?

12 A Kizzy and Amber's.

13 Q And where was the window that you were able to
14 see --

15 A The back --

16 Q -- the detectives?

17 A The back window.

18 Q Can you -- can you point -- if you need to, come
19 closer. Point exactly where that window was at, please:

20 A The window was like in the back, somewhere over
21 here.

22 Q When you say "in the back --"

23 MR. BINDRUP: May the record reflect he's
24 designating the east portion of the building.

25 THE COURT: We'll let his testimony stand for itself

GANTT - CROSS

1 and also what you just stated. But --

2 BY MR. BINDRUP:

3 Q Was that the bottom floor, or top floor?

4 A The bottom.

5 Q How from the bottom floor through an area of trees
6 could you see anything at all around --

7 A 'Cause the trees spreaded apart.

8 Q Pardon?

9 A The trees are spreaded apart.

10 Q So even with this clump of trees you were still able
11 to see activity that was being taken care of by detectives and
12 police on Morton Avenue?

13 A Yes.

14 THE COURT: Question by the Court. Were the
15 officers that you saw only in the parking area, or were they
16 in other areas?

17 THE WITNESS: They were in other areas.

18 THE COURT: Thank you.

19 MR. BINDRUP: May I approach one last time, please?

20 THE COURT: Go ahead.

21 BY MR. BINDRUP:

22 Q Let me go over parts of this -- this diagram, okay.
23 Is it true that you said this group that you were with
24 dispersed somewhere between 2535 and 2531?

25 A Yes.

GANTT - CROSS

1 MS. DE LA GARZA: Your Honor, that's a misstatement
2 of the testimony. He didn't say "somewhere." He's actually
3 marked where it is.

4 BY MR. BINDRUP:

5 Q Okay. Would you mark again where exactly the group
6 dispersed.

7 THE COURT: We don't want him to mark, but he can
8 show with the pointer where they were.

9 THE WITNESS: I went this way right here, and they
10 kept going. Where the X at.

11 BY MR. BINDRUP:

12 Q So prior to the shooting, other than Henry, who was
13 in front of 2529 --

14 A Yes.

15 Q -- everybody else was directly east of 2535?

16 A Yes.

17 MS. DE LA GARZA: Objection, Your Honor. I don't
18 think that states the testimony, and that's not what he
19 marked.

20 THE COURT: Question was asked. He's answered it.
21 Let's move it along.

22 BY MR. BINDRUP:

23 Q You never saw anybody coming from the area in back
24 of 2531 and 2529 through this -- this area in the parking lot,
25 did you?

GANTT - CROSS

1 A No.

2 Q And if somebody had seen somebody coming through
3 this area and shooting, that'd be incorrect; right?

4 A Yes.

5 Q Where exactly -- and point again where you were at
6 when you fired your first shot.

7 A Right there.

8 Q From the X to the W that's designated on State's
9 Exhibit 2, are you telling me you made a direct line to the W
10 location in the parking lot?

11 A Yes.

12 Q Did you ever fire any shots right next to 2531 in
13 the area that's designated in blue from 17, 18, 19, 20, 21,
14 and 22?

15 A No.

16 Q Were you ever in the location that you designated
17 with an F or a C and also marked by numbers 27, 28, 29, 30,
18 31, or 32?

19 A No.

20 Q Were you ever in the location by this vehicle
21 designated as H and fired shots?

22 A No.

23 Q So if a witness had placed you right by Vehicle H,
24 shooting into the body of Joseph Williams, would that be a
25 lie?

GANTT - CROSS

1 A Yes.

2 Q And likewise, you never had any shots yourself that
3 you fired in between any of the vehicles?

4 A No.

5 Q From where you designated yourself at during the
6 shooting, when you have a gun in your hand and are pointing it
7 at an individual and firing, isn't your whole direction toward
8 where you're shooting?

9 A Yes.

10 Q While you were shooting at the direction and into
11 the body of Joseph Williams you really couldn't pay any
12 attention to any individuals --

13 MS. DE LA GARZA: Objection, Your Honor.

14 BY MR. BINDRUP:

15 Q -- to your immediate right, could you?

16 THE COURT: I'll sustain the objection. Question's
17 been asked and answered previously.

18 BY MR. BINDRUP:

19 Q Between where you were at during the shooting and
20 where Chew-Wack was, who was in between? If you would draw a
21 straight line between you and Chew-Wack, who would be in
22 between your line of sight?

23 A T-Wack.

24 Q T-Wack first?

25 A Yes.

GANTT - REDIRECT

1 Q So you had the best view of T-Wack, didn't you?

2 A Yes.

3 Q And T-Wack would block your view of Mr. Bennett,
4 wouldn't it?

5 MS. DE LA GARZA: Objection, Your Honor.

6 THE WITNESS: No.

7 THE COURT: I'll let the question stand.

8 BY MR. BINDRUP:

9 Q And T-Wack being where he was, and Mr. Bennett being
10 where he was, would certainly obstruct your view of Chew-Wack,
11 wouldn't it?

12 A No.

13 Q One last question, Mr. Gantt. The only reason
14 you're testifying against Mr. Bennett today is to save your
15 own skin, isn't it?

16 A Yes.

17 MR. BINDRUP: Nothing further.

18 THE COURT: Any redirect at this time?

19 REDIRECT EXAMINATION

20 BY MS. DE LA GARZA:

21 Q Of course you don't want to testify against him, do
22 you?

23 A No.

24 Q He was your buddy?

25 A Yes.

GANTT - REDIRECT

1 MR. BINDRUP: Objection. That's not the --

2 BY MS. DE LA GARZA:

3 Q He's in this --

4 MR. BINDRUP: It's not the testimony that they had a
5 relationship or that he was a buddy.

6 MS. DE LA GARZA: He can answer --

7 THE COURT: I'll -- we'll strike the last question.
8 Restate the question.

9 BY MS. DE LA GARZA:

10 Q He was in the Gerson Park Kings that you associated
11 with; correct?

12 A Yes.

13 Q This is somebody in a gang that your dad is a part
14 of and in fact is --

15 MR. BINDRUP: Objection. Leading.

16 THE COURT: I'll allow the question.

17 BY MS. DE LA GARZA:

18 Q -- has been in for a long time; is that correct?

19 A Yes.

20 Q And in fact, Mr. Gantt, wasn't there a point at
21 which this defendant basically threatened you with your own
22 family?

23 A Yes.

24 Q Didn't he basically tell you, I'm going to bring
25 your family in here to watch you testify?

GANTT - REDIRECT

1 MR. BINDRUP: Objection. Leading.

2 THE WITNESS: Yes.

3 THE COURT: Objection overruled. Question and
4 answer stand.

5 BY MS. DE LA GARZA:

6 Q In fact, your dad is an OG in the Gerson Park Kings;
7 isn't he?

8 A Yes.

9 Q And what's an OG?

10 A Original gangster.

11 Q So for a while you were trying to protect these
12 people, weren't you?

13 A Yes.

14 Q And in fact when you initially gave your statement
15 to police on March 21st you were trying to protect everybody?

16 A Yes.

17 Q And you weren't being truthful with the police, were
18 you?

19 A No.

20 Q And in fact when the police came back to you on May
21 7th, isn't it true at that time that they already had Pam
22 Neal, who had pointed you out as a shooter?

23 A Yes.

24 Q And hadn't they told you Pam Neal pointed you out
25 and others have pointed you out?

GANTT - REDIRECT

1 A Yes.

2 Q And initially weren't you still kind of trying to
3 protect everybody and still not being 100 percent truthful
4 with the police?

5 A Yes.

6 Q And then eventually you started telling the truth,
7 didn't you?

8 A Yes.

9 Q Isn't that basically because you knew that you had
10 been seen and you knew you couldn't get out of it?

11 A Yes.

12 Q And in fact your attorney knew that, too, didn't
13 she?

14 A Yes.

15 Q And so when Mr. Bindrup asks you about your attorney
16 assisting you in getting this deal, is it because she's
17 working in your best interest?

18 A Yes.

19 MR. BINDRUP: Objection. Leading.

20 THE COURT: Overruled.

21 BY MS. DE LA GARZA:

22 Q She knows --

23 MR. BINDRUP: Objection to what --

24 BY MS. DE LA GARZA:

25 Q -- the testimony against you, doesn't she?

GANTT - REDIRECT

1 MR. BINDRUP: -- the attorney may know.

2 THE COURT: Sustained.

3 MS. DE LA GARZA: Your Honor, I believe there's been
4 previous testimony by Mr. Bindrup that he had all of the
5 reports, he had an opportunity to review them, he had his
6 attorney review them with him and bring them to him.

7 THE COURT: The testimony was not by Mr. Bindrup.
8 Mr. Bindrup asked the question whether he had those documents.
9 And he answered, yes, he did.

10 BY MS. DE LA GARZA:

11 Q So you reviewed those documents; correct?

12 A Yes.

13 Q And you reviewed them with your attorney?

14 A Yes.

15 Q And you reviewed all of the evidence?

16 A Yes.

17 Q And based on what was against you, that's when you
18 decided to make a deal with the State; isn't it true?

19 A Yes.

20 Q Now, before you entered into this agreement --
21 because you didn't enter into this agreement until November
22 26; isn't that correct?

23 A Yes.

24 Q But there was talk of it that prior week, and you
25 were required to give a statement, weren't you?

GANTT - REDIRECT

1 A Yes.

2 Q And what was the basis for that statement?

3 A To testify on any codefendant that had a party --
4 part to do in this crime.

5 Q And was it the agreement that you had to testify
6 truthfully?

7 A Yes.

8 Q And what were the consequences if you didn't testify
9 truthfully?

10 A The deal was off.

11 Q So when detectives are in there on November 21st --
12 and in fact Detective Bodnar and there was another couple of
13 detectives and your attorney was there and I was there --
14 wasn't the pressure to tell the truth?

15 A Yes.

16 Q And you were told numerous times if you didn't tell
17 the truth we weren't going to go any further?

18 A Yes.

19 Q So there were times here and there where you would
20 change your testimony and then you had to go back and clarify;
21 isn't that correct?

22 A Yes.

23 Q And we told you you had to be truthful with us?

24 A Yes.

25 THE COURT: Can I have the parties approach.

GANTT - REDIRECT

(Off-record bench conference)

1
2 BY MS. DE LA GARZA:

3 Q So on May 7th, before you had entered into the
4 negotiations with the State, when the police came and talked
5 to you, isn't it true that the police talked to you about your
6 rights and whether you were going to -- that you had the right
7 not to talk with them?

8 A Yes.

9 Q And they told you that you could have had an
10 attorney present and they went through all of that about
11 voluntarily and freely giving your testimony or your statement
12 at that time?

13 A Yes.

14 Q And they let you make the choice as to whether you
15 wanted somebody there or whether you didn't want --

16 MR. BINDRUP: Objection again with the continued
17 leading.

18 THE COURT: I'll sustain the objection as to the
19 continuation of leading.

20 BY MS. DE LA GARZA:

21 Q So who made the choice as to whether to testify?

22 A Me.

23 Q And who made the choice as to whether to give a
24 statement?

25 A Me.

GANTT - REDIRECT

1 Q You said earlier you were coerced. How were you
2 coerced?

3 A What you mean?

4 Q Did you feel like mainly you were just pressured
5 into give a statement?

6 MR. BINDRUP: Objection. Leading.

7 THE COURT: I'll allow the question in light of the
8 cross-exam.

9 THE WITNESS: Yes.

10 BY MS. DE LA GARZA:

11 Q On May 7th, when you gave that statement to police,
12 before your testimony, didn't you say that everybody was going
13 to Big Mama's house?

14 A Yes.

15 Q Didn't you say that you saw Dough Boy and you guys
16 just shot?

17 A Yes.

18 Q Didn't you say the guys ran over and started
19 shooting?

20 A Yes.

21 Q Didn't you say Dough Boy started running?

22 A Yes.

23 Q Didn't you say he was at his car?

24 A Yes.

25 Q Didn't you say he was trying to get into his car?

GANTT - REDIRECT

1 A Yes.

2 Q And all of this was before an agreement?

3 A Yes.

4 Q And didn't you say that T-Wack shot first at that
5 point?

6 A Yes.

7 Q And then didn't you say Lailoni, Face, and then all
8 of you started shooting?

9 A Yes.

10 Q So at that point, before there was any agreement
11 with the State, you said that this defendant started shooting
12 along with the rest of you?

13 A Yes.

14 Q Were you telling the truth?

15 A Yes.

16 Q Even back on May 7th didn't you say that everybody
17 was firing?

18 A Yes.

19 Q And back on May 7th you said Chew-Wack was the last
20 person to come up and finish him off?

21 A Yes.

22 Q And even then weren't you still trying to kind of
23 protect Henry?

24 MR. BINDRUP: Objection. Leading.

25 THE COURT: Sustain the objection.

GANTT - REDIRECT

1 THE WITNESS: Yes.

2 THE COURT: Strike the answer. Jury's to disregard.

3 New question.

4 BY MS. DE LA GARZA:

5 Q Did you say --

6 THE COURT: New question.

7 BY MS. DE LA GARZA:

8 Q Did you say whether --

9 MR. BINDRUP: Objection. Leading.

10 THE COURT: Let her finish the question before you
11 lodge an objection.

12 BY MS. DE LA GARZA:

13 Q Did you say whether Henry had shot at that point?

14 A Yes.

15 Q And even then you told us who had guns; is that
16 correct?

17 A Yes.

18 Q And you said Face had a 9?

19 A Yes.

20 Q And Lailoni had a .38 Super?

21 A Yes.

22 Q And you had a .32?

23 A Yes.

24 Q And Henry had a .357?

25 A Yes.

GANTT - REDIRECT

1 Q And you got your gun from R-Wack and you gave it
2 back to him that day?

3 A Yes.

4 Q So all of those things before you even came into an
5 agreement were said?

6 A Yes.

7 Q And on November 21st isn't it true that we just went
8 into more detail about what you had already said?

9 A Yes.

10 Q You were asked whether you know a guy named Wyatt
11 King and whether you know him as Face. Do you?

12 A No.

13 Q Is the only person that you know as Face sitting
14 here in the courtroom as Ashley Bennett?

15 A Yes.

16 Q And when you gave your statements previously about
17 what Face did and where Face was, were you referring to Ashley
18 Bennett?

19 A Yes.

20 MS. DE LA GARZA: Court's indulgence.

21 BY MS. DE LA GARZA:

22 Q Now, you talked with Mr. Bennett a little bit about
23 being coerced and being told that you could avoid --

24 THE COURT: Restate the question. You used the term
25 "Mr. Bennett."

GANTT - REDIRECT

1 MS. DE LA GARZA: I'm sorry. I apologize, Your
2 Honor.

3 BY MS. DE LA GARZA:

4 Q When you were on cross-examination you talked about
5 being told about the death penalty and that if you gave
6 statements that you would avoid the death penalty. Isn't it
7 true nobody ever told you that you were facing the death
8 penalty?

9 MR. BINDRUP: Objection. Leading the witness.

10 THE COURT: Specific question was asked on cross.
11 I'll allow her to ask a specific question on redirect as to
12 that issue.

13 THE WITNESS: Yes.

14 BY MS. DE LA GARZA:

15 Q Yes what?

16 A Yes -- can you say the question again?

17 Q Did anybody ever threaten you with the death
18 penalty?

19 A Yes.

20 Q When was that? What statement?

21 A The -- the first one. And the second one.

22 Q You know that your second statement was fully
23 recorded; is that correct?

24 A Yes.

25 Q May 7th?

GANTT - REDIRECT

1 A Yes.

2 Q If I show you this entire statement, are you going
3 to be able to pull out of here where somebody threatened with
4 the death penalty?

5 A No.

6 Q Okay. So were you threatened with the death penalty
7 or not?

8 A Yes.

9 Q You were?

10 A Before he turned on the tape.

11 Q And yet you continued to tell him?

12 A Yes.

13 Q And again, on that statement didn't he read you your
14 rights, that you didn't have to go through with this?

15 A Yes.

16 Q And you made that decision?

17 A Yes.

18 Q You were asked about changing your mind. Isn't it
19 true today that you changed your mind about testifying because
20 you were concerned about the people in the courtroom?

21 A Yes.

22 MR. BINDRUP: Objection.

23 THE COURT: We'll strike -- we'll strike -- strike
24 the question, strike the answer.

25 Ms. De La Garza, the leading has to stop at this

GANTT - REDIRECT

1 point if you're going to ask certain kinds of questions.

2 BY MS. DE LA GARZA:

3 Q Why'd you change your mind?

4 A Because I'm going to tell the truth.

5 Q Did you come in here with the intention of not
6 telling the truth?

7 A No.

8 Q Then why'd you stop the questioning earlier?

9 A Because I didn't want to go further.

10 Q Why?

11 A Because my cousin and them walked in.

12 Q Your cousin and them walked in; is that correct?

13 A Yes.

14 Q What does that have to do with anything?

15 A Then he going to tell my uncle and my family.

16 Q And what does that mean for you?

17 A They don't want me to go on with this deal.

18 Q And when you say your uncle and your family, is your
19 uncle also part of GPK?

20 A Yes.

21 Q Now, you wrote a letter to Ashley Bennett. You said
22 you thought it was about last month.

23 MS. DE LA GARZA: And I believe it was even
24 introduced in evidence; is that correct?

25 THE COURT: It's been marked.

GANTT - REDIRECT

1 BY MS. DE LA GARZA:

2 Q Why'd you write that letter?

3 A Just to make him think I wasn't testifying so he
4 won't tell my uncle.

5 Q Isn't it true that when the officers were first
6 questioning you on May 7th and during your May 7th statement
7 that you didn't have this diagram?

8 MR. BINDRUP: Objection. The leading is continuing,
9 Your Honor.

10 THE COURT: The Court understands, but I'll let her
11 ask the question reference the diagram again and reference to
12 the specific questions that were put on cross-examination.

13 Restate your question.

14 BY MS. DE LA GARZA:

15 Q On May 7th, when you gave that statement, did you
16 have this diagram in front of you with these numbers?

17 A No.

18 Q So when did you first see this diagram?

19 A I think it was March 21st.

20 Q So that would have been your first statement?

21 A Yes.

22 Q So did you see this diagram first statement, or not?

23 A Yes.

24 Q Are you sure about that?

25 A Yes.

GANTT - REDIRECT

1 Q Isn't it true, Anthony, that in fact you were just
2 writing out a diagram on a piece of paper?

3 A Yes.

4 Q So you didn't have this in front of you, you were
5 just scribbling it on a piece of paper --

6 A Yes.

7 Q -- isn't that the truth?

8 A Yes.

9 Q Now, you were asked about before March 3rd whether
10 you socialized with Mr. Bennett, with Face. Were you familiar
11 with Face before March 3rd?

12 A Yes.

13 Q How?

14 A From my daddy and when we kicked it together a
15 little bit.

16 Q And when you say from -- with your dad, explain to
17 me what that means.

18 A 'Cause my daddy used to raise him.

19 Q So have you been around him -- or you tell me. So
20 how many years have you been around Face?

21 A I been knowing him for about two years.

22 Q But before that?

23 A When I was little.

24 Q Now, Mr. Bindrup asked you about Gerson being simply
25 a geographical area. Is that all Gerson is?

GANTT - REDIRECT

1 A Yes.

2 Q Isn't it true, Mr. Gantt, that the Gerson is a gang,
3 GPK?

4 A Yes.

5 Q So it's not only a geographic area, is it?

6 A No.

7 Q In fact, does the Gerson even exist anymore as a
8 geographic area?

9 A No.

10 Q How long has it been since it -- actually it
11 existed?

12 A A couple years ago.

13 Q But there's still a group around?

14 A Yes.

15 Q And what do they call themselves?

16 A The Gersons.

17 Q What's their --

18 A The GPK, Gerson Park Kings.

19 Q And what kind of group are they?

20 A A gang.

21 MR. BINDRUP: May we approach, please?

22 THE COURT: Yes.

23 (Off-record bench conference)

24 BY MS. DE LA GARZA:

25 Q You were asked about the statement about Face

GANTT - REDIRECT

1 saying, here go that 60 nigger. Is that what he said, or not?

2 A Yes. He did say it.

3 Q Why in one of your statements did you say that he
4 didn't?

5 A Because I was lying to the detectives.

6 Q Why was that?

7 A Because I was trying to save him.

8 Q How long have you been affiliated with this group?

9 A Since I was little.

10 Q Is it tough for you now to turn around and basically
11 snitch on 'em?

12 MR. BINDRUP: Leading.

13 THE WITNESS: Yes.

14 THE COURT: Sustained. Strike the answer. We'll
15 strike the question, likewise.

16 BY MS. DE LA GARZA:

17 Q In fact, when you got arrested for this murder,
18 weren't you contacted by Chew?

19 MR. BINDRUP: Objection. Leading.

20 THE COURT: Sustain the objection.

21 BY MS. DE LA GARZA:

22 Q Were you contacted by Chew?

23 MR. BINDRUP: Objection. Leading.

24 THE WITNESS: Yes.

25 THE COURT: Sustained. Strike the answer.

GANTT - REDIRECT

1 MS. DE LA GARZA: Judge, that doesn't suggest an
2 answer.

3 THE COURT: Please approach. Please approach.

4 (Off-record bench conference)

5 BY MS. DE LA GARZA:

6 Q Were you ever contacted by anybody regarding
7 testifying?

8 A Yes.

9 Q Who contacted you?

10 A Detective Bodnar.

11 Q Besides people from the police department.

12 A Yes. Face.

13 Q And what did Face tell you when he contacted you?

14 A He wrote me a letter.

15 Q Did he -- prior to writing you a letter did he also
16 speak with you when you were initially arrested?

17 A Oh. Yes.

18 Q What'd he tell you?

19 A Told me don't say nothing because they don't got
20 nothing.

21 Q Now, Mr. Gantt, sitting here on the stand today do
22 you know whether you're going to get in any more trouble by
23 admitting that you shot into the body of Joseph Williams
24 versus just shooting into the leg?

25 A Yes.

GANTT - REDIRECT

1 Q You think you're going to get in more trouble?

2 A Oh. No.

3 Q Same difference?

4 A No.

5 Q Do you know if the detective was using that as a
6 tactic to get you to come forward?

7 A Yes.

8 Q You were questioned about the idea of going to the
9 Hunt house on the 21st, and Mr. Bindrup said, isn't it true
10 that you -- during that 21st testimony that you said it wasn't
11 Face's idea to go to the Hunt house?

12 A Yes.

13 Q Did you in fact say it wasn't his idea?

14 A Yes.

15 Q Did you turn around and then change that later in
16 your statement?

17 A Yes.

18 Q And then what did you say?

19 A I told him it was Face.

20 Q Why did you initially in your statement say it
21 wasn't Face and then turn around and say it was?

22 A 'Cause I was trying to save him.

23 Q You were asked about testifying against Jermaine
24 Webb. And you said you initially said that he wasn't there
25 and he wasn't involved.

GANTT - REDIRECT

1 A Yes.

2 Q So when you made this agreement with the State, did
3 the State expect you to do anything besides testify truthfully
4 in any of these cases?

5 A Yes.

6 Q Other than testify truthfully?

7 A No.

8 Q You talked about being at the gathering. You said
9 approximately two to three hours, that you and Graves and Chew
10 and Matthews and -- didn't get there at the same time, but you
11 all left at the same time.

12 A Yes.

13 Q What was the amount of time between the time you
14 left that gathering and the time of the shooting?

15 A Say about 30 minutes.

16 Q And why 30 minutes?

17 A 'Cause we had to walk across the park.

18 Q So were you confused earlier when you said there was
19 a gap of several hours?

20 A A gap of several hours?

21 MR. BINDRUP: Leading.

22 THE COURT: I'll allow the form of the question as
23 to that specific question to stand. Please repeat the
24 question.

25 //

GANTT - REDIRECT

1 BY MS. DE LA GARZA:

2 Q Earlier you said there was a gap of several hours.
3 Was that correct, or not?

4 A Yes. When we left from L-Wack house and the time we
5 showed up. That's what he asked me.

6 Q So you were talking about the time frame that you
7 were actually at the house?

8 A Yes.

9 Q So from --

10 MS. DE LA GARZA: May I approach, Your Honor?

11 THE COURT: Yes.

12 BY MS. DE LA GARZA:

13 Q I think you previously testified that you ran across
14 this field and over to these apartments, and Mr. Bindrup even
15 pointed out that he was referring to the apartment building
16 right under 2529 Morton's sign; is that correct?

17 A Yes.

18 Q And you're saying from there you could see clearly
19 over to that circle; is that correct?

20 A Yes.

21 Q So it wouldn't be a far stretch to say somebody over
22 there could probably see you over here?

23 A Yes.

24 Q When you and Face and the others were standing in
25 the parking lot, shooting at Dough Boy, were you in absolute

GANTT - RECROSS

1 perfect alignment?

2 A Not absolute.

3 Q So could you see -- so could you see who was beside
4 you?

5 A Yes.

6 Q And could you see what they were doing?

7 A Yes.

8 Q And in seeing that, could you see this defendant
9 shooting into Dough Boy?

10 A Yes.

11 MS. DE LA GARZA: No further questions.

12 MR. BINDRUP: May I approach, please?

13 THE COURT: Yes.

14 RECROSS EXAMINATION

15 BY MR. BINDRUP:

16 Q Please take the pointer -- where's the pointer --
17 and point again to where the gathering was at.

18 A Like what gathering?

19 Q The gathering. The initial gathering on March 3rd.

20 A At L-Wack house?

21 Q Yes. Can you see it?

22 A Somewhere over here.

23 Q You're -- you're pointing to a specific building.
24 Do you know it's that building, or you just think it's around
25 that area?

GANTT - RECROSS

1 A It's around that area. Around that area.

2 MS. DE LA GARZA: And, Judge, could we have him mark
3 that in some way?

4 THE COURT: Well, let's first -- he's saying it's
5 around that area. I don't know if there's a follow-up
6 question or not. We may get it marked.

7 BY MR. BINDRUP:

8 Q So you don't know if it's exactly that building or
9 not?

10 A Yes, I think it is that building.

11 Q Okay. Would you please mark that.

12 THE COURT: Before he marks it --

13 Mr. Gantt, if you'd step down and take a look at
14 that area close up and then mark it at the location you think
15 is --

16 BY MR. BINDRUP:

17 Q Would you speak into the mike, please. You -- you
18 said it's somewhere around here where I'm pointing to?

19 A Yes.

20 Q You're not sure if it's this particular building I'm
21 pointing to now, but it's somewhere around there?

22 A Yes.

23 Q Would you please put a mark on the building that you
24 said "somewhere around here." And you put an X?

25 A Yes.

GANTT - RECROSS

1 Q Thank you. Would you resume your seat. Thank you.

2 MS. DE LA GARZA: And, Judge, just for the record, I
3 believe that's State's Proposed Exhibit -- or that's State's
4 Exhibit 1. And I don't even think I said it on my cross.

5 THE COURT: Is that correct?

6 MR. BINDRUP: Yes, it is.

7 THE COURT: Thank you.

8 BY MR. BINDRUP:

9 Q So -- and the -- and the X is located to the far
10 left, a little down from the halfway point; correct?

11 A Yes.

12 Q And you're telling us that it took you approximately
13 30 minutes to walk across the park area to Morton Avenue?

14 A Yes.

15 Q After the shooting, when you went from the Morton
16 area to where you had designated, you didn't walk when you
17 went after the shooting, did you?

18 A No.

19 Q You ran?

20 A Yes.

21 Q Sprinted?

22 A Yes.

23 Q Out of breath when you got there?

24 A Yes.

25 Q And it took you approximately how long to sprint

GANTT - RECROSS

1 from Morton to where you finally got to?

2 A About three minutes.

3 Q At this gathering you were drinking alcohol, weren't
4 you?

5 A No.

6 Q You had nothing to drink at all?

7 A No. I don't drink.

8 Q Did you have any drugs of any kind?

9 A Not yet. After.

10 Q After the shooting you took drugs?

11 A Yes.

12 Q What did you take?

13 A Weed.

14 Q Was that later, after the shooting, after you got
15 into that other apartment?

16 A Yes.

17 Q And during the time of the shooting were you under
18 the influence of either alcohol or drugs at that time?

19 A No.

20 Q How's your vision?

21 A Good.

22 Q Have you ever had glasses?

23 A No.

24 Q Have you ever been checked by a doctor for how your
25 eyesight is?

GANTT - RECROSS

1 A Yes.

2 Q And what do you know your eyesight to be?

3 A 20/20.

4 Q The -- where were you actually living on March 3rd?

5 MS. DE LA GARZA: Objection as to relevance, Your
6 Honor.

7 THE COURT: I'll let the question stand.

8 BY MR. BINDRUP:

9 Q Where were you living on March 3rd?

10 A With my mama.

11 Q Is it at a location that we can see on the map, or
12 not?

13 A No.

14 Q Can you tell me if the area you lived was north,
15 south, east, or west from Morton Avenue?

16 A It was --

17 Q Where you were living.

18 A Martin Luther King and Bonanza.

19 Q So this -- it would have been what direction? If
20 you extended State's Exhibit 1, it would be further south?

21 A Yes.

22 Q And approximately how far away? Do you know?

23 A No.

24 Q And so March 2nd, the night before the shooting,
25 that's where you stayed, at your mother's house?

GANTT - RECROSS

1 A Yes.

2 Q The night of the shooting did you stay at the area
3 by Morton, or did you go home?

4 A I went home.

5 Q What time did you go home?

6 A Around say about 11:00.

7 Q When you went home did you have a gun?

8 A No.

9 Q Did you have your own personal weapon at your
10 mother's house?

11 A No.

12 Q When you left your mother's house on March 3rd,
13 after you'd spent the night there, did you take a weapon with
14 you?

15 A No.

16 MR. BINDRUP: Nothing further.

17 THE COURT: Anything additional, Ms. De La Garza?

18 MS. DE LA GARZA: No further questions, Your Honor.

19 THE COURT: Witness can be excused.

20 Ladies and gentlemen of the jury, that's going to
21 conclude our day. I know it's more of a day than we promised
22 you, but, again, as always, thank you.

23 The admonition not to converse among yourselves or
24 anyone else as to any subject matter that might be connected
25 with the trial, refrain from reading, watching, or listening

1 to any commentary, should there be any. But most importantly,
2 you've not been charged, you've not heard evidence. The Court
3 would ask that you not form or express any opinion as to the
4 outcome of the subject matter until this case is submitted to
5 you after all evidence, after instructions as to the law, and
6 closing argument.

7 1:00 o'clock tomorrow. Mr. Sewell will take you and
8 get you out the back door. The weatherman had good things to
9 say. We don't have New England snow this evening. Thank you.

10 (Court recessed at 7:55 p.m., until the
11 following day, Wednesday, January 30, 2002, at 1:00 p.m.)

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CERTIFICATION

I (WE) CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM
THE ELECTRONIC SOUND RECORDING OF THE PROCEEDINGS IN THE
ABOVE-ENTITLED MATTER.

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