

VOLUME I OF III

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Brooks P. Goldsmith, Circuit Court Judge

RECEIVED

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

PRESTON RYAN OATES,

APPELLANT

APPELLATE CASE NO: 2017-002012

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS	
	)		
COUNTY OF BEAUFORT	)	INDICTMENT No. 2011-GS-07-120	J 338658
		2011-GS-07-121	J 338659
STATE OF SOUTH CAROLINA	)		
	)		
-vs-	)	PETITION FOR HEARING	
	)	PETITION FOR IMMUNITY	
	)	FROM PROSECUTION	
PRESTON RYAN OATES,	)		
	)		
Defendant/	)		
Petitioner.	)		
	)		

2011 JUL 28 PM 1:51
CLERK OF COURT

The Defendant/Petitioner, Preston Ryan Oates, by and through undersigned counsel moves before this Court for an Order granting the Petitioner a hearing pursuant to South Carolina Code Section 16-11-450 and more specifically recognized in State v. Duncan, (Op. No. 26974 SC Sup. Ct. May 9th 2011).

Under the Common-law of South Carolina and recognized in South Carolina Code Section 16-11-420 the facts will show that the Petitioner was acting lawfully and in full compliance with the law, both common and statutory, and that he is therefore completely immune from criminal prosecution as charged in the captioned indictments.

The facts will show that the Petitioner was lawfully in his work vehicle on the evening of December 24th 2010 when he was accosted by an attacker armed with a semi-automatic pistol and the armed attacker's brother. The Petitioner was lawfully executing the duties of his employment when he was set upon by the armed attacker and his brother. The armed attacker presented and produced a fully loaded large caliber semi-automatic firearm causing and placing the Petitioner in immanent fear of great bodily injury or violent death.

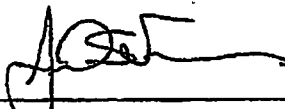
The General assembly has found it fitting and proper for citizens, such as the Petitioner to defend themselves from violent and unwarranted attacks, particularly armed assailants. Further, the General Assembly finds that persons, such as the Petitioner have a right to remain free, unmolested and safe in their homes, businesses and vehicles. The General assembly further finds that no person or victim of crime, such as the Petitioner, should be required to surrender his personal safety nor be required to retreat needlessly in the face of an attack.

Petitioner has good and sufficient evidence, much of which is undisputed, that he is immune from criminal and civil prosecution under Section 16-11-450.

WHEREFORE, Petitioner moves before this Court for a hearing on this issue of immunity. The Petitioner will submit a full rendition of the facts and circumstances at such hearing.

We So Move.

JARED S. NEWMAN, PA



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Port Royal, South Carolina

July 28, 2011.

STATE OF SOUTH CAROLINA	)		
	)	COURT OF GENERAL	SESSIONS
COUNTY OF BEAUFORT	)		
State of South Carolina,	)		
	)		
Plaintiff,	)		
	)		
vs.	)	No. 11-GS-07-120 & 121	
	)		
Preston Oates,	)		
	)		
Defendant.	)		

TRANSCRIPT OF HEARING

The within Hearing was held in the above-captioned case on November 17th, 2011, before The Honorable R. Markley Dennis, Jr. in Courtroom 2 of the Beaufort County Courthouse, Beaufort, South Carolina; attended by Counsel, as follows:

APPEARANCES:

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 Sean Thornton, Assistant Solicitor
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-and-

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STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BEAUFORT	)	COURT OF GENERAL SESSIONS
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 11-GS-07-120 & 121
	)	
Preston Oates,	)	
	)	
Defendant.	)	

EXHIBIT LIST

- 1 Transcript of Audio dated 12-24-10
- 2 Transcript of Audio dated 12-27-10
- 3 DVD of 911 Calls
- 4 Handwritten statement of Steve Varedi dated 12-24-10
- 5 DVD labeled "Oates Video"
- 6 MUSC Forensic Autopsy Final Report
- 7 DVD titled 20101214-832, dated 12-24-10
- 8 DVD titled 12-27-10 Interview of Preston Oates by Capt Bromage
- 9 Handwritten statement of Nelson Olivera dated 12-28-10
- 10 Typed statement of Claudia Olivera dated 1-1-11
- 11 Handwritten testimony of Zebedi Olivera dated 12-24-10
- 12 Supplemental Incident Report of A. Viens
- 13 Handwritten Statement of Elizabeth Reyes

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before The Honorable R. Markley Dennis, Jr.

2

1 NOVEMBER 17, 2011 9:45 A.M.

2

3 (DEFENDANT PRESENT)

4 THE COURT: Good morning. My name is
5 Markley Dennis and I have been assigned this
6 week by the Chief Justice to a term of General
7 Sessions Court here in Beaufort. I have found
8 it to be a place to which I'd love to return.
9 It's a great place. I know that all of you that
10 live here feel the same way. I share your love
11 for these beautiful surroundings.

12 And I understand today, what we're
13 having is a situation and a proceeding that is
14 somewhat new in the sense that the statute is
15 not very old. It's been around a little while.
16 But I understand the feelings that are in this
17 room. I respect each person and their
18 respective positions. It is a tough -- it's
19 going to be a tough day for all, I'm sure.

20 But one thing that I have -- and this
21 really comes from trying a number of cases
22 similar, trying death penalty cases that have
23 tremendous emotion -- and I understand that, --
24 but there is one thing that I've tried to
25 preserve because I think it's worthy of the

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1 effort. I have great respect for our judicial
2 process. And it's really -- it's good because
3 of the people that are in this courtroom. The
4 lawyers that are present, they are
5 professionals. I think that it's an honorable
6 profession. I know that there are some in our
7 community that don't share that feeling, but I
8 chose to believe that because I've had the joy
9 and pleasure, both as a lawyer for twenty-one
10 years and as a judge now for almost eighteen, of
11 the opportunity to work with some really
12 honorable men and women. It's a privilege to be
13 a part of that group.

14 I think this process is a dignified
15 process and I am going to do everything in my
16 power to preserve that.

17 I appreciate your being here. It's
18 your courtroom. That's one thing that I have
19 always believed. I tell people that it's -- I
20 am serving you. This is your place. This is
21 where we try to make sure and ensure that
22 justice is obtained to the best that human
23 beings can do.

24 I will expect everyone to honor the
25 dignity of this room and I will not tolerate any

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1 outbursts, any responses, any body language, any
2 statements. I will ask you, if you feel at any
3 point that you're unable to maintain the proper
4 decorum, do not hesitate to -- you don't need my
5 permission, just leave quietly. Because if you
6 remain in this courtroom, then I am going to
7 assume that everybody understands the rules. If
8 you violate that rule, then that has to be
9 considered because that is my responsibility and
10 my position -- not because I am some mean
11 person, but I wear a robe that I have to honor
12 the position. The position says that it is my
13 job to maintain that decorum. That power is
14 called contempt. So that is not something that
15 I enjoy doing but it is something that I will do
16 to make sure we maintain the proper decorum.
17 And I thank you for being here. I look forward
18 to working with the attorneys here.

19 I will now turn it over to you,
20 Solicitor.

21 MR. STONE: Thank you, Your Honor.

22 THE COURT: Good morning to you, sir.

23 MR. STONE: Thank you, Your Honor.

24 May it please the Court, standing before you at
25 this point is -- on Indictment 2011-GS-07-0120

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1 charging Preston Ryan Oates with voluntary
2 manslaughter, 2001-GS-07-0121 charging Preston
3 Ryan Oates with possession of a firearm during
4 the commission of a violent crime.

5 This is a Motion by the defense under
6 the *State v. Duncan* and South Carolina Code
7 Section 16-11-440, and specifically the codified
8 Castle Doctrine.

9 The Duncan, I'm sure you're familiar
10 with. I have an extra copy but I imagine that
11 you already have that.

12 THE COURT: I have it; yes, sir.

13 MR. STONE: And that is the purpose
14 of the Hearing today.

15 THE COURT: You are Preston Ryan
16 Oates?

17 DEFENDANT: Yes, sir.

18 THE COURT: Good morning, sir.

19 That's all right, Mr. Newman, he may remain
20 seated.

21 MR. NEWMAN: Okay.

22 THE COURT: He may remain -- you may
23 stand or you may remain seated. I -- it's your
24 pleasure. In fact, we were just talking
25 about when I was in Columbia in 1996, I had the

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1 pleasure of occupying an office next door to who
2 is now a justice on the Supreme Court, Costa
3 Pleicones. I was reading a decision, because --
4 I've always wondered about it, and I did the
5 same thing that you lawyer did when I was
6 practicing law, 'Stand up when the Judge talks
7 to you.'

8 Justice Pleicones made -- in one of his
9 statements, and he is one of the brightest
10 people I have ever met in my life. In a case
11 that he was trying, and I was reading the
12 transcript, they did the same thing and he said,
13 'Sir, you may remain seated. Your lawyer has to
14 stand because he is an officer of the Court.
15 You're not.'

16 This is your courtroom. So if you want
17 to stand, you may. If you choose not to, you
18 may be seated. Whatever your pleasure.

19 I just want to make sure that you're
20 the person that is charged, that you're here,
21 you're here with your lawyers and we're ready to
22 proceed. Let the record reflect that Mr. Oates
23 is present.

24 Mr. Newman, you're ready to proceed?

25 MR. NEWMAN: Yes, sir, Your Honor.

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1 THE COURT: I'll be delighted to hear
2 from you. You may be seated.

3 DEFENDANT: Thank you.

4 MR. NEWMAN: If it may please the
5 court, Your Honor, as the Solicitor has
6 announced, just so -- I'll give a thumbnail of
7 where we are.

8 It's my understanding from the Duncan
9 case, uh, we're going to present witnesses and
10 evidence of what happened on this Christmas Eve
11 of last year. It's our understanding from the
12 Duncan case that the burden for this particular
13 hearing is on the defense to show to the court
14 that the immunity of the statute applies by a
15 preponderance of the evidence.

16 THE COURT: That is correct.

17 MR. NEWMAN: We also -- there are
18 certain presumptions as to the element of self-
19 defense. We are going to make an argument to
20 the court that on a couple of those elements we
21 are entitled to the presumption that the State
22 would be required to rebutt. That will develop
23 as we put the case out.

24 I know you just have a very -- not much
25 beyond what the indictment is, is what you know

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8

1 about the case. How we are going to start out
2 is that I am going to call the chief
3 investigating officer, Angela Biens, for the
4 Beaufort County Sheriff Department.

5 THE COURT: Okay.

6 MR. NEWMAN: We have agreed under the
7 rules of evidence that there are going to be
8 some hearsay statements from witnesses that she
9 has interviewed. We have basically agreed that
10 those need to be part of the record. We also
11 move to put those in, as we discussed in
12 chambers, under Rule 1101, because this is a
13 summary Hearing and you are the finder of fact
14 in this ---

15 THE COURT: Yes, sir.

16 MR. NEWMAN: Thank you, Your Honor.

17 THE COURT: Thank you.

18 MR. NEWMAN: We call Investigator
19 Angela Biens.

20 (WITNESS TAKES STAND)

21 ANGELA BIENS, being duly sworn to tell
22 the truth, the whole truth and nothing but the
23 truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY MR. NEWMAN:

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1 Q. Ms. Biens, you are an investigator with the
2 Beaufort County Sheriff's Department?

3 A. Yes, sir.

4 Q. All right. And how long have you been an
5 investigator with the Sheriff's department?

6 A. Twelve and a half years.

7 Q. Okay. It's my understanding that you were
8 the -- you were the main or chief investigating
9 officer in the case made against Mr. Oates?

10 A. Yes, sir.

11 Q. All right. Now, when did you first become
12 involved with this case?

13 A. Christmas Eve, I was the on-call
14 investigator. Our dispatcher notified me that
15 there was a gunshot victim in Edgefield. So I
16 responded at that point.

17 Q. All right. It's my understanding that Mr.
18 Oates gave statements to deputies that were on
19 the scene?

20 A. Yes, sir.

21 Q. He gave statements to two investigators
22 that night; is that correct?

23 A. Yes, sir.

24 Q. And he was read Miranda?

25 A. Yes, sir.

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10

1 Q. Understood it, waived his rights?

2 A. Yes, sir.

3 Q. Agreed to be interviewed by the Sheriff's
4 Department?

5 A. Yes, sir.

6 Q. All right. There are recordings of that
7 interview, is that correct?

8 A. Yes, sir.

9 Q. That interview, I believe, lasted
10 approximately an hour?

11 A. Yes, sir.

12 Q. All right. After that interview, Mr. Oates
13 was released?

14 A. Yes, sir.

15 Q. All right. And a couple of days later, I
16 believe it was on the 27th, he was called in for
17 another interview?

18 A. Yes.

19 Q. All right. Investigator Bromage, he is not
20 here, actually conducted that interview?

21 A. Yes, sir.

22 Q. That interview was recorded?

23 A. Yes, sir.

24 Q. Mr. Oates was read his rights again, he
25 agreed to waive his rights and talk with the

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11

1 Sheriff's Department?

2 A. Yes, sir.

3 Q. All right. In fact, he made a -- or gave
4 another interview that also lasted approximately
5 an hour, is that correct?

6 A. Yes, sir.

7 Q. After which time you served arrest warrants
8 on Mr. Oates, is that correct?

9 A. Yes, sir.

10 Q. All right. And you charged him -- you did
11 not charge him with murder. You charged him
12 with the crime of voluntary manslaughter?

13 A. Yes, sir.

14 Q. All right. And what was the basis for that
15 charge?

16 A. The night of the incident there were
17 statements given by witnesses, as well as Mr.
18 Oates. We had a chance to review some video
19 surveillance, gather some more statements, and
20 at that point the decision was made that we were
21 going to charge him with voluntary manslaughter.

22 Q. All right. You did not charge him with
23 murder because you did not believe that there
24 was malice present, is that correct?

25 A. I believe so.

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12

1 Q. Okay. Okay. And I understand that, to
2 some extent, you worked with the Solicitor's
3 Office on what the charge would be. I am not
4 trying to pin anything on your ---

5 A. I understand.

6 Q. --- personal decision?

7 A. I understand.

8 Q. Okay. Now, this happened in the Edgefield
9 community, is that right?

10 A. Yes, sir.

11 Q. That's here in Beaufort County?

12 A. Yes, sir.

13 Q. And it's my understanding that Edgefield is
14 not within the town limits of Bluffton?

15 A. No, sir.

16 Q. Okay. Because I noted that the response
17 time for the Sheriff's Department is about nine
18 minutes, which is a pretty long response time.

19 I was wondering, because the Bluffton Police
20 Department is only about a quarter mile or so
21 from Edgefield.

22 A. It is now.

23 Q. Okay.

24 A. I don't think that it was at that time.

25 Q. Okay. All right. And as an investigator

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13

- 1 -- an experienced investigator in the -- did you
2 go out to the scene of the incident?
3 A. Yes.
4 Q. Did you go out that night?
5 A. Yes.
6 Q. And did you take a number of photographs?
7 A. I did not take photographs but one of
8 my ---
9 Q. In the department?
10 A. Yes.
11 Q. Okay. And you've seen those photographs?
12 A. Yes.
13 Q. Okay. And it is your understanding through
14 the interviews that Mr. Oates is a tow truck
15 driver, is that right?
16 A. Yes, he is.
17 Q. All right. Does that look like his vehicle
18 that was there that night?
19 A. It does.
20 Q. And that is -- his company is PRO Tow?
21 A. Yes.
22 Q. And that (displaying photograph) is their
23 phone number?
24 A. I'm not ---
25 Q. Well, it's on the truck?

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14

1 A. I am assuming so.

2 Q. Assuming so, okay. All right. And did you
3 determine through investigations and interviews
4 with Mr. Oates or his company that his company
5 had the contract to tow vehicles out of the
6 Edgefield community.

7 A. Yes. I don't think that we ever verified
8 that there was ever a contract or was an
9 agreement between PRO Tow and Edgefield HOA that
10 he would remove vehicles from on-street parking.

11 Q. Okay. And the HOA is the homeowners
12 association?

13 A. Yes, sir.

14 Q. And you did verify that?

15 A. Yes, sir.

16 Q. All right. So you were able to verify that
17 Mr. Oates is able to come in and tow vehicles
18 that are improperly parked, from that neighbor-
19 hood?

20 A. Yes, sir.

21 Q. Okay. The Edgefield subdivision, and we
22 will look at the photos, but it has relatively
23 narrow streets, does it not?

24 A. That's correct.

25 Q. And part of what you learned in your

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15

1 investigation is that there is no on-street
2 parking in that neighborhood.

3 A. There is no on-street parking. I believe,
4 uh, when the community was zoned that it wasn't
5 zoned for on-street parking, and emergency
6 vehicles have to have an access ---

7 Q. Fire trucks, ambulances and all that?

8 A. That's correct.

9 Q. And their rules are strictly no parking on
10 the street?

11 A. That's correct.

12 Q. All right. I want to show you -- these are
13 pictures taken from y'all's files. Is this an
14 accurate photograph of the entrance to the
15 Edgefield subdivision?

16 A. Yes. I took that one.

17 Q. And that's posted, that parking regulations
18 are strictly enforced?

19 A. Yes.

20 Q. All right. And it lists PRO Tow as the
21 company that if your vehicle gets hooked, that's
22 who you need to call?

23 A. Yes.

24 Q. All right. That (photograph) is just a
25 little bit different view. There is actually

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1 another sign on the entrance that gives police
2 jurisdiction under 23-1-15 to enforce traffic
3 laws inside the subdivision?

4 A. (Affirmative nod).

5 Q. And it's a Warning again that "No Parking
6 on Roadway or Grass. Vehicles will be towed."
7 That's a big red sign?

8 A. (Affirmative nod).

9 Q. Okay.

10 COURT REPORTER: Did you say 'yes'?

11 THE WITNESS: Yes.

12 DIRECT EXAMINATION CONTINUED

13 BY MR. NEWMAN:

14 Q. Now, is this a photograph -- this isn't
15 within your photographs. This is off Google
16 Earth, but is this consistent with the Edgefield
17 subdivision? And I believe that was [REDACTED]

18 [REDACTED]?

19 A. [REDACTED].

20 Q. I'm sorry, [REDACTED].

21 A. It looks like any planned community.

22 Q. All right. And you did find a mini-van
23 at the scene, parked on the street; is that
24 correct?

25 A. Yes, sir.

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1 Q. And that would be the mini-van that has the
2 boot that was placed on it?

3 A. Yes, sir.

4 Q. All right. Now, I'll show you some other
5 photographs but Mr. Steve Varedi was somebody
6 that you interviewed; is that correct?

7 A. Steve Varedi, yes. He lives ---

8 Q. Varedi. I'm sorry.

9 A. --- at [REDACTED] ---

10 Q. He lives at [REDACTED] ---

11 A. Yes, sir.

12 Q. --- [REDACTED] ?

13 A. (Affirmative nod).

14 Q. And he had two surveillance cameras on his
15 house? One was approximately in the front
16 doorway and one was on the corner of the garage?

17 A. That's correct.

18 Q. And we are going to take a look at
19 surveillance from that cameras in a little bit.
20 The camera view from the doorway crosses out
21 across the street like that (using PowerPoint
22 display), basically, does it not?

23 A. I think the camera view actually is
24 monitoring the front entrance to his doorway and
25 it captures the street.

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1 Q. Right. It's more for a close-up camera?

2 A. Correct.

3 Q. Because as we will see in the video, it's
4 pretty grainy.

5 A. Right.

6 Q. From what we can actually see on the video?

7 A. Right.

8 Q. All right. And [REDACTED] is where Mr. Nelson
9 Olivera lived?

10 A. Yes, sir.

11 Q. Next door to Mr. ---

12 A. --- Varedi.

13 Q. --- Varedi?

14 A. (Affirmative nod).

15 Q. All right. And then at [REDACTED], across the
16 street, that is where Reba Bryan lived?

17 A. Yes, sir.

18 Q. And Reba is also a witness in the case, is
19 that correct?

20 A. Yes.

21 Q. And she was also a 9-1-1 caller?

22 A. Yes, sir.

23 Q. All right. We will get to her statements
24 in a little bit. If we take an overhead view,

25 these are the approximate positions of where the

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1 neighbors lived -- to each other?

2 A. Yes.

3 Q. Mr. Varedi at [REDACTED], Mr. Olivera at [REDACTED],
4 across the street at [REDACTED] would be Ms. Bryan?

5 A. Yes.

6 Q. All right. And then Carlos Olivera, the
7 decedent in this case, his mini-van was parked
8 in the street near the mailbox of [REDACTED] -- [REDACTED],
9 [REDACTED] is that correct?

10 A. Yes.

11 Q. And then the PRO Tow tow truck was found at
12 approximately in that position, at the driveway
13 of Mr. Varedi's house?

14 A. Yes.

15 Q. All right. And the camera captures out of
16 Mr. Varedi's front door, generally captures that
17 view, does it not?

18 A. I -- apparently.

19 Q. Okay. Well, let me ask you a little bit
20 more specifically. The camera is designed to,
21 really, just take people on the front porch?

22 A. Right.

23 Q. Okay. But you do a spillover to -- you
24 can't quite see the doorway of Mr. Oates vehicle
25 and you can just see the front of Mr. Carlos

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1 Olivera's vehicle?

2 A. Right.

3 Q. You can actually see the front, very
4 blurry, of Ms. Reba Bryan's -- her porch out
5 front?

6 A. Um-humm, (affirmative nod).

7 Q. Again that would be an overhead shot of
8 basically what we are going to see on the camera
9 view?

10 A. (Affirmative nod).

11 Q. And if you take the vehicles -- Mr.
12 Olivera's vehicle in red and Mr. Oates tow truck
13 in gray -- of course, we're dealing with at
14 nighttime, is that correct?

15 A. It was -- yes.

16 Q. And that neighborhood is fairly dark
17 because on [REDACTED] there are no street
18 lights; is that correct?

19 A. (Affirmative nod).

20 Q. And it was pretty dark when you all got out
21 there?

22 A. It was very dark.

23 Q. In fact, when you were processing the crime
24 scene, you had to get one of those trucks with
25 the ---

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- 1 A. Fire truck.
- 2 Q. A fire truck with the lights on it ---
- 3 A. (Affirmative nod).
- 4 Q. --- to be able to see?
- 5 A. (Affirmative nod).
- 6 Q. And, again, the camera cuts across the two
- 7 vehicles?
- 8 A. (Affirmative nod).
- 9 Q. Now, you interviewed -- and deputies -- let
- 10 me ask this: On scene deputies interviewed Mr.
- 11 Nelson Olivera, the decedent's brother; is that
- 12 correct?
- 13 A. That is correct.
- 14 Q. All right. And you have interviewed Mr.
- 15 Nelson Olivera, is that correct?
- 16 A. That is correct.
- 17 Q. All right. Okay. And Mr. Nelson Olivera
- 18 had made statements to you, is that correct?
- 19 A. Yes.
- 20 Q. Okay. These were memorialized -- he made a
- 21 written statement and your department also
- 22 memorialized his statements and written reports;
- 23 is that correct?
- 24 A. That's correct.
- 25 Q. All right. And when you're doing people's

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1 statements, you try to be very accurate with
2 what they are saying, when you take these down
3 and in reports; is that correct?

4 A. Yes, sir.

5 Q. All right. So taken from your report --
6 and I'm sorry, Investigator Biens, I don't have
7 the page number.

8 A. I can find it if you ---

9 Q. Yes, ma'am, we can do that. I can show you
10 where I am starting, if that helps you, on your
11 report.

12 A. I have -- I think that I have two
13 statements. Okay.

14 Q. Do you have it?

15 A. I've got it.

16 Q. Okay. We're on the same page, as they say?

17 A. (Affirmative nod).

18 THE COURT: The court will take
19 judicial notice of that. The court will take
20 judicial notice that at that moment you are.

21 MR. NEWMAN: Okay. Thank you, Your
22 Honor.

23 DIRECT EXAMINATION CONTINUED

24 BY MR. NEWMAN:

25 Q. All right. In there, Mr. Olivera stated

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1 that he and Carlos went outside to talk to the
2 tow truck driver about not towing his brother's
3 van.

4 A. That's right.

5 Q. Is that correct?

6 A. (Affirmative nod).

7 Q. And he stated that they begged him to leave
8 the vehicle, and that the driver stated that he
9 needed to call someone because it was the
10 driver's decision to release the vehicle?

11 A. That is correct.

12 Q. And he stated that the tow truck driver
13 told him that it would be approximately three to
14 four hundred dollars (\$300 to \$400) to either
15 tow it or to release the boot from the vehicle?

16 A. Yes, sir.

17 Q. Okay. And according to Nelson, Mr. Oates
18 refused to just let the vehicle go?

19 A. Correct.

20 Q. And that Nelson stated that his brother
21 begged the subject, that would be Mr. Oates, to
22 give him a break due to it being Christmas.
23 Correct?

24 A. Yes.

25 Q. All right. And then Mr. Olivera, Nelson

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1 Oliver, stated that his brother pulled a gun out
2 of his pants and demanded that the subject, that
3 would be Mr. Oates, release his car.

4 Nelson stated that the subject ran to his
5 truck, closed the door and appeared very
6 nervous.

7 A. That's correct.

8 Q. Okay. So that is the first time that Mr.
9 Carlos Olivera pulled a pistol, which we are
10 going to find out was a Glock 22, on Mr. Oates?

11 A. According to Mr. Olivera's first statement,
12 yes.

13 Q. According to Mr. Olivera's first statement.

14 A. (Affirmative nod).

15 Q. And that he stated that the subject, Mr.
16 Oates, ran to his truck, closed the door and
17 appeared very nervous.

18 A. (Affirmative nod).

19 Q. So at least according to Mr. Olivera's
20 initial statement, Mr. Oates attempted to
21 escape the situation or flee from the situation
22 by going to his truck and closing the door?

23 A. Yes.

24 Q. Nelson stated that the subject, Mr. Oates,
25 was looking for his keys.

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1 A. (Affirmative nod).

2 Q. And he stated that his brother still had
3 his gun in his hand. That would be the Glock
4 22?

5 A. Yes.

6 Q. In fact, you found a Glock 22 at the scene?

7 A. Yes, sir.

8 Q. That was fully loaded with fourteen in the
9 clip and one in the pipe?

10 A. That's correct.

11 Q. And I'm assuming that you're familiar with
12 Glock's because that is the type of firearm that
13 you carry as standard issue; is that correct?

14 A. Yes.

15 Q. And a Glock actually doesn't have a safety
16 mechanism that you have to flip, then flip off.
17 It's got what is called a trigger safety. Is
18 that ---

19 A. Okay.

20 Q. Is that -- if I am not right, you tell me.

21 A. There is one in the chamber that you're
22 going to pull.

23 Q. Right ---

24 A. There is no safety.

25 Q. It's ready to go. You don't have to do

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1 anything else other than pull the trigger.

2 You're good to go?

3 A. Right.

4 Q. And Nelson reported to you that at that
5 point that Mr. Oates stated that he was nervous
6 and that it would be no problem, and handed Mr.
7 Nelson a set of keys?

8 A. That's correct.

9 Q. Okay. And handed him a set of keys,
10 apparently with Carlos having a gun on him?

11 A. (No verbal response).

12 Q. According to Mr. Nelson's statement ---

13 A. That's right.

14 Q. --- that was taken right after this
15 incident?

16 A. (Affirmative nod).

17 Q. Is that not armed robbery?

18 A. I don't think that it has ever been
19 presented to me in that way. You can ---

20 THE COURT: Mr. Newman, I don't
21 think that's her call.

22 MR. NEWMAN: All right.

23 THE COURT: You are asking this
24 witness to draw a legal conclusion. She can --
25 you can ask her questions about how, as her as

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1 an officer, what that would create. But for
2 her -- I think your question was for her to
3 make the conclusion that it is armed robbery.
4 I don't think that she can do that. So, -- I
5 understand what you're saying. I understand
6 the proceeding. But this witness is not
7 qualified to make that determination.

8 MR. NEWMAN: Could I ask her if based
9 on those facts she could bring a charge ---

10 THE COURT: As a law enforcement
11 officer, she doesn't make the call. The jury
12 or a judge makes that call. She doesn't do it.

13 MR. NEWMAN: All right.

14 THE COURT: She made the statement
15 -- if you want to phrase it, 'would that not
16 warrant a charge of armed robbery', or 'you
17 signing a warrant for armed robbery', -- but
18 whether or not it's armed robbery is not, I
19 don't think, her call.

20 MR. NEWMAN: That's how I want to ask
21 it.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. NEWMAN:

24 Q. Under those facts could you present, do you
25 believe, probable cause to a magistrate to get

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1 a warrant for that charge?

2 A. Probably.

3 Q. Okay. Thank you.

4 MR. NEWMAN: Sorry, Judge.

5 THE COURT: That's okay.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. NEWMAN:

8 Q. All right. I am going to turn to some
9 photos of the scene that were taken on that
10 night -- I understand not by you, but you've
11 seen these photographs within your
12 investigation?

13 A. Yes, sir.

14 Q. There was a set of keys found on the back
15 of the truck, is that correct?

16 A. There was.

17 Q. All right. And the -- correct me if I am
18 wrong, but when I watched the video, I don't
19 see Mr. Oates ever go to the back of his truck.

20 A. No.

21 Q. Okay.

22 A. After the shooting?

23 Q. Yes.

24 A. Okay.

25 Q. However, you do see Mr. Nelson Olivera and

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1 Mr. ---

2 A. Varedi.

3 Q. --- Varedi in that area. Correct?

4 A. Yes, sir.

5 Q. Those were the set of keys that y'all
6 recovered that belonged to Mr. Oates?

7 A. Yes.

8 Q. All right. Then Mr. Nelson Olivera
9 reported that throughout this Mr. Oates was
10 nervous?

11 A. Yes.

12 Q. Then he -- Mr. Nelson Olivera -- according
13 to Nelson, Carlos stays at the door of the tow
14 truck with the tow truck driver.

15 A. Um-humm.

16 Q. Nelson and Mr. Varedi, you can see on the
17 video, it appears that they are attempting to
18 unlock this boot; is that correct?

19 A. Yes.

20 Q. Nelson was not able to figure out how to
21 unlock the boot, is that correct?

22 A. That's correct.

23 Q. All right. The first time that you see
24 Nelson walk back to where Carlos is at the
25 truck, -- you see them, at least twice on the

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1 video, Nelson walks back and forth to where
2 Carlos is with the truck driver, back to the
3 car. Is that correct?

4 A. Yes.

5 Q. All right. Also found at the scene is this
6 tool?

7 A. Yes.

8 Q. That is -- I guess Mr. Oates can tell me
9 how it works but you need not only to take the
10 padlock off to get this boot off, but however
11 this tool works, that disables and then you can
12 take the boot off it ---

13 A. (No verbal response).

14 Q. You don't know?

15 A. I don't know.

16 Q. Okay. But there was a device like that
17 found ---

18 A. Yes.

19 Q. --- near the boot?

20 A. (Affirmative nod).

21 Q. And Mr. Olivera, Mr. Nelson Olivera, gave
22 y'all a handwritten statement?

23 A. Yes.

24 Q. On 12/24, is that correct?

25 A. Yes, that's the night of the shooting.

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1 Q. And he says that they went out and
2 explained to the driver of the tow truck that
3 he was leaving -- I'm assuming that he meant
4 Carlos, that Carlos -- that "he only came to
5 salute us" and that it was Christmas and that
6 "...he should give us a break."

7 A. Yes.

8 Q. That's contained within his written
9 statement?

10 A. Yes.

11 Q. Then he said that the truck driver needed
12 him to pay \$400. "We beg him to let it go, but
13 he said not."

14 Then he gave a statement that -- let me
15 back that up, -- that "My brother pull his gun
16 and toll (sic) him to release the car."
17 That is in the written statement that Nelson
18 Olivera gave?

19 A. Yes.

20 Q. All right. "The guy said \$400, then when
21 the guy saw my brother with the gun in his
22 hand, the guy handed the keys and said, 'Do
23 it. Unlock the padlock.'"

24 A. Yes.

25 Q. All right. He said, "After that, my

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1 brother calmed down and put the gun in his
2 waist. My brother turned around and the guy
3 shot my brother."

4 A. That's correct.

5 Q. Okay. And that is a photograph of the
6 Glock 22 that Carlos Olivera had?

7 A. I can't tell -- yes.

8 Q. Okay. And that's the gun that, according
9 to Nelson, that he pointed at the tow truck
10 driver?

11 A. Yes.

12 Q. And the firearm had -- y'all found it with
13 one in the chamber, ---

14 A. One in the chamber, fourteen in the
15 magazine.

16 Q. Fourteen in the magazine?

17 A. (Affirmative nod).

18 Q. And that is a photograph of the gun, the
19 clip and the bullets?

20 A. Yes.

21 Q. All right. And that -- with that many
22 bullets in it, that's fully loaded, you can't
23 put any more in. Is that correct?

24 A. That's correct.

25 Q. All right. Live round in the chamber?

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1 A. Chamber, one. Then you can add another
2 one after the round is chambered.

3 Q. All right. You chamber one, then put the
4 clip in -- the fully-loaded clip?

5 A. I think the clip holds fifteen and then one
6 in the chamber.

7 Q. Okay.

8 A. So if he had loaded it without chambering a
9 round and just left the magazine in there like
10 that, he would have had to lock the slide back
11 to add another one and then it would be fully
12 loaded.

13 Q. Okay.

14 A. So technically I think it could have held
15 sixteen.

16 Q. Okay. So it was not fully loaded?

17 A. No.

18 Q. But it was chambered, ---

19 A. Yes.

20 Q. --- ready to fire?

21 A. Yes.

22 Q. All right. And, as we discussed, has a
23 trigger safety only? So all you've got to do
24 is pull the trigger and the gun goes off?

25 A. That's correct.

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1 Q. All right. And you learned from your
2 investigation that Mr. Carlos Olivera, the
3 decedent, had a concealed weapons permit; is
4 that correct?

5 A. Yes.

6 Q. Issued by the State of South Carolina?

7 A. Yes.

8 Q. And you've learned that he owned, I think
9 this handgun and two other handguns?

10 A. He'd purchased two other handguns.

11 Q. And that he'd had this handgun since
12 approximately 2007?

13 A. I think this one was a recent purchase.

14 Q. 2010, maybe?

15 A. Yeah, maybe 2010.

16 Q. This was a newer gun?

17 A. This was a recent purchase.

18 Q. Recent purchase, all right. Does this
19 appear to be an accurate representation of the
20 scene as y'all found it?

21 A. Yes, sir.

22 Q. Okay. That's a fire truck way in the back
23 with those big -- stadium lighting on it?

24 A. Right.

25 Q. And you said that there are no street

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1 lights there, so without the lighting it is
2 much, much darker in that neighborhood; is it
3 not?

4 A. I don't know if it's the glare from that
5 light but, yeah, it's very dark.

6 Q. Okay. I know that this is a little hard to
7 see with that light on. All right. I am
8 pointing to markers, and let me back that up.
9 You all -- this would be Reba Bryan's mailbox
10 and her house is on this side of the street,
11 correct?

12 A. Yes, sir.

13 Q. And you found six shell casing?

14 A. (No verbal response).

15 Q. And please refer to your notes?

16 A. I will. I am just going to look at the
17 sketch. (Upon review), yes.

18 Q. Okay. We will look at a photograph in a
19 minute but they were found generally within the
20 same area, near Reba Bryan's driveway and
21 mailbox?

22 A. Yes.

23 Q. All right. Mr. Oates, from the video, was
24 approximately in this area?

25 A. (Affirmative nod).

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1 Q. And the shell casings were found in that
2 area, is that correct?

3 A. Yes.

4 Q. They were all within about four to five
5 feet of each other?

6 A. Yeah, they're very close.

7 Q. And Mr. Olivera's body was found near the
8 side of the tow truck, is that correct?

9 A. Yes.

10 Q. Had EMS gotten there before you -- well, I
11 am assuming that EMS had attempted to treat Mr.
12 Olivera before you got there?

13 A. Yes, sir.

14 Q. Do you know which position his body was in?
15 Face up or face down when EMS got there?

16 A. I don't know what position it was in when
17 EMS got there, but I do know that there was an
18 attempt at CPR made by one of the neighbors.

19 Q. Right.

20 A. So whether he was face down or face up, I'm
21 not sure.

22 Q. So you are not sure ---

23 A. I don't know what the EMS technician is
24 going to tell you.

25 Q. Okay. No, I understand that. As you said,

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1 with somebody -- it is documented that somebody
2 attempted to resuscitate or give some type of
3 treatment?

4 A. Yes.

5 Q. So would it be fair to say that you can't
6 conclusively tell this court when Mr. Olivera
7 went down that he was face up or face down?

8 A. No, I can't.

9 Q. Okay. I guess that is the question that I
10 was getting at. All right. And then y'all
11 found Carlos' gun towards the rear of the tow
12 truck, is that correct?

13 A. It was like eighteen or twenty feet away.

14 Q. Okay. And it was in the center of the
15 roadway?

16 A. Yes, sir.

17 Q. All right.. These are the shots that I was
18 referring to -- four, five, six, seven, eight
19 nine are actually one, two, three, four, five?

20 A. Um-humm.

21 Q. Six shell casings?

22 THE COURT: Was that a "yes"?

23 THE WITNESS: Yes, sir. I'm
24 sorry.

25 THE COURT: That's okay.

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1 DIRECT EXAMINATION CONTINUED

2 BY MR. NEWMAN:

3 Q. And y'all found six spent shell casings
4 that ---

5 A. Yes, sir.

6 Q. --- .40 round, .40 cal?

7 A. Yes, sir.

8 Q. All right. This item two that we see here,
9 y'all put the evidence tag on it, that was the
10 pistol that was found in the street?

11 A. Yes, sir.

12 Q. All right. And you determined, by serial
13 number, by running it, that this Glock that you
14 found in the middle of the street was, in fact,
15 Carlos Olivera's Glock 22?

16 A. Yes, sir.

17 Q. All right. When I say 22, I mean Model 22.
18 It's a .40 cal; isn't it?

19 A. Yes, sir.

20 Q. Okay. And y'all checked Mr. Oates tow
21 truck, is that correct?

22 A. Yes, sir.

23 Q. Okay. Does that appear to be a photograph
24 of the interior of his tow truck?

25 A. Yes, sir.

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1 Q. All right. Now, this tow truck actually --
2 maybe we will find another picture, but -- it
3 has a landing, a step that you step off -- it
4 is a rather big truck, right?

5 A. Yes, sir.

6 Q. So you step up onto a landing and then into
7 the tow truck?

8 A. Yes.

9 Q. All right. Now, Mr. Oates told you that he
10 kept his -- I think he had a Glock, Model 28.

11 A. Twenty-seven (27).

12 Q. Twenty-seven, twenty-eight. It's a little
13 bit smaller version, but still a .40 caliber?

14 A. Yes, sir.

15 Q. That he kept it in the glove box of his
16 truck?

17 A. (Affirmative nod).

18 Q. And he told you that he's been attacked
19 before as a tow truck driver, did he not?

20 A. He -- yes, I know that he has been attacked
21 or claimed to have been attacked before, but he
22 didn't tell me. He told Captain Bromage and I
23 think officers that interviewed him that night.

24 Q. Okay. He told Adams -- it was the female
25 investigator.

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1 A. Alberton.

2 Q. Alberton and Adams. He told Alberton and
3 Adams that he had, in fact, been stabbed
4 before?

5 A. Yes.

6 Q. Okay. And he told y'all, or them, that he
7 kept it in a holster and that the holster would
8 be on the seat of the truck, that he took it
9 out of the glove box?

10 A. Yes, sir.

11 Q. He told you that earlier that night he had
12 gotten coffer from Parker's and there is a
13 Parker's coffee cup in the cab of the vehicle?

14 A. Yes, sir.

15 Q. All right. And y'all got a search warrant
16 for the cab of the vehicle?

17 A. Yes.

18 Q. And that's basically what you all found, is
19 that correct?

20 A. Yes, sir.

21 Q. All right. And I believe that there was
22 some of baton in the car, too?

23 A. I believe that it was in the ---

24 Q. One of those collapsible deals?

25 A. A collapsible baton.

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1 Q. Okay. And Mr. Oates made statements to you
2 that actually Carlos, the decedent, had
3 actually got up on the running board, was
4 holding the mirror, and was talking to him and
5 pointing to him while Mr. Oates was inside the
6 truck?

7 A. Yes. He and -- I believe that he said that
8 there were two subjects.

9 Q. He and Nelson?

10 A. Yes.

11 Q. And you never took -- or your department
12 never took any fingerprints from the truck, is
13 that correct?

14 A. (Affirmative nod), no, sir.

15 Q. Okay. Mr. Oates made it clear in this
16 statement that when he was talking to the
17 investigators that one of the things that
18 Carlos was asking or was checking about was to
19 see if -- that he didn't want any paperwork
20 written up about his car?

21 A. Right.

22 Q. He also told Reba Bryan that he -- he or
23 Nelson told Reba Bryan. Ms. Reba came over and
24 said, 'Y'all probably ought to call the police
25 and they can handle this for you', the

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1. situation?

2. A. I don't think that came out in Mr. Oates'
3. statement, because -- he made reference to
4. telling her that everything was okay, 'every-
5. thing is going to be fine.' She is the one
6. that told us that she was going to call the
7. cops and have them come out.

8. Q. Okay. Ms. Bryan told you that she
9. suggested to Nelson and Carlos ---

10. A. To call the ---

11. Q. --- 'Just call the cops, they can fix
12. everything.'

13. A. (Affirmative nod), and then I think she
14. turned around to go back inside to call the
15. police, was told, you know, 'Everything's
16. fine. Everything's fine. Everything's fine.'
17. Because at some point it must have de-
18. escalated.

19. Q. Okay. I will get to it, but Nelson -- or
20. Carlos made a statement to Ms. Bryan, 'you need
21. to go mind your own business.'

22. A. Somebody made a statement to her. She
23. doesn't know who it came from.

24. Q. Carlos or Nelson, she didn't remember which
25. one?

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1 A. She doesn't remember who said it.

2 Q. Okay. I want to go over -- you took
3 statements on 12/28, or somebody from your
4 department, from Reba Bryan, who lives at
5 . . . Correct?

6 A. Yes, sir.

7 Q. All right. And Reba told you or told your
8 department that she looked out the window and
9 saw the deceased's wife, that would be Carlos
10 Olivera's wife, -- and if you want to get her
11 statement, I'll let you find that.

12 A. Okay.

13 Q. You have Ms. Bryan's statement?

14 A. Yes, I do.

15 Q. And she writes in her statement that she
16 saw the deceased's wife "...acting hysterical
17 and she was very upset. So I went out to see
18 what was going on and", she says, "I saw Nelson
19 and his brother arguing with the tow truck guy
20 at the tow truck."

21 A. Yes, that is what's written.

22 Q. Okay. And she said she walked out outside
23 "over to Nelson's wife, which was outside at
24 the time as well, and suggested that they call
25 the police as I explained the situation that

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1 happened to me at my home on July 4th."

2 A. That's correct.

3 Q. All right. Okay. And Ms. Bryan had told
4 you or your department that this same tow truck
5 operator, she'd gotten into with about towing a
6 car from her -- either her or one of her
7 friends -- on the 4th of July.

8 A. That's correct.

9 Q. Okay. And her suggestion was, 'Just call
10 the cops. Call the police.'

11 A. (Affirmative nod).

12 Q. And she said, "So I began to walk over to
13 Nelson and his brother over at the tow truck,
14 Oates was sitting in his truck with the
15 driver's door open and..." -- I didn't get
16 that word that she wrote down.

17 A. "Mixing."

18 Q. (Reading continued): "...mixing up in his
19 truck." Do you know if she was referring to
20 the papers that he was shuffling?

21 A. I don't know.

22 Q. Okay.

23 A. I don't know if she was referring to his
24 meddling around or what.

25 Q. Okay. "The deceased was standing in the

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1 doorway alongside his brother, Nelson. When I
2 got to the truck, they were arguing and
3 cursing." That is the statement that she gave
4 y'all, correct?

5 A. Yes.

6 Q. (Reading): "So I told Nelson to just call
7 the police and they will solve the problem. I
8 was then told that everything was okay, no need
9 to call the police. Go back. They've got it
10 under control. Go back and mind my business."
11 That was Ms. Bryan's statement, correct?

12 A. Yes.

13 Q. All right. So she says that she went back
14 to tell him something. "They still was out
15 there arguing, so we both went back in the
16 house. And as I was going to the house, the
17 deceased's wife came over and told me not to
18 call the police."

19 A. That's correct.

20 Q. All right. And Mr. Oates had made
21 statements to your investigator that Carlos was
22 -- didn't want any paperwork on that vehicle or
23 the police called?

24 A. He said that -- his interpretation of it
25 was that he didn't want a paper trail of his

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1 vehicle being there. He wanted to know if he
2 had any paperwork, or documentation I think,
3 to tow the car and that he didn't want any
4 paperwork on his vehicle.

5 Q. Okay. Y'all went through the crime scene,
6 the gun, the bullet casings, photographed the
7 body there where it was in the area. The one
8 thing that you never did was ever search or
9 look in Carlos' vehicle, did you?

10 A. No, sir.

11 Q. Okay. That was Reba Bryan's statement.
12 And your department interviewed a lady in the
13 neighborhood named Ms. Elizabeth Reyes, is that
14 correct?

15 A. That name isn't familiar to me.

16 Q. Let me show you this, (tendering). This
17 does not have a date on it, but we got this
18 through discovery. Does that look familiar to
19 you at all?

20 A. (Upon review), that's the first time, I
21 think, that I've ever seen that.

22 Q. Okay. Does it appear to have a stamp on it
23 that says "Certified true and correct copy"
24 from Michael Hatfield, Chief Deputy ---

25 A. It does.

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1 Q. Would you dispute that this is a document
2 within the Beaufort County Sheriff's Department
3 investigation file?

4 A. If it has got that stamp on it, it is part
5 of our record.

6 Q. And in that statement it says that she saw
7 a tow truck in front of a van, trying to tow it
8 away. "People were running outside to see what
9 was going on. I saw a man standing on the
10 little ramp of the tow truck pleading with the
11 tow truck operator." That's what I'd asked you
12 earlier, if the tow truck did have a little
13 ramp on it that you have to step up on?

14 A. Step-side.

15 Q. What?

16 A. A step side.

17 Q. I guess. I don't know exactly what it is
18 called. Okay. "He kept repeating something.
19 There was another man standing on the side of
20 the truck, also screaming to take the boot
21 off."

22 Then she saw a lady in a long skirt that
23 very upset. Said, "It's Christmas. You're
24 ruining Christmas. My eyes were directed
25 towards the door of the tow truck driver side

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1 where the man was still begging the tow truck
2 driver to give him the keys and asking how much
3 for the boot to come off."

4 Now, when y'all got there Carlos' wife was
5 wearing a long white dress, is that correct?

6 A. I believe so, yes.

7 Q. Okay. And she's -- best I can tell --
8 seen in the video that we are going to watch.

9 A. Yes.

10 Q. Kinda walking back and forth and all about?

11 A. (Affirmative nod).

12 MR. NEWMAN: At this point, Judge, we
13 are going to cue over -- there's a -- before I
14 get to that, I've got one last thing.

15 THE COURT: Sure.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. NEWMAN:

18 Q. Mr. Varedi -- y'all took a statement from
19 Mr. Varedi, is that correct?

20 A. Yes, sir.

21 Q. I know -- that's okay, I know y'all took a
22 lot of statements and I didn't prep you on
23 which one I was going to do first.

24 A. Okay.

25 Q. Mr. Varedi gave a statement that basically

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1 says that he did not see the shooting, that he
2 turned around and saw Carlos on the ground and
3 saw a gun in the roadway?

4 A. (No verbal response).

5 Q. And I'll be happy for you to read that if
6 you -- if you want to. It's only a paragraph.

7 A. Do you want me to read it or do you -- do
8 you want to ask me something?

9 Q. You can do that or I can hand it to the
10 judge and have him read it.

11 THE COURT: Let me have the
12 original.

13 MR. NEWMAN: (Tenders).

14 THE COURT: (Upon review), all
15 right. I've reviewed the statement of -- what
16 is his name?

17 MR. NEWMAN: Varedi.

18 THE COURT: Let's mark a copy of
19 that so that we have that for the record.
20 We'll introduce it for purposes of this
21 proceeding. Do you have a copy ---

22 MR. STONE: I have an extra copy.
23 We would like to mark that as a court's
24 exhibit.

25 THE COURT: Court's Exhibit 1?

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1 MR. NEWMAN: Judge, what I was going
2 to ask to do is, after finishing with the
3 witness' presentation, I was going to go over
4 with the Solicitor and submit a package to the
5 court of things that we have discussed.

6 THE COURT: That's fine. We can do
7 it as a package or however you want to do it.
8 I've reviewed it. It needs to be a part of the
9 record.

10 MR. NEWMAN: Yes, sir.

11 THE COURT: All right, it will be
12 made a part and be collectively a court's
13 exhibit. We can mark that later.

14 (SO ENTERED AS COURT'S EXHIBIT 4)

15 MR. NEWMAN: What I propose to do,
16 and I've talked to the Solicitor about this, is
17 we'll play the videotape. You will be -- it's
18 just -- just to let the court know, it's
19 grainy. We will certainly make it available to
20 you. You know, you can probably see it better
21 on your laptop or whatever. But I was going to
22 play it to the point -- you're going to see --
23 you've kinda got the general gist. You're
24 going to see the tow truck come in and people
25 -- it's real hard to tell -- scrambling about.

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1 One of the things that you can see very clearly
2 on there is you can see somebody reach up in
3 the tow truck, do a motion like that
4 (gesturing), take a step back, look around, and
5 then the next thing that you will see is muzzle
6 flashes from Mr. Oates' pistol.

7 THE COURT: Okay.

8 MR. NEWMAN: After the muzzle
9 flashes, what I had proposed to do is to stop
10 the video at that point, play the 9-1-1 calls,
11 that last for about thirteen minutes. At
12 thirteen minutes you pick up Mr. Oates' 9-1-1
13 call. What I wanted to do was to run the 9-1-1
14 call with the video, because he's actually
15 standing out there talking to dispatch and on
16 video -- if this all works right.

17 THE COURT: Let me ask before you
18 start, is there any way to dim these lights?

19 BAILIFF: (Dims lights).

20 THE COURT: Thank you, that will
21 help with the video. Thank you very much.

22 MR. NEWMAN: Is that better, Judge?

23 THE COURT: That's fine.

24 MR. NEWMAN: All right. The video
25 itself is pure video, it has no audio capacity.

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1 now.

2 Q. That way (indicating). Right?

3 A. Yes, sir.

4 Q. Okay. And you'll see Mr. Varedi, after Mr.
5 Oates goes that way (indicating towards truck).

6 A. That's correct.

7 Q. All right. And Nelson and Mr. Varedi made
8 statements that Mr. Varedi came over to
9 Nelson's house to tell Nelson that the tow
10 truck guy is there.

11 A. That's correct.

12 Q. Or 'you're about to get towed', something
13 to that effect?

14 A. (Affirmative nod).

15 MR. NEWMAN: Judge, just for the sake
16 of time, those clips take about twenty minutes
17 themselves.

18 THE COURT: That's fine.

19 MR. NEWMAN: And that is literally
20 all they show.

21 THE COURT: Okay.

22 MR. NEWMAN: This is more to where it
23 happens.

24 MR. STONE: Excuse me, Your Honor.
25 Could we stop that for just a second.

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1 MR. NEWMAN: Yes, (video paused).

2 MR. STONE: I don't believe that
3 starts at the beginning. Could we go back to
4 the very beginning of that, please.

5 MR. NEWMAN: Yeah, it's one minute.
6 It starts at 20:30. If you've got a better
7 clip, I'll ---

8 MR. STONE: I've got the full clip.
9 I thought that was the full clip. Can you put
10 it back to the beginning and let me see what we
11 can see?

12 MR. NEWMAN: Yeah, I don't have the
13 full clip.

14 THE COURT: He has already indicated
15 that he is not playing it from the start.

16 MR. STONE: There are two clips,
17 Your Honor. One is from the other camera and
18 that's what I understood that he was talking
19 about earlier. I am talking about that on this
20 particular camera, this particular clip, that
21 there is a -- can you hit Play and I'll see?

22 MR. NEWMAN: Yeah. Well, I said that
23 I can but now I can't get it open. It starts
24 at 20:30. I will play the clip that you guys
25 want.

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1 MR. STONE: I want to see if it has
2 everything. The other one started right in the
3 middle of the shooting and I know that's not
4 right.

5 MR. NEWMAN: I'm/sorry, Judge.
6 Technical errors.

7 THE COURT: That's all right.

8 MR. NEWMAN: If I can, if I could get
9 with the Solicitor -- if he will show me the
10 clip that he wants.

11 THE COURT: Do you want to take a
12 break to do that?

13 MR. NEWMAN: If that's okay with the
14 Court. We will get the most accurate clip and
15 I will go along with the one that he wants.

16 THE COURT: That's fine.

17 MR. STONE: Your Honor, I think this
18 is it. When it just started playing a few
19 minutes ago, though, it started with the
20 shooting, which I know that there is some time
21 before that. It looks like this is picking I
22 up, but it looked like previously what Mr.
23 Newman showed you started later on than that.

24 THE COURT: Okay.

25 MR. STONE: If you don't mind, Your

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1 Honor, we will just hit the Play button and

2 I'll see what this shows.

3 THE COURT: Sure.

4 MR. NEWMAN: You may be right,

5 Solicitor. This may be post-shooting.

6 THE COURT: There was definitely

7 some movement ---

8 MR. STONE: The shooting, the first

9 thing that I saw on the clip was shooting;

10 which I know that there is some stuff before

11 that.

12 THE COURT: Well, y'all know what

13 you're seeing. The first thing that I saw was

14 just people walking around. I didn't see

15 anything other than that.

16 MR. STONE: I apologize, Your Honor.

17 I've spent a lot of time with the clips, so I

18 apologize ---

19 THE COURT: NO problems.

20 MR. STONE: So I apologize for

21 jumping ahead of you.

22 THE COURT: No, heavens -- no,

23 that's -- you don't have to apologize for being

24 a lawyer. That's what you're supposed to do.

25 MR. STONE: That's fine, as long as

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1 we start at the beginning and not a few seconds
2 later.

3 THE COURT: Sure.

4 MR. NEWMAN: If I can get over some
5 technical difficulties here.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. NEWMAN:

8 Q. (Video playing) -- you will see the muzzle
9 flash from the top right.

10 MR. NEWMAN: It is at this point,
11 Your Honor, that I wanted to pause it. At this
12 point, Mr. Oates gets on and makes the 9-1-1
13 calls.

14 THE COURT: Okay.

15 MR. NEWMAN: And there are
16 approximately thirteen minutes of 9-1-1 calls
17 before Mr. Oates gets on. If I could have my
18 paralegal -- this is her computer. I don't now
19 how to start it up.

20 THE COURT: Sure. She can assist in
21 any way that she wants to.

22 PARALEGAL: (Moves to computer,
23 opens audio file).

24 911 RECORDING, (PLAYING):

25 911 OPERATOR: ...gunshot in your

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1 neighborhood? What your address?

2 MALE: [REDACTED].

3 911 OPERATOR: I'm sorry, what is
4 it?

5 MALE: [REDACTED].

6 911 OPERATOR: [REDACTED]?

7 MALE: Yeah, in Bluffton.

8 911 OPERATOR: Do they need EMS?

9 MALE: Uh, yeah, they need an
10 ambulance right now.

11 911 OPERATOR NUMBER 2 (background):
12 What's the address?

13 911 OPERATOR: Okay. Hold on one
14 second.

15 MALE: All right. Bye.

16 911 OPERATOR NUMBER TWO (background):
17 [REDACTED]?

18 911 OPERATOR: Are you still there?
19 Are you still there? [REDACTED], he
20 just hung up on me.

21 911 OPERATOR NUMBER TWO (background):
22 Sir, you are [REDACTED], correct?

23 911 OPERATOR: I couldn't find a
24 thing. Forty-two?

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1 (OPERATORS TALKING SIMULTANEOUSLY)

2 AUTOMATED VOICE: December 24th, 2010,
3 twenty hours, thirty-one minutes, sixty seconds
4 (23:31:60) -- (beeping/dialing sound):

5 911 OPERATOR: Nine-one-one. What
6 is your emergency?

7 FEMALE: A man got shot. We need
8 emergency, [REDACTED].

9 911 OPERATOR: Where are you?

10 FEMALE: The wrecker man just
11 shot -- somebody has got shot. Can you come?
12 I don't know if the man dead or what.

13 911 OPERATOR: I can't ---

14 FEMALE: That man holding a gun.
15 They're holding a gun on somebody.

16 911 OPERATOR: They are holding a
17 gun on somebody?

18 FEMALE: Yeah, the wrecker man came up
19 in the truck and the wrecker guy shot the guy
20 and he's got a gun on the people. Hurry up.

21 911 OPERATOR: Are you on [REDACTED]
22 [REDACTED]?

23 Male (background): [REDACTED].

24 FEMALE: [REDACTED].

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1 911 OPERATOR: Okay.

2 FEMALE: He got a gun out on the
3 people.

4 911 OPERATOR: Where is he now?

5 FEMALE: The man laying on the street.
6 I don't know, the man might be dead, I think
7 the man is dead. Hurry up. The man is still
8 holding the gun on people.

9 911 OPERATOR: The man with the gun
10 is still there?

11 FEMALE: Yeah. He's still there
12 holding a gun...

13 MR. NEWMAN: Can I just pause that
14 for you? I believe that to be Reba Bryan's
15 call.

16 THE WITNESS: I believe so, yeah.

17 MR. NEWMAN: What's that?

18 THE WITNESS: I believe so, yes.

19 911 AUDIO PLAYING:

20 MS. BRYAN: He still there, holding
21 that gun.

22 911 OPERATOR: Okay, just stay on
23 the ---

24 MS. BRYAN: The man's on the

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1 ground.

2 911 OPERATOR: I've got them
3 coming. I want you to just stay on the line.
4 Are you safe? Are you out of the way?

5 MS. BRYAN: I am in the house. I am
6 -- that's my neighbor -- (lots of people
7 yelling and talking in background).

8 911 OPERATOR: All right. I want
9 you to stay on the line with me.

10 MALE: Get in the house.

11 911 OPERATOR: Everybody get
12 inside.

13 MALE: Go back.

14 MS. BRYAN: Hurry up. It's the
15 wrecker man.

16 911 OPERATOR: Okay, we've got --
17 are you able to tell if he is moving on the
18 road out there or anything.

19 MALE: Hey, he said ...

20 MS. BRYAN: What did you say? What
21 did you say, ma'am?

22 911 OPERATOR: Is anybody moving?
23 Is he moving? The guy that was shot?

24 MS. BRYAN: That man's dead. I

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1 heard like four, four or five gunshots. I
2 heard four or five gunshots. That man's not
3 moving. Hurry up, please hurry and send
4 somebody.

5 911 OPERATOR: They're en route to
6 you. Okay? We've already got them en route.

7 MS. BRYAN: They coming! They
8 coming!

9 MALE: Okay.

10 911 OPERATOR: We've already got
11 them en route. Do you know who this guy is?

12 MS. BRYAN: No, it's a wrecker.
13 It's a wrecker.

14 911 OPERATOR: They're a renter?

15 MALE: Somebody -- he's got a
16 fucking gun.

17 911 OPERATOR: It's a wrecker
18 driver?

19 MALE: Okay, she say they coming.

20 MS. BRYAN: The person's got a gun.

21 911 OPERATOR: You said that it's a
22 wrecker driver?

23 MS. BRYAN: Yeah, it's a wrecker
24 driver. He came to pull somebody's car and

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1 *just fucking shot the guy whose car he was*
2 *pulling. He just got out and shot the guy.*

3 911 OPERATOR: *Okay, what's the --*
4 *do you see a name on the front of the wrecker?*

5 MS. BRYAN: *He still -- he's still*
6 *out there with the gun in his hand.*

7 911 OPERATOR: *All right. Is he a*
8 *white man? Black man?*

9 MS. BRYAN: *He's a white man*

10 911 OPERATOR: *White man. Do you*
11 *see the name on the wrecker anyplace?*

12 MS. BRYAN: *The man's dead. He's*
13 *dead.*

14 911 OPERATOR: *The man's dead?*

15 MS. BRYAN: *That man is dead, yes.*
16 *The man is dead, the man is fucking dead. He*
17 *killed the fucking man.*

18 911 OPERATOR: *Okay. Okay, okay.*
19 *Now listen to me, I need you to calm down a*
20 *little bit, sweetie, okay, 'cause I'm getting*
21 *this information and I'm passing it on to the*
22 *officers. Okay?*

23 MS. BRYAN: *He still right here in*
24 *front of my house with a gun. He still*

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1 standing right here, the guy still standing
2 right here. The guy is dead in the -- the
3 other gun is dead in the middle of the street.
4 They're trying to revive him. His wife is over
5 him.

6 911 OPERATOR: Do you see a name on
7 the side of the wrecker?

8 MS. BRYAN: I so scared. The man's
9 got the gun.

10 911 OPERATOR: That's fine. That's
11 fine, sweetheart. I don't want you to get
12 yourself in trouble, I don't want you to get
13 anywhere near it.

14 MS. BRYAN: Yeah, I'm not going --
15 because he's right in my front yard with the
16 gun still in his name. He shot the fucking
17 man, what did ---

18 911 OPERATOR: Okay.

19 MS. BRYAN: He's got a gun on the
20 people. I don't know whose gun it is. I don't
21 know if that man -- I see that man pull out a
22 gun. There's a gun on the ground and the guy's
23 got a gun in his hand and there's another gun
24 on the ground.

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1 911 OPERATOR: Okay.

2 MS. BRYAN: I think the man must
3 have pulled a gun out on him.

4 911 OPERATOR: Okay.

5 MS. BRYAN: Oh, Lord, that man dead.

6 911 OPERATOR: He is dead?

7 MS. BRYAN: Oh, Lord, the man dead.

8 That man is dead.

9 911 OPERATOR: All right, is his
10 wife still ---

11 MS. BRYAN: That man dead. Yeah,
12 his wife is still on the ground trying to
13 revive him.

14 911 OPERATOR: Are you in a safe
15 area, are you away from that driver?

16 MS. BRYAN: I am just standing in my
17 yard, ma'am. I am just ---

18 911 OPERATOR: I don't want you --
19 I do not want you to put yourself in danger by
20 being out there with him. Okay?

21 MS. BRYAN: I'm not, I'm just ---

22 911 OPERATOR: Take your family and
23 get them inside if you can. I've got six
24 officers en route.

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1 MS. BRYAN: I think he's standing
2 there with some officer, he's talking to
3 somebody on the phone as well.

4 911 OPERATOR: Yeah, I think we've
5 got him ---

6 MS. BRYAN: I don't know what's
7 going on. Just please hurry on and get here.
8 He telling people not to come. That man is
9 crazy. He don't want nobody to come by. Oh,
10 he don't want nobody to pick up that gun. The
11 guy, I think the other guy must have had a gun.

12 911 OPERATOR: All right.

13 MS. BRYAN: Oh, my God, what is
14 going on Christmas night? Oh, my God. I'm not
15 a part of this. The man dead. Where are you
16 at?

17 911 OPERATOR: I've got six of them
18 coming, sweetie.

19 MS. BRYAN: Is an ambulance coming?
20 This man need help. This man on the ground.

21 911 OPERATOR: Yes, ma'am, the
22 ambulance is coming, too. However, they're not
23 allowed on scene until an officer gets there
24 and secures the weapons.

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1 MS. BRYAN: Oh, my goodness, God.

2 911 OPERATOR: Is his wife down
3 there with him?

4 MS. BRYAN: Yes. His wife is right
5 here in the road.

6 911 OPERATOR: Okay. Have they got
7 pressure on his wound?

8 MS. BRYAN: Come 'mere.

9 911 OPERATOR: Tell her that I need
10 her to put pressure on the wound. Okay?

11 MS. BRYAN: Yeah, she putting
12 pressure on it. They trying to keep her ---

13 911 OPERATOR: All right, just him
14 talking. If he is talking to her, just keep
15 him talking.

16 MS. BRYAN: He's not doing nothing,
17 he's not talking, he's not -- he's not moving.
18 The man is dead. Oh my God, this is crazy,
19 man. This is crazy. This is crazy. Right in
20 front of my house. This is unreal.

21 911 OPERATOR: They're about four
22 more minutes out to you, sweetie.

23 MS. BRYAN: Dear God, four minutes?

24 911 OPERATOR: Yes, ma'am. They're

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1 *running lights and sirens. I promise they're*
2 *coming.*

3 MS. BRYAN: *Oh, my God, I mean --*
4 *this is unreal. Right in front of my house.*

5 911 OPERATOR (background): *What*
6 *is your mama's name, honey?*

7 MS. BRYAN: *He's laying out here. I*
8 *don't know what he's coming -- the wrecker man*
9 *-- hello?*

10 911 OPERATOR: *I'm still here,*
11 *honey.*

12 OPERATOR BACKGROUND TALK)

13 MS. BRYAN: *Is he all right?*

14 911 OPERATOR: *Is he breathing?*

15 MS. BRYAN: *I's so scared to go over*
16 *there and ask 'em.*

17 911 OPERATOR: *No, I don't want you*
18 *to go -- I don't want to go over, especially if*
19 *that other gentleman ---*

20 MS. BRYAN: *The police coming right*
21 *now, the police coming.*

22 (OPERATOR BACKGROUND TALKING)

23 MS. BRYAN: *All right, I am going to*
24 *get the house phone. Hang on. What is your*

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1 number, Honey? He wants me to call him back.

2 Call him. All right, call 'em. I've got them

3 on the phone. I've got them on the phone.

4 911 OPERATOR: Is he telling you to
5 call somebody?

6 MS. BRYAN: Is he breathing? He's
7 not breathing? Okay, -- oh, my God -- oh, my
8 God, I don't want to see that. He's dead.
9 He's dead. His eyes is open.

10 911 OPERATOR: His eyes are open.

11 MS. BRYAN: He's dead. He's dead,
12 ma'am.

13 MALE: Look, we've got a situation
14 going on.

15 911 OPERATOR: Who is out there?

16 MS. BRYAN: Oh, my God, the man is
17 fucking dead. He wants us to call his family,
18 'cause I guess he knows that he is going to
19 jail. Okay, eight one five seven seven six
20 seven (815-7767). Ma'am, is they coming yet?
21 Is they coming?

22 911 OPERATOR: They're coming.
23 They are coming. Hang on. Let me see how much
24 longer.

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1 MS. BRYAN: Oh, my fucking god. Oh,
2 my God, this is crazy. That man's dead. Oh, -
3 - oh, God, hurry up. Please.

4 911 OPERATOR: Is there an officer
5 out there?

6 MS. BRYAN: Oh, my God, he's -- I
7 don't see an officer yet.

8 911 OPERATOR: Wait a minute, baby.
9 He's about two minutes out from you.

10 MS. BRYAN: Oh, my God, this fucking
11 man is dead.

12 (BACKGROUND OPERATOR TALKING)

13 911 OPERATOR: Sweetie, step back
14 from him. Okay? Just step back.

15 MS. BRYAN: No, I am not by him.

16 911 OPERATOR: Okay, you are not by
17 the man in the street, are you?

18 MS. BRYAN: No, he's not letting
19 nobody get near the other gun that's down on
20 the street.

21 911 OPERATOR: I don't want anybody
22 near the suspect and I don't want anybody near
23 the other gentleman.

24 MS. BRYAN: Oh, God.

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1 (BACKGROUND TALKING)

2 MS. BRYAN: That's his brother.

3 911 OPERATOR: Is there somebody
4 out there close to the body or close to the
5 gentleman?

6 MS. BRYAN: Yes, his wife. His wife
7 and his family is there, yes.

8 911 OPERATOR: Okay. Are they on
9 the phone with somebody?

10 MS. BRYAN: Yeah, one of them is on
11 the phone with 9-1-1. Oh, this got out of hand
12 all of a -- this got crazy.

13 911 OPERATOR: Okay, Honey, ---

14 MS. BRYAN: I heard an argument, I
15 went in the house and I heard a fucking
16 gunshot.

17 911 OPERATOR: Sweetie, what's your
18 name?

19 MS. BRYAN: Reba Bryan.

20 THE COURT: All right. Reba, ---

21 MS. BRYAN: Oh, my God, he's ---

22 911 OPERATOR: I need to put your
23 information in here for the officers. Okay?
24 So that they know who ---

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1 MS. BRYAN: Oh, my God.

2 (BACKGROUND TALKING)

3 911 OPERATOR: All right, do you
4 see an officer pulling up, sweetie?

5 MS. BRYAN: Yes. Yes.

6 911 OPERATOR: Okay, just stay on
7 the line with me -- they're there?

8 MS. BRYAN: Come on up, this way!

9 (BACKGROUND TALKING)

10 911 OPERATOR: Okay.

11 MS. BRYAN: Yeah, I got him -- I got
12 him. I got one on the phone. This way, sir!
13 Up here! I got them on the phone. The officer
14 is here right now. The man is dead, over
15 there.

16 911 OPERATOR: Okay, sweetie --
17 Reba, Reba, ---

18 MS. BRYAN: Yes -- yes, ma'am?

19 911 OPERATOR: We can get off the
20 phone. Okay? Just try to stay out of the
21 officers way, though, okay?

22 MS. BRYAN: Okay. I am going in my
23 house. I'm done.

24 911 OPERATOR: No problem.

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1 (CALL ENDED)

2 AUTOMATED VOICE: December 24th, 2010,
3 twenty hours, thirty-one minutes, twenty-six
4 seconds (20:31:26) ---

5 MR. NEWMAN: I am going to pause that
6 for a minute to synch it up a little bit
7 closer. It still won't be exact, Judge. And
8 just to give you the flavor, what you're
9 hearing, you're obviously hearing a number of
10 911 calls from the other dispatchers.

11 THE COURT: I understand.

12 MR. NEWMAN: Okay.

13 (911 AUDIO, PLAYING):

14 911 OPERATOR: 9-1-1, where is your
15 emergency?

16 MR. OATES: Shots fired. Shots
17 fired.

18 911 OPERATOR: Where were they
19 fired?

20 MR. OATES: [REDACTED] Edgefield.

21 911 OPERATOR: Okay. I can't
22 understand what you're saying. What is the
23 address?

24 MR. OATES: [REDACTED] in Edgefield?

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1 (BACKGROUND YELLING & TALK)

2 911 OPERATOR: [REDACTED]?

3 MR. OATES: Yeah, [REDACTED]. Third road
4 on the right, third road on the right.

5 911 OPERATOR: And you're on [REDACTED]
6 [REDACTED]?

7 MR. OATES: [REDACTED], third road on the
8 right.

9 911 OPERATOR: Sir, you are [REDACTED]
10 [REDACTED], correct?

11 MR. OATES: ...there is a gun in the
12 middle of it.

13 THE COURT: Where is the gun?

14 MR. OATES: ...

15 911 OPERATOR: Sir, I can't
16 understand what you're saying. Where is the
17 gun?

18 MR. OATES: One gun, the man's got a
19 gun.

20 (BACKGROUND YELLING & TALK)

21 911 OPERATOR: Sir? Sir!

22 MR. OATES: Don't touch the gun.
23 Don't touch the gun. Don't touch the gun!

24 THE COURT: Sir, the gun is laying

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1 in the roadway?

2 MR. OATES: Get away. No. You're
3 not going to touch the gun. Get away from the
4 gun.

5 (BACKGROUND YELLING AND TALK)

6 MR. OATES: Okay, that's fine.
7 Don't fuck with me. Don't touch the gun.

8 911 OPERATOR: Sir?

9 MR. OATES: (Yelling).

10 911 OPERATOR: Sir?

11 MR. OATES: Get him away -- get him
12 away from you. Get away from it. Get away
13 from me. 911 OPERATOR: Sir, can
14 you hear me?

15 MR. OATES: Yes, I can hear you.

16 911 OPERATOR: Okay. I want you to
17 talk to me and not to anyone else. What is
18 going on?

19 MR. OATES: There is a gun in the
20 road and people want to come grab it.

21 911 OPERATOR: I want you to tell
22 them -- make sure you tell them 'do not touch
23 the gun.' Where is the person who had the gun?

24 MR. OATES: He's been shot, he's

24 MR. OATES: If they pick it up, I'm

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1 going to shoot them.

2 911 OPERATOR: No, don't -- who
3 shot him?

4 MR. OATES: If they pick up that
5 gun, they're threatening me, I'll shoot them.

6 911 OPERATOR: Sir. Who shot the
7 man?

8 MR. OATES: I did. He pulled a gun
9 on me, stuck a gun in my ---

10 911 OPERATOR: Who shot him? What
11 is your name?

12 MR. OATES: He put the gun to my
13 face.

14 911 OPERATOR: What is your name?

15 MR. OATES: I shot him. And when I
16 shot him, he dropped -- the gun fell.

17 911 OPERATOR: Sir, what is your
18 name?

19 MR. OATES: My name is Preston.

20 911 OPERATOR: Preston, what is
21 your last name?

22 MR. OATES: Oates, O-a-t-e-s.

23 911 OPERATOR: Preston, I need you
24 to put your gun away.

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1 MR. OATES: No, I'm not. There is a
2 gun still in the middle of the road. I am not
3 going to un-defend myself. I'm sorry. I am
4 not going to leave myself vulnerable. I'm not
5 going to be ---

6 911 OPERATOR: Preston, what are
7 you doing there?

8 MR. OATES: I was called out to tow
9 this vehicle that is parked in the middle of
10 the road.

11 911 OPERATOR: You were there to
12 tow a vehicle?

13 MR. OATES: Yes.

14 (YELLING IN BACKGROUND)

15 MR. OATES: Are you there?

16 911 OPERATOR: Yes, I'm here.
17 So what happened? You were there to tow the
18 vehicle and ---

19 MR. OATES: Where is my backup?

20 911 OPERATOR: Sir, there are
21 several -- I've got six officers on the way.
22 I need you to tell me exactly what happened.

23 MR. OATES: I put the boot on the
24 vehicle and I was pulling my truck around. He

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1 jumped up on the driver's side window, told me
2 to unlock the vehicle, "Unlock it now, unlock
3 it now!" So I opened the door and I stepped
4 out of my truck. When I stepped out of my
5 truck, he pulled a handgun on me, stuck it in
6 my face and said "unhook my vehicle or I will
7 kill you." I pulled mine out and shot him -- I
8 don't know how many times. I just shot him.

9 911 OPERATOR: Where did you shoot
10 him?

11 MR. OATES: His face, chest, -- I
12 don't know. It's dark out here. Can I tell --
13 credentials? Stay away -- stay away from the
14 gun! A guy showed up, looked like an unmarked
15 car. I said if he had credentials and he said
16 'no.'

17 911 OPERATOR: Who is with you?

18 MR. OATES: He had his hands up.

19 911 OPERATOR: Preston, who had his
20 hands up?

21 MR. OATES: The guy that was walking
22 up. I thought he was an unmarked deputy but
23 he's not a deputy.

24 911 OPERATOR: Okay.

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1 MR. OATES: He's a bystander. I
2 asked if he had credentials and he said nope.
3 So he walked away. I got people running in
4 houses and stuff, I'm out here in the middle of
5 the open, I don't know if they're getting guns.
6 Come on, get me some people here. Please.

7 911 OPERATOR: Is the gun still
8 laying in the middle of the road?

9 MR. OATES: Yeah. I'm standing ten
10 feet away from it. All right, I will see you
11 in hell -- (yelling in background).

12 911 OPERATOR: Preston? Preston!
13 Don't talk to anyone but me.

14 MR. OATES: I'm listening to you.

15 911 OPERATOR: Okay, I don't want
16 you to talk to anyone but me.

17 MR. OATES: Okay.

18 911 OPERATOR: Don't yell at
19 anyone, don't talk to anyone but me.

20 MR. OATES: I don't want -- can you
21 call my family?

22 911 OPERATOR: Okay. I can call
23 them as soon as I hang up with you. Okay?
24 What is the phone number?

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1 911 OPERATOR: Call my office, or
2 call my dad, call eight one five seven seven
3 six seven (815-7767).

4 911 OPERATOR: 815-7767?

5 MR. OATES: Yeah. If you could get
6 someone else there to do it for me right now,
7 I'd like to have a chance ---

8 911 OPERATOR: Well, okay. We're
9 all on the line right now. As soon as the line
10 clears up, I will let my supervisor know. Just
11 stay on the phone with me until I get a deputy
12 there with you.

13 MR. OATES: You can't get someone to
14 call?

15 911 OPERATOR: Sir, there is only a
16 certain number of people on and right now
17 everybody is on the phone. We'll take care of
18 it.

19 MR. OATES: All right. Well, I am
20 standing out here in the middle of the open.
21 I've got nothing covering me.

22 911 OPERATOR: Okay. Well, are
23 you able to get in the truck?

24 MR. OATES: I don't want to leave

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1 the gun in the middle of the road. If somebody
2 picks it up, I ---

3 911 OPERATOR: Okay. I've got six
4 officers getting to you as fast as they can.
5 Just stay on the phone with me and try to stay
6 calm. Don't talk to anyone but me.

7 MR. OATES: Well, I'll telling them
8 to stay away from the gun, just to stay away
9 from me. That's all that I am doing right now,
10 just telling them that.

11 Hey, have one of your guys got a
12 phone? I'm on the phone with the police
13 officer. Will you hang up and call my family?
14 Will you call my family? The numbers on the
15 side of the truck -- 815-7767. 815-7767.

16 911 OPERATOR: Okay, Preston, she's
17 calling your dad?

18 MR. OATES: One of these residents
19 are.

20 911 OPERATOR: Okay.

21 (YELLING IN BACKGROUND)

22 911 OPERATOR: Okay, what's going
23 on right now?

24 MR. OATES: Where are my deputies

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1 at?

2 911 OPERATOR: Sir, they are
3 getting there as quickly as they can. Okay?

4 MR. OATES: You might want to roll
5 Kirk Copeland also.

6 911 OPERATOR: Okay. You think
7 he's dead?

8 MR. OATES: I don't know. You might
9 want to roll EMS and ---

10 911 OPERATOR: EMS and Fire are
11 already on the way.

12 MR. OATES: Okay.

13 911 OPERATOR: Kirk Copeland isn't
14 the deputy -- or isn't the coroner anymore.
15 But that's what you said? You think he's dead?

16 MR. OATES: I don't know. I'd say
17 roll paramedics or Fire ----

18 911 OPERATOR: They are already on
19 the way. They were on the way before you --
20 before you spoke to me.

21 MR. OATES: I am shook up right.
22 I don't know what I am thinking, probably a
23 flashback.

24 911 OPERATOR: Flashbacks of what,

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1 Preston?

2 911 OPERATOR: Flashback, uh, --
3 not too long ago, I got stabbed in Shady Glenn
4 and I had to go have surgery for the stab, 502
5 Shady Glenn. What is the -- I apologize, I am
6 a little shook up right now -- (inaudible
7 talking to someone in background). I don't
8 know.

9 911 OPERATOR: Is the gun still in
10 the roadway?

11 MR. OATES: Yeah, the gun -- I
12 haven't moved.

13 911 OPERATOR: Okay.

14 MR. OATES: Don't touch the fucking,
15 gun! Sorry.

16 911 OPERATOR: Okay. And they
17 called your father for you, Preston?

18 MR. NEWMAN: For some reason I've
19 lost the signal on this.

20 THE COURT: Okay.

21 MR. NEWMAN: However, I think that we
22 can continue just with the audio, Judge.
23 You're seeing ---

24 THE COURT: Just movement.

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1 MR. NEWMAN: Movement, (affirmative
2 nod). I'll listen up with this. The deputies
3 -- I think it's about another two or three
4 minutes long.

5 (911 AUDIO CONTINUES):

6 911 OPERATOR: They did?

7 MR. OATES: Yeah. Stay back! Stay
8 back! Okay, I got blue lights. Keep coming
9 forward, come forward, come forward, come
10 forward. Blue lights, come forward.

11 911 OPERATOR: Okay. Just stay
12 calm, okay.

13 MR. OATES: Okay.

14 911 OPERATOR: He said somebody's
15 on scene.

16 MR. OATES: Come forward. I'm
17 wearing -- I'm wearing a black shirt and I've
18 got a gun in my hands.

19 911 OPERATOR: Preston, I want you
20 to put your hands up and display the gun.

21 MR. OATES: Okay. Well, the gun is
22 still in the road right now.

23 911 OPERATOR: No. Yours. I want
24 you to let them know that you still have your

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1 *gun.*

2 MR. OATES: *Okay.*

3 911 OPERATOR: *Black shirt.*

4 MR. OATES: *Okay, okay, okay. Okay.*

5 *Okay. I'm on the phone with dispatch.*

6 911 OPERATOR: *Okay, listen to what*

7 *they're telling you. Okay?*

8 MR. OATES: *I'm on the phone with*

9 *dispatch.*

10 911 OPERATOR: *Preston, are they*

11 *with you?*

12 MR. OATES: *Yeah, the deputies are*

13 *out here.*

14 911 OPERATOR: *Okay, talk to them.*

15 MR. OATES: *Okay, bye-bye.*

16 (RECORDING STOPPED)

17 MR. NEWMAN: *That ends Mr. Oates*

18 *call.*

19 THE COURT: *All right. We are not*

20 *going to watch any more video, are we, now?*

21 MR. NEWMAN: *No, I think we're done*

22 *with that, Your Honor.*

23 THE COURT: *Thank you, please ---*

24 BAILIFF: *(Turns lights on).*

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1 THE COURT: Thank you so much.

2 Okay.

3 MR. NEWMAN: All right.

4 DIRECT EXAMINATION CONTINUED

5 BY MR. NEWMAN:

6 Q. Mr. Colonegi is going to ask later, but Mr.
7 Oates made statements to various investigators
8 that pretty much mirrored what we heard on that
9 911 call, did he not?

10 A. Somewhat.

11 Q. Somewhat?

12 A. (Affirmative nod).

13 Q. Okay. I know that there are going to be
14 differences. He was interviewed after this
15 incident and then he was interviewed on the
16 27th?

17 A. That's correct.

18 Q. And would it be fair to say you were taking
19 a lot of heat from the community that Mr. Oates
20 was not placed under arrest immediately?

21 A. I think that there was a lot of opinions on
22 why he wasn't charged immediately.

23 Q. And those were voiced to the Sheriff's
24 Department?

25 A. I think that they were voiced to everybody.

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1 Q. The sheriff and the solicitor?

2 A. The solicitor, and just the public in
3 general.

4 Q. All right. And you've been trained through
5 the South Carolina Police Academy, is that
6 correct?

7 A. Yes, sir.

8 Q. Okay. All right. What do you do when
9 someone pulls a gun on you?

10 A. Defend yourself.

11 Q. And that's not really a fair question
12 because you'd have to know -- I'd have to give
13 you a lot more facts than that, wouldn't I?
14 Where are we? What are we looking at? What
15 time of day is? How many suspects there are.

16 A. Sure.

17 Q. What kind of incident I'm at.

18 A. (Affirmative nod).

19 Q. All of those are relevant, are they not?

20 A. They are.

21 Q. All right.

22 MR. NEWMAN: Just one second, Your
23 Honor I think we're about done.

24 Your Honor, at this time -- I don't
25 know if this is a good time to take a short

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1 break or not. Mr. Colonegi -- and I've
2 discussed this with the Solicitor. I know
3 normally one witness one attorney, but I have
4 discussed this with the Solicitor. Mr.
5 Colonegi is more familiar with Mr. Oates
6 statements. His questioning will be pretty
7 much limited to ---

8 THE COURT: Any objection?

9 MR. STONE: No, sir, that's fine.
10 That doesn't matter.

11 MR. NEWMAN: If we could take maybe
12 five minutes.

13 THE COURT: That will be fine. We
14 will be at-ease for five minutes.

15 MR. NEWMAN: Thank you, Your Honor.
16 I just need to talk with Mr. Colonegi.

17 THE COURT: I would ask that during
18 the break, please, that you not have any
19 conversations with any of the attorneys.

20 THE WITNESS: Yes, sir.

21 (BRIEF RECESS)

22 (DEFENDANT PRESENT)

23 THE COURT: Let's come to order.

24 (WITNESS RETURNS TO STAND)

25 THE COURT: We are ready to proceed

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1 any time you are.

2 MR. COLONEGI: Thank you, Your
3 Honor. May it please the court?

4 THE COURT: Certainly.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. COLONEGI:

7 Q. Good morning, Officer Biens.

8 A. Good morning.

9 Q. Officer Bines, it's true, is it not, that
10 back on January 14th of this year that you and
11 I had an opportunity to meet at the detention
12 center regarding the preliminary hearing in
13 this matter. Do you recall?

14 A. I don't recall the specific date, but yes.

15 Q. In fact, we did have a preliminary hearing?

16 A. Yes, sir.

17 Q. We had a chance to discuss some of the
18 facts of this back then?

19 A. (Affirmative nod).

20 Q. And as far as specifically Preston's -- Mr.
21 Oates' statement that we're discussing now, in
22 reference to Captain Bob Bromage, he in fact
23 did give an interview -- surreptitiously
24 recorded an interview with Captain Bromage
25 December 27th ---

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1 A. (Affirmative nod), 27th.

2 Q. Which was approximately seventy-two hours
3 post the incident, post December 24th; correct?

4 A. That's correct.

5 Q. I am not sure whether you are familiar with
6 this or not but Mr. Bromage in that interview
7 mentions that he in fact had had a discussion
8 with me prior to the interview with Mr. Oates.
9 Are you familiar with that?

10 A. Okay.

11 Q. And he informs Preston of that?

12 A. Um-humm.

13 Q. How familiar -- actually before I get
14 started, do you have a transcript of -- okay,
15 you do.

16 A. I do.

17 Q. And as far as how things get pretty much
18 started with Captain Bromage and Mr. Oates
19 there is no question that, based on the
20 statement that Mr. Oates gave Captain Bromage,
21 that what we were dealing with here is an
22 illegally parked van in the neighborhood of
23 Edgefield?

24 A. Correct.

25 Q. And that there was no question, based on

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1 Preston's, Mr. Oates, answers to Captain
2 Bromage that this neighborhood had a very
3 strict enforcement policy as to parking?

4 A. Correct.

5 Q. Actually they also discussed the fact that
6 there were in fact e-mails sent surrounding the
7 holidays that in fact directed PRO Tow, via Mr.
8 Oates, to have extra patrols in the
9 neighborhood during the holidays. Is that
10 correct?

11 A. Uh, -- I will agree with that.

12 Q. Okay. And based on your investigation as
13 lead investigating officer, you even mentioned
14 during the prelim that there were e-mails that
15 you reviewed from a Ms. Stacy Jacobs, who is
16 with IMC resorts, that managed that property
17 for the extra patrol during the holidays?

18 A. There were e-mails exchanged, I believe,
19 with regards to what their towing policy was
20 going to be and what Mr. Oates was supposed to
21 do. I don't know if it specifically related to
22 Christmas Eve.

23 Q. Okay. And Captain Bromage goes into a
24 pretty length discussion with Mr. Oates as to
25 the lack of tolerance of the Edgefield

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1 neighborhood in regards to parked vehicles.

2 A. Certainly.

3 Q. And would it be safe to say that one of the
4 rationals behind this strict enforcement policy
5 -- and I personally having been to the scene,
6 been in that neighborhood, is the fact that the
7 streets are fairly narrow?

8 A. Correct.

9 Q. And even as far as the laws go pertaining
10 to any paved road in the county or
11 municipality, the whole idea and rationale is
12 to allow emergency vehicles to get by?

13 A. Correct.

14 Q. In fact, that's what hopefully this
15 neighborhood, we can only assume, was
16 attempting to enforce through those strict
17 policies.

18 A. Possibly.

19 Q. As far as Preston's statement to Captain
20 Bromage that day -- and as Mr. Newman said to
21 you here just moments ago, more or less it
22 mirrored a lot of what we heard from the 9-1-1
23 call. Correct?

24 A. Somewhat, yes.

25 Q. And also fairly corroborated by some of the

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1 witness statements that we have already heard?

2 That being Ms. Reba Bryan, ---

3 A. Um-humm.

4 THE COURT: Was that a yes?

5 EXAMINATION CONTINUING

6 BY MR. COLONEGI:

7 Q. --- the neighbor, and also Mr. Nelson

8 Olivera ---

9 THE WITNESS: Yes, sir. I'm
10 sorry.

11 THE COURT: It's not a problem.
12 It's just for clarity, for the record purposes.
13 Thank you very much.

14 MR. COLONEGI: Thank you, Judge.

15 DIRECT EXAMINATION CONTINUED

16 BY MR. COLONEGI:

17 Q. And also Mr. Nelson Olivera, who -- we saw
18 his statements before with Mr. Newman, correct?

19 A. Correct.

20 Q. Discussion also came up -- and this is
21 where it varied a little. Preston's
22 information to Mr. Bromage was that the fee to
23 have the boot removed that evening was \$300, in
24 the testimony or the statement that he gave to
25 Captain Bromage. Correct?

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1 A. I -- if you could give me a chance to look
2 through it, I would confirm that with you.

3 But ---

4 Q. If you would bear with me, -- in preparing
5 for this Hearing today, I actually had done it
6 via the disk and I had everything broken down
7 per second. I wasn't able to do that with the
8 transcript that I got late yesterday afternoon.
9 But if you will bear with me, I think that I
10 can point you -- (reviewing) -- let me move on
11 as far as the \$300 issue. It was three to four
12 hundred dollars (\$300 to \$400) as we have
13 already heard the testimony, correct?

14 A. That's correct.

15 Q. Also, Mr. Oates went into length in
16 response to Captain Bromage's questions as far
17 as the procedure that he used that night to
18 boot the van, the Olivera van. Correct?

19 A. Yes, sir.

20 Q. And as you had mentioned to Mr. Newman, and
21 we had some discussion earlier with Mr. Stone,
22 the video that we saw just now started moments
23 before this incident, this altercation,
24 occurred whereas there is other/additional
25 video that actually shows not only the Oliveras

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1 arriving that evening but shows that -- at that
2 point in time a little later on, actually close
3 to nineteen to twenty minutes later on, Mr.
4 Oates walking up and actually placing the boot
5 on the Olivera van. Right?

6 A. Correct. There is -- I don't know what the
7 time lapse is, but I know that that part is
8 captured on video as well.

9 Q. And if we to actually take our time, which
10 we may here as time progresses today, you would
11 not dispute with me -- or at least I could
12 stand corrected as far as the time. But, uh,
13 -- me having viewed it many, many times, it was
14 somewhere, almost twenty minutes exactly,
15 before this altercation occurred from what
16 point in time that the van arrived. And as I
17 had said, Preston indicated how he had gotten
18 there, how his standard operating procedure was
19 basically pull the truck up outside of the area
20 where the actual vehicle in question is parked.
21 He would then approach it, place the boot on it
22 by foot, return to the truck, pull the truck up
23 around, which is what we see here as that tape
24 begins and proceed with the actual tow process?
25 A. That's correct.

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1 Q. Preston immediately indicated to Captain
2 Bromage what we have already heard, that upon
3 pulling the truck around that -- he indicated
4 to Captain Bromage, three -- what he described
5 as three angry men, who he thought at the time
6 had rapidly approached him at the vehicle, at
7 his tow truck.

8 A. Correct.

9 Q. And at that point he quickly retreated to
10 the cab of his vehicle?

11 A. Correct.

12 Q. And if we take time to look closely at that
13 video, would you agree that you can actually
14 see Carlos and Nelson Olivera approaching Mr.
15 Oates, as he had stated to Captain Bromage?

16 A. Yes, sir.

17 Q. Okay. There was also a discussion that
18 this third guy, as Mr. Oates had indicated to
19 Captain Bromage, was instructed at some point
20 to go get his shotgun?

21 A. That's correct.

22 Q. And isn't it true that throughout the
23 course of your investigation this third guy was
24 never able to be determined or verified by law
25 enforcement?

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1 A. That's correct.

2 Q. But it is undisputed that Mr. Oates had
3 indicated that over and over again, that there
4 was a third individual who was instructed to go
5 get his shotgun by Nelson Olivera. Is that
6 correct?

7 A. I don't know who made the comment "Go get
8 my shotgun", but that statement has been
9 consistent, yes.

10 Q. Okay. So it would either have been Carlos
11 or Nelson because I -- I believe that it is
12 undisputed that Mr. Carlos Olivera and Mr.
13 Nelson Olivera were two of the three that were
14 on the running board of that tow truck?

15 A. Certainly.

16 Q. Mr. Oates goes on at that point to indicate
17 a lot of what we have already heard, that a
18 very heated discussion then occurred as to him
19 removing the boot from that van?

20 A. (No verbal response).

21 Q. Basically that there was an argument that
22 ensued, per Nelson and Carlos Olivera, towards
23 Mr. Oates to remove the boot from that van?

24 A. Correct.

25 Q. As a matter of fact, according to Mr.

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1 Oates, they demanded that that boot be removed
2 from the van?

3 A. (Affirmative nod).

4 Q. Then also, as Mr. Newman showed through Mr.
5 Nelson Olivera's statement, according to Nelson
6 Olivera, at that point -- some point in time
7 very early on in that argument, that his
8 brother Nelson -- or that his brother Carlos,
9 I'm sorry, brandished this weapon?

10 A. Correct.

11 Q. There was also discussion, as we have
12 already discussed, that corroborates the fact
13 that Preston told Captain Bromage that there
14 was demands that he turn over any sort of
15 paperwork that would indicate that the Oliveras
16 were there that night and that that incident
17 actually occurred?

18 A. I don't know if it was a demand to turn
19 over the paperwork. I think that he had
20 questioned him about the paperwork being in the
21 car, asking him 'Do you have any paperwork, do
22 you have any paperwork to tow my car?'

23 Q. And Mr. Oates related to Captain Bromage
24 that put him on guard even more as to why they
25 would be asking such questions?

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1 A. His perception was that they didn't want a
2 record.

3 Q. Correct. His perception actually was that
4 they wanted to have no evidence whatsoever that
5 he was there that evening and that this
6 incident even occurred?

7 A. Possibly.

8 Q. If I may, I would like to start playing
9 part of the actual recorded conversation that
10 Captain Bromage had with Mr. Oates, but it --
11 it gets to a point where we have already heard
12 mentioned that Mr. Oates became to state, when
13 Reba Bryan approached the truck, had some sort
14 of a discussion with her stating that there was
15 an altercation that was going on, that
16 everything was okay, and also indicated that
17 Carlos had a gun.

18 A. Mr. Oates said that he told her that he had
19 a gun.

20 MR. COLONEGI: And if I could, I
21 would like to at this time, Your Honor, start
22 the actual recording of Captain Bromage's
23 interview with Mr. Oates.

24 THE COURT: Very well.

25 DIRECT EXAMINATION CONTINUED

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1 BY MR. COLONEGI:

2 Q. (Audio playing):

3 MR. OATES: I'm like, 'he has a gun,
4 we're okay.' More like hint, hint, nudge,
5 nudge.

6 MR. COLONEGI: I bet the court's
7 indulgence, Your Honor.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. COLONEGI:

10 Q. (Audio playing):

11 MR. OATES: And I looked at her and
12 I said 'everything's okay, ma'am. I am sorry
13 for the disturbance. Everything's fine. Go
14 inside. He's got a gun. Everything's okay.
15 We're going to handle it. He's leaving.
16 Everything is taken care of. Please go back
17 inside. Everything's fine. He has a gun.
18 We're okay.' More like hint, hint, nudge,
19 nudge. You know, if I was working in a liquor
20 store, I'd tell you that your bill was nine
21 hundred and eleven dollars (911). You know?
22 911?

23 CAPTAIN BROMAGE: So you were hoping
24 maybe she would call?

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1 MR. OATES: I was hoping. I mean,
2 that was my only lifeline.

3 CAPTAIN BROMAGE: What was this guy
4 saying at the time, what was his demeanor, what
5 was he saying to you?

6 MR. OATES: He was pissed. He was
7 saying, 'What the fuck? You know, what the
8 fuck, you mother fucking. You fucking try to
9 take my van. Fuck you.' He was screaming and
10 yelling -- not screaming but yelling, 'You
11 mother fucker, stop you. What the fuck you do?
12 Is -- fuck you. You think you can do this.
13 Fuck you, man.' Like that.

14 He was biting his teeth, I could see
15 the -- he was just, '...the fuck you think
16 you're doing? Who are you?'

17 CAPTAIN BROMAGE: Okay, so you had the
18 ---

19 MR. OATES: When the lady
20 interrupted him, when I looked back, his -- you
21 know, he didn't have the gun anywhere -- it
22 wasn't in my window anymore. His right arm was
23 now down ---

24 CAPTAIN BROMAGE: When she initially

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1 spoke, he would have had that gun in the
2 window?

3 MR. OATES: He had the gun in the
4 window, yeah, blocked by his body.

5 CAPTAIN BROMAGE: Right.

6 MR. OATES: And, I mean, when I
7 looked out of the truck to look at her is when
8 I -- I was -- you know, 'I got it', he was
9 having his right hand like right here and his
10 left hand on the mirror. I don't know what he
11 did with it. I don't know if it was in his
12 pants or in his hip (sic) -- I don't know. I
13 mean still in his hand. I had no clue.

14 CAPTAIN BROMAGE: Where was your gun
15 at this point?

16 MR. OATES: It's still in my right
17 hand under the paperwork, under the paperwork,
18 in the passenger seat, ---

19 CAPTAIN BROMAGE: You moved it off
20 your lap, under the paperwork?

21 MR. OATES: You know, I just kind of
22 moved it like that and moved it all one piece
23 so that -- it was uncomfortable there, so I
24 just kind of tucked it under there. Then my

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1 left hand was by the steering wheel, was
2 resting on the steering wheel. And she's
3 'okay', she turns around and starts walking
4 inside. When she starts walking inside, he
5 looked at me and he goes, 'Okay, now ...' --
6 and I heard something in Spanish, blah-blah,
7 and -- you know, the diesel truck was running I
8 heard a voice. I couldn't make out the context
9 of the words. And I -- I guess I'm guessing it
10 was his brother over there, because when I
11 glanced in the side mirror on the truck, I
12 didn't see anybody on the side of the truck.
13 So I am guessing that it was his brother over
14 there, trying to figure out how to operate that
15 boot.

16 So I guess after that he steps back and as
17 he is -- he has his left -- he steps back,
18 steps over more away from the mirror and he
19 says, 'Okay, you're getting out now. We're
20 done.' I asked him, 'what do you mean 'we're
21 done' He says, 'Get out now. We're done.'
22 And he pulled door open with his left hand and
23 he stepped back.

24 As he was stepping back, I saw right hand

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1 right here at his waist and he -- he stepped
2 back -- he stepped back and -- he took -- he
3 stepped back off the truck and, right as he
4 stepped off the truck, I saw his elbow lift up
5 on his right arm. His elbow lifted up and I
6 was -- as I turned, I had my body in my seat
7 like this, steering wheel was here and
8 everything, I put my left hand on my knee and
9 my right hand was still kinda behind the
10 console, that way if he walked back around he
11 wouldn't see it in my hand.

12 Right after that he started to draw it.
13 Right as he started to draw his weapon out and
14 I saw it completely out of his pants, I swung
15 my right hand inbetween my -- right here. I
16 just swung my right hand around and as I was
17 stepping out of the truck, I turned and --
18 (pause).

19 CAPTAIN BROMAGE: Turned and what?
20 What happened, exactly?

21 MR. OATES: I remember getting out
22 of the truck and turning and he was pulling --
23 I saw the gun in his hand and -- it was
24 completely out of his pants. His hand was

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1 here, kinda like in his groin, and I saw the
2 entire gun against -- you know, out. And I
3 swung up and I remember the last thing I
4 thought was 'I am going to die.'

5 CAPTAIN BROMAGE: What happened?

6 MR. OATES: I... (audio stopped).

7 Q. Up until that point, you heard the last
8 time Mr. Oates stated, he thought that he was
9 going to die?

10 A. Um-humm.

11 Q. Mr. Oates stated that not only to Captain
12 Bromage but he also stated that to your
13 officers who interviewed him initially that
14 evening. Correct?

15 A. (No verbal response).

16 Q. It was undisputed that Mr. Oates had told
17 all of your officers that he thought that he
18 was going to die?

19 A. Okay.

20 Q. Is that correct?

21 A. Certainly.

22 Q. He goes on and -- Captain Bromage begins
23 to get more into what transpired, based on the
24 fact that he thought he was going to die. If I
25 could pick up where that discussion starts, in

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1 reference to what Preston's frame of mind was
2 and what actually occurred at that point in
3 time -- if the court would bear with me here,
4 (audio playing):

5 MR. OATES: I was actually start
6 taking a breath, is what I thought was
7 happening, but then I saw that he was looking
8 right at me, we were eye to eye with each
9 other, and I see the front of his chest and
10 he's swinging towards me.

11 CAPTAIN BROMAGE: So the shot --
12 you're saying the shot to the right arm did not
13 force him to drop the gun.

14 MR. OATES: He was coming ---

15 CAPTAIN BROMAGE: Well, ---

16 MR. OATES: I remember looking into
17 his eyes and his body was swinging.

18 CAPTAIN BROMAGE: Okay.

19 MR. OATES: I didn't see the gun in
20 his hand. I didn't even look at his hands. I
21 figured, we were eye to eye and his body was
22 swinging. Right in -- I mean just -- just
23 panic fire.

24 CAPTAIN BROMAGE: Okay.

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1 MR. OATES: I don't even know if
2 that bullet hit him or not. All I know is that
3 it was panic fire -- (audio replay stopped).
4 And as he had just stated, he had told Captain
5 Bromage over and over again that at that point
6 in time, after the first couple of shots, that
7 it was panic fire?

8 A. Correct.

9 Q. That he closed his eyes and he started
10 pulling the trigger?

11 A. Okay. That's what we just heard.

12 Q. I am asking if he said that and if that's
13 what he told Captain Bromage?

14 A. (No verbal response).

15 Q. And up to this point there's nothing really
16 to dispute that based on what we've heard from
17 your investigation so far and what we've seen
18 here this morning, to this point?

19 A. Dispute what?

20 Q. Well, what Mr. Oates has been saying, what
21 Oates has told you so far in his statement
22 compared to what he had told the officers the
23 evening of ---

24 THE COURT: Before you answer that
25 question, you're going to have to confine that

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1 to a specific -- because I've heard, as well,
2 and I appreciate -- remember where we are
3 trying this.

4 MR. COLONEGI: Yes, sir, I
5 apologize.

6 THE COURT: We don't have a jury.
7 I've listened to all the statements. There are
8 a number of statements that dispute that, that
9 are already there. So if you want to ask her
10 specifically what you're talking about 'that
11 there is nothing to refute what he is saying'
12 with respect to what? That it was panic fire?

13 MR. COLONEGI: Correct.

14 THE COURT: Okay.

15 DIRECT EXAMINATION CONTINUED

16 BY MR. COLONEGI:

17 Q. There is nothing to dispute, as His Honor
18 has ---

19 THE COURT: Just that limited part.

20 MR. COLONEGI: Yes, Your Honor.

21 DIRECT EXAMINATION CONTINUED

22 BY MR. COLONEGI:

23 Q. And His Honor has said, there is nothing to
24 dispute the fact that he had given statements
25 that he was in fact panic firing?

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1 A. I think that was the first time I'd heard
2 it put as "panic fire". I think that in the
3 statement, as well as his previous statements,
4 that he was able to address specific shots,
5 including hearing ---

6 Q. Yes.

7 A. --- another gun hit the ground.

8 Q. Well, yes. That's what I am getting to.
9 But I am saying that up to that point -- all I
10 am asking you, basically, is what we're heard,
11 you can't refute the fact that Mr. Oates has
12 testified to your officers that he was, in
13 fact, in his mind, panic firing?

14 A. In that interview, yes, sir.

15 Q. All right. Thank you. And as far as when
16 we get to the point of him actually, as you had
17 stated, hearing the gun hit the ground, if I
18 could get to that point here and resume the
19 interview by Captain Bromage, (audio playing):

20 MR. OATES: ... and I hit it again.
21 And I know that I heard the gun hit the ground
22 and slide. I heard the metal -- you know, the
23 -- the, uh, -- you know, the noise. I heard
24 the metal hit the ground and slide.

25 CAPTAIN BROMAGE: And that was after

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1 the third or fourth?

2 MR. OATES: I want to say fourth.

3 It's a little ---

4 CAPTAIN BROMAGE: Where was he at when
5 you fired the fourth shot? Do you know?

6 MR. OATES: Uh, ---

7 CAPTAIN BROMAGE: He was face to face
8 on the third one?

9 MR. OATES: The third one, yeah.
10 And the fourth one, I am pretty sure that they
11 were not consecutive but I didn't have time to
12 have a break in between. I mean it was wham,
13 wham.

14 CAPTAIN BROMAGE: Okay -- (audio
15 stopped).

16 MR. COLONEGI: And I would be
17 happy, I am not trying to hide anything here
18 if we'd like to put this whole -- whole
19 interview into evidence, that's fine. We may
20 get to that point. But for the sake of brevity
21 here, to hit the points that I'd like to hit, I
22 am going to move forward. This continues his
23 conversation as to hearing the gun hit the
24 ground, (audio playing):

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1 MR. OATES: ...turned around --

2 (sound distorted).

3 CAPTAIN BROMAGE: So you think that
4 you fired four times when you saw the gun ---

5 MR. OATES: Well, I remember that I
6 fired until I heard the gun hit the ground. He
7 was -- you know, he was -- I had no other
8 choice. I thought he was going to kill me. I
9 -- (audio play stopped).

10 DIRECT EXAMINATION CONTINUED

11 BY MR. COLONEGI:

12 Q. And as we just heard there, Preston has
13 stated that in his mind he had no other choice.
14 He continue shooting until he heard the gun hit
15 the ground, is that correct?

16 A. That's what he just said, yes.

17 Q. Okay. And he also goes on, Captain Bromage
18 is questioning as to the number of times that
19 he shot. He gets into that right here, (audio
20 playing):

21 MR. OATES: ... you know, I'm sorry
22 but ---

23 CAPTAIN BROMAGE: I understand.

24 MR. OATES: Yeah. I mean, I don't

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1 know if there a rule about how many times
2 you're allowed to do it but ---

3 CAPTAIN BROMAGE: I understand.

4 MR. OATES: I knew that he was a
5 threat to me. I was in danger until he was
6 either disarmed or, I mean, unconscious.

7 CAPTAIN BROMAGE: So even after the
8 right back shoulder shot, you weren't sure if
9 he had the gun or not?

10 MR. OATES: He turned toward me and
11 I -- at that point it was such fight or flight.

12 CAPTAIN BROMAGE: Was he saying
13 anything?

14 MR. OATES: I didn't hear anything.
15 I mean, there was silence. I don't even
16 remember -- I just remember that I could hear
17 my breath. I could hear my breath go
18 (demonstrating), breathe in. I could hear
19 myself breathe in.

20 CAPTAIN BROMAGE: So you weren't
21 feeling that there was any way that you could
22 have got out of this without what happened?

23 MR. OATES: I was stalling. I mean,
24 told that lady, 'Yeah, everything's fine. Go

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1 *inside. He's got a gun. Everything's fine.'*

2 *I mean, what was I supposed to do? He's*

3 *hanging on the side of my truck. I mean, I*

4 *could have dropped it in drive but --*

5 CAPTAIN BROMAGE: *Okay. I don't know.*

6 *(Audio replay stopped).*

7 DIRECT EXAMINATION CONTINUED

8 BY MR. COLONEGI:

9 Q. Also we get into, now, and correct me if

10 I am wrong, there are questions by Captain

11 Bromage as to his -- as to whether or not Mr.

12 Oates ever touched the gun. Is that correct?

13 Do you recall?

14 A. If he ever touched ---

15 Q. The decedent's gun. Mr. Carlos Olivera's

16 gun?

17 A. Okay.

18 Q. Is that correct, do you recall?

19 A. Certainly.

20 Q. Okay. And based on your investigation, is

21 there anything in your report that would

22 support that in fact Mr. Oates ever touched the

23 decedent's gun?

24 A. Aside from, I believe, statements that said

25 that ---

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1 Q. Correct. Any forensic evidence indicating
2 that ---

3 A. Can I check my lab?

4 Q. Certainly. Absolutely.

5 THE COURT: Take your time.

6 THE WITNESS: (Upon review),

7 I need the labor report that I gave Sean
8 yesterday.

9 MR. STONE: We don't have it with
10 us.

11 THE COURT: If you can't answer that
12 question without further review, just say that
13 you can't.

14 THE WITNESS: I know that there is
15 documentation ---

16 MR. STONE: If I may, Your Honor, I
17 am not sure if this is the correct one, but --
18 (tenders to witness).

19 THE WITNESS: Yeah. (Upon
20 review), yeah. In regard to Mr. Olivera's gun,
21 there was two DNA profiles found on the weapon
22 and Mr. Olivera is excluded as one of those
23 contributors. I do not believe that we have a
24 known standard for Mr. Oates in evidence, so I
25 can't say whether or not those two profiles --

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1 one of them may belong to him, I don't know.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. COLONEGI:

4 Q. I understand. You don't have the answer to
5 that as part of your investigation?

6 A. No, I don't.

7 Q. Thank you. If I could pick up where I just
8 left off, Your Honor, this goes on, Officer
9 Biens, as to, uh, Mr. Oates' discussion as to
10 why he reacted the way that did, (audio
11 playing):

12 MR. OATES: ... I -- I would be
13 willing to roll the dice, but not with my life.

14 CAPTAIN BROMAGE: So you never touched
15 his gun whatsoever.

16 MR. OATES: Never touched it.

17 CAPTAIN BROMAGE: So that gun, while
18 in this barrage of fire, somehow if you -- if
19 it hit the ground and sails off or something,
20 but at some point you hear the -- you see the
21 gun?

22 MR. OATES: I hear the gun on the
23 ground slide. That's when I remember I -- I
24 froze and took a breath and when I opened my

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1 eyes, the gun was laying there and he was, you
2 know, kinda almost to the ground. (Audio
3 replay stopped). So based on Mr. Oates'
4 statements to law enforcement, he never touched
5 that gun?

6 A. Correct.

7 Q. And as you just said before, there is no
8 evidence that you have as far of your
9 investigation that could either rule that out
10 or say that in fact there was?

11 A. Because we don't have a standard from Mr.
12 Oates to compare to the profile on the gun.

13 Q. As part of that investigation, you could
14 have obtained one, though, could you not?

15 A. At this point we can, yes.

16 Q. Moving on, there is some discussion, and we
17 can hear this later on, Captain Bromage goes
18 into -- and he gets quite upset with Mr. Oates
19 as to any sort of former military training. Do
20 you remember that colloquy?

21 A. I ---

22 Q. I don't see any bearing to this matter
23 here, but -- I only bring that up because there
24 was some discussion as to that, if you recall.

25 A. There was. It was insignificant, so I

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1 didn't pay any attention to ---

2 Q. I agree. I agree. As we go on, fifty-four
3 minutes into the recorded interview with
4 Captain Bromage, I would like for you to hear
5 more of Mr. Oates statement as to his
6 justification and his beliefs as to what was
7 occurring that night, (audio playing):

8 CAPTAIN BROMAGE: You think basically
9 he committed suicide by putting you in that
10 situation?

11 MR. OATES: He was going to kill me.
12 There was no doubt in my mind. It was done.
13 He -- his choices, his actions led to this;
14 just like my grandfather, my mom (phonetic)
15 didn't kill my grandfather.

16 CAPTAIN BROMAGE: Well, ---

17 MR. OATES: He made the choice.

18 CAPTAIN BROMAGE: No. Well, he made
19 the choice because he was probably in a lot of
20 pain and suffering, stuff like that, you know?
21 Because that was -- I mean, that's was in both
22 papers. I mean, that was something -- it just
23 needs to be explained, don't you think, on our
24 end? (Audio playback stopped). And obviously

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1 -- correct me if I am wrong, but Preston
2 continues to reiterate to Captain Bromage he
3 had no other choice?

4 A. That's correct.

5 Q. Thank you. Would you say that that is any
6 different than what he told the officers on the
7 evening of -- for the basis of why he did what
8 he did?

9 A. Yes.

10 Q. It goes on, there are some other parts that
11 I would be happy to play but I think you would
12 agree, probably, are irrelevant to the purpose
13 of this hearing. There is some discussion by
14 Captain Bromage that goes into some MySpace
15 accounts that Preston had, Mr. Oates had, ---

16 A. Okay.

17 Q. You agree with that?

18 A. (Affirmative nod).

19 Q. I see no purpose in playing those here
20 today for the purpose of this Hearing. But as
21 part of his statement to Captain Bromage that
22 night, he did discuss MySpace accounts,
23 Facebook accounts; correct?

24 A. Okay. I think ---

25 Q. Are you familiar with that?

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1 A. (No verbal response).

2 Q. And let me ask you, did you actually -- did
3 you listen to this interview?

4 A. I did.

5 Q. I would like to move forward an hour and
6 seven minutes (sic) into the interview. There
7 is some question as to Captain Bromage posing
8 questions to Mr. Oates as to whether he could
9 have done something in the alternative and --
10 in Mr. Oates's mind whether there was some sort
11 of alternative option present to him. If I
12 could pick up here one hour and seven seconds
13 (sic), (audio playing):

14 CAPTAIN BROMAGE: Let me tell you that
15 right now. It sounds like, looks in the paper
16 -- it looks like -- look, you've got a
17 reputation for being cocky. So when you're at
18 that point and you make comments like that,
19 people are going to construe it the way that
20 they want to. They think, 'Yeah, you're a
21 person that runs around with a gun. He's been
22 stabbed, he's been shot at, he's shot back at
23 people. He's had a lot of things go in the
24 last couple of years' and people are aware that

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1 *you're a big target for this kind of thing --*
2 *(audio playback stopped). There we hear*
3 *Captain Bromage indicate to Preston Oates that*
4 *he is a big target for this kind of thing. I*
5 *think what he was referring to were the prior*
6 *incidents that we've already been informed*
7 *about during Mr. Newman's information to the*
8 *court: the Park incident. Correct?*

9 A. I don't think that was mentioned earlier.

10 Q. Any of the prior -- the stabbings that we
11 heard on the 911 tape?

12 A. The stabbing, we heard of; yes.

13 Q. And, like I said, I will be glad if Mr.
14 Stone wants to play all of that. I don't
15 think it pertains to this part of the Hearing.
16 Getting to -- (audio playing):

17 CAPTAIN BROMAGE: ...and where is your
18 gun? And don't bullshit me. Where is your gun
19 when this happened?

20 MR. OATES: It's usually in the
21 glove box. It's always in the glove box.

22 CAPTAIN BROMAGE: Still in the car,
23 you've got three people surrounding your car,
24 how are you going to defend yourself?

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1 MR. OATES: The Glock. Same thing
2 as Shady Glenn. I -- never got it out, never
3 happened. I got a ten-inch kitchen knife in my
4 back, Bob. I never -- I had an opportunity to
5 get it out of the glove box, but guess what?
6 There wasn't the same -- it wasn't the right
7 thing to do. It wasn't -- there would have
8 been more victims. If I would have gotten that
9 gun out of glove box, more than the guy with
10 the knife probably would have gotten harmed
11 because it was a fucking pinata exploded. I
12 was getting hit. They were throwing chunks of
13 cinderblocks at me. I got hit in between the
14 legs by a chuck of a cinderblock. I have rock
15 chuckers over -- standing in the yard throwing
16 chunks of cinderblock at me. So the prudent
17 person would say that you don't want to
18 intensify the situation. You don't want a gun
19 into a situation and make it more and make it
20 more volatile. A prudent man would say that.

21 CAPTAIN BROMAGE: Okay. You've got a
22 lady that -- you had a nice distraction at one
23 point where you could have either -- you could
24 have either took off or you could have ---

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1 MR. OATES: He was still standing
2 right there at the window.

3 CAPTAIN BROMAGE: You could have shot
4 him right through the window, couldn't have
5 you? (Audio playback stopped). At that point
6 in time obviously, as I have said, Captain
7 Bromage is offering alternatives in his mind
8 that he could -- have Mr. Oates could have
9 taken. Correct?

10 A. Yes.

11 Q. Which is what he was just suggesting to
12 Preston?

13 A. Yes.

14 Q. And upon being asked that question, Mr.
15 Oates stated to him that they were still
16 holding on to the running board of the vehicle?

17 A. Correct.

18 Q. And arguably, depending on which witness
19 statement we have in front of us, possibly
20 pointing a handgun?

21 A. Possibly.

22 Q. Now to get up to the exact distinction
23 between what I believe the State will argue and
24 what you would argue as to the difference
25 between the interview given to Officer Adams

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1 and to Officer Alberton the evening of December
2 24th versus the interview done with Captain
3 Bromage, we go to an hour and sixteen minutes,
4 (audio playing):

5 MR. OATES: That's all right. 'I
6 didn't get any cooperation whatsoever', that's
7 what you're saying. You're in a hostile
8 environment. In your first statement to law
9 enforcement that night, which you know I
10 listened to and this one, there is a distinct
11 difference, huge differences, in that now 'this
12 guy has got a gun coming through the window'
13 and now you say him rack rather than heard him
14 rack it. So what's the truth?

15 MR. OATES: I could see the little
16 silver plate, silver shine, on the the ---

17 CAPTAIN BROMAGE: You said that you
18 heard him rack it. You said that clearly.
19 Then you say that you saw that ---

20 MR. OATES: I saw the flash of the
21 little silver plate where the serial number
22 was. I couldn't see the number.

23 CAPTAIN BROMAGE: Whereas you heard it
24 that night, and now he's got a gun inside

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1 pointed at your head, in your direction. That
2 never came out, did it?

3 MR. OATES: It didn't?

4 CAPTAIN BROMAGE: No.

5 MR. OATES: I have my written
6 statement somewhere. I can go check it.

7 CAPTAIN BROMAGE: That is pretty
8 significant. That's a significant detail.

9 MR. OATES: Is it?

10 CAPTAIN BROMAGE: Yeah. Somebody's
11 pointing a gun at your head.

12 MR. OATES: I mean, I thought -- I
13 thought I made it -- I mean, I could have -- I
14 thought I made it clear.

15 CAPTAIN BROMAGE: It wasn't clear.
16 I will tell you that right now. To me, that's
17 a huge detail. You know what, I would probably
18 say 'that's why I feel my life was in danger,'
19 because up to that point you're not -- you
20 haven't got a gun pointed at you.

21 MR. OATES: All right. He
22 brandished it, he showed it to me and then
23 afterwards is when -- at the window, that's
24 when he got more aggressive.

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1 CAPTAIN BROMAGE: And actually had the
2 gun out?

3 MR. OATES: And that's when he had
4 it ---

5 CAPTAIN BROMAGE: Through the window.

6 MR. OATES: Yes. Him and his
7 brother were there and the whole key -- they
8 were focusing on the key thing. It was him and
9 his brother standing there and since they were
10 both here, shoulder to shoulder, at the window,
11 he ratcheted -- I heard him ratchet it, do that
12 and ---

13 CAPTAIN BROMAGE: Where was the other
14 guy at that point?

15 MR. OATES: When the third guy came
16 out, right after that is when he told the guy,
17 'Go get my shotgun.' I couldn't see what the
18 other guy ---

19 CAPTAIN BROMAGE: Are you sure that it
20 was a guy or three guys? Or could it have been
21 two guys and a woman?

22 MR. OATES: It was -- blue pants,
23 white shirt and -- middle, like sort of short
24 straight black hair pulled into a ponytail.

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1 CAPTAIN BROMAGE: So it could have
2 been either?

3 MR. OATES: May he shaved or she --
4 maybe she had no boobs or -- I mean, I wasn't
5 --- (audio playback stopped). Without going
6 further, if I could have you explain what you
7 believe the distinctions to be that we just
8 heard. Captain Bromage points out what he
9 believes to be the distinction that Mr. Oates
10 stated in the first interview with you as to
11 whether or not the gun was actually pointed at
12 him. Is that correct?

13 A. You're referring to the interview with
14 Alberton and Adams?

15 Q. Yes, ma'am.

16 A. Okay.

17 Q. Can you expand on that for us, what the
18 distinction is that he ---

19 A. Sure.

20 Q. Okay.

21 A. I can tell you that in the first interview
22 with Sargent Hardy that Mr. Oates did not
23 reveal that the weapon was pointed at him. I
24 believe his first indication that the gun was
25 -- that it was in Mr. Olivera's waistband, that

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1 he dismounted from the truck and looked like he
2 was going to reach for the gun and that's when
3 he engaged fire.

4 The second interview, which was done with
5 Sergeant Adams and Sergeant Alberton, I believe
6 indicated that he saw the weapon, that he saw
7 the trigger guard but that it was not pointed
8 at him.

9 In the interview with Mr. Bromage, he
10 expanded and said that he could see like the
11 rifling in the barrel and stuff like that, that
12 that is how close it was to him.

13 Q. Notwithstanding the distinctions that you
14 think you've drawn, based on what you remember
15 in those three different statements, ---

16 A. Um-humm.

17 THE COURT: Is that a yes?

18 THE WITNESS: Yes, sir.

19 THE COURT: Thank you.

20 Direct EXAMINATION CONTINUED

21 BY MR. COLONEGI:

22 Q. You have had plenty of time to watch the
23 video, I ---

24 A. Certainly.

25 Q. --- would imagine?

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1 A. Yes.

2 Q. And I'm assuming that you've taken a close
3 look at that video, particularly as to when
4 these chain of events took place, meaning the
5 actual shooting.

6 A. Which video are you ---

7 Q. The video which we just saw here earlier
8 today.

9 A. The shooting, (affirmative nod). Okay.

10 Q. And as far as those questions that are
11 drawn or the distinctions in those statements,
12 it's not -- you are not able to determine that
13 by watching the video?

14 A. You are not able to determine what happens
15 behind the truck because the cab of the truck
16 actually -- if you, we could watch it again --
17 you can't see the position of Mr. Olivera prior
18 to him walking away and you seeing the muzzle
19 flash. So I don't know whether the gun was in
20 Mr. Olivera's hand or not. If that is what
21 you're asking.

22 Q. What I am asking you, though, -- to a
23 certain extent, that's what I'm asking you.
24 But the bottom line is that whatever transpired
25 transpired very, very quickly.

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1 A. Yes, it did.

2 Q. And as far as what the distinctions were in
3 Preston's statements to Captain Bromage versus
4 Adams and Alberton the night of the incident,
5 Preston reiterates to Captain Bromage over and
6 over again that he wasn't aware that there was
7 that big of a distinction, and that if there
8 was that he was sorry but what he was telling
9 Captain Bromage on the 27th of December was in
10 fact what had occurred, based on his statement?

11 A. Based on his statement that day.

12 Q. If I could draw your attention now, flip to
13 the actual interview that took place the night
14 of December 24th with Officer Alberton and
15 Officer Adams.

16 A. Okay.

17 Q. This goes actually to the transcript
18 itself. If you will go to page seven.

19 A. Okay.

20 Q. You just had stated to us that one of the
21 distinctions that Captain Bromage seemed to
22 insist upon with Preston Oates on the 27th, it
23 was different than what he had stated to your
24 officers on the night of the incident, as to
25 whether or not he could actually see the

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1 rifling of the gun that night. Correct? Is
2 that correct?

3 A. I think so.

4 Q. If I could have your attention, go to line.
5 sixteen -- actually that is somewhat
6 irrelevant.

7 Actually, going directly to line nineteen
8 -- if you could, read that, have a chance to
9 read that.

10 A. And this is page seven?

11 Q. Yes, ma'am.

12 A. Of the first interview that was done on the
13 24th?

14 Q. Yes, sir.

15 A. He talks about picking them up at Rumors
16 Bar, 'went back to my house, we were in the hot
17 tub, yeah, had a threesome and right when I was
18 looking down the barrel of that guy's gun, I
19 ..." ---

20 Q. If I could stop you right there. I don't
21 mean to stop you, I'd be more than happy to
22 have you go on but -- as far as the distinction
23 you've drawn, it says right here that he
24 stated, in the transcript, verbatim, "...
25 looking down the barrel of that guy's gun."

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1 A. And that's not Mr. Olivera's gun. This is
2 referring ---

3 Q. You would state that was not Mr. Olivera's
4 gun?

5 A. I would say that he is referring to another
6 incident involving Ashley and Amanda and being
7 in a hot tub with them.

8 Q. That is not correct. No, sir.

9 THE COURT: You are not going to
10 argue that. Move on. Okay?

11 MR. COLONEGI: I understand.

12 THE COURT: There are two
13 constructions of that, sir. Thank you.

14 DIRECT EXAMINATION CONTINUED

15 BY MR. COLONEGI:

16 Q. You would not disagree with the fact that
17 line nineteen does indicate that he was looking
18 down the barrel of that guy's gun?

19 A. Yes, but I ---

20 Q. You're going to draw a distinction as to
21 whose gun that was. That's your position.

22 A. Yes.

23 Q. But you're not disputing the fact that that
24 is what he stated?

25 THE COURT: It is what it is, Mr.

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1 Colonegi. Let's stop this silliness. Thank
2 you, sir.

3 MR. COLONEGI: That's all. Thank
4 you. One last thing, Your Honor, and I will be
5 ---

6 THE COURT: Sure. Absolutely.

7 DIRECT EXAMINATION CONTINUED

8 BY MR. COLONEGI:

9 Q. Early on -- and if you'll just give me a
10 second, I know that I wrote it down. But let
11 me ask you if you would disagree with me.

12 Captain Bromage gets into a discussion with
13 Preston Oates as to Monday morning quarter-
14 backing, do you remember that?

15 A. Yes.

16 Q. And Captain Bromage does indicate and
17 agrees with Preston that you can't -- that he
18 couldn't sit there after the fact and try to
19 say what he would have done in the same
20 situation?

21 A. I would agree.

22 Q. Thank you.

23 MR. COLONEGI: Thank you, Your
24 Honor, that's all that I have.

25 THE COURT: Do you wish to cross

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1 examine this witness?

2 MR. STONE: Yes, sir.

3 THE COURT: You may proceed. Do you
4 anticipate it being lengthy?

5 MR. STONE: I do. I can get to a
6 part, if you like, then stop.

7 THE COURT: Get to a point that you
8 feel is a good stopping point, Solicitor, and
9 then we can stop for lunch at that point.

10 MR. STONE: Thank you, Your Honor.
11 If I would, just let me cover a couple of
12 things.

13 THE COURT: Sure.

14 MR. STONE: And then I think what I
15 am going to end up doing is playing all those
16 tapes anyway. Because of the confusion that I
17 think we have right now, I would like to play
18 them all, but we can do that after lunch.

19 THE COURT: That'll be fine.

20 CROSS EXAMINATION

21 BY MR. STONE:

22 Q. Detective, I know that we had spoken
23 earlier. I think Mr. Newman had asked you if
24 -- if somebody was pointing a gun at you, would
25 you defend yourself and you, of course, said

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1 'yes'; it that right?

2 A. That's correct.

3 Q. If they had the gun in their back pocket
4 and were walking away, would you shoot them?

5 A. No.

6 Q. And in fact when we look at this video, and
7 you've seen this video, it's the same one that
8 they showed up on the big screen -- can you see
9 it from there?

10 A. Yes, sir.

11 MR. STONE: And, Your Honor, can you
12 see it from there?

13 THE COURT: I can.

14 CROSS EXAMINATION CONTINUED

15 BY MR. STONE:

16 Q. On this video -- first of all, let me see
17 if we can -- this is the tow truck here, is
18 that correct?

19 A. Yes, sir.

20 Q. And I am pointing to the top of the screen
21 in just about the center. It appears to be
22 that this is just about the rear tire of the
23 tow truck here?

24 A. Yes, sir.

25 Q. And then that would be the beginning, I

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1 guess, of the front of the tire; is that
2 correct?

3 A. Yes, sir.

4 Q. And if you need to come down -- if Your
5 Honor would -- would that be okay -- can you
6 see there?

7 A. Yes.

8 Q. This is the Olivera car here, is that
9 correct?

10 A. Yes.

11 Q. Which is at the left sort of top of this
12 screen. I believe that this video shows Nelson
13 Olivera here (indicating), doing something in
14 front of that car; is that right?

15 A. Yes, sir.

16 Q. So this angle -- and I know that we had an
17 angle on this animation that was -- that didn't
18 really show this, but this actually shows
19 almost all of the tow truck except for the
20 front of it, does it not?

21 A. Yes.

22 Q. In fact, that's on the other side of the
23 truck, so that must be -- go across the hood,
24 is that right.

25 A. Yes, sir.

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- 1 Q. So we can see the cab, both tires -- I
2 guess this is the back of the truck? That's
3 one of those long flatbeds. Is that right?
- 4 A. It was a flatbed truck, (affirmative nod).
- 5 Q. Okay. And then out here you have Nelson.
6 You also, I want to make sure that we are clear
7 about this. I think Mr. Colonegi asked if
8 there was any evidence that Mr. Oates touched
9 the gun. I believe that Mr. Newman had cross-
10 examined on Nelson Olivera's statement, is that
11 correct?
- 12 A. Yes.
- 13 Q. And in fact in Nelson Olivera's statement,
14 he stated that Preston Oates went over, after
15 Mr. Olivera was down and shot, and grabbed the
16 gun out of his waistband and threw it?
- 17 A. Yes.
- 18 Q. Is that correct?
- 19 A. Yes, sir.
- 20 Q. Let me go back to the original question,
21 which is the shooting as somebody is walking
22 away. I will see if I can play this, (video
23 playing). You can still see from there?
- 24 A. Yes, sir. Somebody is going into Ms.
25 Bryan's house.

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- 1 Q. Now, that appears -- that white subject up
2 here -- let me see if I can do this. The white
3 subject of this, in the very center of this
4 circle, is actually Mr. Olivera. Is that
5 correct? I keep saying Mr. Olivera but it is
6 some figure. We know that at this point that
7 Nelson Olivera is here, is that correct?
- 8 A. Correct.
- 9 Q. Which is in front of that Olivera car.
- 10 A. (Affirmative nod).
- 11 Q. And here would be Carlos Olivera, is that
12 right?
- 13 A. Yes.
- 14 Q. I mean, you can't see his face but that's
15 the person that eventually gets shot?
- 16 A. Okay.
- 17 Q. Is that correct?
- 18 A. Yes.
- 19 Q. And you can at this point still see Carlos
20 Olivera?
- 21 A. Yes.
- 22 Q. Now, he appears to have taken two or three
23 steps backwards; is that right?
- 24 A. Yes, sir.
- 25 Q. And the muzzle hasn't shot yet, ---

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1 A. No, sir.

2 Q. --- is that correct?

3 A. (Affirmative nod).

4 Q. (Video playing) -- that would be the first,

5 second and third shots and then you can't see

6 what goes on after that. Is that right?

7 A. Yes, sir.

8 Q. Thank you. Now, you had testified earlier,

9 I believe, and we will get into these

10 statements in a little bit more detail, that at

11 some point Mr. Oates said that Carlos Olivera

12 opened the door of the truck and was pulling

13 his gun. Is that correct?

14 A. Yes.

15 Q. Which would have meant that Carlos Olivera

16 was facing directly with Mr. Oates, is that

17 right?

18 A. Yes.

19 Q. All right. Now, I think that there was

20 also some testimony in one of Mr. Oates'

21 statements saying that he saw him eye-to-eye;

22 is that correct?

23 A. That's correct.

24 Q. And, in fact, I think when he was referring

25 to the third shot, after the first two had

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1 already hit, that he was talking about seeing
2 him eye to eye and seeing his chest; is that
3 correct?

4 A. Yes.

5 Q. And the people out there that night would
6 have been Claudia Olivera, is that correct?

7 A. (Affirmative nod), Claudia.

8 Q. And that is ---

9 A. --- Nelson's wife. Dhyan ---

10 Q. Excuse me?

11 A. Dhyan Olivera, who is Carlos' wife.

12 Steve Varedi, who is this gentleman that you
13 see here.

14 Q. This is this dark figure here?

15 A. Yes.

16 Q. And that's actually his house that is
17 videotaping, right?

18 A. That's his house. And then you will see
19 images of Reba Bryan coming in and out of her
20 driveway, which is across the street.

21 Q. Is she an African American lady?

22 A. Yes.

23 Q. Is this the same lady that Preston Oates
24 was talking about, saying 'don't call the
25 police, everything is fine, he's got a gun'?

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1 A. Okay. Anyone else out there at the time?

2 A. Not at that time that I am aware of. I
3 know that there were cars that passed by but
4 specifically I don't know.

5 Q. In fact, when the cars were passing by, I
6 believe that -- was it Claudia that was --
7 Claudia and Carlos were actually helping direct
8 traffic, is that right?

9 A. Yes.

10 Q. Because it was a very narrow street, as Mr.
11 Newman showed, and the cars were having to get
12 around the truck?

13 A. Yes.

14 Q. This is before the shooting?

15 A. Yes.

16 Q. And after the keys have already gone to
17 unlock the boot?

18 A. I am not specifically sure when that
19 exchanged happened in relation to the cars.

20 Q. Okay. But at some point, Mr. Oates gave
21 the keys and said 'go unlock it.' Is that
22 correct?

23 A. Yes.

24 Q. Now, according to Claudia, who was out
25 there right before the shooting, the keys had

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1 already been delivered.

2 A. Yes.

3 Q. And Mr. Olivera -- and I will say Carlos,
4 because I know that I'm confusing those.

5 Carlos Olivera was actually at that point
6 turning and walking away?

7 A. Yes.

8 Q. In fact, there was no arguing -- at least
9 according to Claudia Olivera -- at that time;
10 is that right?

11 A. Yes.

12 Q. And there was -- there was no gun out,
13 there was not arguing. In fact, I think even
14 Carlos had said something like 'thank you' and
15 he was walking towards the car. Is that
16 correct?

17 A. Yes.

18 Q. Dhyen, who was also out there, indicated
19 pretty much the same thing; did she not?

20 A. Correct.

21 Q. That right before the shooting the argument
22 had ended, there was no yelling, there was no
23 screaming, Mr. Oates just came out of his truck
24 and shot him. Is that correct?

25 A. Yes.

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1 Q. And even the statement that Mr. Newman
2 talked about, that Nelson Olivera gave, he
3 indicated that prior to the shooting that
4 Carlos had calmed down and even, according to
5 him, had put the gun in his waistband and was
6 walking away when the shooting took place; is
7 that correct?

8 A. Yes.

9 Q. Now, I want to ---

10 MR. STONE: And I will play these,
11 Your Honor, after the break.

12 THE COURT: Okay.

13 MR. STONE: But I want to make sure
14 that we're clear about something.

15 CROSS EXAMINATION CONTINUED

16 BY MR. STONE:

17 Q. According to Preston Oates' versions of
18 what happened out there, there are actually
19 three stories -- are there not? There was the
20 911 call that he makes.

21 A. Okay.

22 Q. Then there is one statement he gives on
23 December 24th?

24 A. (Affirmative nod), to Sergeant Hardy.

25 Q. And the third one would be ---

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1 A. December 27th.

2 Q. We have the 911 tape. My recollection of
3 the 911 tape is he basically made the statement
4 to the dispatch officer that Carlos ran, jumped
5 up on the truck, says 'give me' -- 'unlock the
6 car'. He gets out of the car (sic), at which
7 time Carlos brings a gun, puts it in his face,
8 and he pulls his own gun and shoots him. Is
9 that correct?

10 A. Yes, I think that's what we just heard.

11 Q. Okay. And then the first statement that he
12 gives, December 24th, is that detail about 'I
13 saw the barrel, I saw the serial number.' He
14 is actually -- according to the statement he's
15 -- Carlos is holding the gun up on the --
16 that's the second statement, isn't it?

17 A. (Affirmative nod), that's the second
18 statement.

19 Q. I messed up. According to the second
20 statement is the detail about the barrel, the
21 serial number, and he's actually making the
22 statement when Preston Oates is talking to the
23 African American lady and saying, 'don't call
24 the police,' she can't see the gun because it's
25 up on the window pointing at him. Is that

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1 correct?

2 A. Yes.

3 Q. None of that did he mention in the first
4 statement, did he?

5 A. No.

6 Q. He didn't mention seeing the gun at all,
7 did he?

8 A. I believe he said that he saw the gun in
9 his waistband. The flicker of his belt buckle
10 drew his attention to his waistband.

11 Q. And that is prior to the shooting,
12 supposedly, according to Mr. Oates?

13 A. Yes.

14 Q. One other thing before we play these.
15 Do you have a copy of the transcripts?

16 A. Yes.

17 MR. STONE: These are the court
18 reporter transcripts. If I would -- I'd like
19 to go ahead and have these marked and put into
20 the record.

21 THE COURT: Okay. Court's Exhibits
22 1 and 2. Court's Exhibit 1 is a transcript of
23 what?

24 MR. STONE: One is the transcription
25 of the audio dated December the 24th, 2010.

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1 THE COURT: All right. Court's
2 Exhibit 2?

3 MR. STONE: Two would be the
4 transcript of the audio dated December 27th,
5 2010. That is also a statement of the
6 defendant.

7 THE COURT: Okay.

8 (SO ENTERED AS COURT'S EXHIBIT 1)

9 (SO ENTERED AS COURT'S EXHIBIT 2)

10 MR. STONE: Do you have copies of
11 the transcripts?

12 THE WITNESS: Yes.

13 MR. STONE: Your Honor, I don't know
14 if you do or not, but I will be glad to hand
15 you copies. Of course, the original is sealed.

16 THE COURT: Thank you very much.

17 MR. STONE: Yes, sir.

18 CROSS EXAMINATION CONTINUED

19 BY MR. STONE:

20 Q. You go to the second statement, the one
21 dated December 27th, go to page nineteen if you
22 don't mind, please.

23 MR. NEWMAN: What page?

24 MR. STONE: Page nineteen, the
25 second statement, dated December 27th.

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1 CROSS EXAMINATION CONTINUED

2 BY MR. STONE:

3 Q. Page nineteen -- and, again, this is the
4 second statement. Starting on line two, if you
5 could read that, please, starting with "And..."

6 ---

7 A. (Reading): "And I look over and he's got
8 the gun in the window and it is sitting there.

9 'Okay. Okay, it's not problem. Okay, man,
10 it's fine. It's fine. No problem.'

11 Q. Go down to line nine, the reference to
12 seeing the bottom, the serial number of the
13 gun, is that correct?

14 A. That's correct. It says, "He pulled it
15 this way and I remember that he -- he chambered
16 it. I could see the bottom, the serial number
17 plate right above where the trigger guard was,
18 so he chambered it that way and let go. Then
19 from there he had it below -- you know, he
20 didn't have it pointed at that time. He didn't
21 have it pointed in the cab." I believe that's
22 supposed to be "cab".

23 Q. If you will go to page twenty, line twenty.
24 If you could, read that please.

25 A. (Reading): "And that's when the guy with

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1 the gun leaned over and, you know, looked over
2 his shoulder and said, "Go get my shotgun."

3 Q. Let me stop you there. So according to Mr.
4 Oates, there is a man standing at his window,
5 holding a handgun, leaning over his shoulder,
6 saying "Go get my shotgun."

7 A. Yes, sir.

8 Q. Okay. Any of that in the first statement
9 that he gave law enforcement?

10 A. I think that the "go get my shotgun"
11 statement was consistently in all of these
12 statements that he gave.

13 Q. But either in the first statement or any
14 other statement, did he ever say that 'he is
15 holding a pistol on me in own hand, but he
16 wants to go get a shotgun in the other.'

17 A. No.

18 MR. STONE: Your Honor, this is
19 probably for us a good stopping point if
20 acceptable to Your Honor.

21 THE COURT: Very well. We will be
22 in recess until 1:30, please. Thank you.
23 Gentlemen, if I could see the attorneys in
24 chambers, please.

25 (IN CHAMBERS CONFERENCE)

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1 (LUNCH RECESS)

2 (DEFENDANT PRESENT)

3 THE COURT: Solicitor, before you
4 start -- I assume you're ready to start?

5 MR. STONE: Yes, sir.

6 THE COURT: We had a conference in
7 chambers and we were talking about some things,
8 discussing maybe a way to build a record for
9 purposes of this proceeding, try to minimize
10 the length of time of examination. I want to
11 reiterate that I'm here as long as you need to
12 be, but we all agree that much of what we're
13 doing is really supported by a written record;
14 i.e., Court's Exhibits 1 and 2. Certainly that
15 now is completely a part of the record. So --
16 I appreciate that.

17 One of the things that we talked about
18 also, there are interesting aspects of this
19 immunity statute as it interacts with the
20 defense of self-defense in a criminal
21 prosecution. I used the word, a poor choice of
22 words, Mr. Colonegi. I commented to you -- and
23 I apologize to you. I used the word "silly".
24 Silly was an inappropriate word, sir, and I
25 apologize to you for the use of that word. The

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1 word really wasn't ver germane -- I think it's
2 very pertinent to the self-defense issue, no
3 question about it, and it was a very
4 appropriate question. My statement really
5 dealt with what I am having to decide as to the
6 immunity and I did not feel that it was germane
7 to that particular -- but I wanted to apologize
8 to you for using the word "silly", sir. You
9 are not -- it wasn't silly and you're very --
10 you're a consummate professional.

11 MR. COLONEGI: Thank you very much,
12 Your Honor.

13 THE COURT: I wanted to clarify
14 that.

15 MR. COLONEGI: Thank you very much.

16 THE COURT: You bet. All right.
17 Solicitor, you may proceed.

18 MR. STONE: Your Honor, I think I am
19 going to change up a little bit from what I
20 told you before the break. I am just going to
21 go over on cross to cover some of the points
22 that were made in statement number one and then
23 move on.

24 THE COURT: Yes, sir.

25 MR. STONE: I think that there is

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1 some other evidence that they are going to put
2 in.

3 THE COURT: Sure.

4 MR. STONE: I may recall, if
5 necessary, ---

6 THE COURT: Not a problem.

7 CROSS EXAMINATION RESUMED

8 BY MR. STONE:

9 Q. Before we went on break, we were talking
10 about the statement, the three statements that
11 Preston Oates had given. Let me go now -- and
12 I think we were clear on the 911 tape that he
13 -- that Preston Oates indicated on the 911 call
14 that Carlos Olivera ran to the tow truck,
15 jumped up on the truck, said "unlock it".
16 Oates got out of the truck, at which time
17 Carlos Olivera supposedly pulled a gun on him
18 and then he pulled a gun and shot him. Is that
19 what you recall from the 911 tape?

20 A. Yes.

21 Q. The second, the December 27th statement,
22 the one that we went over right prior to break,
23 is where Mr. Oates is describing to Captain
24 Bromage the barrel of the gun, the serial
25 number of the gun, the fact that the gun was

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1 sitting up on the windshield, various things
2 like that, during the incident before the
3 shooting; is that correct?

4 A. Yes, sir.

5 Q. All right. Let me now clear up, on
6 statement number one, which is the December
7 24th statement, ---

8 THE COURT: Solicitor, let me
9 interrupt you a second.

10 MR. STONE: Yes, sir.

11 THE COURT: We were talking about
12 something at lunch, as well. We have the two
13 statements, the 24th and the 27th. Is there a
14 transcript of the 9-1-1 tape?

15 MR. STONE: I don't believe that
16 there is a transcript of the 9-1-1 tape. We
17 can have one done but we did not have that for
18 this Hearing, Your Honor.

19 MR. NEWMAN: What I was going to do,
20 the audio tape that I played for the court, I
21 am going to move that actual disk as an
22 exhibit. You will be able to open it just on a
23 regular Windows Media audio.

24 MR. STONE: We have it here, Your
25 Honor. I will go ahead and put it in as a

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1 court's exhibit, without objection.

2 MR. NEWMAN: As a joint exhibit.

3 THE COURT: Okay, thank you very
4 much.

5 MR. STONE: This would be Court's
6 Exhibit 3, Your Honor.

7 THE COURT: Very well, Court's
8 Exhibit 3 is an audio of the 911 tape as it
9 pertains to the defendant in this case, as I
10 understand.

11 MR. STONE: That's correct.

12 (SO ENTERED AS COURT'S EXHIBIT 3)

13 CROSS EXAMINATION CONTINUED

14 BY MR. STONE:

15 Q. Now, Detective, on the first statement, the
16 December 24th, if you would please -- and I am
17 not going to have you read through this, but I
18 want to make sure that we're on the same page
19 on this topic. Page eight, line twenty-two, is
20 the first indication from Mr. Oates that the
21 younger guy said "go get my shotgun." Is that
22 correct?

23 A. Yes, sir.

24 Q. And there is no reference in that to the
25 younger guy having a handgun at the time, is

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1 that correct?

2 A. That's correct.

3 Q. Page ten, line eight, there's an indication
4 from Mr. Oates that "I heard a round being
5 chambered." Is that correct?

6 A. Yes.

7 Q. And that is the first indication of any gun
8 as far as that statement is concerned?

9 A. Yes.

10 Q. Okay. Page twelve, line twelve, again an
11 indication by Mr. Oates, "After I heard the gun
12 ..." -- is that correct?

13 A. "After I heard reference to the gun..." --
14 yes.

15 Q. Page thirteen, line twenty-one, a statement
16 again concerning the gun, "I heard the ratchet
17 sound." Is that correct?

18 A. Yes.

19 Q. And then if you will go to page -- same
20 page, page thirteen, line twenty-three, Mr.
21 Oates indicates, "I heard the chambering.

22 It wasn't a shotgun." Is that correct?

23 A. Yes.

24 Q. All right. Go to page fourteen, line 3.

25 Question from the investigator: "Could you tell

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1 *which one of the guys had it?" And the answer*
2 *was ---*

3 A. (Reading): *"No. It would have had to have*
4 *been number two because number one had both of*
5 *his hands on the window, holding on."*

6 Q. Okay. Anywhere in that indicating that Mr.
7 Oates is actually seeing this gun?

8 A. No.

9 Q. Then going to page fifteen, the summary
10 from Mr. Oates, *"His friend had gone to get his*
11 *shotgun and I had already heard a pistol racket*
12 *already."*

13 A. Where is that?

14 Q. Fifteen.

15 A. Page fifteen? Page sixteen, line eighteen.

16 Q. Sixteen. I apologize. From line fifteen,
17 if you could read that, please.

18 A. (Reading): *"Yeah, I've been in the*
19 *business for a long time, so now I am really*
20 *nervous. I knew that I had my Glock in the*
21 *glove box. His friend was on the way to*
22 *retrieve a shotgun and I heard a pistol racket*
23 *already, so I figured it would be -- since it*
24 *was my right to retrieve..." -- I think that's*

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1 what it says -- "I really couldn't retreat. I
2 had a guy standing on my truck. So I said,
3 'You know, let me stop back into conservation
4 mode.' So I said, 'no, no, no paperwork' and
5 pulled my metal ledger out, that I keep all my
6 tickets in. So I pull it up, I flip it open
7 and I say, 'See, look.' And I open up my glove
8 box where my Glock was. I knew that I had my
9 insurance paperwork and just some whatever
10 random papers on top of it."

11 Q. Let me stop you there. In all of this
12 description, is there any reference to him
13 actually seeing this gun?

14 A. No.

15 Q. The last line, page twenty, line nine.

16 A. (Reading): "As he stepped back, I saw him
17 with his right hand reach and grab the pistol
18 that was in the -- you know, kinda stuck in his
19 belt in the front. In my line of sight and
20 where he was, I didn't want to just cross
21 through the cab, so as he opened it, just to
22 play along like I was going to exit the vehicle
23 to unlock the boot, because he was already in
24 draw, in motion."

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1 Q. And then a description of the gun is on
2 line twenty?

3 A. (Reading): "It looked like -- it looked
4 kinda like a Glock."

5 Q. And is that the first time, in that
6 particular statement that he ever mentions
7 actually seeing the gun?

8 A. Yes.

9 Q. And I believe this is also the description
10 that you and I discussed earlier when he is
11 describing -- and I say "he", when Mr. Oates is
12 describing Mr. Olivera opening the cab of the
13 truck and facing him, ---

14 A. Yes.

15 Q. --- eye to eye?

16 A. Yes.

17 MR. STONE: I don't have anything
18 else at this time, Your Honor.

19 THE COURT: Very well. Redirect?

20 REDIRECT EXAMINATION

21 BY MR. NEWMAN:

22 Q. You have both statements, correct,
23 Investigator Biens?

24 A. Yes.

25 Q. All right. Let's go to his first statement

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1 with the detectives on the 24th, page twenty.

2 A. Okay.

3 Q. Just let me know when you get there.

4 A. Okay.

5 Q. Go to line one, Mr. Oates says -- or line

6 two, (reading): "He looked at me and he goes

7 'okay, you're going to come get this shit off.

8 You're going to come get this shit off now.' I

9 said, 'Okay, no problem. No problem.' He

10 unlocked the door of my truck, pulled the

11 handle and opened it. And as he opened it, he

12 was stepping down off the running board."

13 So he was opening it with his left hand,

14 correct?

15 A. Yes, sir.

16 Q. And on line seventeen, it says (reading):

17 "He had it out completely, I could see the

18 entire pistol. It was out and he had it in a

19 motion, rolling."

20 A. Okay.

21 Q. Line twenty, he says "it looked like a

22 Glock"?

23 A. Yes, sir.

24 Q. And that's in the first statement?

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1 A. Yes.

2 Q. Okay. Then if we go to page twenty one ---

3 A. Of which one?

4 Q. Of the first statement. We will go to line
5 twelve, Mr. Oates says (reading): *"No offense,*
6 *but if you've got a head pointed to your head*
7 *you're not going 'oh, that's nice, what size'*
8 *-- that's a nine."*

9 A. Right.

10 Q. So that would indicate that in the first
11 statement he stated that the gun was pointed at
12 his head?

13 A. You can interpret it that way.

14 Q. *"No offense, but if you've got a gun*
15 *pointed to your head you're not going to go*
16 *'what size'..."* -- I guess he is talking about
17 the caliber, nine millimeter?

18 A. Right.

19 Q. Okay. Then on page seventy-five in the
20 first statement, the statement on the twenty-
21 fourth, ---

22 THE COURT: What page did you say?

23 MR. NEWMAN: Seventy-five.

24 THE COURT: Excuse me. Thank you.

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1 REDIRECT EXAMINATION CONTINUED

2 BY MR. NEWMAN:

3 Q. Page seventy-five, line two, Oates says,
4 "As he was opening the door, he said "get out",
5 pulling the door open. As he pulled it, I
6 looked at him and he was drawing." Correct?

7 A. That's correct.

8 Q. And on line fourteen, (reading):

9 "Yelling again, get out, get out, get out, take
10 it as you want it. And I wasn't sure if his
11 intentions while he was drawing was to have it
12 out that way, the intimidation factor, you're
13 going to do as I say, get that boot off my car
14 or else, or 'You know what? He doesn't have
15 any of my information, he doesn't have my
16 numbers, he doesn't know who I am, there is no
17 paperwork in his truck linking us together.'
18 That's what was going through my head. Flip a
19 coin. Flip a coin. That's what I was thinking
20 at that moment, that was my flash."

21 A. Yes.

22 Q. And if we go to the second statement, this
23 is Captain Bromage's statement of the 27th, ---

24 A. Page number?

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1 Q. I'm sorry. Page thirty-four in that
2 statement, starting in the first paragraph,
3 line three, -- your there?

4 A. Yes, sir.

5 Q. (Reading): "I guess. I am guessing that
6 it is his brother over there, because when I
7 glanced in the rear view mirror, you know, the
8 side mirror on the truck, I didn't see anybody
9 on the side of the truck, so I am guessing that
10 it was his brother ..." -- I guess he is
11 referring to Nelson -- "...over there trying to
12 figure out how to operate that boot."

13 A. Okay.

14 Q. Now, you got from your investigation that
15 the keys were on the back of the truck.

16 A. That's correct.

17 Q. There was a tool or some kind of device
18 that apparently operates that boot which was
19 laying on the ground by it?

20 A. Yes, sir.

21 Q. And the boot was still on there?

22 A. Yes.

23 Q. So as an investigator you're able to draw
24 the conclusion that Nelson wasn't able to

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1 figure out how to get that boot off?

2 A. That's correct.

3 Q. Then if we go to the same page, page
4 thirty-four on the interview by Captain Bromage
5 on December 27th, go to line ten, (reading):

6 "So after that he steps back and he has -- on
7 his left -- he steps one -- not steps back but
8 he steps over a little bit more away from the
9 mirror, looks at me and says, 'Okay, you are
10 getting out now. We're done.' And I went to
11 ask him, 'what do you mean, we're done.' And
12 he says, "Get out now, we're done." He pulled
13 the door open with his left hand as he is
14 stepping back." Is that correct?

15 A. Yes.

16 Q. So in the two statements, he was consistent
17 that the decedent, Mr. Carlos Olivera, ordered
18 him out of that truck?

19 A. Yes.

20 Q. All right. And at the time that he was
21 ordered, irrespective of where the pistol would
22 have been, Carlos Olivera was armed with a
23 Glock, .40 caliber pistol, semiautomatic?

24 A. Irregardless of where it was, yes.

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1 MR. NEWMAN: Thank you.

2 THE COURT: Recross?

3 MR. STONE: Nothing else at this
4 time, Your Honor.

5 THE COURT: Thank you. You may step
6 down.

7 (WITNESS STEPS DOWN)

8 THE COURT: Mr. Newman, you may call
9 your next witness?

10 MR. NEWMAN: Yes, sir. I think with
11 the Solicitor's consent that I could put my
12 next witness up without actually putting a
13 witness up.

14 THE COURT: Okay.

15 MR. NEWMAN: We're looking at this
16 video.

17 THE COURT: Yes, sir.

18 MR. NEWMAN: Just to set you up,
19 Judge, this portion of the video -- and I
20 appreciate the Solicitor letting me use his --
21 mine is kind of old, with all the wires and
22 that stuff.

23 THE COURT: Sure.

24 MR. NEWMAN: What you are going to
25 see in this video is -- I'll start it a little

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1 bit before here. You are going to see Mr.
2 Oates pulling up and backing the tow truck up.
3 When we get -- I am going to slow it down or
4 stop when we get to minute four-forty, I
5 believe it is, I am going to ask the court to
6 kind of pay a little bit of attention to that
7 and I am going to stop it.

8 THE COURT: Sure.

9 MR. NEWMAN: This is where we contend
10 that Carlos Olivera pointed a gun at Mr. Oates
11 head.

12 THE COURT: Thank you.

13 MR. STONE: Is it at the right
14 angle?

15 MR. NEWMAN: We can move it.

16 MR. STONE: It's on wheels.

17 THE COURT: This video will also be
18 placed into evidence, I assume?

19 MR. NEWMAN: Yes, sir, the Solicitor
20 and I ---

21 MR. STONE: Yes, sir.

22 MR. NEWMAN: --- are going to figure
23 out how to get you a disk with all the video on
24 it.

25 THE COURT: All right.

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1 MR. NEWMAN: As I said, for our
2 purposes here there is twenty minutes of video
3 that shows nothing but a car parked.

4 THE COURT: I understand. If you
5 want to only produce that portion that you
6 played, I don't have any problem as long as we
7 understand and agree that that is the only part
8 that forms the record of this proceeding. If
9 you want the whole one, that's fine. I have no
10 problem with that. For purposes -- at this
11 juncture the whole video is a part of the
12 record. But if you decide that all you want
13 the record to contain is that portion which is
14 played, that's fine, but I would like a
15 stipulation that states that. Okay?

16 MR. NEWMAN: Yes, sir. I will
17 stipulate that. There are two videos that are
18 roughly twenty minutes, that show absolutely
19 nothing other than this car being parked.

20 THE COURT: Well, I mean -- y'all
21 think about it. We may -- after we conclude
22 this -- again, when we're talking about
23 preparing the record, that's all we are talking
24 about. If you want the whole video to be a
25 part of the record for purposes of review,

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1 that's fine. But if you agree that only the
2 portion that was played is -- that's fine, too.
3 I just need to know what I am to consider as
4 the record.

5 MR. NEWMAN: Yes, sir. Thank you,
6 Your Honor.

7 MR. STONE: Do you mind if I stand
8 here, Your Honor.

9 THE COURT: No. Help yourself.
10 That will be fine.

11 MR. STONE: Do you need some help?

12 MR. NEWMAN: This is -- I believe
13 that you're going to now see the wrecker being
14 pulled up.

15 THE COURT: Okay.

16 MR. NEWMAN: (Video playing) -- or a
17 car go by. (Video playing) -- again. (Video
18 playing), I think we've all agreed that would
19 be Mr. Varedi?

20 MR. STONE: Yes.

21 THE COURT: That is the person who
22 had the surveillance ---

23 MR. NEWMAN: Yes, sir. (Video
24 playing), and there's the PRO Tow wrecker
25 coming in sight. If you notice, Mr. Varedi

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1 went this way, which is where Mr. Nelson
2 Olivera's house is.

3 THE COURT: Okay.

4 MR. NEWMAN: (Video playing),
5 this, we believe, is Mr. Carlos Olivera's wife
6 walking around wearing the dress.

7 (Video playing), and we don't know --
8 we know that the keys went back there and that
9 the device went back there. Our contention is
10 that when you see them walking back and forth
11 to that car is either the keys or -- and maybe
12 that second one is that funky device you saw.

13 (Video playing) -- okay, that ends
14 this particular, and it starts back at the
15 beginning.

16 But we wanted to show you these, the
17 next tape that you saw was the actual shooting
18 that is a minute or two after this, but I
19 wanted the Court to have the flavor of people
20 walking up to his window, that they were there,
21 and it was Mr. ----

22 THE COURT: Is it everybody's
23 contention that at that point the Defendant is
24 sitting in the cab of his truck?

25 MR. NEWMAN: (Affirmative nod), that

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1 he is in the cab of his truck.

2 THE COURT: Okay.

3 MR. NEWMAN: That's all that I have
4 with the video evidence.

5 THE COURT: Do you wish to play any
6 additional portions, Solicitor, at this time?

7 MR. STONE: No, I think that this is
8 -- we would have no objection to putting that
9 in in its entirety. I think that it is
10 probably to put that in as it is, in its
11 entirety. The other one we have already
12 discussed, I think, goes in. We don't have any
13 objection to either one of those.

14 THE COURT: I think the entire video
15 has significance. I would agree with you. Not
16 just select portions.

17 MR. NEWMAN: I guess we would jointly
18 move those as a Court's exhibit.

19 MR. STONE: I think everything that
20 we have, Your Honor, is marked as a court's
21 exhibit at this point.

22 THE COURT: All right, that would be
23 Court's Exhibit 4, then, the entire video?

24 COURT REPORTER: If we could mark it
25 as Exhibit 5, Your Honor. I have reserved

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1 Exhibit 4 for the packet mentioned earlier.

2 THE COURT: That's fine. Court's
3 Exhibit 5 will be the video. That's the
4 surveillance video. For my purposes, is that
5 how you refer to it, as the surveillance video?

6 MR. NEWMAN: Yes, sir.

7 (SO ENTERED AS COURT'S EXHIBIT 5)

8 THE COURT: All right.

9 MR. NEWMAN: At this time, Your
10 Honor, -- and I've notified the Solicitor of
11 this, I want to call David Rice.

12 (WITNESS TAKES STAND)

13 DAVID RICE, being duly sworn to tell
14 the truth, the whole truth and nothing but the
15 truth, testified, as follows:

16 DIRECT EXAMINATION

17 BY MR. NEWMAN:

18 Q. David, where are you employed?

19 A. I am a -- I actually own and operate a
20 water sports charter. I am a boat captain.

21 Q. All right, sir. Prior to that were you a
22 law enforcement officer with the Beaufort
23 County Sheriff's Department?

24 A. Yes, sir, I was.

25 Q. How long did you work for Beaufort County

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1 Sheriff's Department?

2 A. From 1991 to 2004, thirteen years.

3 Q. All right, sir. Did you work in any other
4 law enforcement capacity prior to that?

5 A. No, sir.

6 Q. Are you a graduate of the South Carolina
7 Criminal Justice Academy?

8 A. Yes, sir, I am.

9 Q. And having you had training courses beyond
10 basic training?

11 A. Many. Yes, sir.

12 Q. All right. In what areas?

13 A. During my career as a law enforcement
14 officer, I was a firearms instructor, I was a
15 driving instructor, I was a chemical weapons
16 instructor. I was in armor, I attended
17 numerous/various shooting classes -- tactical
18 weapons classes, trained with the SWAT Team.

19 Q. In what capacity have you served at the
20 Sheriff's office. We know everybody, at least
21 I did, starts as a road deputy.

22 A. Yes, sir.

23 Q. All right, tell the Judge your advancement
24 with the Sheriff's office?

25 A. I started out as a patrol officer for about

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1 three years before I was assigned to the drug
2 task force as an investigator. I worked with
3 the drug task force for a couple of years and
4 then went back to the road. Hilton Head formed
5 a traffic enforcement unit in the late '90s and
6 I was one of the original members of that.
7 Then shortly after Sheriff Tanner took office,
8 I was promoted and reassigned as supervisor of
9 the multijurisdictional narcotics task force.

10 Q. All right.

11 A. Then after doing that for about three
12 years, I went back to the patrol division as a
13 shift supervisor and was running a patrol
14 shift.

15 Q. Okay. And in your advanced training
16 classes through the Academy, have you had
17 classes on crime scene investigation?
18 Investigations in general? Those types of
19 classes?

20 A. Yes, sir.

21 Q. Let's talk about another career. Are you
22 familiar with CPWs, concealed weapon permits?

23 A. Yes, sir.

24 Q. Are you -- are or were you certified as an
25 instructor to give CWP classes?

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1 A. Yes, sir, I was certified as a South
2 Carolina concealed weapons permit instructor.

3 Q. All right. Currently that is not active,
4 is that correct?

5 A. No, sir. It's expired. I am actually in
6 the process of getting it renewed.

7 Q. Okay.

8 A. But I haven't been active in it recently.

9 Q. All right. And you're taught to teach the
10 classes that are mandatory for people to get a
11 gun permit? They have to attend a training, is
12 that correct?

13 A. Yes, sir. It's an eight-hour class but a
14 qualification course of fire with an actual
15 weapon.

16 Q. You fire fifty rounds with a weapon?

17 A. Yes, sir.

18 Q. All right, sir.

19 MR. NEWMAN: Your Honor, at this time
20 I would like to offer David Rice as an expert
21 in the areas of police tactics and
22 investigations and in the area of a CWP
23 instructor.

24 THE COURT: Solicitor, what's your
25 position?

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1 MR. THORNTON: Your Honor, I don't
2 -- I don't know that I am comfortable with
3 that, Judge. I mean, he's got -- I understand
4 that he's got his prior experience. He's not
5 currently licensed as a concealed weapons
6 permit instructor. As to police tactics with
7 the Berkeley County Sheriff's Office, I think
8 he would be qualified.

9 THE COURT: Under Watson, I don't --
10 you're going to have to tell me about the
11 science of police tactics before I can qualify
12 him as to police tactics. You've got to lay a
13 foundation for that.

14 As to the weapons instructor, he can
15 testify to that. I don't know that he needs to
16 be an expert to testify as to what he
17 instructed as to -- probably it's a 702 opinion
18 based on his prior experience.

19 But police tactics, I am going to have
20 to be -- you're going to have to establish the
21 science in what he's going to testify to as the
22 -- there are four factors, I think, three or
23 four factors, that Watson requires me to decide
24 before I admit that. So it's your call. I
25 mean, what do you want to do? I don't know how

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1 critical police tactics is to your case. I
2 don't know what that has to do with this issue.
3 I guess my first question is that I am not sure
4 that I understand how that has anything to do
5 with the question that I have to decide as a
6 matter of law, whether the immunity statute
7 applies. Because police tactics doesn't have
8 anything to do with -- is not going to have
9 anything to do with my decision.

10 MR. NEWMAN: Let me see if I can
11 narrow it down a little bit for you.

12 THE COURT: All right.

13 MR. NEWMAN: First tell you what I
14 want to get in. You might tell me, 'I don't
15 want to hear that.' So it is not relevant at
16 all.

17 THE COURT: Well, I -- as I stated,
18 we're weighing relevancy. While you're going
19 -- go ahead and ask him the question and I'll
20 pull up my file on Watson and we will see where
21 we are. You can ask the questions. If they
22 object to it, then we will see whether we need
23 to have expertise.

24 MR. NEWMAN: Thank you.

25 DIRECT EXAMINATION CONTINUED

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1 BY MR. NEWMAN:

2 Q. Through your training or specialize
3 training through the Beaufort County Sheriff's
4 Department and with the training with the SWAT
5 Team, were you trained in close combat tactics?

6 A. Yes, sir.

7 Q. All right. Tell me about that training.
8 How you started to even get into that.

9 A. I mean, -- well, it's a learning curve.
10 It's a process. Obviously as you mentioned
11 earlier, you start out as a basic officer, you
12 know, a rookie, and you receive firearms
13 training regularly. Part of the firearms
14 training includes use of force when use of
15 force is justified, and what situations in
16 which use of force would be justified.

17 Q. And that is also taught in basic about the
18 ability, opportunity and jeopardy of when you
19 can shoot and not shoot?

20 A. Yes, sir.

21 Q. When I say close combat, you've had
22 practical training, through basic in the
23 Academy and through SWAT training, dealing with
24 situations with armed attackers; is that
25 correct?

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1 A. Yes, sir.

2 Q. And what you ideally would like to be able
3 to do and have prepared tactics -- to deal with
4 an armed attacker. Is that correct?

5 A. Yes, sir.

6 MR. NEWMAN: Judge, it is limited to
7 that are that I want to ask him the questions?
8 One of the things that I am going to -- there
9 is a reason that I asked. One of the things
10 that I am going to point out to the court,
11 would like to point out to the court, and will
12 argue in summary to the court, there is a large
13 base of mostly federal law, I do have some
14 South Carolina law, on the issue -- since we're
15 talking about immunity -- of qualified
16 immunity.

17 THE COURT: Hold on. I appreciate
18 that. Qualified immunity is not mentioned in
19 this statute. It is a very specific statute
20 and I'm going to construe it specifically, as I
21 understand the Court did in the *Duncan* case,
22 which is the one case that we have.

23 Again, when to use -- it seems to me
24 that that is more relevant to the issue of
25 self-defense than it is to immunity, because

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1 the immunity -- if the immunity is met, you
2 don't even get to that point. It's not
3 necessary. It is not even germane because if
4 the person meets the statute, they don't have
5 to worry about self-defense. They don't have
6 to worry about presenting testimony that may
7 raise the issue and create the reasonable doubt
8 because, as we know, the State has to prove
9 guilt beyond a reasonable doubt, which means
10 having to consider self-defense. I don't do
11 that because the whole purpose of this is to
12 avoid even going to that. That's why I don't
13 know what it has to do with immunity. That's
14 my concern.

15 I don't -- I understand what you're
16 doing and I don't -- as I stated, -- the
17 purpose of -- that could be a debate, we could
18 go from now to probably next week this time
19 debating what somebody should or shouldn't have
20 done. But that's not what I am here to decide.
21 I am here to decide whether or not this conduct
22 falls within the statute and therefore immunity
23 would apply and this person, while charged,
24 should not have to stand trial. Should not be
25 prosecuted any further under that statute.

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1 That's all that we are talking about. We never
2 get to the point of whether he used it properly
3 or not, because the question is -- did he do
4 what the statute allows him to do and,
5 therefore, raise the immunity issue, is the way
6 I look at it.

7 MR. NEWMAN: But that -- the parallel
8 that I was trying to draw for the court, on the
9 immunity issue, is when police officers are
10 sued for excessive force or unjustifiable use
11 of force, that if they can show ---

12 THE COURT: But, you see, that's
13 probably why we even -- I haven't even thought
14 about it but, yeah, that talks about qualified
15 immunity because they're using -- they are in
16 conjunction with law enforcement. It may be
17 why they put that part in the statute that says
18 that it doesn't apply to law enforcement
19 officers,

20 MR. NEWMAN: Well, if you shoot a
21 law enforcement officer. Yes, sir, I
22 understand that. But what I am saying is that
23 -- is that on the immunity statute, you have to
24 meet certain criteria. You have to be faced
25 with someone entering or attempting to enter

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1 your vehicle -- and I will limit it to vehicle
2 and/or business. That if you are confronted
3 with an armed attacker that the statute raises
4 a presumption that you are, because the statute
5 does talk about the elements of self-defense,
6 that you're acting ---

7 THE COURT: Listen, you're getting
8 in -- you're trying, and doing a very artful
9 job as a lawyer. I don't fault you for it.
10 You're using that and bootstrapping that into
11 the self-defense, that you have to prove that
12 you were really in fear. The statute creates
13 that for you because it says 'you are presumed
14 to be in fear.' I am not even -- that is not
15 my issue.

16 My issue here -- because it really --
17 at that point it doesn't matter what he says
18 that he is trained to do, when to use it.
19 Because under the law, as I see it, if they're
20 -- if they fall within that presumption and
21 that provision -- for instance, the *Duncan*
22 case. Let's just talk about the *Duncan* case.

23 We were talking back there. The
24 porch. Is that inside the house? The Court
25 has construed it and I think that's a

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1 legitimate -- legitimately so. It may be that
2 some persons would say, 'Oh, no, you don't have
3 a right to shoot somebody there. You know,
4 that's just wrong.' But the statute doesn't
5 get to that point. The statute says that if
6 you're there and you're unlawfully there and I
7 shoot you, you can't prosecute me. That's what
8 Duncan said. That's where we are.

9 MR. NEWMAN: And that's what we are
10 trying to argue to you in this case.

11 THE COURT: I understand you are.
12 But whether or not this person was in fear, we
13 don't need to establish that, because he
14 doesn't have to. Correct?

15 MR. NEWMAN: The statute gives him
16 that presumption, that the person is armed.

17 THE COURT: The presumption -- the
18 problem that we have, as I mentioned there, is
19 that we have conflicting evidence of where he
20 was and therein lies the problem.

21 For instance, let's just say -- and we
22 all agreed back there that there wasn't any
23 testimony. If he shoots the victim through the
24 window of his vehicle, and I am not faced with
25 that but if that's what we are dealing with,

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1 that's probably within the statute, strictly
2 construing the statute. But I don't have that.
3 That's what I am saying. It doesn't matter
4 whether he should have cranked up the car,
5 whether he should have rolled up the windows,
6 whether he should have driven. That statute,
7 as I read it, would give a person the right if
8 somebody is trying to enter that vehicle to use
9 deadly force.

10 MR. NEWMAN: Right, and you don't
11 judge it with twenty-twenty hindsight.

12 THE COURT: No, you don't judge it
13 with twenty-twenty hindsight. I'm not judging
14 it. You don't judge whether they were right or
15 wrong in using deadly force, because the
16 statute gives you the right to do so. So it
17 doesn't really matter what the training is.
18 Because the training may be, 'well, I don't see
19 the gun right now. I don't have the gun.' You
20 don't have to have a gun. I mean, I don't ---

21 MR. NEWMAN: Gregory Duncan was
22 unarmed.

23 THE COURT: I don't see that being
24 necessary anymore if -- if the person is trying
25 to enter the confines of a vehicle or a

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1 dwelling. No question. That's what the law
2 says.

3 But that's not what the -- I know that
4 there are conflicting stories, at least thus
5 far. Clearly there is a conflict. So that's
6 my concern. That's where I am. I don't have
7 any problem with his testimony if he wants to
8 -- I just don't know what he has to testify
9 about the state of mind, because the state of
10 mind is not an issue if your position is that
11 he had a right to shoot because he was in his
12 vehicle, which I assume that's what your
13 position is.

14 MR. NEWMAN: That's what our
15 position is, and that ---

16 THE COURT: So it doesn't matter
17 whether he thought he was in danger or anything
18 else, because the statute already establishes
19 that.

20 MR. NEWMAN: All right, that's what
21 Mr. Rice will go to.

22 THE COURT: It's really not
23 necessary. That's why I say I don't think it's
24 germane. It may be germane to a self-defense
25 argument. But it's not germane to the immunity

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1 because it's not an issue with immunity.

2 MR. NEWMAN: I understand the court's
3 ruling.

4 THE COURT: Okay.

5 MR. NEWMAN: Can I shorten it up and
6 say that Mr. ---

7 THE COURT: Having said that, this
8 is your case, your day. You ask the questions
9 that -- as long as they don't object -- when I
10 started practicing in 1973 there was a great
11 trial judge from Charleston, Judge Singletary.
12 I happened to be sitting there, as I had a case
13 and was watching the end of a case -- Bob
14 Wallace was the solicitor, excellent lawyer.
15 Bob Wallace was a masterful leader. You know
16 what I mean. He could ask leading questions.

17 The lawyer said, after about -- he
18 said fifteen, I think it was more like twenty
19 or twenty-five. He said, 'Your Honor, I object
20 to the question as leading, as were the last
21 fifteen.' Judge Singletary -- I will never
22 forget it, said, 'I sustain the objection as to
23 the last question. As to the previous fifteen
24 you didn't object and therefore it was proper.'

25 So whatever you want to ask him, as

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1 long as there is no objection, it's fine, fair
2 game. So do what you need to do, having said
3 that.

4 MR. NEWMAN: Let me then start with
5 the easier part of it, if the solicitor doesn't
6 object.

7 DIRECT EXAMINATION CONTINUED

8 BY MR. NEWMAN:

9 Q. As a former licensed trainer in CPW
10 classes, is part of the instruction that a
11 concealed weapon means concealed?

12 A. Yes, sir, it is.

13 Q. And do you instruct on that you can show
14 your gun to somebody, that you can threaten
15 them with it?

16 A. Absolutely not.

17 Q. The only time that it is supposed to come
18 out is if you're going to use that gun for
19 self-defense?

20 A. Absolutely. Yes, sir.

21 Q. Okay. And that's -- you teach them that
22 that is a violation of South Carolina law if
23 you go showing people your weapon?

24 A. Yes, sir.

25 SEAN THORNTON: Objection as to

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1 relevance, Your Honor.

2 THE COURT: I sustain it. The court
3 take judicial notice because it's pointing and
4 presenting. Presenting is flashing a firearm.
5 It's against the law. I understand that.

6 MR. NEWMAN: All right. Then I am
7 hammering a nail that's already, apparently,
8 in.

9 THE COURT: It's there. The law
10 says that. I don't have any problem with that.

11 MR. NEWMAN: All right. Then I guess
12 the area that I would get into with Mr. Rice is
13 the elements of opportunity, ability and
14 jeopardy when you are able to fire at somebody,
15 within his training.

16 THE COURT: Okay, I don't know what
17 that has to do with the immunity statute,
18 because it doesn't matter. You don't have to
19 establish that. What has to be established is
20 were you in a dwelling, were you in ---

21 MR. NEWMAN: --- an occupied vehicle,
22 (affirmative nod).

23 THE COURT: Dwelling, residence, or
24 occupied vehicle. Those are the three areas.

25 MR. NEWMAN: We are also arguing

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1 business.

2 THE COURT: Well, business says that
3 you don't have a duty to retreat. I understand
4 that. I -- there will be some arguing about
5 that part of it. I understand that goes back
6 to what we were talking about there, as to
7 whether or not a person is acting properly.
8 But clearly the statute -- we all read it, it's
9 to a problem. It's very, very straightforward.
10 It says against whom the deadly force, in the
11 process of unlawfully and forcibly entering or
12 has unlawfully or forcibly entered a dwelling,
13 residence or occupied vehicle. Of if he
14 removes or is attempting to remove another
15 person against him will from the dwelling,
16 residence or occupied vehicle. Those are the
17 areas -- at least page one.

18 MR. NEWMAN: And that is the area,
19 attempting to recover, that we wanted to focus
20 on.

21 THE COURT: I understand but it
22 doesn't matter -- I understand that's your
23 argument of the facts, but the question is when
24 is it proper to use it. That's not germane.
25 That's all I am saying to that issue. He

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1 doesn't shed any light on that, because if your
2 position is that he was attempting to remove
3 him and therefore he shot -- which I what I
4 hear you've been arguing.

5 MR. NEWMAN: Yes, sir.

6 THE COURT: Then it doesn't matter
7 whether he should or shouldn't have, he has the
8 right under this statute to do. That's
9 precisely my point. It avoids having to get to
10 that because you never get there. That may be
11 in the self-defense issue but it's not in an
12 immunity issue, the way that I see it. Because
13 I don't need to deal with self-defense at this
14 stage. Self-defense would only apply in a
15 trial. It doesn't apply in this. Unless you
16 can point me to where it says that it does.

17 MR. NEWMAN: Well, I want to -- what
18 I want to try and show the court, and you may
19 be right just on the self-defense, whether this
20 was a good shoot or not a good shoot.

21 THE COURT: I don't have ---

22 MR. NEWMAN: And if you don't have to
23 make that decision ---

24 THE COURT: I don't make that
25 decision. *Duncan*, we all -- I think it says --

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1 I don't recall it saying anything about he -- I
2 don't remember, but I don't believe that he was
3 armed.

4 MR. NEWMAN: He was not armed. He
5 was shot in the face.

6 THE COURT: So technically --
7 obviously if he wasn't armed -- I mean, he
8 would -- I think he would say -- see, that's
9 the problem. This construction -- I don't know
10 that -- he's not certified now. I don't know
11 what they are going to have to instruct in view
12 of this statute now. Maybe you -- if you want
13 to go into that, in view of this statute, what
14 he has instructed persons, that's fine. That
15 may be germane. I don't know.

16 MR. NEWMAN: No, the only point on
17 the CWP part that I wanted to show the court is
18 that people who have CWPs are trained that you
19 cannot brandish them.

20 THE COURT: They are trained not to
21 violate the law. That's a direct violation of
22 the law. As I said, I don't need testimony on
23 that.

24 MR. NEWMAN: There's a ---

25 THE COURT: People are supposed to

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1 abide by the law.

2 MR. NEWMAN: As long as the court
3 gets it, I ---

4 THE COURT: I get it.

5 MR. NEWMAN: All right, then I --
6 then I'm done with this witness.

7 THE COURT: Good. Any questions,
8 Solicitor?

9 SEAN THORNTON: None, sir.

10 THE COURT: Thank you, sir. You may
11 step down.

12 (WITNESS STEPS DOWN)

13 MR. NEWMAN: If I could have one
14 second?

15 THE COURT: Sure, take your time.

16 MR. NEWMAN: (Sidebar with Mr.
17 Colonegi), -- I think with that, Your Honor, if
18 you will just leave it open to where we can
19 make sure that we've got all the exhibits in,
20 that would be the petitioner's case at this
21 juncture.

22 THE COURT: Very well. All right.
23 Solicitor, do you wish to present any
24 testimony?

25 MR. STONE: Your Honor, we do not.

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1 The only thing that I do offer -- and we have
2 stipulated this, is the pathology report. I
3 could mark that as ---

4 THE COURT: I believe that we agreed
5 to that.

6 MR. STONE: Yes.

7 MR. NEWMAN: We have stipulated for
8 the Solicitor that the decedent died as a
9 direct result of the gunshot wounds in Beaufort
10 County on the 25th of December last year.

11 THE COURT: That's fine.

12 MR. STONE: Your Honor, this would
13 be Court's Exhibit 6.

14 THE COURT: Very well, the pathology
15 report is Court's Exhibit 6.

16 (SO ENTERED AS COURT'S EXHIBIT 6)

17 MR. STONE: And for your purpose,
18 Your Honor, if I could hand that up to you,
19 sir.

20 THE COURT: Certainly, you may.

21 MR. STONE: We will be very brief.

22 THE COURT: Take your time. Take as
23 long as you need, sir.

24 MR. NEWMAN: That would be -- the
25 report being in, Your Honor, as you've limited

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1 the issue to the immunity issue, I think what
2 the Solicitor is going to show you is several
3 gunshots through a torso and a head. It's our
4 position, consistent with your ruling, that --
5 that's the whole reason that I was going to
6 have Mr. Rice to testify. I believe that this
7 likewise would be irrelevant to this
8 proceeding.

9 THE COURT: Except for one thing.
10 I don't know what -- why don't you object to
11 specifics, because I can think of things -- and
12 I am not going to be -- I haven't read the
13 report. This is the first time that I've seen
14 it, just this second. There are some parts
15 that, to me, could be germane to this issue of
16 where he was. I certainly would be happy for
17 him to explore, if it presents it. I don't
18 know.

19 MR. NEWMAN: That is what Mr. Rice's
20 testimony would ---

21 THE COURT: If you want to recall
22 Mr. Rice, he's sitting right behind you. I
23 will be delighted to hear that. I am going to
24 try to be fair in my ruling, just -- I need you
25 -- I am not -- I can't -- I learned this the

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1 hard way, Mr. Newman. Learned it early with
2 lawyers in -- it was a practice that wasn't
3 started, shows how the practice of law has
4 evolved, until my latter stages before I left
5 the practice. But lawyers file, and you may
6 have done it, Motions in limine. Motions in
7 limine are a trap to a judge, I think.

8 Because I heard one and we argued
9 about it and I said, 'Well, there is no way
10 that I am going to allow that evidence.'
11 That was my -- I mean, adamant position.
12 The second witness on the stand, I thought,
13 'Holy, there is no way to keep it out.' But
14 nobody told me that these people are going to
15 testify to that. They knew it, but I didn't
16 know it. So the same is true here. I don't
17 know what he is going to testify to. I haven't
18 read it. So you can make an objection and if I
19 think you're right, I will sustain it. If not,
20 I will overrule it and we will see where we go.
21 Thank you.

22 Solicitor, you may proceed.

23 MR. STONE: May it please the Court,
24 Your Honor, I will call your attention to the
25 autopsy report, which I believe is Court's

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1 Exhibit 6, three of nine.

2 THE COURT: Yes, sir.

3 MR. STONE: Specifically the
4 gunshots that are labeled A, B, C, D, E and F.
5 I do not believe that this indicates any
6 particular order.

7 THE COURT: Okay.

8 MR. STONE: Your Honor, Gunshot A,
9 is a gunshot wound to the neck, showing that
10 the entrance wound is to the posterior neck
11 located seven and three-quarters inches below
12 the top of the head. That is this shot here,
13 Your Honor, and I realize that the record will
14 not show this, but this is basically just a
15 projectile into the neck.

16 THE COURT: Okay.

17 MR. STONE: A gunshot wound to the
18 abdomen is B. That is a shot located twenty
19 inches below the top of the head, then leaving
20 the body at twenty-one inches from the top of
21 the head and to the right of the midline. She
22 I will label that as well, Your Honor. That
23 would be the second shot here.

24 MR. NEWMAN: As to these shots, Your
25 Honor, I object on the issue of relevancy.

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1 THE COURT: I think it is relevant
2 as to where he was. I'm sorry. I mean, it
3 goes to that issue. Does it conclusively
4 determine it, I don't know.

5 MR. NEWMAN: As to where Mr. Olivera
6 was?

7 THE COURT: Yes. Yes, it -- Mr.
8 Newman, thank you, sir. I overrule your
9 objection. I think it's relevant.

10 MR. NEWMAN: Yes, sir. I am ---

11 THE COURT: I will be happy to
12 debate it with you at another time, but I think
13 it's relevant, sir.

14 MR. NEWMAN: No, sir, I am not
15 arguing with you at all.

16 THE COURT: Thank you, sir.

17 MR. STONE: May it please the court,
18 Your Honor, gunshot wound "C" is a gunshot
19 wound to the back. This is the middle back,
20 situated nineteen inches below the top of the
21 head. That would be the shot here.

22 THE COURT: I'm assuming for
23 purposes of this demonstration that the red
24 tags are the entry points?

25 MR. STONE: They are, Your Honor. I

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1 apologize, these are ---

2 THE COURT: No, that's fine. Just
3 for the record, that that is shown as being --
4 and you stated from the back, but the tag is
5 placed on the back.

6 The second one that you identified,
7 which is B, the tag is on the front, showing
8 basically what appears to be a through and
9 through type shot?

10 MR. STONE: That is correct, Judge.

11 THE COURT: All right.

12 MR. STONE: Gunshot wound to the
13 left side of back is "D", (placing dowel into
14 model). That exits through the left arm.

15 On page five of nine, gunshot wound to
16 the right arm. That one also indicates begins
17 as the entrance is the posterior aspect of the
18 right arm. This shot here, (placing dowel).

19 Then finally -- and, again, this is in
20 no particular order. This is simply the
21 autopsy report.

22 THE COURT: I understand.

23 MR. STONE: Gunshot "F" is a gunshot
24 wound to the left side of the upper back. That
25 shot, Your Honor, is stopped by the sternum, so

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1 that does have an exit wound.

2 That's all that we would offer on
3 this, Your Honor.

4 THE COURT: All right. Let me, just
5 for the purposes of the record now that I have
6 that, Mr. Newman, your objection on relevance
7 is noted. I would agree with you as to the
8 sense as to the relevance as to his right to
9 shoot if the Court should conclude that he was
10 pulled out of the vehicle and he was shooting.
11 It merely confirms that he was shot and that he
12 at some point was -- was -- had his back to
13 him. But there is testimony from the
14 statements that he had placed the gun, that he
15 had turned and was walking away, which would be
16 inconsistent with pulling him out of the car.
17 If the court were to believe that, that doesn't
18 go to the issue of immunity but rather goes to
19 an issue that says by the presumption of the
20 evidence -- by the preponderance of the
21 evidence that I can't conclude that it is
22 probably so. So that's why it is relevant to
23 the court at this point. Thank you, sir.

24 MR. STONE: The only else that we
25 would offer, Your Honor, is that we have the

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1 oral tapes of the statements. The transcripts
2 have already been admitted into evidence, but
3 we have those on disks as well.

4 THE COURT: Those are of whom?

5 MR. STONE: This would be the
6 statements of Preston, the one dated December
7 24th, 2010, which is the audio of the
8 transcript.

9 THE COURT: I see. Why don't we do
10 this? Let's make the transcript, Deb (court
11 reporter), for purposes of clarity the
12 transcript would be 1A.

13 COURT REPORTER: The date ---

14 THE COURT: Yeah, let's -- I have
15 already referred to it as a court's exhibit.
16 We will make it Court's Exhibit 7, is the audio
17 of the 24th's statement?

18 MR. STONE: Yes, sir, that's
19 correct.

20 (SO ENTERED AS COURT'S EXHIBIT 7)

21 THE COURT: Court's Exhibit 8 will
22 be the audio of the 27th's statement, the
23 December 27th statement.

24 (SO ENTERED AS COURT'S EXHIBIT 8)

25 MR. NEWMAN: The Solicitor just

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1 handed me another statement from Mr. Olivera
2 that, quite frankly, completely contradicts his
3 first statement. But if they want to put it
4 into evidence, I don't think that I have an
5 objection to it.

6 THE COURT: Very well. Thank you,
7 sir.

8 (SO ENTERED AS COURT'S EXHIBIT 9)

9 THE COURT: It's a statement of
10 whom?

11 COURT REPORTER: Nelson Olivera.

12 MR. NEWMAN: Just a minute.

13 THE COURT: Okay.

14 MR. STONE: Your Honor, this is a
15 statement of Claudia Olivera. This was
16 referenced earlier when Detective Biens was on
17 the stand. That would be number ten.

18 (SO ENTERED AS COURT'S EXHIBIT 10)

19 MR. STONE: Excuse me just a moment.

20 THE COURT: Certainly. Thank your
21 time.

22 MR. STONE: Your Honor, this is
23 Court's Exhibit 11. This is the statement of
24 -- this is actually Dyhan Olivera. It says
25 Zabeli Olivera. This also was referenced by

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1 Detective Biens, but I referred to her as
2 Dyhan, and that's why ---

3 THE COURT: That's fine.

4 (SO ENTERED AS COURT'S EXHIBIT 11)

5 MR. STONE: I believe that's all
6 that we have.

7 THE COURT: Mr. Newman, do you have
8 any additional -- do you wish to have any
9 additional?

10 MR. NEWMAN: Yes, sir, I do. This is
11 the -- unfortunately it's not numbered page of
12 pages, but is the report dated 1-11-11 from
13 Angela Biens, the witness who took the stand.
14 This is the -- the relevant portion is her
15 interview with Nelson Olivera.

16 THE COURT: Okay.

17 MR. NEWMAN: So I am introducing that
18 as ---

19 THE COURT: What is the date of
20 that?

21 MR. NEWMAN: The date of the report
22 is 1-1-11.

23 THE COURT: Thank you, sir.

24 (SO ENTERED AS COURT'S EXHIBIT 12)

25 THE COURT: Thank you, sir.

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1 MR. NEWMAN: Of Biens.

2 THE COURT: Okay.

3 MR. NEWMAN: With that, Your Honor,
4 we are good.

5 THE COURT: Do either of you or both
6 of you wish to make any closing remarks?

7 MR. NEWMAN: I would, Your Honor,
8 yes.

9 THE COURT: I would be delighted to
10 hear from you, sir. I will let you open and
11 then you will have a chance to reply to
12 anything that the Solicitor might raise.

13 MR. NEWMAN: Thank you, Your Honor.
14 For ease, if I am not encroaching on you ---

15 THE COURT: You may stand anywhere
16 you wish.

17 MR. NEWMAN: My voice is a little
18 weak, so I want to make sure that you hear me.

19 THE COURT: No problem

20 MR. NEWMAN: As you know, we brought
21 this under the statute. I know that this is --
22 that this is a novel thing in South Carolina.
23 You are going to make law, probably, one way or
24 the other. I want -- I tell you that I
25 understand the great difficulty that a judge

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1 would have, because we are in unchartered
2 waters. We have to sometimes look to different
3 analogies.

4 THE COURT: Certainly.

5 MR. NEWMAN: I would ask the Court to
6 consider -- when it makes its ruling that the
7 Court also consider Section 16-11-420.

8 THE COURT: Okay.

9 MR. NEWMAN: Which states the intent
10 and finding of the General Assembly.

11 THE COURT: Yes, I've read that.

12 MR. NEWMAN: Yes, sir. Particularly
13 in Section E that the General Assembly finds
14 that no person or victim of crimes should be
15 required to surrender his personal safety to a
16 criminal, nor should a person or victim be
17 required to needlessly retreat in the face of
18 an intrusion or an attack.

19 THE COURT: Correct.

20 MR. NEWMAN: Your Honor is aware of
21 the statutes that deals with -- and I think the
22 most relevant one here is the occupied vehicle,
23 is what we are talking in this case.

24 It would be Mr. Oates' argument that
25 the statute also in it says, applies to anybody

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1 attempting to enter or entering a vehicle.

2 Also it applies to anyone removing or

3 attempting to remove somebody from a vehicle.

4 THE COURT: Correct.

5 MR. NEWMAN: We think that there is
6 testimony on this particular issue that's not
7 been controverted, that Mr. Oates made in his
8 statement on the 24th and his statement on the
9 27th, several points, that he was removed at
10 gunpoint or threat of gunpoint from his
11 occupied vehicle. It's our position that since
12 that is occurring, the fact that due to
13 coercion Mr. Oates actually loses his -- exits
14 his vehicle, -- that that does not cause him to
15 lose his immunity.

16 Because he is coerced from the car and
17 I think -- I think one of the intents of the
18 legislature on that -- and who knows where they
19 were on the statute -- was to prevent
20 carjackings and people being forcibly removed
21 from their cars. It would be our position that
22 the -- that the court would read the statute
23 way too narrowly if it said that he actually
24 had to be inside the vehicle at the moment that
25 the shot is fired. We believe that a

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1 reasonable interpretation of that would be that
2 if he is forced at gunpoint to step out of the
3 vehicle, that that would not cause, under this
4 situation, to lose his presumptions and to lose
5 -- lose the immunity that is provided for by
6 the statute.

7 THE COURT: I don't quarrel with you
8 there. In fact, I would tell you that if that
9 was all the evidence that had been presented, I
10 probably could rule today because there is no
11 question I believe you're correct in that
12 analysis of the statute. I believe that's
13 true, because it would make no sense that
14 somebody could be forcibly removed from their
15 -- get out, and therefore not be able to defend
16 him or herself.

17 I guess I need for you -- I don't want
18 to interrupt you, I want to hear your full
19 argument, but in your argument if you could
20 address for me the testimony that has been
21 presented which says that they had disengaged
22 in argument, the gun had been placed in the
23 waistband and he was walking away. If that's
24 the case, without the part -- and there's no
25 question that there is testimony that he did.

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1 No question that the defendant in his statement
2 says, twice at least that I heard, and I would
3 have to listen to the 9-1-1 tape again, but
4 certainly in the October 24th one, as you
5 pointed out, and in the 27th it is certainly
6 inferred from that, that he was forced out of
7 the vehicle. No question about that.

8 The problem that I have in, in ruling
9 as a matter of law, as we talked in chambers,
10 where there is conflicting testimony I can't
11 rule as a matter of law that I believe one over
12 the other. If I do, I don't think the court
13 has given me that authority. I think that's
14 where it fails to meet it by the preponderance
15 of the evidence because my conclusion is that
16 you're right, it could be but it's not -- I
17 can't say that it probably is, because I'd have
18 to believe one over the other. If you can
19 point me to where I can do, I'd -- and maybe
20 you can. I'd ask you to do so. But if you
21 could address -- that testimony, which
22 certainly suggests otherwise. Certainly --
23 from a circumstantial standpoint, again why
24 that comes in. It is consistent with him
25 walking away and not engaging, not continuing

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1 the argument. So that's what -- that is my
2 concern. I don't quarrel with your position.
3 If that is the conclusion, you and I agree.
4 But I don't know that I can do that in light of
5 the testimony that I've heard which is contrary
6 to that.

7 MR. NEWMAN: Well, in addressing
8 that, Your Honor, I do believe that the way
9 *Duncan* has set this up that we're not under a
10 standard where, you know, we have our normal
11 civil case, that Witness A say this and Witness
12 B says that and that's a question for the trier
13 of fact. In this case you are the trier of
14 facts and I think that you have to weigh
15 conflicting testimony. I think *Duncan* sets it
16 up that way, because the petitioner -- that is,
17 the defendant, Mr. Oates -- has to show to this
18 court by a preponderance of the evidence,
19 fifty-one to forty-nine, that his version of
20 events is more likely true than not true. I
21 think you have to weigh that with the contrary
22 statements that you have, whether they are
23 credible, where they are backed up.

24 I understand that if you were sitting
25 here and we were arguing a directed verdict

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1 Motion to you, outside of the self-defense but
2 just on the facts of the case, I would agree
3 with the court that you would have to let that
4 go to the finder of fact because there is a
5 genuine issue of material fact that a jury
6 would have to determine.

7 But in this case, the way that *Duncan*
8 sets it up, you are the immunity issue, whether
9 you believe that Mr. Oates has proved it or
10 not. There may be conflicting evidence and you
11 may ---

12 THE COURT: So you're -- I hear you.
13 So you agree with me, then, -- you haven't
14 addressed and you haven't suggested, and I
15 don't think that you will, because I don't
16 think it's correct, that there is conflicting
17 evidence. It is your position that I have to
18 weigh that and determine which one that I
19 believe?

20 MR. NEWMAN: Yes, sir.

21 THE COURT: So if we decide this
22 case, then, that I don't -- that I believe that
23 you failed to meet it by the probability,
24 haven't you just then -- for yourself, -- I
25 don't think that -- I don't think in my career

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1 that the supreme court has ever reversed a
2 decision of a jury on its weighing the facts.

3 So my question to you is, as a matter
4 of law how does the Court review a decision
5 that I choose to say that I don't think you've
6 met your burden of proof.

7 MR. NEWMAN: These are questions that
8 certainly came up in the *Duncan* case and came
9 up in *State v. Hendricks*.

10 THE COURT: Right.

11 MR. NEWMAN: And I would point out to
12 you that in *State v. Hendricks*, the Supreme
13 Court took from the jury ---

14 THE COURT: They did.

15 MR. NEWMAN: He was convicted of
16 manslaughter, charged with murder, convicted of
17 manslaughter. The Supreme Court said ---

18 THE COURT: That as a matter ---

19 MR. NEWMAN: Sorry, as a matter of
20 law. Even though there was conflicting
21 evidence, as a matter of law you were entitled
22 to a self-defense case and the judge should
23 have directed a verdict.

24 THE COURT: We talked about that.
25 I am delighted to see that because in a given

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1 case now -- there's been times that I felt so
2 strongly that one side of the other -- could
3 never do it for the State. I've felt that
4 strongly for the State in some cases that I've
5 tried, but I've strongly felt that strongly in
6 some cases where there was conflicting evidence
7 and I didn't decide that, I let it go to the
8 jury.

9 Now with that case, I think that they
10 have just created something that says, 'yes,
11 you can.'

12 But in this one -- that's a different
13 standard, though. Isn't it?

14 MR. NEWMAN: Yes, sir.

15 THE COURT: I mean, that's beyond a
16 reasonable doubt and here we are talking about
17 preponderance of the evidence.

18 MR. NEWMAN: Preponderance of the
19 evidence, (affirmative nod). And I understand
20 that this is ---

21 THE COURT: --- totally different.

22 MR. NEWMAN: This may be a nightmare
23 for you and you're probably going to have to
24 sit down and think about it, I'm guessing.

25 THE COURT: (Affirmative nod), I

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1 assure you.

2 MR. NEWMAN: And I certainly am not
3 asking you to make any rush to judgment either.

4 THE COURT: Thank you, sir.

5 MR. NEWMAN: But, uh, I would like to
6 point out on that that if the Court takes that
7 he steps back and disengaged, that does not
8 mean that the threat -- I think under the
9 statute that Mr. Oates did not have to
10 needlessly surrender himself to a criminal.

11 I still think -- I definitely think
12 for self-defense we're in the ballpark. But I
13 still think that for the immunity that this
14 threat is ongoing. That when you judge -- I
15 think that when you judge Mr. Oates' actions
16 that it can't be in -- as we said or I tried to
17 bring up -- twenty-twenty hindsight.

18 THE COURT: Yes, sir.

19 MR. NEWMAN: Because the Supreme
20 Court of the United States has said, in *Graham*
21 v. *Connors* that -- and I know you're a little
22 bit on me about that this goes to self-defense,
23 but I also think it goes to the engagement on
24 the immunity.

25 THE COURT: That's fine.

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1 MR. NEWMAN: That the reasonableness
2 of a particular use of force must be considered
3 from the perspective of a reasonable person on
4 the scene rather than employing twenty-twenty
5 hindsight.

6 This deals with police officers,
7 Saucier v. Katz, 533 U.S. 149 (sic) [U.S. 533
8 U.S. 194]. This deals with officers.

9 If we take "officer" out and put
10 "person entitled to use force", (reading):
11 "Officers are often forced to make split-second
12 judgments in circumstances that are tense,
13 uncertain, rapidly evolving, about the amount
14 and use of force in a particular circumstance."

15 Again, they use the term that we can't
16 view that in the lens of twenty-twenty
17 hindsight. We've got to sit with the person
18 that is dealing with a situation that the clock
19 has tick-tocked, tick-tock, where you've got at
20 least two people involved -- yelling at him,
21 according to Ms. Reyes' statement. And in all
22 of the other statements, in Nelson's statement
23 they were arguing, that they were cursing.

24 I did want to point that -- and I
25 think that we have shown that Mr. Oates,

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1 although distasteful for people to tow your
2 car, it may be distasteful to get towed on a
3 holiday, still the law is that Mr. Oates was
4 acting within ---

5 THE COURT: No question.

6 MR. NEWMAN: --- the authority of
7 what he was told to do.

8 And if you look for the "but for" in
9 this case, not going back to a negligence case,
10 but for Mr. Olivera brandishing a weapon we
11 wouldn't be here. You could say that but for
12 Mr. Oates not calling 911 at a particular time.
13 But once that weapon is brandished, he is put
14 in a situation where he's looking at split
15 second decision that he has to make. So I
16 don't think that we can judge with that.

17 Had Mr. Olivera got on and dialed 911
18 and said, 'You're not doing this thing. We
19 will let the cops come and sort it out.' We
20 wouldn't be here.

21 So unfortunately -- I know this is
22 tragic. This is tragic for both families.
23 Mr. Oates and his family don't want to be here.

24 THE COURT: No question.

25 MR. NEWMAN: You know, and no

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1 question for Mr. Olivera's family. I mean them
2 no malice in what I'm saying but I have to say
3 that if you look at the facts the *sine que non*,
4 or whatever that word is, Mr. Olivera
5 brandishing that weapon. That's his own
6 brother saying that that weapon was brandished.

7 THE COURT: Yes, sir.

8 MR. NEWMAN: Mr. Oates says that.
9 Again, that's credibility for you. He says
10 that particularly on the 911 call. When we go
11 to the rules of hearsay, you know under
12 *Crawford* and all that, we said that we let
13 those in because those -- those are probably
14 true because those are said in the heat of the
15 moment without time to reflect or make up
16 something like you can three or four days later
17 if you're getting interviewed.

18 THE COURT: Sure.

19 MR. NEWMAN: Mr. Nelson's statement
20 was taken on the 24th, on scene, the first
21 statement. So I think that if you give
22 credence to the two of those that you can marry
23 the positions up that Mr. Oates was entitled to
24 the immunity because he was forcibly withdrawn
25 from the car.

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1 I also mentioned *Hendricks*. The
2 Solicitor kind of got into this. I don't think
3 that this is an issue for here. It may be an
4 issue for self-defense but I don't -- he made
5 light of the fact that there were four shots
6 from the back. You know, we're not in the Wild
7 West, that if you shoot a man in the back
8 you're a coward. We're in a situation where
9 you're facing an armed attacker. And whether
10 he is turning, moving, you know, there's all
11 kinds of calculations within that.

12 One of the things that I was going to
13 have Detective Rice, or former Detective Rice,
14 talk about is that we're not playing by the
15 Marquess of Queensberry rules where we've got
16 to have a fair fight and all this. This guy's
17 in a situation where he's facing an armed
18 attacker with another person aiding and
19 abetting.

20 The officers told you that based on
21 the facts that they'd seen they could have, she
22 believed, had probable cause to go to a
23 magistrate to charge Carlos Olivera with armed
24 robbery, a serious felony. By extension of
25 that, you could probably get a -- we talked

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1 about this the other day, under the hand of one
2 is the hand of all that they probably could
3 have gotten a warrant for armed robbery or
4 accessory to armed robbery -- I don't even
5 think accessory because he was present at the
6 scene.

7 THE COURT: Participated.

8 MR. NEWMAN: Present and
9 participating. Very serious felonies that have
10 very dangerous consequence, if you think about.
11 If I pulled a gun out at you right now -- of
12 course, I would expect to be dropped quickly,
13 and my deputy is acknowledging that, you know,
14 that's a decision that he's got to make very
15 quickly. You know, he -- he can't say that
16 'Well, I just thought that he was going to show
17 the judge that.' He's got to react to that
18 pronto. I think Mr. Oates would have that same
19 immunity to be able to judge an armed attacker
20 that is out with him.

21 I point out to you that in the
22 *Hendricks* case, and again that was the case
23 that I mentioned where the Supreme Court took
24 it from a jury even though there was
25 conflicting evidence. And the conflicting

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1 evidence was that Mr. Cherry, who was the
2 decedent in that case, and Mr. Hendricks, who
3 was on his property, two good 'ole -- two good
4 'ole South Carolina boys, the way that I can
5 see it. One pulls a shotgun out from his
6 truck, the other pulls a shotgun out from his
7 truck. The defendant's witnesses say that Mr.
8 Cherry was pointing the shotgun at Mr.
9 Hendricks. Of course Mr. Hendricks' witnesses
10 -- Mr. Hendricks' witnesses are going to say
11 that Mr. Cherry was pointing it at him. Mr.
12 Cherry's witnesses said, 'no, he never brought
13 the gun up.' When Mr. Cherry, the decedent,
14 was shot by Mr. Hendricks, a lady said 'Hey,
15 Norman', he turned. And when he turned, that's
16 when that guy took his opportunity. That case
17 has the language in it that I think is very
18 important. The Court knows that I am going to
19 submit the case and ask you to read over it
20 again.

21 THE COURT: You're welcome to submit
22 it. I will read it.

23 MR. NEWMAN: You do not have to wait
24 for your adversary to get the drop on you and
25 you don't have to take a wait-and-see position.

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1 THE COURT: Listen, you're arguing
2 something -- and this is why I said what I
3 said. In a trial, self-defense -- maybe you do
4 to convince me to charge it. You don't have to
5 because, as I stated, there is no standard to
6 measure your actions, according to this
7 statute. You don't have to meet any standards.
8 You don't have to do anything. You have a
9 right to shoot somebody. You don't have to
10 worry about whether they are armed or not. You
11 have a right to shoot them. That's what that
12 doctrine says. It doesn't matter whether you
13 have a split second -- if you fall within the
14 confines of this statute, you have a right to
15 take somebody's life. That's what the
16 legislature said.

17 MR. NEWMAN: Right or wrong. Yes,
18 sir.

19 THE COURT: Doesn't matter.

20 MR. NEWMAN: Yes, sir.

21 THE COURT: You don't have to prove
22 anything, a reasonable person, because it
23 defines it. It says -- it starts out with that
24 premise. If somebody is trying to enter your
25 house, your dwelling or your occupied vehicle,

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1 you have a -- you're presumed to be in fear for
2 your life, basically, as I read it. You're
3 entitled to that presumption.

4 MR. NEWMAN: (Affirmative nod),
5 presumption.

6 THE COURT: And therefore you're
7 entitled to act accordingly. That means that
8 you don't have to check it out and make sure,
9 and you sure as the dickens don't have to
10 retreat. So I hear you but it really doesn't
11 have anything to do with this decision today,
12 because I don't -- assuming, for the sake of
13 discussion, that we all would agree that --
14 assuming that it falls within this statute, I
15 -- it doesn't matter if he could have used
16 another means, doesn't make any difference,
17 because he had a right to do what he did if
18 he's in the -- within this statute.

19 MR. NEWMAN: And that's what we are
20 asking you to find, that he's within the
21 statute because he was ordered out of that car
22 and ---

23 THE COURT: I understand.

24 MR. NEWMAN: That this was a quick
25 thing. You can see when the shots are --

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1 immediately when he's exiting the vehicle.

2 THE COURT: No question.

3 MR. NEWMAN: And we ask you to take
4 that into ---

5 THE COURT: At least what was shown
6 on the video?

7 MR. NEWMAN: Yes, sir.

8 THE COURT: No question.

9 MR. NEWMAN: We ask you to look at
10 all that, listen to the 911 tape of Mr. Oates,
11 and -- look at all that and weigh it. And we
12 believe that when you weigh that and take in
13 the fact that he is exiting a vehicle -- as I
14 said, to not read the statute so tightly, I
15 think you even said that it might be kind of
16 ridiculous to say that you've got to sit there
17 and wait, can't do anything. I think this
18 flows with it. That's what I want to ask the
19 Court to look at.

20 I would also ask the Court to look at
21 the reasoning and rationale in *Dickey*, but of
22 course *Dickey* is also a self-defense case.

23 THE COURT: What is the cite on *Dickey*?

24 MR. NEWMAN: Gosh, I don't have the

25 ---

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1 THE COURT: That's all right.

2 MR. NEWMAN: You will find it in the
3 advance sheets. I've got the number. It's
4 March 2, -- no, sorry. Decided September
5 26th. So it will be in the September advance
6 sheets.

7 THE COURT: Okay.

8 MR. NEWMAN: Dickey did not reach the
9 issue of the -- he attempted to argue the
10 Castle Doctrine statute or Stand Your Ground
11 statute, or whatever it is called. The Supreme
12 Court found that it didn't apply because his
13 case was pending prior to the passage of that
14 statute. But they allude to it a little bit.

15 One of the things that we are looking
16 at and why I ask you to look at the analysis of
17 it, Dickey actually stepped outside the Cornell
18 Arms where he was a resident and security
19 guard, followed the two guys out, a little bit
20 down the street. There is some mention in
21 there of, 'well, can the sidewalk -- a public
22 sidewalk be a curtilage to a building and how
23 far -- how many steps away did he take. In the
24 self-defense analysis, the Supreme Court found
25 what Dickey did was reasonable and the two guys

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1 turned back on him.

2 I'm reading that that you could also
3 read that to believe that when you're acting --
4 you are having to act in one of these positions
5 with intruders or people violating the statutes
6 against you that they kind of expanded the
7 curtilage if you look at this just as a
8 curtilage case, in finding his action
9 reasonable.

10 THE COURT: Okay.

11 MR. NEWMAN: Because the fellow came
12 at him with a broken bottle and he -- he took
13 them out.

14 THE COURT: Okay.

15 MR. NEWMAN: So I would ask you to
16 look at that, as well. And of course you have
17 the *Duncan* case and I know the Court is well
18 familiar with that.

19 THE COURT: I read it again at
20 lunch. Thank you.

21 MR. NEWMAN: Judge, that is our
22 position. We believe that we are entitled to
23 the presumptions under the statute and that our
24 action, or Mr. Oates's action, the Defendant,
25 Petitioner here, fell within that. Thank you,

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1 Your Honor.

2 THE COURT: Thank you, Mr. Newman.

3 I appreciate it and I certainly afford you an
4 opportunity to respond to the Solicitor's
5 responses.

6 MR. STONE: May it please the Court,
7 Your Honor?

8 THE COURT: Certainly.

9 MR. STONE: Your Honor, the issue
10 here that I believe is in front of this Court
11 is whether or not the Castle Doctrine, as
12 codified, establishes immunity for somebody who
13 is shooting somebody after the event has taken
14 place and he's walking away.

15 I think that is exactly the issue that
16 is before you and I -- I cannot stretch the
17 construction of this new statute to apply to
18 that. I think that is not only not what the
19 legislature intended, I think it is a terribly
20 bad precedent if it would be what they
21 intended. Because under this circumstance,
22 even under Mr. Newman's own testimony, the
23 people that he put up in the very initial
24 stages of his case, establish that Carlos
25 Olivera already had the gun and put it in his

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1 waistband and was walking away when he was
2 shot.

3 The reason that I put in the pathology
4 report is just for that. There is not a single
5 frontal shot in which it would have made any
6 sense described the way that Carlos -- the way
7 that Mr. Oates described it. Mr. Oates says
8 that he is forced out of the car, that he is
9 facing him eye-to-eye and, yet, not a single
10 shot in that direction.

11 What we have, and I recognize that
12 this is -- we certainly have some subjective
13 testimony, we certainly have testimony from Mr.
14 Oates that I would submit to you is in each one
15 of his statements different than other
16 statements. There are statements from other
17 witnesses that contradict that. There are two
18 statements from Nelson Olivera that -- in one
19 case he indicates that his brother took the gun
20 out, and in the second statement he indicates
21 that he took the gun out after Mr. Oates took
22 his gun out.

23 But the evidence that is in front of
24 you, the videotape, the pathology report, I
25 would submit to Your Honor indicate that the

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1 way you view these -- and I will refer to these
2 videos as the one that shows the shooting and
3 the one that precedes that.

4 In the video that shows the shooting,
5 there's a clear indication that Carlos Olivera
6 is moving backwards when he is shot, that the
7 first -- that the muzzle shot that we see,
8 Carlos Olivera has already taken at least one
9 or two steps back. That is consistent, Your
10 Honor, with the pathology report.

11 The preceding video that you saw, that
12 we just put in, the second video that we put
13 in, shows the entire incident preceding the
14 shooting itself. If you will notice, not a
15 single one of those people ever changed their
16 elevation. When Carlos and Nelson Olivera go
17 to the -- go to the truck, you don't see one
18 stepping up on the other truck. I recognize
19 that that is inconsistent with what Mr. Oates
20 has said but I think from the video itself that
21 you don't see that. I don't see any of the --
22 of the alleged force or the suggestion of force
23 that Mr. Oates has testified to.

24 The gun itself -- and, again, I think
25 this gets probably quite more into the whole

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1 self-defense issue, than it does the Castle
2 Doctrine. But Mr. Oates' testimony on the 911
3 tape, when he has no time for cool reflection
4 says that he is getting out of the truck to
5 unlock it when he is presented with a gun.
6 That's a different sequence than he says in his
7 second statement to law enforcement when he
8 says that the guy -- that Mr. Olivera is
9 standing there, with the gun pointed at him.

10 That is different than the sequence in
11 which he talks about only hearing the gun, not
12 even making a determination of whether the gun
13 was a pistol. He knew that it was a pistol, as
14 opposed to a shotgun, because he could hear it
15 -- not because he could see it. In fact, could
16 not tell which one had the gun. He just
17 assumed that it was one because he saw his
18 other hand. That's inconsistent with his other
19 -- the sequence of events as he outlined it in
20 both the 911 tape and the second statement to
21 law enforcement. But perhaps that gets more
22 into the self-defense claim than it does the
23 castle doctrine. It seems to me the point of
24 that is to protect yourself from intruders and
25 attackers.

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1 The question that we have here is, if
2 that goes so far as to say that when it is all
3 over, when somebody puts their gun away and is
4 moving away that you can gun them down. I
5 don't believe that's what the Castle Doctrine
6 is intended -- and that's our position as far
7 as this Hearing.

8 THE COURT: Thank you. Response,
9 Mr. Newman?

10 MR. NEWMAN: Yes, sir, Your Honor.
11 You can see from the evidence that there are a
12 number of critical things that do match up with
13 Mr. Oates testimony.

14 Mr. Oates said that he was concerned
15 about the police not coming. Ms. Bryan said
16 that Nelson or Carlos, one of the Oliveras,
17 told her 'back off, go mind your own business'
18 when she suggested calling the police. They
19 went so far as to say, in the statements, that
20 they sent Carlos' wife over -- in Ms. Bryan's
21 statement -- to tell them 'don't call the
22 police, everything is okay.'

23 The Solicitor couches this as -- he
24 tells you about the elevations. This thing is
25 grainy as the dickens. I don't know if we

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1 could make -- I mean, I can tell you that I
2 think I see things in there. Sometimes you see
3 somebody is over there and you never saw how
4 they got there. So it's grainy, at best.

5 The Solicitor is saying, 'Well, there
6 is no evidence that he came up on the step',
7 like Mr. Oates is saying. Well, Elizabeth
8 Reyes, who has got nothing to do with this,
9 that lives in -- I am assuming that she lives
10 in the neighborhood, -- and I forgot to put
11 this in evidence. This is Ms. Reyes statement.

12 THE COURT: It will be Court's
13 Exhibit 13.

14 MR. NEWMAN: Is it already in?

15 THE COURT: I don't think so.

16 COURT REPORTER: No, sir.

17 THE COURT: Exhibit 13.

18 MR. NEWMAN: I would move that in,
19 Your Honor.

20 (SO ENTERED AS COURT'S EXHIBIT 13)

21 MR. NEWMAN: She says, "I saw a man
22 standing on the little ramp of the tow truck,
23 pleading with the tow truck driver." So --
24 apparently she had a pretty good view of it.
25 As I said, she's got no alignment with the

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1 Oliveras, no alignment with Oates. She just
2 happened to live there.

3 And when the Solicitor -- I believe
4 that it is disingenuous to call this incident,
5 when you see Mr. Olivera take a step back to
6 say this thing is over. The reason for that is
7 that the whole thing that they wanted was that
8 boot taken off of that car. That boot, as
9 you've seen in the photographs, was still on
10 that car.

11 They went back one time with the keys
12 and they couldn't get it off. They came back
13 with a tool and couldn't get off. According to
14 Mr. Oates' testimony, it's "get out, get out,
15 you're going to take this thing off." They
16 were ordering him out of the truck, or Carlos
17 was ordering him out of the truck, to do
18 exactly that, to have Mr. Oates come and take
19 that thing off.

20 This incident was not over. This
21 people weren't leaving, saying 'Okay, we give
22 up. Tow the car. We're leaving.' There is no
23 evidence as to that.

24 Mr. Oates -- and it goes with the
25 facts, clearly says that would be the reason

1 for them to order him out of the truck because
2 he's the guy that knows how to take that thing
3 off. You see the keys on the back of the truck
4 and you see that thing there.

5 So I would say that even if he is
6 turning and maybe even if he holsters the
7 weapon, like that, that he still ordered Oates
8 out to go take that boot off his car. This
9 thing is far from over.

10 I think it is also reasonable for Mr.
11 Oates to think in his mind, because that boot
12 is still on that car and that's what they
13 wanted, was that boot off that car, I think
14 this is an ongoing incident. By no means was
15 it over and by no means would Mr. Oates have
16 any reason to believe that it would over
17 because of the adamancy that they wanted that
18 boot taken off the car. So I don't think -- it
19 just doesn't stop at that point. This was an
20 ongoing hostage situation. That would be our
21 argument as to that, Judge. Thank you.

22 THE COURT: Thank you very much. All
23 right, what I am going to ask you to do is
24 this. I am going to certainly take all of
25 this, take it under advisement. As we all

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Hearing of November 17, 2011
before The Honorable R. Markley Dennis, Jr.

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1 can get it to me. Just get it to me as soon as
2 you can.

3 MR. STONE: Thank you, Your Honor.

4 THE COURT: And what I am going to
5 do, for purposes of the record, it's not deemed
6 under advisement -- because I have to file
7 reports after thirty days of what I have under
8 advisement. I am not going to consider this
9 under advisement until I receive your proposed
10 Order.

11 MR. NEWMAN: Awaiting Orders.

12 THE COURT: Preparing the final
13 Order is what I would put after it is under
14 advisement, but it's not under advisement until
15 I receive your Orders because each of you are
16 going to state in detail your respective
17 positions in that Order. Thank you.

18 MR. NEWMAN: Yes, sir. Thank you.

19 COURT REPORTER: Judge, can they
20 provide the surveillance tape now?

21 MR. STONE: Yeah, we need to put
22 that on a disk..

23 THE COURT: I tell you what y'all
24 do. Deb (court reporter), how do you want to
25 handle that? Should they sent it to you?

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1 SEAN THORNTON: I can have it done
2 in thirty minutes.

3 THE COURT: You can?

4 SEAN THORNTON: Yes, sir.

5 COURT REPORTER: I'll be happy to
6 wait for it.

7 THE COURT: And we're going to be
8 here for a little while -- they've said that
9 Judge Mullen may have something and I would be
10 happy to help her if there is anything. Then
11 there is something tomorrow that I am supposed
12 to hear, a Motion. Can I retain the exhibits?

13 COURT REPORTER: Yes, sir.

14 THE COURT: I will hold onto the
15 exhibits at this time. Let me say to all those
16 that attended this, it is a difficult time and
17 my heart goes out to every single one of you
18 with what you've had to sit and endure today.
19 I certainly wish for you the best. It is a
20 tough time for you during this time, as well. I
21 am very much aware of that. But I want to
22 thank you each for honoring my request and
23 keeping this as a dignified process. My best to
24 each one of you. Thank you.

25 COURT REPORTER: LaSondra, this is

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1 the exhibit list but I've made a note that the
2 Judge is retaining custody of the exhibits
3 until he renders a decision.

4 THE COURT: That's right. Thank
5 you.

6 (HEARING CONCLUDED)
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1 CERTIFICATE OF REPORTER

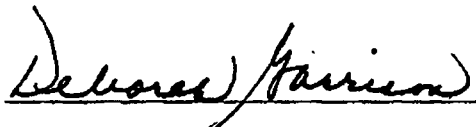
2

3 I, the undersigned, Deborah Garrison,
4 official court reporter for the 9th Judicial
5 Circuit of the State of South Carolina, do
6 hereby certify that the foregoing is a true,
7 accurate and complete transcript of the hearing
8 held before The Honorable R. Markley Dennis,
9 Jr., on November 17, 2011;

10 I further certify that I am neither kin nor
11 counsel to any of the parties and have no
12 interest in the outcome of this action.

13

14



15

Deborah Garrison

16

Circuit Court Reporter

17

9th Judicial Circuit

18

19

20

21

22 Charleston, South Carolina

23

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

STATE OF SOUTH CAROLINA,

vs.

PRESTON RYAN OATES,

Defendant.

IN THE COURT OF GENERAL SESSION
FOURTEENTH JUDICIAL CIRCUIT

Indictment No.

2011-GS-07-120 1338658

2011-GS-07-121 1338659

2012 MAR -6 PM 12:45
CLERK OF COURT
BEAUFORT COUNTY, S.C.

ORDER

This matter comes before the Court pursuant to the Defendant's Motion for Immunity from Prosecution as provided by the Protection of Persons and Property Act, South Carolina Code Section 16-11-410 (the Act). The Defendant asks the Court, pursuant to the Act, for immunity for the Christmas Eve 2010 shooting of Carlos Olivera. After review of the evidence presented during the hearing on this matter, including witness statements, a video made by a neighbor's security camera that captured the incident, photographs of the crime scene and the autopsy report, the Court denies the Defendant's Motion for Immunity.

Facts

On December 24, 2011, Defendant, Preston Oates (Oates), a tow truck operator working in the Edgefield neighborhood in Beaufort County, located an illegally parked car belonging to the victim, Carlos Olivera (Carlos). Oates placed a boot on Carlos's car in order to immobilize it while Oates prepared to tow it. After Oates placed the boot on the car, Carlos along with his brother Nelson Olivera (Nelson) approached and began arguing with Oates, asking him to remove the device. At some point during this argument Carlos displayed a handgun in his waistband to Oates. Witnesses differed as to whether Carlos brought out his gun and pointed it at Oates. The gun was properly licensed and Carlos had a valid concealed weapons permit.

Oates agreed to release the car and Carlos put away his weapon. Oates gave the keys to the boot to Nelson. As Nelson tried to unlock the boot on Carlos' car, Oates retrieved his own gun from the tow truck's glove compartment. Oates then got out of the tow truck and shot Carlos six times. The autopsy report shows that five of the six shots entered Carlos' back. Carlos Olivera died at the scene.

It is uncontested that Carlos and Oates argued over the towing of Carlos' minivan. The dispute is whether the argument was ongoing at the time of the shooting. The Defendant alleges that Carlos was forcing him from the car at gunpoint. However, there are at least three other witnesses to the incident who state that the argument between the two men had subsided and that everyone present was calm at the time Oates shot Carlos. According to Beaufort County Sheriff's Investigator Angela Viens, Claudia Olivera, Dyhan Olivera and Nelson Olivera all stated that Oates had already given the keys to the boot to Nelson, that the argument had ended, that Carlos did not have his gun out and was walking away when Oates came out of his truck firing.¹ According to Viens Claudia Olivera stated that Carlos thanked Oates for giving Nelson the keys.² Although the video of the incident is grainy and dark, it appears to the Court that Carlos is walking away when Oates gets out of the tow truck and begins firing his gun.³ This is consistent with the pathologist findings.⁴ The pathologist indicates that Carlos was shot six (6) times. Five (5) of the shots entered into Carlos' back. One shot entered on Carlos' left side and exited his right side. This bullet travelled across Carlos' abdomen without entering very far into the body or striking any organs. Due to the trajectory of the bullets Carlos could not have been facing Oates when he shot.

¹ Transcript p. 141 lines 24 and 25; p. 142 lines 1 through 25; p. 143 lines 1-8.

² Transcript p. 142 lines 12 through 17.

³ Court's Exhibit 5.

⁴ Court's Exhibit 6.

The Defendant was charged with Voluntary Manslaughter and Possession of a Weapon During the Commission of a Violent Crime.

Law

The Act codified and extended the common law Castle Doctrine. S.C. Code § 16-11-420(A). South Carolina has long recognized the Castle Doctrine. Our courts have held that “a man’s home is his castle where if he or a member of his family is assaulted in the home, he is not required to retreat but may use such force as is reasonably necessary to protect himself or a member of his family from death or serious bodily harm...” *State v. Jackson*, 227 S.C. 271, 279, 87 S.E.2d 681, 685 (1955). The Act extends the immunity afforded by the Castle Doctrine to occupied vehicles and places of business. It also provides a “stand your ground” provision that allows a person to “meet force with force” if the person is attacked in a place he has the right to be and reasonably believes that force is necessary to prevent death or great bodily injury to himself or others.

The Defendant moves before this Court for an order granting him immunity from prosecution as provided under South Carolina’s codified Castle Doctrine, Code Section 16-11-410, the Protection of Persons and Property Act. In *State v. Gregory Duncan*, the South Carolina Supreme Court held that the Circuit Court is to determine whether the Act applies and, therefore, whether immunity should be granted, prior to trial. *State v. Duncan*, 392 S.C. 404, 410, 709 S.E.2d 662, 665 (2011). The Court in *Duncan* held that the Legislature intended to “create a true immunity, and not simply an affirmative defense.” *Id.* The Court further held that the proper standard of proof in determining immunity under the Act is a preponderance of the evidence. *Id.*

The primary rule of statutory construction is to ascertain and give effect to the intent of the legislature. *Mid-State Auto Auction of Lexington, Inc. v. Altman*, 324 S.C. 65, 69, 476 S.E.2d

690, 692 (1996). Unless there is something in the statute requiring a different interpretation, the words used in a statute must be given their ordinary meaning. *Id.* When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to its literal meaning. *Sloan v. Hardee*, 371 S.C. 495, 498, 640 S.E.2d 457, 459 (2007).

Issues and Analysis

The issues before the court are (1) whether the Defendant is immune from prosecution pursuant to Section (A) of the Act which extends the Castle Doctrine to occupied vehicles or (2) whether the Defendant is immune pursuant to Section (C) of the Act which extends the Doctrine to businesses and adds a "stand your ground" provision.

1. Section (A) of the Act specifically states:

(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person: (1) against whom the deadly force is used is in the process of unlawfully and forcibly entering, or has unlawfully and forcibly entered a(n) ...occupied vehicle, or if he removes or is attempting to remove another person against his will from the ...occupied vehicle; and (2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred. S.C. Code § 16-11-440(A)(1)(2) (2011).

It is clear to the Court from the evidence presented that the case at hand is not covered by the this portion of the Act. The facts presented do not show that at the time of the shooting Carlos was unlawfully or forcibly entering, or had entered, Oates' vehicle. Carlos was walking away from Oates' tow truck at the time Oates got out of his vehicle and shot Carlos. Statements from witnesses as well as the video of the incident support these findings.

2. The court likewise does not find the Defendant immune under Section (C) of the Act. This section specifically states:

(C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60. S.C. Code § 16-11-440 (C).

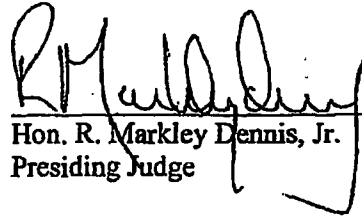
The Act is specific that a person attacked in a place in which he has a right to be has no duty to retreat. The issue presented in this case, however, is whether this statute protects a person who shoots and kills another if the confrontation has ended and the victim is walking away. The Act allows a person to stand his ground and meet force with force if he *reasonably* believes it is necessary to prevent death or great bodily injury or to prevent the commission of a violent crime. In this case, while Oates was in a place that he was allowed to be, his use of deadly force against Carlos was not necessary to prevent his own death or great bodily injury, or the commission of a violent crime.

Rm09/5

Assuming that there was an "attack" previously, there was no such event at the time of the shooting. In short, there was no force to be met. Carlos was walking away from Oates when he was shot five times in the back and once in the side. Other evidence presented supports the Court's finding that the argument had ended at the time Oates fired the fatal shots. The Court will not interpret the language of the statute to mean that a person may shoot and kill another when a perceived attack has ended.

In light of the foregoing, the Court hereby **DENIES** the Defendant's Motion for Immunity from Prosecution.

AND IT IS SO ORDERED!


Hon. R. Markley Dennis, Jr.
Presiding Judge

March 1st, 2012
Charleston, South Carolina

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

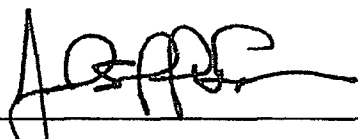
COUNTY OF BEAUFORT) 2012 MAR 12 AM 11:22
INDICTMENT No. 2011-GS-07-120
2011-GS-07-121

STATE OF SOUTH CAROLINA)
CLERK OF COURT

-vs-)
)
)
)
PRESTON RYAN OATES,)
)
)
)
Defendant/)
Petitioner.)
)

**NOTICE OF MOTION AND
MOTION TO RECONSIDER
MOTION PURSUANT TO RULE 59(e)
TO AMEND & ADDRESS ISSUES
AND EVIDENCE RAISED AT THE
HEARING**

The Defendant/Petitioner, Preston Ryan Oates, by and through undersigned counsel moves before this Court for the Court to reconsider its prior ruling denying immunity from prosecution, pursuant to Rule 59(a) of the South Carolina Rules of Civil Procedure. Further, Petitioner moves this Court, pursuant to Rule 59(e) (SRCP) to make specific findings of fact and conclusions of law on evidence contained in the record, points and authorities of law. Petitioner hereby gives notice and requests a hearing in ten (10) days or as soon thereafter as the matter be heard.


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E/M: jnewman@jnewmanlaw.com
Attorney Id. No.: 0012930
Attorney for the Petitioner

Port Royal, South Carolina

March 12, 2012

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT)

2012 MAR 12 AM 11:22

INDICTMENT No. 2011-GS-07-120

2011-GS-07-121

STATE OF SOUTH CAROLINA)

BEAUFORT COUNTY, S.C.
CLERK OF COURT

-vs-)

MOTION TO RECONSIDER

MOTION PURSUANT TO RULE 59(e)

TO AMEND & ADDRESS ISSUES

PRESTON RYAN OATES,)

AND EVIDENCE RAISED AT THE

HEARING

Defendant/)

Petitioner.)

The Defendant/Petitioner, Preston Ryan Oates, by and through undersigned counsel moves before this Court for the Court to reconsider its prior ruling denying immunity from prosecution, pursuant to Rule 59(a) of the South Carolina Rules of Civil Procedure. Further, Petitioner moves this Court, pursuant to Rule 59(e) (SRCP) to make specific findings of fact and conclusions of law on evidence contained in the record, points and authorities of law.

I. MOTION TO RECONSIDER:

The Petitioner is informed and believes that the Court, in accepting *in toto* the State's proposed Order, made several factual determinations which are contrary to the evidence presented. Further, the Petitioner requests the Court to consider, determine and apply clearly established South Carolina statutory and case law to the facts of this case.

A. FACTUAL DETERMINATIONS:

The Court correctly held in the filed Order that the Petitioner was *lawfully* towing an *illegally* parked vehicle. See, Court's Order at p. 1. (¶ 2). The Court states that, "at some point during this argument Carlos displayed a handgun in his waistband to Oates." Id. In the next breath, the Court

finds that, “[t]he gun was properly licensed and Carlos had a valid concealed weapons permit.” The Court failed to find or present any analysis that displaying a concealed weapon during an “argument” is a violation of South Carolina’s permitting law.¹

The Court found that, “[witnesses] differed as to whether Carlos brought out his gun and pointed it at Oates. The two living witnesses closest to the situation, as confirmed by the video, both agree that Carlos did in fact pull out his Glock semi-automatic pistol and point it at Oates while demanding the keys to the boot device.

Nelson Olivera provided a written statement on the same day of the incident. In the written statement Nelson avers, “My brother pull his gun and toll [*sic*] him to release the car. The guy said \$400 dollar. Then when the guy saw my brother with the gun in his hand, the guy handed the keeys [*sic*] and said do it.” Nelson made the same statement to Deputy J. Meier on the scene. Deputy Meier, in his written report quoted Nelson as saying, “they started to argue and his brother (Carlos) pulled his gun out of his waistband.” Deputy Meier further reported, “Nelson advised once Oates saw the gun he gave the keys to the boot device to Carlos so he could remove it. Nelson stated Carlos grabbed the keys.”² Sgt. Viens confirmed Nelson’s account that Carlos pulled the pistol on Oates.

Preston Oates, from the 911 call to his written and recorded statements maintained the same account as Nelson. Nowhere in its Order does the Court address Sgt. Viens contention that Carlos could have been charged with armed robbery had he lived. The Court in its Order calls the incident an “argument.” The Court failed to address the fact the Oates was being robbed by an assailant

¹See e.g., §23-31-210(6) S.C. Code of Laws.

² See, Report of Deputy J. Meier dated 12-25-2010 at p. 1.

armed with a loaded large caliber semi-automatic pistol and aided by an accomplice. Even if Carlos merely displayed his pistol while demanding the keys from Oates, this would still constitute armed robbery. If a suspect walked into a convenience store, showed the clerk a pistol and asked for property, would this not constitute armed robbery? Brandishing a pistol and demanding property is a hostile act of intimidation, not an argument.

The Court found that, “[t]he dispute is whether the ‘argument’ was ongoing at the time of the shooting.” See Order at p. 2 ¶ 2. Carlos, while armed with a deadly weapon, was not arguing with Oates, he was robbing Oates of his property according to his own brother. While the Court mentions the statements of Carlos’ wife, sister-in-law and brother, the Court does not discuss nor analyze the video, photographs and physical evidence found at the scene.³

Nelson stated that Carlos “grabbed his keys” after Carlos “pulled his pistol from his waistband.” The video shows Nelson walk away from the cab of Oates’ tow truck directly to the area where the boot is on Carlos’ minivan. Carlos remains at the cab of the tow truck. The keys surrendered at gun point (or brandishing at the least) were found at the rear of the flatbed of the tow truck. The video next shows Nelson returning to Carlos’ position at the door of the cab. After a few seconds, Nelson again returns directly to the area of the boot and bends down. The photographic record shows an unlocking device laying on the roadway next to the boot. (See, IMG #0045). The boot is found still on the minivan, the keys on the rear flatbed and the unlocking tool in the roadway adjacent to the boot.

³ Additionally, the Court failed to consider the statement of Elizabeth Reyes who identified Carlos standing on the step of the cab of the tow truck “screaming” at Oates. The Court likewise failed to consider the statement of Reba Bryan who stated that the Olivera brothers told her to mind her own business when she suggested that the Olivera’s simply call the police.

It strains all reason to find that a man so intent on having his car released, even to the point of brandishing a pistol to accomplish such, would simply walk away not having accomplished his objective. The evidence is consistent with Mr. Oates statements that he was ordered out of the tow truck, as Oates was the only person who knew how to remove the locking device with the special tool. The Court makes note that, “. . . Carlos thanked Oates for ‘giving’ Nelson the keys.” See, Order at p. 2 ¶ 2. (No mention of the special tool or the fact Carlos was armed with a semi-automatic pistol is made by the Court). If a person armed with a deadly weapon, who ‘shows’ it to a store clerk, politely asks for property and upon receipt of said property says ‘thank you,’ does this mean no robbery occurred? (After all, this is the genteel South).

The Petitioner respectfully requests this Court to make a ruling as to the armed robbery and kidnaping of Mr. Oates. The Petitioner is informed and believes that such silence amounts to an abuse of discretion for the Court not to objectively determine the relevant facts. Moreover, the Court found that Carlos holstered his Glock large caliber semi-automatic firearm, contrary to Oates statements, however the Court failed to explain the fact that the fully loaded pistol was found in the roadway near Carlos’ body instead of his waistband. The Petitioner respectfully asks the Court to fully address the facts and evidence presented at the hearing rather than accepting the State’s conclusions without any analysis whatsoever.

B. LEGAL ANALYSIS / CONCLUSIONS OF LAW:

1. SELF-DEFENSE *via-a-vie* IMMUNITY FROM PROSECUTION:

The Court correctly held at the hearing that Oates was entitled to the presumption of being in reasonable fear as defined in §16-11-420 South Carolina Code of Laws. Petitioner is informed and believes that the Court erred in failing to consider the law of self-defense in conjunction with

the immunities provided by law. The Court failed to consider that it would have been of no consequence that Carlos *may* have been in the process of turning away within a second of being shot. The Court failed to consider State v. Hendrix, 270 S.C. 653, 244 S.E.2d 503 (1978) for the proposition that there is no duty to wait until an attacker, “gets the drop on you,” and that one has the right to keep firing until the threat is eliminated. Further, the Court failed to consider State v. Starnes, 340 S.C. 312, 531 S.E.2d 907 (2000) for the proposition, “ that there is no duty to wait until an assailant is on equal terms or has fired first and that one has the right to prevent an assailant from gaining an advantage.” Additionally, the Court completely failed to consider the Petitioner’s presentation of Graham v. Conner, 490 U.S. 386 (1985) and Saucier v. Katz, 533 U.S. 194 (2001) for the proposition that incidents on the street can not be judged in 20-20 hindsight. The Court additionally failed to consider State v. Duncan, 392 S.C. 404, 709 S.E.2d 662 (2011) and it’s progeny. Failing to consider the common law of self-defense in conjunction with the immunity statutes constitutes an abuse of discretion. See also, State v. Dickey, 394 S.C. 491, 716 S.E.2d 97 (2011)(Defendant was found to be acting in self-defense as a matter of law).

2. DEFINITION OF ARMED ROBBERY / KIDNAPING:

The decedent’s brother admitted that he and Carlos approached Mr. Oates and demanded the boot be removed from Carlos’ minivan. Nelson Olivera admitted that Carlos, “pulled a gun on him (Oates)” and “I grabbed his keys.” Forcibly taking property from the person of another while armed with a deadly weapon constitutes the crime of Armed Robbery. See, Section 16-11-330 of the South Carolina Code of Laws; See also, State v. Barrett, 278 S.C. 414, 297 S.E.2d 704 (1982). Armed Robbery is a crime of violence as defined in Section 16-1-60 of the South Carolina Code of Laws.

The decedent's actions likewise constituted the crime of Kidnaping as defined in Section 16-3-910.⁴ The decedent is seen at the door of the tow truck the entire time Nelson is attempting to remove the boot. Mr. Oates statements that he was held at gunpoint was corroborated by the decedent's brother, and there is no evidence which contradicts Mr. Oates' statements on that point. A kidnaping commences when one is wrongfully deprived of his freedom and continues until his freedom is restored. State v. Konahrens, 290 S.C. 281, 350 S.E.2d 180 (1986). Kidnaping is a crime of violence as defined in Section 16-1-60 of the South Carolina Code of Laws. Nelson Olivera's admitted conduct makes him an accomplice to Armed Robbery and Kidnaping as he aided, abetted and participated in taking the keys, cursing, demanding the release of the vehicle while Carlos was pointing a pistol at Oates and attempting to remove the boot from the decedent's minivan.

The State offered no witnesses, evidence or argument disputing that Carlos Olivera confronted and brandished a pistol at Mr. Oates and demanding that the boot be removed from the minivan.⁵ The crux of the State's argument in this case is that the armed confrontation had ended when Carlos stepped back and started to lower his Glock 22 semi-automatic firearm. The State argued that all of the shots were to Carlos' back. (Tr. at p. 222, l. 3-10). The autopsy, however, as pointed out by the Solicitor, concludes that gunshot wound "B" is to the abdomen. (Tr. at p. 193, l. 17-18). When Mr. Oates exits his vehicle the video shows multiple gunshots fired in rapid succession. The shell casings photographed in Reba Bryan's driveway are in close proximity to one

⁴

See, State v. Barrett, supra (Armed Robbery and Kidnaping are separate and distinct crimes even though they occur during the same act).

⁵

The State did not even examine their lead investigator at the hearing as to the issue of whether or not Carlos Olivera was, in fact, armed with a Glock model 22 pistol.

another. Photographs show Mr Olivera's body in the roadway near the cab of the tow truck.

3. APPLICABILITY & ANALYSIS OF THE IMMUNITY STATUTES:

The law applicable to the facts of this case are contained in Section 16-11-420(E) of the South Carolina Code of Laws which provides that, "no person or victim of a crime should be required to surrender his personal safety to a criminal . . ." The least entry with the whole or any part of the body, hand or foot into the interior of an enclosed area constitutes an entering. State v. Chappell, 185 S.C. 111, 193 S.E. 924 (1937). Section 16-11-440(A)(1) and (2) provide, in pertinent part:

"(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself . . . if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering or has unlawfully and forcefully entered . . . an occupied vehicle, or if he removes or *is attempting to remove* another person against his will from the . . . occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry *or unlawful and forcible act* is occurring or has occurred."

(Emphasis added). Section (B) of 16-11-440 sets forth exceptions to the Act, none of which apply in this case. Section 16-11-440(C) further provides:

"(C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, *but not limited to* his place of business has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself . . . *or to prevent the commission of a violent crime as defined*

in Section 16-1-60.”

(Emphasis added). The critical facts in this case are not seriously disputed. SLED firearms analysis determined that the decedent’s pistol was in working condition with a round chambered and a nearly full magazine.

The State’s position that the confrontation had ended is not supported by the facts. It strains the bounds of common sense to say that the decedent, after his and Nelson’s adamant attempts to get the boot off his car, at gunpoint no less, would simply just walk away when his car was still “booted.” Mr. Oates’ keys were found on the rear of the flatbed tow truck near the minivan. Found on the ground next to the booted tire of the minivan is the unlocking device. It is reasonable to believe that Mr. Oates was ordered out of the tow truck by an armed attacker, as he consistently maintained throughout several interviews. (Tr. at p. 162, l. 6-19); See also (Tr. at p. 162, l. 20-24).

The Solicitor argued to the Court that, “it seems to me the point of that (statute) is to protect yourself from intruders and *attackers*.” (Tr. at p. 224, l. 23-25)(Emphasis added). The Petitioner has the same position based on the law. Section 16-11-420(E) declares that “no person or victim of a crime should be required to surrender his personal safety to a criminal” Mr. Oates was not required to submit to the will of an armed attacker. Oates was ordered to vacate the relative safety of his vehicle by an attacker he knew was armed with a semi-automatic pistol. The violent crimes perpetrated by the Olivera brothers cannot be ignored. Mr. Oates, was where he had a right to be and was engaged in a lawful activity

when confronted by the armed attacker and his accomplice. Mr. Oates is entitled to the protection of the Act and the presumption that he was in reasonable fear of death or great bodily injury at the time he disabled his primary attacker. Section 16-11-440(C) authorizes the use of force to prevent the commission of a violent crime. See also, Section 16-1-60 of the South Carolina Code of Laws. (List of violent crimes).

The Petitioner meets the requirements of Section 16-11-440(A)(1) and (2). There is no question Mr. Oates was in an occupied vehicle as set forth in subsection (A)(1) and that the deceased was attempting to remove him from such to unlock the boot. Subsection (A)(2) is likewise met, as the deceased and his accomplice were attempting or in the commission of violent crimes against the Petitioner. Having met the requirements of 16-11-440(A), by the greater weight of the evidence presented, the Petitioner is entitled to the presumption that he was in reasonable fear of death or great bodily injury. The State has not rebutted that presumption.

The General Assembly has made its intent clear by codifying that, "... persons residing in this State have a right to expect to remain unmolested and safe within their homes, businesses and vehicles." Section 16-11-420(D). Further, Section 16-11-420(E) states, "The General Assembly finds that no person *or victim of crime* should be required to surrender his personal safety to a criminal, nor should a person *or victim* be required to needlessly retreat in the face of intrusion *or attack*." (Emphasis added). The Petitioner thus had a right to remain unmolested from the attack of the armed decedent and his accomplice.

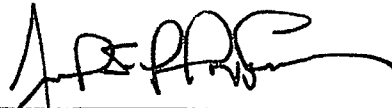
The Petitioner was not required to surrender to his attackers and was not required to retreat. Based upon the circumstances confronted by the Petitioner he was legally allowed to, "stand his ground and meet force with force, including deadly force." See, Section 16-11-440(C).⁶

II. MOTION TO SUPPLEMENT THE RECORD:

The Petitioner, in addition to the above, moves the Court to supplement the record by including the Petitioner's Proposed Order as a Court exhibit for appellate review purposes in the event the Court denies the Petitioner's Motion for Reconsideration.

WHEREFORE, the Petitioner moves the Court to reconsider its prior ruling, adopt the Proposed Order submitted by the Petitioner. Additionally, Petitioner respectfully moves the Court to provide a detailed analysis of the evidence submitted and refrain from conclusionary findings without reference to the complete record and evidence submitted.

Respectfully Submitted,



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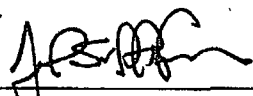
6

In Duncan, *supra*, our Supreme Court found that if the mandates of the Act are met, deadly force may be used even against an unarmed intruder. The facts of this case present an even more compelling case to deem the Petitioner immune from prosecution, as he was confronted with an armed attacker aided by an accomplice.

March 12, 2012

CERTIFICATE OF SERVICE

This is to certify that I, JARED SULLIVAN NEWMAN, personally served the Court and Solicitor with a filed copy of the above on March 12, 2012 by delivering a copy of the same to the Honorable R. Markley Dennis, Jr. and the Office of the Solicitor of the 14th Judicial Circuit in open court at a term of general Sessions held on March 12, 2012 in Ridgeland, South Carolina.



Jared Sullivan Newman

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BEAUFORT	)	COURT OF GENERAL SESSIONS
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 11-GS-07-120 & 121
	)	
Preston Oates,	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING

The within Hearing was held in the above-captioned case on March 13, 2012, before The Honorable R. Markley Dennis, Jr. in the Court of Common Pleas, Jasper County, South Carolina; attended by Counsel, as follows:

APPEARANCES:

Duffie Stone, Solicitor
 14TH JUDICIAL CIRCUIT SOLICITOR'S OFFICE
 P O Box 1880
 Bluffton, SC 29910
 Appearing for State of South Carolina

Jared S. Newman, Esq.
 P O Box 515
 Port Royal, SC 29935
 -and-

Donald Colonegi, Esq.
 P O Box 6658
 Hilton Head, SC 29935
 Appearing for Petitioner, Preston Oates

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 901
 Johns Island, South Carolina 29457
dGarrison@sccourts.org

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2 (DEFENDANT NOT PRESENT)

3 THE COURT: Be happy to hear from
4 you.

5 MR. NEWMAN: May it please the Court,
6 -- good morning, Judge Dennis.

7 THE COURT: Good morning.

8 MR. NEWMAN: As the Court is aware, we
9 did file a Motion under Rule 59(a) to reconsider
10 the ruling. We filed also a Motion under 59(e)
11 that we ask the Court to consider some points
12 and authority that we do not believe was
13 addressed in the Court's written Order.

14 THE COURT: Okay.

15 MR. NEWMAN: I would like to take this
16 opportunity to say, Your Honor, that we do this
17 respectfully.

18 THE COURT: I understand.

19 MR. NEWMAN: Certainly for the reasons
20 that there is an appeal in this case, you know,
21 our appellate courts say 'if you don't raise it
22 with the trial judge, then you don't get to
23 argue it in front of us.'

24 THE COURT: I understand.

25 MR. NEWMAN: That's why we are here,

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1 Your Honor. First of all, we take the Order --
2 we'll take the Motion in the order, as follows:

3 We asked the Court on the factual
4 determinations -- we take the finding of the,
5 uh, that the petitioner was towing an illegally
6 parked vehicle. What the petitioner takes issue
7 with is the court's finding that this was an
8 argument. And -- we take issue with that and
9 ask the court to consider whether or not, based
10 on the evidence that was raised at trial, -- not
11 at trial but at the hearing, that Sergeant Biens
12 testified that she believes she would have had
13 probable cause, had Carlos survived, to arrest
14 him for armed robbery.

15 We're asking that the analysis,
16 particularly on Nelson Olivera's statement
17 that's in evidence and in the record, that says,
18 'My brother pulled a gun on him and told him to
19 release the car. The guy said '\$400.' That's
20 when the guy saw my brother with the gun in his
21 hand and handed the keys.'

22 Likewise, there's evidence in the
23 report from Deputy Meyer where Nelson Olivera
24 says, "My brother pulled the gun from his waist-
25 band" and that that is when the tow truck driver

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1 handed the keys."

2 THE COURT: Why do you believe that's
3 essential to a determination on the immunity
4 statute?

5 MR. NEWMAN: Because, Your Honor, why
6 I believe it's essential to the determination on
7 that, in the immunity statute one of the
8 immunities afforded in there is that no person
9 shall be subjected to be a victim of a violent
10 crime.

11 THE COURT: I don't quarrel with
12 that. The whole focus -- and I want to hear
13 from the State, but to me the whole focus -- and
14 the Order was drafted intentionally this way,
15 because that really is the focus, I think.

16 In reviewing *Duncan* -- and, frankly, in
17 hearing the Chief Justice's remarks at the Bar
18 Convention this year where she talked and
19 updated and talked about *Duncan*. She said
20 something that was critical to me, because I had
21 not read the entire record. But one of the
22 things that concerned me, and I think that we
23 addressed it in this Order, -- in *Duncan*, she
24 said that he was continuing to be the aggressor.
25 That's a critical factor here for me, in my

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1 determination.

2 There's no question I think -- and if
3 nothing happened, he had every right to go sign
4 a warrant for armed robbery, probably, based on
5 what you've alluded to.

6 Now, the probable cause issue, -- I'm
7 not saying the man was guilty of armed robbery,
8 I am just saying given what we know, what was
9 said.

10 But to me this -- this case -- there
11 were sev--, -- if you were to take a snapshot
12 and say, 'When did he elect to use the weapon?'
13 Because there's no question -- you know, there's
14 no question and I think that's why we had the
15 hearing in the first place. The facts justify
16 the consideration of the immunity statute, based
17 on what was testified to. This wasn't some
18 frivolous use of -- or a hearing, because the
19 facts supported that -- a reason to have the
20 hearing in the first place. No question.

21 No question about the fact that when he
22 went -- that when he returned to the truck and
23 was sitting in the truck, and there was
24 testimony of two of them, the victim being one,
25 at the window. Whether or not he was

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1 brandishing the firearm, that's a -- those are
2 the -- those are issues of credibility and
3 believability that I have to decide, and I had
4 to make a decision on that.

5 But no question if he -- that when he
6 removed the firearm and elected to shoot him at
7 that point, to protect his situation, that --
8 that wasn't there, but if that be the case,
9 there may have been a ruling that absolutely
10 that met -- that that was within the statute and
11 what the statute contemplated.

12 The key to me is was -- was the -- was
13 the aggression -- had the aggression ceased. I
14 know you're arguing here about getting the drop
15 on him.

16 Let me share with you so that --
17 because -- one of the things about this hearing,
18 it is easy to get caught up in what we do
19 constantly on a civil side, is to hear summary
20 judgment Motions. In hearing that, if there is
21 a material issue of fact, genuine material issue
22 of fact, then we deny the Motion because they're
23 entitled to a trial. That mindset, you have to
24 set that aside in these hearings because you are
25 the trial, you are the trier of fact, as we all

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1 know. So I had to evaluate the credibility and
2 believability.

3 Quite frankly, the testimony of the
4 witnesses, the pathology report, uh, -- (pause),
5 -- and frankly the testimony of Mr. Oates.

6 And let me make an observation. Mr.
7 Oates is not present. We had a prior discussion
8 and Mr. Oates has intentionally waived his
9 presence at this hearing?

10 MR. NEWMAN: That is correct, Your
11 Honor. He wished this hearing go forward so
12 that, obviously, the case could move along.
13 I do have his specific authority to waive his
14 presence.

15 THE COURT: Okay.

16 MR. NEWMAN: I did explain him that we
17 are -- that there would be no new evidence or
18 testimony presented. That it's purely issues of
19 law that we are ---

20 THE COURT: Correct. Well, reading
21 the transcript of the testimony of his two
22 meetings was one thing. But listening to it was
23 another. It really does -- it made me realize
24 how important it is, and I have the luxury the
25 Supreme Court and the Court of Appeals don't

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1 have in considering that because they don't get
2 to hear the testimony most of the time. They're
3 purely on the transcript. But I did. Quite
4 frankly, there was much of his logic that I do
5 not -- that I did not believe. I don't concur.
6 I didn't agree with it. I didn't think that it
7 was logical.

8 One of the things that -- and it very
9 critical, I think, to what your position is and
10 critical to why I decided the way that I
11 decided, in focusing on when the shots were
12 fired. I want to make a statement here because
13 one of the first parts -- you raised self-
14 defense and this is an interesting statute, and
15 it's new, it really -- we don't -- that -- as we
16 talked about at the hearing, that's the purpose
17 of having the hearing in the first place. It
18 doesn't have a thing in the world to do with
19 defenses. It doesn't have a thing in the world
20 to do with what evidence that the State is going
21 to present insofar as proving its case if it
22 goes forward with a trial in this case on the
23 warrant -- I mean on the -- on the warrant.. I
24 think it's voluntary manslaughter, as I recall.

25 MR. NEWMAN: That's correct.

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1 THE COURT: All of those things will
2 come into play because the immunity -- this
3 hearing is to determine whether or not it even
4 comes into play in the first place. So nothing
5 has changed about that. Those facts are still
6 there for that.

7 As a lawyer, I could certainly argue
8 self-defense very easily with what I've looked
9 at.

10 But that is not what I am deciding. I
11 am deciding whether or not he has to even stand
12 trial for the charge. That's what we decided.
13 So I have to make a determination as to what I
14 believe. In this particular case, I believed
15 the version of facts testified by the other
16 witnesses, corroborated by scientific evidence
17 of the gunshot wounds. And the witnesses'
18 testimony of how it all happened, uh, -- just
19 simply it doesn't -- it's more consistent with
20 the other witnesses than it is his version.

21 Also there's one exchange between --
22 and I don't -- it was the second officer, and
23 I can't remember his name right offhand off the
24 top that was doing the interviewing. It was the
25 second meeting that was ---

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1 MR. STONE: Was it Captain Bromage?

2 THE COURT: I think it was Bromage.

3 He made an interesting observation which I think
4 is significant in this -- in my determination of
5 immunity. Your -- taking the drop, meaning that
6 he was stepping away and he believed that he was
7 getting set to shoot him, why would somebody --
8 that's the illogical part here.

9 Number one, he is clearly walking away.
10 Number two, the -- from what I can determine,
11 and all the witnesses' versions, that I think
12 are more credible -- and this just doesn't make
13 sense. Somebody is going to shoot -- I can
14 understand if they're engaged, if they are
15 threatening, throwing pistols around, but
16 there's testimony that he basically put the
17 pistol back in his waistband. He's clearly --
18 clearly the argument had ended. Whatever
19 argument or discussion there was, or threats,
20 at the truck where he was -- why would somebody
21 then in the presence of all these witnesses,
22 some of whom he didn't know, choose to shoot
23 somebody? That doesn't make any sense.

24 MR. NEWMAN: Well, Your Honor, that's
25 -- in our Motion, that's what we wanted to

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1 address. First as to the, again, argument, we
2 believe that there's sufficient facts that an
3 armed robbery and a kidnaping, based under State
4 v. Barrett, -- and those are continuing until a
5 person is free from ---

6 THE COURT: Mr. Newman, that's fine.
7 You can argue that. I don't agree with you.

8 I agree with you that there was all of
9 that -- that everything gives rise to him having
10 the gun and -- the question is -- let's take
11 Duncan. Let's just take Duncan. This is not
12 what happened, because in Duncan he continued to
13 move forward on the porch. He was within the
14 curtilage. No question about -- and there's a
15 statement in there, and this is where we are
16 going to have to focus, and I just don't extend
17 it. If he had simply opened the door and shot
18 him, maybe you're -- your version is more
19 supported. I just do not believe -- again, you
20 take a snapshot of all those things, the armed
21 robbery, all of those things, that doesn't give
22 him, under the statute, the right to decide when
23 he wants to shoot somebody when there is no --
24 when the danger has ended.

25 MR. NEWMAN: Well, this is what I

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1 asked the Court to consider as to the danger
2 ending. The boot is still on the car, the
3 locking device and ---

4 THE COURT: Mr. Newman, the boot is
5 still on the car. One other version was that he
6 was going to assist him to remove the boot.
7 Frankly, you've talked about an argument, I
8 think there was an argument. I think that
9 there's a lot more here inferentially -- uh,
10 let me give you some inferences that I don't
11 understand from your client's perspective, which
12 supports an argument.

13 Why do you boot a car and -- and he
14 talked about because he was in Turkey and was
15 stabbed and that's what was in his mind -- or
16 wherever he was when he did that, but ---

17 MR. NEWMAN: Trailer Park.

18 THE COURT: But why would you boot a
19 car when you've had your vehicle that was going
20 to tow it right there? That doesn't make any
21 sense. There are some inferences that I could
22 draw from that, very clearly. Clearly there
23 were some inferences. There was some inferences
24 that he wanted to try to get money from them and
25 that was the whole purpose, the whole deal.

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1 There is a reasonable inference, a logical
2 progression that easily could be determined from
3 that.

4 So there's no question about the fact
5 -- so my conclusion -- I believe -- is equally
6 supported by the evidence. Therein lies the
7 problem. I am the fact finder. I appreciate --
8 I wouldn't argue with you that that's a version
9 that you could conclude. I just don't conclude
10 that. I don't agree with you. I just think the
11 facts support my position more than they support
12 yours.

13 MR. NEWMAN: All right, sir. And,
14 respectfully, we understand that.

15 THE COURT: And, so, I -- you know,
16 this is -- to be candid with you, I think it's
17 an evolving state of the law. We don't know.
18 We've only had one case. We know that -- and
19 I was going to -- and let me go back:

20 Suppose Duncan had been walking off the
21 porch, walking away from the house. Under your
22 theory, he'd already been asked to leave and he
23 came back on the porch but he was walking away.
24 He would have the right to shoot him.

25 MR. NEWMAN: But, again, in *Duncan* the

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1 person that was unarmed was not robbing. He was
2 clearly ---

3 THE COURT: But ---

4 MR. NEWMAN: If Your Honor pleases, he
5 was clearly advancing upon. In our situation we
6 had an armed robbery and a kidnaping that under
7 *State v. Barrett* says robbery is a continuing
8 offense even when you are escaping the attacker,
9 that kidnaping in a continuing offense until the
10 complete release of the victim of the kidnaping.

11 THE COURT: You ---

12 MR. NEWMAN: That's why we believe
13 that it was ongoing. Mr. Oates gave testimony,
14 and I know the court discounts it, that he was
15 ordered out of the truck because he was the only
16 person that knew how to unboot the car.

17 THE COURT: Let me ask you a
18 question.

19 MR. NEWMAN: Yes, sir?

20 THE COURT: Let's assume, just for
21 the sake of discussion, that Mr. Oates gets back
22 in the truck, the victim is still over there --
23 armed robbery has happened and it's there, he's
24 still on the scene. He cranks up his truck and
25 he sticks the gun out and shoots him. Do you

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1 think under your theory that he's entitled to
2 shoot him?

3 MR. NEWMAN: That's didn't happen, so
4 ---

5 THE COURT: I didn't ask you. I'm
6 asking you -- you keep focusing on that's my
7 point. My point is, I don't need to make that
8 conclusion because I don't argue that he had the
9 right to arm himself. I don't have an argument
10 that he had the right to use it. I just think
11 in this particular case that when he chose to
12 use it was -- that it didn't meet the statute.

13 MR. NEWMAN: I understand.

14 THE COURT: So that's my position.

15 MR. NEWMAN: Yes, sir.

16 THE COURT: And I am not arguing with
17 him. I agree with you that under certain -- no
18 question about it. If he didn't have the right
19 to the property and he took it and he moved it,
20 there's no question. There is none.

21 Now, arguably he gave him the key
22 voluntarily without threat of being -- without
23 any threat of being armed or anything else.

24 MR. NEWMAN: Well, Your Honor, that's
25 why I put my hypothetical in there. If I walk

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1 up to the store clerk and show my gun and say,
2 'Will you please give me ten dollars out of the
3 register' and she does ---

4 THE COURT: We're not talking about
5 arguing an armed robbery case. You keep
6 focusing on that. I don't -- you don't have
7 to do that because, quite frankly, he's in his
8 truck, he's in his vehicle. A gun is present --
9 and as I read the statute, and I am certainly am
10 condensing it: a gun is present, he's in his
11 truck where he had a right to be. That statute
12 now comes in play.

13 It doesn't matter about the armed
14 robbery. The armed robbery is another indicia
15 of why the statute is in play.

16 Again, you're arguing something that I
17 don't argue with you. You're entitled to the
18 determination of immunity. I just don't think
19 that you're entitled to it based on the facts.

20 MR. NEWMAN: That was solely our
21 point, that under those cases that it was a
22 continuing offense.

23 We also raised, Your Honor, and I know
24 your position on it -- on our second part of it,
25 is -- let me get to the (reviewing file), I

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1 apologize.

2 THE COURT: That's all right. Take
3 your time.

4 MR. NEWMAN: Is the analysis of -- and
5 I know these are difficult things. As you said,
6 we are treading new water. Self-defense vis-a-
7 vis immunity from prosecution.

8 One of the things that I feared would
9 happen in the case, and I know the Press is
10 standing behind me, the headline comes out "Judge
11 Rules Oates Not Entitled to Self-Defense." As I
12 believe you stated here today, that's not your
13 ruling at all. It's the applicability of the
14 immunity statute.

15 THE COURT: I love this country, and
16 I mean that sincerely. There seems to be times
17 when everybody looks at certain things that
18 people are trying, maybe, to play fast and loose
19 with rights but I think the Press has every
20 right in the world to be present here today.
21 I am delighted to have them here. They write
22 articles. There is no question that those
23 articles will be addressed if and when Mr. Oates
24 is brought to trial on these charges, will be
25 addressed insofar as a question to prospective

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1 jurors as to whether they have read it.
2 Clearly, there was not a determination. That
3 wasn't an issue in those proceedings, it never
4 was an issue in those proceeding.

5 Really the proceedings were to deter-
6 mine whether or not self-defense -- whether the
7 State had the burden to disprove self-defense.
8 As it -- as it is placed right now, as we know,
9 under the Constitution there is no reason for a
10 defense because he's not guilty. He is presumed
11 innocent until the State proves beyond a
12 reasonable doubt, which would mean -- if
13 necessary -- to disprove self-defense, that he
14 is guilty.

15 So clearly my ruling had nothing to do
16 with that. My ruling was simply within the
17 confines of that statute whether or not he had
18 to face those charges. That's all that we are
19 talking about.

20 So I appreciate your argument. I
21 appreciate the analogy. There is certainly --
22 as a lawyer, as I mentioned, I could certainly
23 articulate the basis for self-defense, clearly,
24 given the state of the law, given what the
25 immunity statute gives from the standpoint of --

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1 it basically presumes certain things which are,
2 I think, beneficial in a self-defense claim, as
3 well. Again, as we know, Mr. Oates doesn't have
4 to prove that. The State has to disprove it.

5 So it doesn't -- it's not a matter for
6 my consideration at this point because it just
7 simply -- it is not an issue whether or not the
8 immunity statute applies. That is my rationale
9 for not addressing it.

10 MR. NEWMAN: I understand that, Your
11 Honor, and I would just ask the court to
12 recognize that we did ---

13 THE COURT: Raise it.

14 MR. NEWMAN: --- raise it, and ---

15 THE COURT: Let me just say this.
16 Any memoranda -- obviously the Motion becomes a
17 complete part of the record and your positions
18 as stated are incorporated fully for purposes of
19 review, and you may rely on those.

20 MR. NEWMAN: Thank you, Your Honor.

21 THE COURT: You bet.

22 MR. NEWMAN: And lastly, under -- the
23 statute gives certain presumptions and we
24 believe that under the facts of this case that
25 Mr. Oates is entitled to the presumption

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1 provided in 16-11-440, to the presumption that
2 he was in reasonable fear of his safety and that
3 -- that he was able to use force to prevent an
4 entry or unlawful forceful attack and that he
5 also had the right to arm himself with fire to
6 prevent the commission or the continuance of a
7 violent crime as defined in 16-160, which of
8 course armed robbery and kidnaping are both
9 defined as violent crimes.

10 THE COURT: No question. Now, that's
11 one -- you want to be heard any more on -- I'll
12 let you reply. That's one that I need to hear,
13 definitely, from the State on that particular
14 issue.

15 MR. NEWMAN: That is the point that I
16 wanted to raise on that, Your Honor, and I will
17 defer at this point.

18 THE COURT: Why don't you -- you can
19 raise it in reply to anything that the State --

20 MR. NEWMAN: Thank you, Your Honor.

21 THE COURT: Mr. Stone?

22 MR. STONE: I think, Your Honor, that
23 it gets back to the original ruling of this
24 court, which is when does this take place. From
25 our perspective of this, what the defense argues

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1 is that Preston Oates was the victim of a crime.
2 And that as a victim of a crime he has a certain
3 presumption that he is able to meet force with
4 force.

5 The issue before the court, which I
6 think really is the issue that we've had all
7 along is, does that end? At what point does
8 someone walking away justify still being the
9 aggressor?

10 Our position, and what I think the
11 court has found, is that that was not the case,
12 that he was not continuing to be the aggressor.
13 Therefore, Preston Oates was not continuing to
14 be the victim. As such, his presumption ends.

15 The way that I read this the castle
16 doctrine, which, quite frankly, Your Honor we've
17 had before. It was codified in 2001. I thought
18 the State was pretty clear on the castle
19 doctrine. I believe that people do have a right
20 to protect themselves in their home from
21 criminals, I think that they have a right to
22 protect themselves in their businesses and, as
23 well, on the street. I don't think, however,
24 that once there is some kind of argument that
25 that justifies the shooting of another person

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1 after that argument has ended.

2 I think the presumption that we're
3 talking about is not applicable in this case
4 because of timing, because it was over, because
5 the event was over that would justify the
6 shooting -- if there ever was one.

7 I think Your Honor finds that from, you
8 know, not only the witness statements which
9 clearly -- clearly you've heard a great number
10 of witnesses, you've heard an audio tape from
11 the defendant himself who, I would submit to
12 you, changed his story two or three times.

13 THE COURT: Yes, sir.

14 MR. STONE: But the objective
15 evidence, which is the pathology report and the
16 video; which Your Honor has been able to see,
17 which I believe we made as Court's Exhibit 4,
18 which is going to go up to the appellate court.

19 From at least the State's perspective
20 and, I believe from reading your Order, from
21 your perspective, he was walking away at the
22 time. The pathology backs that up. The only
23 shot that was anywhere close to the front of the
24 victim was a grazing shot that went across the
25 abdomen area, which the pathologist says was not

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23

1 deep, did not go in, it just went straight
2 across. I believe all that backs up to the fact
3 that the event had ended. That the -- if there
4 was any attack, or even a perceived attack, that
5 that had ended.

6 I believe the castle doctrine protects
7 people when they are being attacked and that's
8 not the case that we have here. That's our
9 position on that.

10 THE COURT: Thank you.

11 MR. NEWMAN: In response to that, Your
12 Honor, I believe that it is pretty clear that
13 Mr. Oates was attacked, that he was attacked in
14 a manner provided for in the statute. With the
15 boot still being on the car, the locking device
16 and the keys, the question is -- if Mr. Oates
17 had been, let's say, a police officer, which I
18 know that he wasn't, the question is how does
19 Mr. Oates know that that attack ends? This man
20 was still armed, his property was still out
21 there -- of course, Mr. Oates contends that he
22 was ordered out of the car. But let's just
23 assume that he is going to voluntarily get out
24 of the car. How does he know that the attack
25 ends? Is he going to bend down and not look,

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1 when there's a guy with a pistol in his waist-
2 band who, according to his brother, had pulled
3 it on and pointed it at him. How does he know
4 that the attack ends? How does he know that he
5 is no longer in reasonable fear of his safety
6 out there on a dark night with not one but two
7 potential assailants. How does he know that the
8 attack ends? When does he lose his reasonable
9 presumption that he is in fear? That would be
10 our point on that.

11 THE COURT: Well, I don't think he
12 ever loses that reasonable presumption that he's
13 in fear, because that comes in -- directly into
14 what we are talking about, what was his state of
15 mind. I don't quarrel with that.

16 The whole question here -- and I will
17 agree with you -- and this -- so that the Court
18 is aware, the reviewing court, should that
19 become necessary, I do consider -- and the
20 video, while it is not clear, -- it is clear on
21 one thing: there is not a lot of time from the
22 time that movement starts away and the flashes
23 occur.

24 There is no question that -- this isn't
25 some time when everybody has cooled off, some

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25

1 time where everybody is not talking to each
2 other. It's -- it is pretty contemporaneous
3 with what's going on at the truck.

4 As I say, I have to make a logical
5 conclusion. I don't think that -- I think that
6 the initial threat -- there is no question, as I
7 stated at the hearing, I think, and certainly
8 have stated to both of you. If he takes that
9 gun and he's talking, that instead of showing
10 him the paperwork he shoots him, I think there's
11 a hard argument that there is no question that
12 he did exactly what the statute contemplated.

13 Do I think that's necessarily what
14 everybody intended when they drafted that? I
15 don't know. That's getting into the legislative
16 aspect. I don't know. All I am doing is
17 interpreting the law. But I believe that there
18 is support for that.

19 Again, the degree of aggression, that's
20 what they are going to have to address, if they
21 choose to. There's no question you have all
22 those arguments that you have raised about
23 kidnaping, about armed robbery, clearly armed
24 robbery. I mean, there's no question about
25 that. But at least that's arguable, I think,

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1 at least insofar as what it is. But, again, we
2 don't even get -- that is another part of the
3 statute, that he is in his truck, that's his
4 business, that's where he has a right to be. So
5 there's no question.

6 Again, I just believe the aggression
7 had ceased. You know, what's in his mind,
8 that's what a jury is going to have to do.

9 You could argue the other side, which I
10 don't really have to do because I'm not arguing
11 self-defense. Why would he think that he was
12 going to use it anyhow? He'd had several
13 opportunities to shoot him. He didn't do it.
14 What changed other than the location? Whatever
15 was motivating him not to use the firearm before
16 -- and I am talking about the victim -- still
17 was motivating him because nothing was changing.
18 He had the gun at the window. Why didn't he just
19 shoot him there if he was going to shoot him?

20 That doesn't make -- so that -- you
21 don't have to argue your logic, because you can
22 differ with me. I am saying this for the
23 purpose of the reviewing court should that
24 become necessary, to understand that there was a
25 thought process. It wasn't just an arbitrary,

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1 'Oh, I think I'm going to rule with the State.'
2 That was my -- those are my thoughts. Whether
3 or not they find that to be logical, -- I think
4 that's a logical basis for it. I think that I
5 am required to at least address that.

6 We all get a luxury here because we
7 don't get to ask juries what their reasoning
8 was, but y'all get to ask me what my reasoning
9 was. I debated whether or not to say it. But
10 I think if it is going to be reviewed, then
11 they ought to -- they ought to have to -- then
12 I ought to put it on the record and state my
13 rationale for it. They can say, 'Judge Dennis,
14 that's totally illogical.' That will be their
15 right and then, I guess, they'd be agreeing with
16 you. But at this point -- is there any other
17 aspect of the Order that needs to be addressed
18 from either side, other than what you've raised
19 in yours, Mr. Newman?

20 MR. NEWMAN: No, sir. I'd just like
21 to briefly say that's why we put in the self-
22 defense vis-a-vis ---

23 THE COURT: Oh, I understand.

24 MR. NEWMAN: Because we believe that
25 was his safest first opportunity, like under

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1 *State v. Hendricks.*

2 THE COURT: And that's exactly what
3 -- that's exactly what self-defense is for and
4 that's exactly why that hasn't been decided,
5 because I didn't have to address that.

6 MR. NEWMAN: Yes, sir.

7 THE COURT: No question about it,
8 it's a -- it will be an interesting case from
9 self-defense. Quite frankly, I tried one in
10 Berkeley County years ago where -- in this case
11 there was testimony that the guy was walking
12 away from the porch -- before the castle
13 doctrine. Had we had it, it may not have even
14 gone to trial.

15 Oddly enough, my wife sat on that jury.
16 I couldn't -- I wasn't going to excuse her. The
17 lawyers said, 'well, she...' -- I couldn't think
18 of any basis that she couldn't sit because she
19 is a different judge, she had to follow the law
20 whether -- that would be difficult, maybe
21 somebody could say 'she is not going to listen
22 to you.' There is no question that she had a
23 different role to play.

24 But it was interesting because after it
25 was over, it was nice to hear some of the

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1 rationale -- because -- exactly what you're
2 saying, because the State's position was that he
3 was walking off the porch. His position was
4 that the threat hadn't ended. They concluded
5 that it was self-defense, found him not guilty
6 on that basis.

7 There is no question that there is an
8 interesting self-defense argument. The whole
9 thrust of this has been whether or not we get
10 to hear that or not. I don't know. I am not
11 trying to be a solicitor. That's still up to
12 him as to whether or not he's called to face
13 that. Clearly that will be for another day and
14 I -- there's a very logical argument for that,
15 sir. No question about it.

16 MR. NEWMAN: Thank you, Your Honor.
17 We appreciate you hearing from us. Obviously,
18 I'd state for the record that we take exception
19 to the court's ruling ---

20 THE COURT: Absolutely.

21 MR. NEWMAN: --- very respectfully.
22 Thank you for hearing from us.

23 THE COURT: Thank you, Mr. Newman.

24 MR. STONE: Thank you, Your Honor.

25 THE COURT: Thank you, Mr. Stone.

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1 Thank you all for your thoroughness and the way
2 that you argued this. Good luck.

3 Oh, by the way, you and I had a
4 conversation earlier -- I had talked with the
5 solicitor concerning scheduling your Motion,
6 which was to seal the record. As I understand,
7 you have withdrawn that Motion? Because I am
8 not sure that I can hear it, but I was going to
9 call Judge Mullin and offer to hear it if need
10 be.. But it's my understanding that you do not
11 need that heard?

12 MR. NEWMAN: At this juncture the
13 report has already been released, we do not need
14 that to be heard. I think actually today was
15 more beneficial than to hear a Motion to seal
16 anything. So that's withdrawn.

17 THE COURT: Thank you so much.
18 Appreciate it.

19 MR. STONE: Thank you.

20 THE COURT: Y'all have a great day.

21 (HEARING CONCLUDED)
22
23
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25

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CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the hearing
held before The Honorable R. Markley Dennis,
Jr., on March 13, 2012;

I further certify that I am neither kin nor
counsel to any of the parties and have no
interest in the outcome of this action.

Deborah Garrison
Circuit Court Reporter
9th Judicial Circuit

Charleston, South Carolina

April 30, 2012

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT)

INDICTMENT NO(S): 2011-GS-07-120
2011-GS-07-121

STATE OF SOUTH CAROLINA)

WARRANT NO(S): J338658
J338659

v.)

Preston Oates,
Defendant)

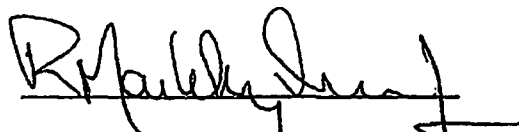
ORDER

2012 MAR 14 AM 8:14
CLERK OF COURT
BEAUFORT COUNTY, S.C.

This matter came before me on March 13, 2012 by motion of the Defendant under SCRPC 59(e) to reconsider my denial of the Defendant's Motion for Immunity from Prosecution as provided by the Protection of Persons and Property Act, South Carolina Code Section 16-11-410 (the Act). Present at the hearing were Solicitor Isaac McDuffie Stone, III and Deputy Solicitor Sean Thornton for the State and Jared Newman, counsel for the Defendant.

After fully considering the motion and hearing all oral arguments, Defendant's Motion to Reconsider is hereby **DENIED**.

IT IS SO ORDERED.


 R. Markley Dennis, Jr.
 Presiding Circuit Judge

3/13, 2012
 Ridgeland, SC

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

TRANSCRIPTION OF AUDIO

DATED DECEMBER 24, 2010

RE: STATE VS. PRESTON OATES

THIS IS THE TRANSCRIPTION OF THE AUDIO DATED
DECEMBER 24, 2010, AS PROVIDED BY THE 14TH JUDICIAL CIRCUIT
SOLICITOR'S OFFICE IN BLUFFTON, SOUTH CAROLINA, TO BEVERLY
F. COOK, NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH
CAROLINA. TRANSCRIPTION IS VERBATIM AS HEARD WHERE
AUDIBLE AND IS BEING USED FOR PURPOSES OF DISCOVERY
AND/OR USE AT TRIAL.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

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APPEARANCES

NAMES WERE PROVIDED AS FOLLOWS:

SUBJECT:

PRESTON OATES

BEAUFORT COUNTY SHERIFF'S OFFICE:

MALE OFFICER (NAME UNKNOWN TO TRANSCRIPTIONIST)

FEMAL OFFICER (NAME UNKNOWN TO TRANSCRIPTIONIST)

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: WE'RE CURRENTLY AT THE BEAUFORT COUNTY
2 SHERIFF'S OFFICE, HILTON HEAD SUBSTATION. IT'S DECEMBER THE
3 24TH, 2010. BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST
4 UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN
5 SILENT. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU
6 IN A COURT OF LAW. YOU HAVE THE RIGHT TO TALK TO AN
7 ATTORNEY FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS. IF
8 YOU CANNOT AFFORD AN ATTORNEY, ONE WILL BE APPOINTED FOR
9 YOU BEFORE ANY QUESTIONING IF YOU WISH. IF YOU DECIDE TO
10 ANSWER QUESTIONS NOW WITHOUT AN ATTORNEY, YOU WILL STILL
11 HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME. YOU ALSO
12 HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU
13 TALK TO AN ATTORNEY. DO YOU UNDERSTAND THESE RIGHTS AS
14 I'VE READ THEM TO YOU?

15 OATES: AT 10:49 PM, I UNDERSTAND MY RIGHTS.

16 MALE OFFICER: OKAY. AND IF I CAN JUST GET YOUR SIGNATURE
17 FOR ME DOWN HERE AT THAT BOTTOM.

18 (BRIEF PAUSE FOR SIGNING)...

19 MALE OFFICER: ALL RIGHT. NOW TELL ME THE HIGHEST GRADE
20 LEVEL THAT YOU'VE COMPLETED IN SCHOOL.

21 OATES: I GRADUATED.

22 MALE OFFICER: OKAY, TWELFTH GRADE?

23 OATES: (INAUDIBLE RESPONSE)

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: IF YOU CAN JUST PUT TWELVE IN THERE, AND I
2 NEED YOU TO SIGN RIGHT HERE THAT YOU UNDERSTAND YOUR
3 RIGHTS.

4 OATES: ACTUALLY, HILTON HEAD ISLAND WAS THE LAST SCHOOL
5 THAT I WAS DOCUMENTED IN BECAUSE AFTER THAT IT WAS
6 MILITARY, SO...

7 FEMALE OFFICER: THE TWLEFTH GRADE IS FINE.

8 OATES: WELL, IT WAS TENTH AND A LITTLE VARIABLE.
9 BECAUSE...

10 FEMALE OFFICER: ONE MORE SIGNATURE RIGHT THERE...
11 THAT'S IT.

12 (BRIEF PAUSE FOR SIGNING)...

13 MALE OFFICER: AND AS I ALREADY TOLD YOU, I UNDERSTAND THAT
14 THIS IS AN UNBELIEVABLY STRESSFUL SITUATION. BUT WE JUST
15 WANNA GET YOUR STORY SO IF YOU FEEL COMFORTABLE, JUST
16 TAKE A DEEP BREATH, START AT THE BEGINNING AND TAKE US ALL
17 THE WAY THROUGH IT.

18 OATES: OKAY. I'LL START BACK TO THE FIRST VEHICLE IN THERE
19 IN FRONT OF...

20 MALE OFFICER: AND... AND LISTEN TO ME, MAN. I JUST CAME FROM
21 MY HOUSE SO I DON'T KNOW ANYTHING ABOUT WHAT HAPPENED
22 OTHER THAN YOU WERE OUT SOMEWHERE AND THERE WAS A
23 SHOOTING. I DON'T KNOW WHERE IT OCCURRED OR WHAT

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 HAPPENED.

2 OATES: THAT'S FAIR.

3 MALE OFFICER: OKAY.

4 FEMALE OFFICER: AND HOW YOU ENDED UP OUT THERE... THAT
5 KIND OF THING.

6 OATES: OKAY, THEN WE'LL REVERT BACK TO ... 11:25 THIS
7 MORNING, A.M., THE PROPERTY MANAGEMENT COMPANY THAT'S IN
8 CHARGE OF EDGEFIELD... THEY WERE HIRED BY EDGEFIELD H.O.A.,
9 CONTACTED ME, WHICH IS I.M.C. RESORT SERVICES. I HOLD THE
10 CONTRACT TO TOW ALL VEHICLES WHO ARE IN VIOLATION OF THE
11 H.O.A.'S RULES AND REGULATIONS FOR THE SAID COMMUNITY.
12 I.M.C. CONTACTED ME INQUIRING AS TO IF WE WERE GOING TO BE IN
13 EDGEFIELD TODAY AND TOMORROW IN REGARDS TO KEEPING
14 VEHICLES FROM PARKING IN THE STREET. I ADVISED HER THAT YES,
15 WE WILL BE IN THERE TO REMOVE ANY VEHICLES THAT ARE, AGAIN,
16 AGAINST THE RULES AND REGULATIONS OF THE COMMUNITY IN
17 ACCORDANCE WITH THE SIGNAGE THAT 'S POSTED. I HAD ONE CALL
18 AT [REDACTED] IT WAS A 2007 CHEVROLET VENTURE...
19 NO...

20 MALE OFFICER: DID SOMEONE CONTACT YOU, WAS IT SECURITY
21 OR...

22 OATES: NO... WE ARE CONTRACTED TO GO THERE AND TOW
23 VEHICLES THAT ARE PARKED IN THE STREET.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: OKAY.

2 OATES: INCLUDING THE POOL AREA.

3 MALE OFFICER: WERE... WERE YOU THERE WITH YOURSELF, OR WAS
4 SOMEONE ELSE IN THE TRUCK WITH YOU?

5 OATES: I WAS BY MYSELF.

6 MALE OFFICER: OKAY.

7 OATES: I LEFT, AFTER SETTLING WITH THE OWNER OF THE
8 VEHICLE, I LEFT [REDACTED] AND I PROCEEDED TO
9 PARKERS. I WENT INTO A GAS STATION AND I PURCHASED A KING
10 SIZE BUTTERFINGER, A TWENTY OUNCE FAT-FREE FRENCH VANILLA
11 CAPPUCCINO AND A BAG OF KETTLE COOKED BUFFALO BLUE...
12 BUFFALO BLUE POTATO CHIPS. FROM THERE I WENT BACK INTO
13 EDGEFIELD BECAUSE A VEHICLE WAS PARKED AT THE POOL THAT
14 DIDN'T HAVE A PARKING PASS AND THERE IS A TIME... THERE WAS A
15 PARKING PASS BUT IT WAS GOING TO EXPIRE BRIEFLY, SO WITH IT
16 BEING THE HOLIDAY, I GAVE THEM THE BENEFIT OF THE DOUBT AND
17 OCCUPIED MYSELF TO GIVE THEM A SET TIME. RETURNED BACK AND
18 THEIR VEHICLE WAS GONE. THE LAST ONE AT THE POOL AREA, THE
19 VIN NUMBER WAS ENDING IN SEVEN ZERO THREE TODAY... THAT
20 SEVEN ZERO THREE WAS THE LAST NUMBER FROM TODAY. I WENT
21 BACK IN THERE, PASSED BY THE POOL AND THE VEHICLE HAD LEFT.
22 SO I WAS ALREADY OUT THERE, SO I STARTED RUNNING AND I MADE
23 THE RIGHT ONTO [REDACTED] DIRECTLY IN FRONT OF ME,

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 THERE WAS A TOYOTA MINIVAN PARKED IN THE STREET... NO
2 LIGHTS ON, NO HAZARDS ON, AND THE HOOD WAS COLD. I HAVE
3 AUTOMOTIVE DISABLING DEVICES, ALSO KNOWN AS A BOOT. I
4 WALKED UP AND I PLACED A BOOT ON THE FRONT... ON THE FRONT
5 TIRE OF THE VEHICLE. FROM EXPERIENCE, WHEN A TRUCK PULLS UP,
6 BECAUSE I DO IT FOR REPOS AND I DO IT FOR ... ANYTIME I'M DOING
7 THIS TYPE OF ACTIVITY WHETHER IT BE REPO, TOW AWAY, IF IT'S
8 NOT A VIOLATION OR AN ACCIDENT, I HAVE MY... THAT WORKS THE
9 BEST. THAT'S HOW I AVOID GETTING STABBED NOW, BECAUSE LAST
10 TIME... (INAUDIBLE)... I GOT A KNIFE TO MY BACK. (SPEAKING TO
11 SOMEONE ELSE)... YOU REMEMBER THAT?

12 FEMALE OFFICER: YEAH.

13 OATES: THAT WAS THE SECOND TIME I HAD MY LIFE FLASH
14 BEFORE ME.

15 FEMALE OFFICER: IT'S A DANGEROUS JOB.

16 OATES: THIS TIME WAS ASHLEY AND AMANDA. I PICKED THEM UP
17 FROM RUMOR'S BAR, WENT BACK TO MY HOUSE, WE WERE IN THE
18 HOT TUB... YEAH... HAD A THREESOME AND RIGHT WHEN I WAS
19 LOOKING DOWN THE BARREL OF THAT GUY'S GUN, I SAID TO
20 MYSELF, WOW, THIS IS GONNA BE MY LAST MEMORY. THAT'S ...
21 WELL WE ALL COPE WITH THINGS AND HANDLE THINGS OUR OWN
22 WAY. I WENT BACK TO MY FLATBED TOW TRUCK WITH THE SEVEN
23 FORTY SEVEN AND I PROCEEDED TO PULL AROUND TO THE FRONT OF

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 THE VEHICLE SO I COULD HOOK IT UP TO TOW IT OFF.

2 MALE OFFICER: THE SAME TRUCK THAT HAD THE BOOT ON IT?

3 OATES: THE SAME VAN... MINIVAN THAT...

4 FEMALE OFFICER: OKAY.

5 OATES: THE FRONT TIRE WAS BOOTED.

6 MALE OFFICER: YES.

7 OATES: WITH AN ORANGE RHINO, VEHICLE DISABLING DEVICE IS

8 THE TECHNICAL TERM. BACK INTO IT, I EXITED THE DRIVER'S DOOR

9 AND I MADE IT HALF WAY DOWN MY VEHICLE. I SAW THREE

10 HISPANIC MALES COME FROM A HOUSE BEHIND WHERE THE VAN

11 WAS PARKED. THEY WERE KIND OF HOOTING, HOLLERING, KIND OF

12 RUNNING A LITTLE ABRUPTLY, SO THREE ON ME, I WENT BACK TO

13 THE CAB OF MY TRUCK, CLIMBED IN THE TRUCK, SHUT THE DOOR,

14 LOCKED IT AND ROLLED THE DRIVER'S SIDE WINDOW DOWN TO

15 SPEAK WITH THEM FOR SAFETY. AGAIN, I DON'T LIKE GETTING

16 STABBED. TWO GENTLEMEN STEPPED ONTO THE SIDE OF MY TRUCK

17 AND WERE STANDING, YOU KNOW, STANDING ON THE RUNNING

18 BOARD, TALKING TO ME THROUGH THE WINDOW. THE GENTLEMAN

19 THAT WAS BETWEEN THE MIRROR AND THE OTHER GENTLEMAN, SO

20 HE WAS KIND OF AT THE MIDDLE MIRROR AND THE LEFT, LEANED

21 OVER TOWARD THE THIRD GENTLEMAN, THE YOUNGER GUY, HE SAID

22 GO GET MY SHOTGUN. GREAT... OKAY, I GOT TWO GUYS STANDING

23 ON THE SIDE OF MY TRUCK, I CAN'T JUST DRIVE... DRIVE OFF...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: RIGHT.

2 OATES: AND OKAY, WELL LET'S JUST BE COOL WITH THIS. THEY
3 ASKED ME WHAT WAS IT GONNA TAKE, WHAT WAS I GONNA DO, SO I
4 SAID LET ME CALL MY OFFICE, ADVISE THEM OF WHAT'S GOING ON
5 AND SEE WHAT THEY SAY. THAT'S STANDARD PROCEDURE, THAT'S

6 MALE OFFICER: WHAT'S GOING ON AND LET THEM KNOW WHY
7 WE'RE... WHY MY VEHICLE'S BEING TOWED.

8 MALE OFFICER: RIGHT.

9 OATES: WELL, BECAUSE WE WERE CALLED OUT HERE BY I.M.C.
10 THEY HAVE RULES AND REGULATIONS. THE PREVIOUS PEOPLE I
11 HAVE POLLED... YOU LIVE HERE... YEAH... YOU KNOW THE RULES...
12 YEAH, WE KNOW THE RULES, WE WERE ONLY HERE TWENTY
13 MINUTES. SO THAT GIVES EVERYBODY TIME TO KIND OF FIGURE OUT
14 WHAT'S GOING ON.

15 MALE OFFICER: SURE.

16 OATES: THE BROTHER... DON'T KNOW IF NAME... SAID TO ME,
17 TAKE... TAKE THAT OFF HIS VEHICLE. TAKES IT OFF HIS VEHICLE,
18 HE'S GONNA LEAVE. I SAID OKAY LET ME CALL MY OFFICE AND SEE
19 WHAT THEY WANNA DO AND WE'LL GET A HANDLE... IT'S NOT A
20 PROBLEM, WE CAN WORK THIS OUT... LET ME CALL MY OFFICE AND
21 WE'LL GET IT HANDLED.

22 MALE OFFICER: SO AT THAT TIME...

23 OATES: SO THAT GIVES THEM A CHANCE TO COOL OFF, KIND OF

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 UNDERSTAND WHAT'S GOING ON, SEE... YOU KNOW, WHAT'S
2 HAPPENING, YOU KNOW, EVERYTHING'S OKAY... AND THEY...

3 MALE OFFICER: SO IT'S SORT OF PROCEDURAL?

4 OATES: RIGHT, YEAH, AND THAT KIND OF JUST CALMS
5 EVERYBODY DOWN.

6 MALE OFFICER: RIGHT, THAT MAKES SENSE.

7 OATES: I SAID OKAY LET ME CALL MY OFFICE. I HEARD A ROUND
8 BEING CHAMBERED... WHICH REMINDS ME, THE WEAPON THAT WAS
9 IN THE ROAD... WAS THERE ONE IN THE CHAMBER?

10 FEMALE OFFICER: I HAVEN'T BEEN OUT TO THE SCENE SO...

11 OATES: I JUST DISTINCTLY REMEMBER HEARING A ROUND BEING
12 CHAMBERED...

13 MALE OFFICER: NEITHER ONE OF US HAVE BEEN ON THE SCENE...

14 FEMALE OFFICER: WE HAVEN'T BEEN OUT THERE...

15 OATES: OKAY.

16 MALE OFFICER: THERE ARE THREE OTHER INVESTIGATORS OUT
17 THERE THAT ARE PROCESSING IT AND WE HAVE NOT COMMUNITED,
18 SO...

19 FEMALE OFFICER: BUT YOU HEARD A ROUND...

20 OATES: I HEARD... I HEARD A ROUND BEING CHAMBERED.

21 FEMALE OFFICER: OKAY.

22 MALE OFFICER: LIKE A PISTOL ROUND OR A SHOTGUN ROUND OR...

23 OATES: IT WASN'T A RATCHET, IT WAS A PISTOL.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: PISTOL.

2 FEMALE OFFICER: PISTOL... OKAY.

3 OATES: YEAH, IT WAS A SLIDE.

4 FEMALE OFFICER: OKAY.

5 MALE OFFICER: COULD YOU SEE WHO HAD THE PISTOL?

6 OATES: THE GENTLEMAN THAT WAS IN THE MIDDLE... FROM THE

7 MIRROR... MAY I?

8 MALE OFFICER: SURE.

9 (BRIEF PAUSE FOR DRAWING)...

10 OATES: WELL, I'M A BAD ARTIST, BUT THAT'S OKAY THOUGH. MY

11 WINDOW WAS ABOUT RIGHT HERE... THAT'S THE GLASS... A POST...

12 SO YOU SEE A MIRROR HERE, THAT GOES DOWN THAT WAY...

13 MALE OFFICER: ALL RIGHT. SO YOU'RE GIVING US YOUR

14 VIEWPOINT LOOKING OUT...

15 OATES: MY LOOKING OUT, YES.

16 MALE OFFICER: OKAY. I GOTCHA... WHERE WAS THE THIRD GUY?

17 OATES: STANDING ON THE GROUND BACK HERE, BUT WHEN HE

18 SAID GET MY SHOTGUN, HE LEFT.

19 MALE OFFICER: OKAY.

20 OATES: SO NOW...

21 MALE OFFICER: SO NOW THERE ARE ONLY TWO GUYS OUT THERE

22 AT THAT TIME?

23 OATES: YES, I'M... I'M SITTING IN MY DRIVER'S SEAT WHEN I

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 LOOK OVER MY LEFT SHOULDER ... LOOKED OVER MY LEFT
2 SHOULDER... NUMBER ONE WAS CLOSEST TO THE ? POST WHERE THE
3 SEATBELT HIS AND NUMBER TWO WAS IN THE MIDDLE BETWEEN THE
4 MIRROR AND HIS FRIEND.

5 MALE OFFICER: DID THEY INDICATE WHO THE VAN BELONGED TO?

6 OATES: FROM THE... FROM GENTLEMAN NUMBER ONE, SAYING
7 YOU'RE GONNA... HE'S LEAVING, HE'S LEAVING, YOU KNOW, TAKE
8 THE BOOT OF HIS... GO TAKE IT OFF HIS CAR, HE'S GONNA LEAVE...
9 SO FROM WHAT I GATHERED FROM NUMBER ONE, WAS THAT IT WAS
10 HIS VEHICLE.

11 MALE OFFICER: OKAY.

12 OATES: AFTER I HEARD THE REFERENCE OF THE GUN, NUMBER
13 TWO SAYS YOU'RE GONNA TAKE THIS OFF RIGHT NOW AND I'M
14 LEAVING. I SAID THAT'S FINE. NO PROBLEMO, NO PROBLEMO.

15 MALE OFFICER: SO IT SEEMED LIKE THEY WERE BROTHERS?

16 OATES: YES. BECAUSE NUMBER ONE SAID TO ME...

17 MALE OFFICER: HOW GOOD WAS THEIR ENGLISH?

18 OATES: I WOULD CLASSIFY THEM ON A SIXTH GRADE LEVEL WITH
19 A GRAMMAR OF ABOUT A... THE GRAMMAR OF ABOUT A TEN YEAR
20 OLD.

21 MALE OFFICER: OKAY.

22 OATES: I DO A LOT OF WORK IN EUROPE OVERSEAS SO I DEAL
23 WITH LANGUAGES.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: BUT YOU CAN UNDERSTAND THEM AND YOU FELT
2 LIKE THEY COULD UNDERSTAND YOU?

3 OATES: CI... QUL... YES...DA... YEAH...

4 MALE OFFICER: OKAY.

5 OATES: SO NUMBER TWO IS THE OWNER OF THE VEHICLE.

6 MALE OFFICER: OKAY.

7 OATES: NUMBER ONE IS THE BROTHER. NUMBER ONE LIVES AT
8 THE RESIDENCE.

9 MALE OFFICER: OKAY.

10 OATES: NUMBER TWO CAME TO VISIT TO DROP OFF PRESENTS.

11 MALE OFFICER: OKAY.

12 OATES: ONE'S THE INITIAL THING. WHEN I FELT THE HOOD AND
13 THE HOOD WAS ICE COLD... I'VE HEARD THAT PLENTY OF TIMES,
14 JUST LIKE I HAD MY SEATBELT ON... NUMBER ONE... SO I... I WAS
15 TRYING TO STALL TO GAIN MY COMPOSURE AND... AND...

16 MALE OFFICER: AND YOU HAD ALREADY RADIOED YOUR OFFICE?

17 OATES: NO.

18 MALE OFFICER: NOT YET...

19 OATES: I HADN'T, CAUSE BEFORE WHEN I SAID LET ME CALL TO
20 SEE WHAT WAS GOING ON... NO, YOU TAKE IT OFF THE VAN RIGHT
21 NOW, THEN I HEARD THE RATCHET SOUND...

22 MALE OFFICER: RIGHT.

23 OATES: I MEAN, I HEARD THE CHAMBERING... IT WASN'T A

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 SHOTGUN, IT WAS...

2 MALE OFFICER: COULD YOU TELL WHICH ONE OF THE GUYS HAD IT?

3 OATES: NO... IT WOULD'VE HAD TO HAVE BEEN NUMBER TWO

4 BECAUSE NUMBER ONE HAD BOTH OF HIS HANDS ON THE WINDOW

5 HOLDING ON.

6 MALE OFFICER: OKAY. GOTCHA.

7 OATES: NUMBER TWO, HIS LEFT HAND WAS ON THE MIRROR, BUT

8 THEN RIGHT HAND CAME DOWN...

9 MALE OFFICER: (INAUDIBLE INTERRUPTING)...

10 OATES: ... I HEARD A RATCHET AND THEN HIS LEFT HAND CAME

11 BACK UP.

12 MALE OFFICER: RIGHT.

13 OATES: THERE WAS... SO THEN, I WAS TRYING TO STALL TO SEE

14 WHAT I COULD DO TO GAIN MY COMPOSURE AND JUST ...

15 MALE OFFICER: (INTERRUPTING)... BUY SOME TIME...

16 OATES: ... FROM TRAINING, I... YOU KNOW... ASSESS YOUR

17 SITUATION, LEARN YOUR DISTANCES, LEARN YOUR... I GOT

18 ATTACKED AT KNIFE POINT WHEN I WAS IN ISTAN BULL BACK IN

19 OCTOBER, SO... I'VE BEEN THROUGH ANTI- ... CLASSES, ALL THAT

20 STUFF... SO I'M STALLING TO REGAIN MY COMPOSURE, GET MY

21 SURROUNDINGS... I WAS LOOKING AT HIS LINE OF SIGHT, MY LINE OF

22 SIGHT, HOW MANY PEOPLE, LOOK AROUND AT MY MIRRORS, JUST

23 STALLING, BUYING TIME. SO I HAD MY KEYS AND THE ACTUAL LOCK

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 TOOL THAT HOLDS THE BOOT ONTO THE VEHICLE. AND I'VE GOT MY
2 HAND... I'M KIND OF FUMBLING, AND I DROP MY KEYS AND I SAID OH
3 I'M SORRY... JUST... UN MOMENTO, POR FAVOR... UN MOMENTO, POR
4 FAVOR... ONE MOMENT PLEASE... AND PICK THE KEYS BACK UP AND
5 I DROP THEM AGAIN AND I WAS... I'M SORRY, I'M SORRY, I'M
6 SCARED... I'M SORRY... I'M SCARED... I'M SORRY, JUST ONE MINUTE.
7 I KEPT KIND OF FREAKING OUT A LITTLE BIT, FUMBLING MY KEYS
8 AROUND...
9 MALE OFFICER: RIGHT.
10 OATES: YOU KNOW, TO MAKE NOISE. WELL, NUMBER ONE
11 FINALLY JUST GRABBED MY... THE KEYS, WHICH HAD NO RELATION
12 TO THE BOOT.
13 MALE OFFICER: RIGHT.
14 OATES: I WAS USING THEM AS A DISTRACTION.
15 MALE OFFICER: SURE.
16 OATES: AND THE ACTUAL LOCK TOOL THAT TAKES THE BOOT OFF,
17 HE TAKES BOTH OF THOSE AND HE GOES TO THE FRONT OF THE
18 VEHICLE, LEAVING JUST NUMBER TWO IN THE WINDOW. HE LOOKS
19 AT ME AND HE SAYS, YOU HAVE PAPERWORK... YOU HAVE
20 DOCUMENTS MY VEHICLE, YOU HAVE MY NUMBERS. THAT'S WHEN I
21 GOT REALLY SCARED. THAT'S WHEN YOU GET THAT LITTLE PAIN,
22 LIKE RIGHT BELOW YOUR STERNUM THAT KIND OF PRESSES
23 INWARD... I DIDN'T, I HADN'T CALLED IN FOR THAT NUMBER YET. I

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 HADN'T WRITTEN DOWN...

2 MALE OFFICER: RIGHT.

3 OATES: ... THE ADDRESS, THE TAG NUMBER, NONE OF THAT

4 STUFF. NO, NO... I DON'T HAVE ANY OF THE INFORMATION. NO, YOU

5 DON'T HAVE NO NUMBERS, NOTHING THAT WILL COME BACK TO ME.

6 I DON'T WANT THEM TO COME LOOK FOR ME. IT WAS A LITTLE... A

7 LITTLE BROKEN, BUT IT WAS...

8 MALE OFFICER: (INTERRUPTING)... YOU GOT THE JIST OF IT.

9 OATES: ...ANYBODY WOULD'VE UNDERSTOOD HIM SAYING... I

10 DON'T WANT ANYBODY LOOKING FOR ME... THIS COMING BACK TO

11 ME. THAT THREW UP A MAJOR RED FLAG BECAUSE HE WANTS TO

12 MAKE SURE THERE'S NOTHING IN MY VEHICLE THAT WILL CONNECT

13 ME TO HIS CAR.

14 MALE OFFICER: RIGHT.

15 OATES: YEAH, I'VE BEEN IN THIS BUSINESS A LONG TIME. SO NOW

16 I'M REALLY NERVOUS. I KNEW I HAD MY GLOCK IN THE GLOVE BOX.

17 HIS FRIEND WAS ON THE WAY TO RETRIEVE A SHOTGUN AND I

18 HEARD A PISTOL RATCHET ALREADY, SO I FIGURED IT'D BE... SINCE

19 IT WAS MY RIGHT TO RETREED... I REALLY COULDN'T RETREED, I

20 HAD A GUY STANDING ON MY TRUCK, SO SAID YOU KNOW, LET ME

21 STEP BACK INTO CONSERVATION MODE. SO I SAID, NO, NO, NO, NO

22 PAPERWORK... AND I PULLED MY METAL LEDGER OUT WHICH I KEEP

23 ALL MY TOW TICKETS IN. SO I PULLED IT UP AND I FLIP IT OPEN AND

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 I SAY SEE LOOK AND I JUST... AND I OPEN UP MY GLOVE BOX WHERE
2 MY GLOCK WAS. AND I KNEW I HAD MY INSURANCE PAPERWORK
3 AND JUST SOME WHATEVER RANDOM PAPERS ON TOP OF IT.

4 MALE OFFICER: RIGHT.

5 OATES: SO BY DOING THAT, I WAS ABLE TO PICK UP BOTH MY
6 HOLSTERED WEAPON AND MY PAPERS IN ONE AND SIT IT RIGHT ON
7 MY LAP. AND I SAID SEE LOOK, THIS ACURA, THIS MAZDA, THIS
8 FORD, THIS... NO... NONE OF YOUR CAR, I HAVE NOT TOWED IT YET...
9 IF I TOW IT, THEN YES, PAPERWORK. BUT NO LIKE TAVAHO... DON'T
10 LIKE TO WORK... (MAKES A SOUND)... LIKE THAT... JUST TRYING TO
11 RELAX HIM, TRYING TO STALL AND BUY TIME AGAIN.

12 MALE OFFICER: RIGHT.

13 OATES: I HEARD A VOICE... A FEMALE VOICE. AND WHEN I
14 LOOKED BETWEEN HIS SHOULDER AND HIS HEAD, I SAW AN AFRICAN
15 AMERICAN FEMALE IN HIS YARD, DIRECTLY BEHIND HIM IN THE
16 YARD.

17 MALE OFFICER: RIGHT.

18 OATES: AND SHE HAD EITHER CELL... SOME TYPE OF TELEPHONE,
19 WHETHER IT BE HOME OR CELL. I LOOKED UP AND I SAID, HEY,
20 DON'T WORRY ABOUT IT, GO INSIDE, EVERYTHING'S FINE. HE'S GOT
21 A GUN, EVERYTHING'S FINE HERE. DON'T WORRY ABOUT IT,
22 EVERYTHING'S FINE, GO BACK INSIDE, HE'S GOT A GUN, SO
23 EVERYTHING'S OKAY HERE. KIND OF LIKE.... TA DA (MAKING

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 SOUNDS)... YOU WALK INTO A LIQUOR STORE, HOW MUCH IS THIS
2 BOTTLE OF LIQUOR... IT'S NINE HUNDRED AND ELEVEN DOLLARS... 9-
3 1-1... YOU KNOW, TRYING TO ... EVERYTHING'S FINE, HE'S GOT A
4 GUN, EVERYTHING'S FINE, JUST GO... GO BACK INSIDE, BECAUSE SHE
5 WAS IN MY LINE OF SIGHT.

6 MALE OFFICER: RIGHT.

7 OATES: OKAY. SO, WHEN I... THEY WERE UP OFF OF MY LAP, I
8 JUST KIND OF LEANED OVER THE CENTER CONSOLE AND SAT IT IN
9 THE PASSENGER'S SEAT SO HE STILL DOESN'T SEE THE HANDGUN.

10 MALE OFFICER: RIGHT.

11 OATES: BUT WHILE I WAS DOING THAT, I USED MY THUMB TO POP
12 OFF THE SNAP TYPE OF STRAP THAT GOES AROUND THE BACK OF THE
13 PISTOL.

14 MALE OFFICER: OKAY.

15 OATES: DID THAT AND THEN USED MY THUMB AND PUSHED THE
16 HOLSTER...

17 MALE OFFICER: YEAH.

18 OATES: IT'S NOT A BLACK HAWK, IT'S A ... JUST A ...

19 MALE OFFICER: A SOFT SIDE.

20 OATES: YEAH, IT'S A SOFT, YOU KNOW, YEAH...

21 MALE OFFICER: I UNDERSTAND WHAT YOU'RE TALKING ABOUT.

22 OATES: SO I USED MY THUMB TO PUSH IT LOOSE.

23 MALE OFFICER: IT'S JUST GOT A SINGLE SNAP ON IT?

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/24/2010

1 OATES: YEP, ONE SNAP, IT'S A NYLON STRAP THAT HOOKS
2 AROUND THE BACK OF THE HANDLE...

3 MALE OFFICER: GOTCHA.

4 OATES: YOU KNOW, IT'S LIKE A CLAM SHELL IS WHAT THEY'RE
5 CALLED. AND THEN I WAS JUST GONNA PUSH IT LOOSE. SHE WAS...
6 HER AND THEN ANOTHER FEMALE, SO NOW THERE WERE TWO
7 AFRICAN AMERICAN FEMALES AND ONE AFRICAN AMERICAN MALE
8 OUT IN THE FRONT YARD, AND MY LINE OF SIGHT WAS BAD. WELL,
9 HIS FRIEND HOLLERED SOMETHING IN SPANISH. I ... I KNOW ...
10 HABLA ESPAÑOL UN POQUITO... STUDY ESPAÑOL (INDISTINCTIVE)... I
11 STUDY A LITTLE BIT OF SPANISH... I'M LIKE A DOG, I CAN
12 UNDERSTAND, BUT I CAN'T SPEAK, THAT'S THE EXPRESSION.

13 MALE OFFICER: UH HUH...

14 OATES: ACTUALLY THAT'S A RUSSIAN EXPESSION. IF YOU
15 WANNA WRITE THIS DOWN, IT'S ... (INDISTINCTIVE AND
16 UNDETERMINED DUE TO LANGUAGE BARRIER)...

17 FEMALE OFFICER: OKAY. THANKS, PRESTON.

18 OATES: JUST THOUGHT I'D THROW THAT OUT THERE.

19 FEMALE OFFICER: GOOD ENOUGH.

20 OATES: YEAH... SORRY. SO, HIS FRIEND HOLLERED SOMETHING, I
21 CAUGHT... YOU KNOW, THE DEISEL TRUCK WAS RUNNING, MY
22 DRIVER'S SIDE WINDOW DOWN, HE WAS HANGING OUTSIDE OF THE
23 TRUCK SO HE HAD A CLEAR SIGHT OF HIS FRIEND... I HAD... I

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 COULDN'T EVEN SEE HIS FRIEND, I JUST HEARD SOME MUMBLING...

2 AND HE LOOKS AT ME AND HE GOES, OKAY YOU'RE GONNA COME

3 GET THIS SHIT OFF... COME GET THIS SHIT OFF NOW. I SAID OKAY...

4 NO PROBLEM, NO PROBLEM. HE UNLOCKED THE DOOR OF MY TRUCK

5 AND PULLED THE HANDLE AND OPENED IT, AND AS HE OPENED IT, HE

6 WAS STEPPING DOWN OFF OF THE RUNNING BOARD... SO HE WAS

7 OPENING IT WITH HIS LEFT HAND...

8 MALE OFFICER: GOTCHA.

9 OATES: AS HE STEPPED BACK, I SAW HIM WITH HIS RIGHT HAND

10 REACH AND GRAB THE PISTOL THAT WAS IN THE ... YOU KNOW, KIND

11 OF STUFFED IN HIS BELT IN THE FRONT. WELL, MY LINE OF SIGHT

12 AND WHERE HE WAS, I DIDN'T WANNA JUST CROSS THROUGH THE

13 CAB, SO AS HE OPENED IT, JUST TO PLAY ALONG LIKE I WAS GONNA

14 EXIT THE VEHICLE TO UNLOCK THE BOOT, CAUSE HE WAS ALREADY

15 IN DRAW, IN MOTION...

16 MALE OFFICER: UH HUH...

17 OATES: HAD IT COMPLETELY... I COULD SEE THE ENTIRE PISTOL.

18 IT WAS OUT AND HE HAD IT IN MOTION ROLLING.

19 MALE OFFICER: CAN YOU DESCRIBE IT FOR ME?

20 OATES: IT LOOKED KIND OF LIKE A GLOCK...

21 MALE OFFICER: BLACK IN COLOR?

22 OATES: IT WAS BLACK...

23 MALE OFFICER: SEMI-AUTOMATIC?

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OATES: IT HAD A SQUARE TOP RECEIVER, SEMI-AUTOMATIC... YOU
2 KNOW, LIKE I SAID, IT WAS A SLIDE, YOU KNOW, A RATCHET...

3 MALE OFFICER: LIKE A FULL SIZE PISTOL?

4 OATES: IT WAS BIG, YEAH, I MEAN IT WAS BIGGER THAN MINE...
5 COMPARABLE MAYBE TO A GLOCK TWENTY-TWO OR A GLOCK
6 SEVENTEEN... ISN'T THAT SEVENTEEN, ISN'T THAT WHAT YOU GUYS
7 CARRY?

8 MALE OFFICER: IT'S A NINE MILIMETER.

9 OATES: OH, I'M SORRY, NO IT LOOKED... I DON'T KNOW WHAT SIZE
10 IT WAS...

11 MALE OFFICER: NOT THE CALIBER...

12 OATES: NO OFFENSE, BUT IF I'VE GOT A GUN POINTED TO YOUR
13 HEAD, YOU'RE NOT GOING, OH THAT'S NICE, WHAT SIZE... THAT'S A
14 NINE?

15 MALE OFFICER: OH NO... I WAS TRYING TO COMMENT ON YOUR
16 MODELS.

17 OATES: YEAH, I'M SAYING... YEAH, IT WAS ...

18 MALE OFFICER: FULL SIZE?

19 OATES: IT WAS EITHER FULL SIZE OR... WHAT'S ONE DOWN FROM
20 A FULL SIZE?

21 MALE OFFICER: MID-SIZE...

22 OATES: YEAH... IT'S ... ABOUT THE SAME AS WHAT YOU GUYS
23 CARRY OR MAYBE THE NEXT... THE FULL SIZE GLOCK.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: OKAY.

2 OATES: IT'S EITHER THE FULL SIZE GLOCK OR THE NEXT ONE
3 DOWN.

4 MALE OFFICER: OKAY.

5 OATES: IT WASN'T LIKE A SUBCOMPACT OR...

6 MALE OFFICER: SURE...

7 OATES: IT WASN'T LIKE A TWENTY-SEVEN OR, YOU KNOW, IT
8 WASN'T...

9 MALE OFFICER: A BABY GLOCK...

10 OATES: NO.

11 MALE OFFICER: SO HE HAD IT OUT OF HIS PANTS?

12 OATES: AND HE HAD... AND HE WAS IN MOTION IN DRAW. SO AS
13 I... AND SINCE THE DOOR WAS... YOU KNOW, OPEN AND HE WAS... AS
14 HE WAS STEPPING DOWN THE DOOR WAS OPEN AND HE WAS
15 STARTING TO DRAW, I CAME AROUND AND I ROTATED AND
16 ACTUALLY... I EVACKED THE CAP. AND AS I WAS EVACKING THE
17 CAP, SINCE I HAD A LITTLE BIT OF HEIGHT ADVANTAGE ON HIM, AS I
18 EVACKED OUT STRAIGHT INSTEAD OF TOWARD HIM, I EVACKED
19 STRAIGHT OUT MY DOOR STEPPING OFF OF THE METAL RUNNING
20 BOARDS...

21 MALE OFFICER: RIGHT.,.

22 OATES: AND I WAS EVACKING OUT, AND I LOOKED AND MY LINE
23 OF SIGHT WAS THROUGH HIM STRAIGHT DOWN TO THE GROUND. IT'S

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 NOW OR NEVER. HE'S ALREADY IN MOTION AND HE'S IN DRAW.
2 WHETHER HE'S DRAWING IT TO INTIMIDATE ME, TO KEEP ME TO GO
3 DO WHAT HE WANTS ME TO DO, OR IF HE KNEW I DIDN'T HAVE ANY
4 INFORMATION ON HIS VEHICLE AND ... AH, BYE, BYE, PRESTON...
5 REGARDLESS, HE WAS IN MOTION, HE WAS IN DRAW AND I REACTED.
6 I KNOW... I REMEMBER THE VERY FIRST SHOT. I CAUGHT HIM ON THE
7 LEFT SIDE.

8 MALE OFFICER: OKAY.

9 OATES: AND THAT MADE HIM ROTATE LEFT. WELL, I DIDN'T
10 KNOW IF I GRAZED HIS... THE EDGE OF HIS ARM, IF I GRAZED HIM
11 UNDER HIS... I DON'T... I DIDN'T SEE IMPACT. I JUST KNOW THAT I ...
12 RIGHT WHEN I WAS ABLE TO LOCK MY ELBOWS AND SQUEEZE THE
13 TRIGGER...

14 MALE OFFICER: SURE...

15 OATES: ... I HIT HIM ON THE LEFT SIDE.

16 MALE OFFICER: GOTCHA.

17 OATES: ... AND SO IT MAY HAVE CAUSED HIM TO ROTATE. YOU'RE
18 ME, I'M HIM, I'M DRAWING LIKE THIS AND WHEN I PULL I HIT HIM
19 HERE...

20 MALE OFFICER: (INTERRUPTING)... AND HE... (INAUDIBLE -
21 SPEAKING OVER EACH OTHER)...

22 OATES: AND HE TURNED THIS WAY SO HE TURNED TOWARDS THE
23 YARD WHERE THE AFRICAN AMERICANS WERE STANDING.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: SURE.

2 OATES: AND AS HE... AS HE WENT THAT WAY, I REMEMBER
3 SEEING THIS PART OF HIS SHOULDER RIGHT HERE... AND I HAVE
4 (INAUDIBLE - SPEAKING TOO FAST)... SO I REMEMBER SEEING THE
5 GLOW RIGHT ABOUT HERE.

6 MALE OFFICER: GOTCHA.

7 OATES: HE WAS STILL A THREAT TO ME. YOU'RE A THREAT UNTIL
8 YOU'RE DISARMED OR YOU'RE UNCONSCIOUS. I DISCHARGED
9 AGAIN. I... I DON'T KNOW HOW MANY TIMES I PULLED THE TRIGGER.

10 MALE OFFICER: COULD YOU TELL WHERE YOU HIT HIM THE SECOND
11 TIME?

12 OATES: NO. LIKE I SAID, I HAVE THE (INAUDIBLE - SPEAKING TOO
13 FAST)... SO I REMEMBER SEEING SOMEWHERE IN HIS RIGHT
14 SHOULDER AREA...

15 MALE OFFICER: DO YOU KNOW HOW MANY SHOTS YOU FIRED?

16 OATES: I REMEMBER TWO SHOTS...

17 MALE OFFICER: OKAY.

18 OATES: ... BUT I DON'T KNOW WHEN I ... I KNOW... I KNEW THE
19 FIRST TIME ON HILTON HEAD, I REMEMBER I EMPTIED IT... WELL,
20 THAT... THAT WAS A PANIC FIRE... THE FIRST TIME. THIS TIME, I HAD
21 A LITTLE BIT MORE COMPOSURE.

22 MALE OFFICER: YOU LOST ME WITH THE FIRST TIME ON HILTON
23 HEAD.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OATES: NO, AT TRAILER PARK WHEN...

2 MALE OFFICER: I DON'T KNOW ANYTHING ABOUT THAT, PRESTON,

3 I'M SORRY.

4 OATES: REALLY?

5 MALE OFFICER: MAN, IF I WASN'T THERE... WHY WOULD I BE

6 RESEARCHING...

7 OATES: MAYBE BECAUSE WE SAT IN THE SAME ROOM. THERE

8 WAS A BENCH OVER THERE AND I WAS HANDCUFFED TO THAT

9 BENCH OVER THERE.

10 MALE OFFICER: I THINK YOU'RE THINKING ABOUT MY BOSS.

11 OATES: THAT WAS YOUR BOSS?

12 MALE OFFICER: THAT'S MIKE RILEY. WE LOOK A LITTLE BIT ALIKE

13 BUT IT WASN'T ME, I CAN ASSURE YOU.

14 OATES: OKAY, WELL...

15 FEMALE OFFICER: YEAH, THERE'S OTHER INVESTIGATORS

16 HERE...

17 OATES: OKAY...

18 FEMALE OFFICER: ... THAT LOOK KIND OF LIKE HIM.

19 OATES: I APOLOGIZE FOR THE MISTAKEN IDENTITY.

20 MALE OFFICER: OKAY.

21 OATES: GLAD TO CLEAR THE AIR.

22 MALE OFFICER: SO TELL ME WHAT HAPPENED... HE GOES DOWN?

23 OATES: SO AS HE'S TURNING, NOW HE'S TURNING, YOU KNOW,

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 ROTATING, THAT WOULD BE COUNTER-CLOCKWISE, TURNING
2 TOWARDS THE AFRICAN AMERICAN'S YARD, AND HIS SHOULDER
3 WAS HERE... I ... YOU KNOW, LET GO A SECOND ROUND... CAUSE MY
4 LINE OF SIGHT WAS CLEAR, THERE WAS ... IT WAS THAT AND
5 GROUND, I STILL HAD A LITTLE BIT OF HEIGHT ADVANTAGE
6 BECAUSE I WAS ...

7 MALE OFFICER: SURE.

8 OATES: ... STILL PROGRESSING DOWN FROM MY ELEVATED
9 POSITION.

10 MALE OFFICER: I GOTCHA.

11 OATES: AND THEN WHEN I STOPPED, I SAW THE GUN SLIDE
12 ACROSS THE ASPHALT AND STOP... AND I... I... I STOPPED AND I
13 LANDED ON THE GROUND AT LOW READY AND I FROZE THERE. I HAD
14 MY WEAPON DOUBLE HANDED.

15 MALE OFFICER: DID YOU SEE ANY OF THE OTHER GUYS AROUND AT
16 THAT TIME OR DID THEY KIND OF SCOOT OUT OF THERE?

17 OATES: AS SOON AS HE HIT THE GROUND... WELL, AS SOON AS I
18 SAW THE GUN SLIDE AND HIM ON THE GROUND... OKAY, NOW HE'S
19 DISARMED, HE'S NO LONGER A THREAT... OKAY, TAKE A BREATH... I
20 TOOK A BREATH. HIS BROTHER, NUMBER ONE...

21 MALE OFFICER: OKAY.

22 OATES: ... WHO HAD MY P.O. BOX KEY, MY HOUSE KEY...

23 MALE OFFICER: (INAUDIBLE MUMBLE - SPEAKING OVER EACH

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OTHER)

2 OATES: ... THE KEYS TO THE GATE TO MY OFFICE... YOU KNOW,
3 JUST MY RANDOM SET OF KEYS I KEEP ON ME BECAUSE I OPEN A
4 GATE, YOU KNOW, MY HOUSE...

5 MALE OFFICER: GOTCHA.

6 OATES: ... MY P.O. BOX... HE RAN AROUND TO HIM AND HE WAS
7 ON THE GROUND. AND I STEPPED BACK AND I JUST SAID STAY AWAY
8 FROM ME... STAY AWAY FROM ME. I SHIFTED MY WEAPON INTO MY
9 LEFT HAND, TOOK MY CELL PHONE OUT WITH MY RIGHT HAND AND
10 HELD DOWN NINE... I HAVE NINE FOR SPEED DIAL FOR DISPATCH FOR
11 NON-EMERGENCY...

12 MALE OFFICER: GOTCHA...

13 OATES: ... YOU KNOW, 524-2777, CAUSE I HAVE TO CALL TO GIVE
14 'EM VIN NUMBERS IS WHAT I TELL 'EM...

15 MALE OFFICER: RIGHT.

16 OATES: ... SO I HOLD DOWN NINE FOR SPEED DIAL FOR NON-
17 EMERGENCY. I DON'T REMEMBER IF I... IF I DIALED 9-1-1 OR THE
18 NON-EMERGENCY NUMBER.

19 MALE OFFICER: ANYWAY, THE BOTTOM LINE IS, YOU CALLED
20 DISPATCH?

21 OATES: YEAH, I HIT... I CALLED. IT WAS EITHER 9-1-1 OR THE NON-
22 EMERGENCY NUMBER... I CALLED ONE OF THE TWO, AND I SAID, YOU
23 KNOW, I'M OUT HERE AT EDGEFIELD AND I LOOKED AT THE HOUSE

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 WHERE THE AFRICAN AMERICANS WERE AND I GAVE THEM THAT
2 HOUSE NUMBER, I THINK IS WAS LIKE FOUR SEVENTY... I SAID [REDACTED]
3 [REDACTED], I'M AT [REDACTED] IN EDGEFIELD... I MEAN, EDGEFIELD AT [REDACTED],
4 SHOTS BEEN FIRED, SAID HEAD... GET POLICE, GET 'EM OUT HERE...
5 AND IT WAS LIKE A PINGOTA EXPLODED AND EVERYBODY STARTS
6 RUNNING AROUND... HIS, THE NUMBER TWO'S WIFE CAME AROUND
7 AND DROPPED DOWN ON THE GROUND... NUMBER ONE WAS THERE
8 AND I KEPT MY EYE ON THE WEAPON IN THE MIDDLE OF THE ROAD. I
9 EXITED FROM WHERE I WAS STANDING... LET'S DO THIS...
10 MALE OFFICER: LET'S DO A SEPARATE DIAGRAM.
11 OATES: OKAY.
12 MALE OFFICER: HOW ABOUT A STRAIGHT OVERVIEW OF THE
13 WHOLE...
14 OATES: (INTERRUPTING)... A BIRD'S EYE VIEW IS WHAT I WAS
15 ABOUT TO GIVE YOU.
16 MALE OFFICER: YEAH.
17 (BRIEF PAUSE FOR DRAWING)...
18 OATES: I APOLOGIZE FOR THE SCALE.
19 FEMALE OFFICER: THAT'S OKAY. WE'RE NOT THE GREATEST
20 ARTISTS EITHER.
21 OATES: A DRIVEWAY HERE... A DRIVEWAY HERE... THIS IS 470...
22 (WHISPERING)... YOU GUYS REMEMBER THAT AT
23 YOU CAN...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 FEMALE OFFICER: WE REMEMBER THAT, YEAH.

2 OATES: OKAY. THIS IS THE ... THIS TIRE WAS BOOTED...

3 MALE OFFICER: NOW, IS YOUR TRUCK FACING THIS WAY OR IS IT

4 BACKED UP TO THE VAN?

5 OATES: IT'S BACKED UP TO THE VAN... I'M SORRY... I FORGOT,

6 HIGHWAY PATROL DOES THAT, WHEN I WENT TO THE MAIT TEAM

7 FOR THE MAIT COURSE, YOU GOTTA PUT ARROWS IN FRONT OF THE

8 VEHICLES, I'M SORRY... LIKE I SAID, I'M... IT'S THE FIRST TIME IN A

9 WHILE. YEAH... THIS WOULD BE... (SPEAKING ALOUD WHILE

10 DRAWING – THEN INAUDIBLE WHISPERING)... WHEN I... WHEN I

11 FINALLY CAME OUT OF MOTION, I LANDED AT LOW READY... LOW

12 GUARD...

13 MALE OFFICER: OKAY. NUMBER TWO IS DOWN, THE GUN SLID OUT

14 OF HIS HAND...

15 OATES: WHEN I SAW THE GUN SLIDE OUT OF NUMBER TWO, I LOST

16 FOCUS OFF OF HIM...

17 MALE OFFICER: UH HUH...

18 OATES: ... AND I TURNED FOCUS ONTO THE WEAPON.

19 MALE OFFICER: AND EVERYBODY IS COMING OUT OF THE HOUSES.

20 OATES: SO, WHILE THE NUMBER ONE, THE BROTHER THAT HAD

21 THE KEYS THAT WAS TRYING TO FIDDLE WITH THE BOOT, AND IF HE

22 HAD KNOWN HOW TO GET IT OFF I WOULDN'T HAVE CARED, I

23 WOULD'VE DRIVEN OFF AND JUST LEFT THAT PIECE OF EQUIPMENT

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 ON THE SIDE OF THE ROAD... A HUNDRED AND TEN DOLLAR BOOT IS
2 NOT WORTH THIS... IT'S NOT... BUT, LOW AND BEHOLD, I GUESS
3 IGNORANCE IS BLISS, SO... HE COULDN'T GET THE BOOT OFF... THE
4 WIFE AND NUMBER ONE RAN UP, THEN THE GUY RAN UP AND I'M
5 JUST KEEPING MY EYE ON THAT WEAPON BECAUSE NOW THAT IS THE
6 ONLY THREAT PRESENT TO ME. I'M LOOKING AT EVERYBODY ELSE
7 AND THEIR HANDS, I'M SCANNING, SURFACE SCANNING, BUT RIGHT
8 NOW THAT WEAPON IS THE THREAT... SO I STARTED...

9 MALE OFFICER: DID ANYONE EVER TOUCH THAT PISTOL?

10 OATES: ONE GUY STEPPED ON IT AS HE WALKED ACROSS THE
11 STREET...

12 MALE OFFICER: UNINTENTIONALLY, I ASSUME...

13 OATES: OH, NO... ON PURPOSE... HE STEPPED, PUT HIS FOOT ON IT,
14 MOVED HIS OTHER FOOT, THEN STEPPED OFF OF IT...

15 FEMALE OFFICER: WHAT GUY WAS... DO YOU KNOW WHAT
16 GUY...

17 MALE OFFICER: A GUY FROM THE HOUSE OR...

18 FEMALE OFFICER: ... OR JUST A GUY THAT WAS IN THE AREA?

19 OATES: I DON'T KNOW...

20 FEMALE OFFICER: OKAY.

21 OATES: LIKE I SAID, I WAS LOOKING AT HANDS AND WEAPONS,
22 NOT FACES AND CLOTHES, I'M SORRY. SO I ENDED RIGHT HERE,
23 RIGHT OUTSIDE MY DRIVER'S DOOR AT LOW READY. THE

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 GENTLEMAN WITH THE WEAPON WAS ABOUT RIGHT HERE... THAT'S
2 WHERE HE, I GUESS GOT PICKED UP BY EMS TO BE TAKEN TO THE
3 HOSPITAL, AND THE GUN SLID TO RIGHT ABOUT... RIGHT ABOUT
4 HERE... WAS WHERE THE GUN ENDED UP... RIGHT HERE...

5 MALE OFFICER: SO NO ONE EVER MADE AN ATTEMPT TO PICK IT UP
6 AND RETRIEVE IT?

7 OATES: OH YEAH... I APOLOGIZE FOR... (INAUDIBLE)...

8 MALE OFFICER: I GOTCHA...

9 OATES: OKAY. SO WHEN I EXITED THE VEHICLE, AS I WAS EXITING
10 MY TOW TRUCK, WHICH WAS FACING WEST AND THE VEHICLE IN
11 QUESTION TO BE TOWED WAS FACING WEST, ON THE RIGHT SIDE OF
12 THE ROAD...

13 MALE OFFICER: OKAY.

14 OATES: SO I ENDED UP LANDING IN LOW... LOW READY, RIGHT IN
15 THE MIDDLE OF THE STREET, LOOKING EAST AT THE BACK OF MY
16 TRUCK, YOU KNOW, TOWARD... FROM THE HOOD LOOKING DOWN
17 THE SIDE AND TOWARD THE TRUNK, AND THEN THE HOOD OF HIS
18 VAN TOWARD... YOU KNOW, THE DRIVER'S SIDE DOWN TOWARD THE
19 BACK... SO I'M IN FRONT OF EVERYTHING... DOOR'S OPEN... IF I'M
20 STANDING HERE, MY TOW TRUCK'S RIGHT HERE AND THE DOOR
21 OPEN WOULD BE BEHIND ME... SO LIKE THE WINDOW, THE GLASS
22 WINDOW IS NOW BEHIND MY HEAD, BUT IT WAS ROLLED DOWN... IT
23 WAS OPEN, I MEAN, STILL OPEN... I'M HERE AT LOW READY... I

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 CIRCLED AROUND FROM HERE AND I CIRCLED AROUND AND I ENDED
2 UP COMING INTO THE AFRICAN AMERICAN'S YARD AND SAT RIGHT
3 HERE, BECAUSE THERE WAS A STREET LAMP HERE, A STREET LAMP
4 HERE, SO THE LINE OF SIGHT AND THE LIGHTING... PLUS, IF
5 ANYTHING WERE TO HAPPEN, I HAD THE VAN RIGHT HERE AND MY
6 TOW TRUCK HERE BECAUSE THERE WAS HOUSES BACK HERE, SO IF
7 ANYBODY WERE TO GET FROGGY AND GET THE GUN UP OFF THE
8 GROUND...

9 MALE OFFICER: AND OBVIOUSLY THEIR HOUSES WERE OVER IN
10 THIS...

11 OATES: YEAH, THESE ARE ALL HOMES RIGHT HERE. THESE ARE
12 ALL HOMES.

13 MALE OFFICER: CAN YOU TELL ME ROUGHLY, HOW MANY PEOPLE
14 CAME OUT? AND WERE THEY ALL FROM THE SAME RESIDENCE?

15 OATES: WELL, INITIALLY THREE CAME OUT, AND THEN WHEN HE
16 WAS ... WHEN HE HAD THE GUN OUT, YOU KNOW, DRAWING IT
17 TOWARD ME, IT WAS ME AND HIM ONLY, RIGHT ON THE SIDE OF MY
18 TRUCK... I APOLOGIZE, BUT...

19 MALE OFFICER: CAN YOU TELL ME WHERE NUMBER ONE WAS AT
20 THAT TIME?

21 OATES: HE WAS UP AT THE FRONT TIRE TRYING TO FIGURE OUT
22 HOW TO...

23 MALE OFFICER: (INTERRUPTING)... GET IT UNLOCKED... I GOTCHA...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OATES: ... TO WORK THE LOCKING MECHANISM ON THE TIRE
2 BOOT...

3 MALE OFFICER: GOTCHA...

4 OATES: THAT'S WHERE NUMBER ONE WAS.

5 MALE OFFICER: SO HE REALLY WASN'T PAYING ANY ATTENTION TO
6 YOU GUYS...

7 OATES: RIGHT.

8 MALE OFFICER: ... CAUSE HE WAS TRYING TO FIDDLE WITH THAT
9 LOCK...

10 OATES: RIGHT... TAKE THE KEYS, GO AHEAD... IT'S CALLED
11 DISTRACTION... OR... WHAT'S THE TERM... MISDIRECTION... THE
12 LESS PEOPLE YOU HAVE TO DEAL WITH, THE SAFER YOU ARE.

13 MALE OFFICER: UH HUH.

14 OATES: INSTEAD OF BEING TWO ON ONE, IT'S NOW ONE ON ONE. I
15 ONLY GOTTA WORRY ABOUT ONE GUY AND NOT TWO OF THEM. SO,
16 LET HIM... HERE'S THE KEYS, GO... I MEAN, HE'S STANDING IN FRONT
17 OF ME BUT I DIDN'T TRY... (INAUDIBLE)...

18 MALE OFFICER: RIGHT.

19 OATES: ... OR JUMP RIGHT OUT AND FOLLOW HIM... NO, NO, IT'S
20 GO AHEAD, PLEASE... GO TO WORK... (INAUDIBLE)... I AGRESSED,
21 STANDING AT LOW GUARD... I CAME OVER HERE AND STOOD HERE
22 BECAUSE THAT WAY I WAS PERPENDICULAR TO THE HANDGUN THAT
23 WAS LAYING IN THE ROAD... MY DIRECT LINE WOULD'VE BEEN INTO

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 THE VAN, OR IN THIS DIRECTION, IT WOULD'VE BEEN INTO MY TOW
2 TRUCK, WHICH WOULD'VE KEPT MY LINE OF SIGHT, YOU KNOW...
3 YOU ALWAYS LOOK AT WHAT'S BEHIND YOU WHEN YOU HAVE A
4 GUN IN YOUR HAND. YOU LEARN THAT DAY ONE IN CWP CLASS.
5 ALWAYS LOOKING AT WHAT'S BEHIND YOU. SO I SET THE VAN AND
6 THE TOW TRUCK AS BARRIERS BETWEEN RESIDENTIAL HOUSES AND
7 WHERE I WAS STANDING. I WAS ON THE PHONE WITH DISPATCH. I
8 HAD HER ON SPEAKERPHONE, I WAS YELLING, I WAS... I ... I
9 REMEMBER MOST OF WHAT I WAS SAYING, BUT NOT EVERYTHING
10 EXACTLY. THAT SHOULD BE RECORDED... SO I STOOD HERE AND I...
11 THIS IS WHERE I STAYED, I STOOD MY GROUND... ONE LADY... ONE
12 OF THE AFICAN AMERICANS WAS ON THE PHONE WITH DISPATCH
13 AND I SAID CAN YOU PLEASE CALL MY FAMILY. AT THIS TIME, I HAD
14 MY CELL PHONE IN MY RIGHT HAND, I HAD THIS STANDING AT LOW
15 GUARD, YOU KNOW, TOWARD THE GROUND, JUST STANDING AT LOW
16 GUARD... MY LEFT HAND... RIGHT HERE... THAT'S WHERE I WAS...
17 SHE SAID WELL I'M ON THE PHONE WITH DISPATCH AND I WAS LIKE,
18 WELL I AM TOO, AND SO... OKAY... AND THEN THE AFRICAN
19 AMERICAN GENTLEMAN SAID, WELL I'LL GO GET THE HOUSE
20 PHONE... SO HE RAN INSIDE, GOT THE HOUSE PHONE, CAME BACK
21 OUTSIDE, WHAT'S THE NUMBER, GAVE HIM MY OFFICE NUMBER, HE
22 CALLED TO GET ... YOU KNOW, SOMEONE ON THE WAY CAUSE BY
23 THAT TIME THE SHERIFF'S OFFICE, YOU KNOW, NO ONE WAS ON

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 SCENE YET. I DON'T KNOW HOW LONG THE PHONE CALL WAS FOR,
2 BUT IT FELT... IT FELT, LIKE TEN MINUTES... FELT LONGER THAN
3 THAT BUT I'M NOT TRYING TO EXAGGERATE. I'M STANDING HERE...
4 I'M WATCHING EVERYBODY AS THEY GET CLOSE TO THAT GUN
5 BECAUSE NOW THEY'RE PRETTY UPSET... THIS LADY, YOU KNOW...
6 HER HUSBAND'S HURT, INJURED, LAYING OVER HERE... THE
7 BROTHER'S PISSED OFF CAUSE HIS BROTHER JUST GOT SHOT. IT'S
8 NOT A GOOD SITUATION, SO...

9 MALE OFFICER: WHEN HE WAS ON THE GROUND, WAS HE ROLLING
10 AROUND IN PAIN OR WAS HE JUST MOTIONLESS?

11 OATES: I DON'T KNOW. HE WAS STILL IN MOTION WHEN THE GUN
12 SLID AND WHEN THE GUN SLID, OKAY, HE'S NO LONGER A THREAT...
13 AND THEN I SAW... THEN EVERYTIME I'D GLANCE AND LOOK TO SEE
14 WHAT EVERYBODY'S DOING, I'D SEE HER ON HIM, I'D SEE HIM ON
15 HIM, YOU KNOW, THEY WERE LIKE MOVING HIS HEAD... OH, YEAH...
16 BLAH, BLAH, BLAH (MUMBLING SOUND AS NOT UNDERSTANDING
17 WHAT THEY WERE SAYING)... (INAUDIBLE)... SPEAK SLOWLY... LIKE
18 A DOG, I CAN UNDERSTAND, BUT I CAN'T... YOU KNOW... SPEAK
19 SLOWLY... SO THEY WERE HOOPING AND HOLLERING, I MEAN THEY
20 DIDN'T LIKE DRAG HIM ANYWHERE, NO...

21 MALE OFFICER: (INAUDIBLE)...

22 OATES: BUT IF THEY LIKE MOVED ONE OF HIS ARMS OR, YOU
23 KNOW... I DON'T KNOW... I MEAN, I'M SURE THEY MOVED HIS ARM

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OR CUPPED HIS HEAD. A GOOD FRIEND OF MINE, ANGEL SIMMONS,
2 AMBER SIMMONS' SISTER...

3 MALE OFFICER: UH HUH...

4 OATES: I TOOK ANGEL ON A CRUISE DOWN TO THE BAHAMA'S
5 RIGHT WHEN I GOT HOME FROM RUSSIA, AND WHEN WE GOT BACK
6 FROM THE BAHAMA'S, THAT'S WHEN SKOOTER HAD THE INCIDENT
7 WITH THE GUN AND ALVIN...

8 MALE OFFICER: UH HUH...

9 OATES: LIKE I SAID, WE ALL DEAL WITH... I'VE HAD TO DEAL WITH
10 A LOT OF DEATH RECENTLY... LIKE, I WAS JUST AT THE MEMORIAL
11 GARDENS IN BEAUFORT, WE HAD TO SAY GOODBYE TO MY
12 GRANDFATHER... BY HIS OWN HAND... SO, NO, I'M DONE. I'M NOT
13 GONNA DO KIDNEY DIALYSIS ANYMORE... I'M DONE... GOODBYE...
14 COME ON GRANDPA, DON'T DO THIS... NOPE... SIGNED OFF...
15 (INAUDIBLE)... REFUSED MEDICAL, REFUSED DIALYSIS... WE ALL
16 DEAL WITH DEATH ON OUR OWN.

17 MALE OFFICER: YOU'RE OVER HERE WAITING...

18 OATES: I'M OVER HERE WAITING...

19 MALE OFFICER: WHAT HAPPENS NEXT?

20 OATES: AND SO THE AFRICAN AMERICAN MALE GOT AHOLD OF
21 THEM AND THEY SAID OKAY I'M COMING... I SAID, MAN, I
22 APPRECIATE IT, APPRECIATE IT, I'M SORRY, I DON'T MEAN TO BE IN
23 YOUR YARD, BUT I GOT THAT GUN RIGHT THERE ON THE ROAD AND

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 I'M TRYING TO KEEP EVERYTHING...

2 MALE OFFICER: DID YOU HAVE TO TELL ANYBODY TO GET AWAY
3 FROM THE GUN?

4 OATES: OH YEAH, I WAS YELLING AND SCREAMING AT ANYBODY
5 THAT GOT NEAR IT. GET AWAY! YOU GET NEAR THAT GUN, I'M
6 GONNA TAKE YOU AS A THREAT... IF YOU GET NEAR... IF YOU TOUCH
7 THAT GUN, I'M GONNA TAKE YOU AS A THREAT. I'M NOT GONNA
8 JUMP IN MY TRUCK AND HAUL ASS AND DRIVE OFF... NO... I'M NOT
9 GONNA FLEA THE SCENE... I'M NOT GONNA RUN AWAY... JUST LIKE
10 AT THE TRAILER PARK... I CALLED AND I HAD TO WAIT
11 EIGHTEEN MINUTES FOR THE SHERIFF'S OFFICE TO SHOW UP AND
12 WHEN THEY SHOWED UP, I HANDED 'EM MY GUN. YEAH, THEY STILL
13 CHARGED ME WITH THREE COUNTS OF ASSULT AND INTENT TO
14 KILL... YOU KNOW, BUT NO, I HAD NO REASON TO RUN AWAY... I
15 WENT INTO CONSERVATION MODE... JUST KEEP EVERYTHING
16 EXACTLY THE WAY IT IS... THAT WAY, WHEN YOU GUYS SHOW UP,
17 NOTHING'S BEEN TAMPERED WITH OR MOVED, CHANGED,
18 DISTORTED... NO, JUST LEAVE IT BE... JUST FREEZE TIME.

19 MALE OFFICER: KEEP GOING WITH THE STORY.

20 OATES: SO THAT'S WHY I APOLOGIZED TO THE AFRICAN
21 AMERICAN MALE FOR BEING IN HIS FRONT YARD...

22 MALE OFFICER: SURE.

23 OATES: ... YOU KNOW, WITH A GUN IN MY HAND... BUT I WAS

TRANSCRIPTION OF PRESETON OATES INTERVIEW
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1 LIKE, YOU KNOW, THERE'S A GUN IN THE ROAD AND I'M NOT THE
2 MOST POPULAR PERSON IN HERE RIGHT NOW. YOU GUYS MIGHT JUST
3 WANNA STAY BACK, LET'S JUST TRY TO KEEP EVERYBODY SAFE...
4 TRY TO KEEP THE... ANYBODY... ANY BYSTANDERS THAT WERE
5 AROUND THAT WERE NOT INVOLVED DIRECTLY, I WAS JUST TRYING
6 TO KEEP THEM AWAY, BECAUSE THE LESS PEOPLE, THE LESS CHANCE
7 THERE'S COLATERAL DAMAGE.

8 MALE OFFICER: RIGHT.

9 OATES: LIKE THAT BOMBING IN ISTAN BULL... ONLY THREE DAYS
10 AFTER I WAS THERE... NO COMMENT... THAT'S OFF THE RECORD...
11 OH, NEVERMIND, WE'RE ON RECORD. THAT'S OKAY... (INAUDIBLE
12 MUMBLE)... AH... THE SHERIFF'S OFFICE SHOWED UP... I PLACED MY
13 WEAPON ON THE GROUND CAUSE ONCE THEY WERE THERE... I MEAN,
14 I HATED TO HAVE IT IN MY HAND WHEN THEY SHOWED UP...

15 MALE OFFICER: RIGHT.

16 OATES: ... BUT, I'M THINKING, YEAH, AS SOON AS I PUT MINE
17 DOWN, I GOT A HANDFUL OF UPSET MOB MEMBERS... SO I WOULDN'T
18 HAVE WENT THROUGH IT THAT WELL. AND I KNEW THAT, THAT'S
19 WHY I WAS EVEN YELLING... NOT YELLING, THAT'S A BOLD TERM... I
20 WAS HIGHLY IRRITATED THAT I WAS SITTING IN THE BACK OF A
21 PATROL CAR, HANDCUFFED, AND I HAD HISPANICS... (MAKES
22 BANGING NOISE)... TAPPING ON THE WINDOW, POINTING AT ME,
23 GOING LIKE THIS... AND I LOOKED AT HER AND I WAS LIKE, GET ME

TRANSCRIPTION OF PRESETON OATES INTERVIEW
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1 THE... OUTA HERE... COME ON, THESE GUYS ARE THREATENING ME...
2 PROTECT AND SERVE... PROTECT AND SERVE... I SAID, GET ME OUT
3 OF HERE PLEASE... I'M HANDCUFFED IN THE BACK OF A CAR. I
4 HEARD THEM EARLIER SAY, OKAY I'LL GO GET MY SHOTGUN, OKAY,
5 SO NOW THE OTHERS... THERE'S PROBABLY A WEAPON SOMEWHERE,
6 MAYBE ONE, MAYBE MORE... AND I'M JUST SITTING IN THE BACK OF
7 THE PATROL CAR JUST GETTING... LIKE A FISH BOWL... YOU KNOW...
8 (KNOCKING AGAIN TO MAKE TAPPING SOUND)... TAPPING ON THE
9 WINDOW... HEY, LOOK... IT'S OKAY... (INAUDIBLE WHISPERING)... SO
10 SHERIFF'S OFFICE SHOWED UP... I PUT MY WEAPON ON THE GROUND,
11 LAYED DOWN FACING THE GROUND, MY HANDS ON MY... ON MY
12 HEAD AND THEN MOVED 'EM TO MY BACK... THEY SECURED ME, PUT
13 ME IN HANDCUFFS, HARDY ADVISED ME I WAS BEING PLACED UNDER
14 INVESTIGATIVE DETENTION, NOT UNDER ARREST... HE GAVE ME MY
15 MIRANDA RIGHTS AND I STAYED ON THE GROUND FOR ABOUT
16 FIFTEEN MINTUES, EMS CAME, CHECKED ME OVER, MADE SURE...
17 YOU KNOW... CAUSE WHEN THEY ASKED ME, I WASN'T SURE... I ... I
18 STILL DON'T KNOW, I ... I DON'T KNOW IF HE DID OR DIDN'T... I
19 KNOW EMS TOLD ME HE DIDN'T HIT ME, BUT I DON'T KNOW IF HE
20 GOT A SHOT OF OR NOT... I REMEMBER HEARING MINE AND THE
21 FLASH, BUT I DON'T KNOW IF HE GOT A SHOT OFF OR NOT... THANK
22 GOD I DIDN'T GET HIT IF HE DID.
23 FEMALE OFFICER: AND YOU...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: ALL RIGHT. SO THEY PUT YOU IN THE BACK OF THE
2 CAR...

3 FEMALE OFFICER: UH HUH...

4 MALE OFFICER: WHILE YOU WERE IN THE BACK OF THE CAR, WHAT
5 ALL WAS HAPPENING BESIDES THEM TAPPING ON THE GLASS?
6 COULD YOU TELL ANYTHING ELSE?

7 OATES: AH... THEY GOT A MEDICAL CALL, SIGNAL FORTY-ONE
8 FOR A SEVENTY-ONE YEAR OLD MAN...

9 MALE OFFICER: NOT ON THE RADIO...

10 OATES: ...THAT WAS A LACERATION TO HIS LEG SO THEY HAD TO
11 BACK UP MEDIC SIX... THEY HAD TO BACK THEM UP CAUSE THERE'S
12 AROUND ME SO THE EMS UNIT LEFT OUT OF THERE AND FIRE RESCUE
13 LEFT OUT OF THERE. PEOPLE WERE WALKING AROUND, PEOPLE
14 WERE WALKING BY, THEY FINALLY... I OFFERED... I THINK I HAD
15 CAUTION TAPE ON THE SIDE OF MY TOW TRUCK, BUT THEY... NO ONE
16 HAD CAUTION TAPE TO TAPE OFF THE SCENE YET, BUT I LOOKED UP
17 THROUGH THE WINDSHIELD AND I SAW THAT THEY FINALLY GOT IT
18 TAPED OFF... YOU KNOW... AND I WAS YELLING AT DISPATCH...
19 WHERE... I'M OUT HERE, BY MYSELF, WITH ANYWHERE BETWEEN...
20 I'D SAY... CONSERVATIVELY EIGHT... ON A CRAZY NOTE, MAYBE
21 FIFTEEN TO TWENTY PEOPLE ALL RUNNING AROUND YELLING AT
22 ME... YOU CAN LISTEN, I HAD IT ON SPEAKERPHONE WITH
23 DISPATCH... THEY'RE RUNNING UP AT ME, I MEAN THEY'RE RUNNING

TRANSCRIPTION OF PRESETON OATES INTERVIEW
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1 AT ME AND I'M AGGRESSING BACKWARDS IN THIS GUY'S YARD...
2 JUST STAY AWAY FROM ME, STAY BACK, JUST STAY AWAY, JUST GO
3 AWAY, JUST STAY BACK, STAY AWAY... DON'T GET NEAR ME, STAY
4 AWAY, STAY BACK... AND THE DISPATCH WAS LIKE, WHAT... WHAT
5 DID YOU SAY... WHO... ONLY TALK TO ME... AND I'M LIKE, I'M
6 SORRY, I CAN'T ONLY TALK TO YOU TRYING TO KEEP THESE PEOPLE
7 FROM ATTACKING ME... SO I APOLOGIZE TO THE DISPATCHER ALSO.

8 FEMALE OFFICER: PRESTON, YOU SAID OTHER PEOPLE WERE
9 AROUND THAT GUN, BUT DID ANYBODY ACTUALLY TOUCH IT AT
10 ANY POINT?

11 OATES: NOT THAT I... NOT THAT I COULD SEE...

12 FEMALE OFFICER: OKAY.

13 OATES: THERE WAS THAT ONE POINT IN TIME, WHEN I WAS OVER
14 HERE, THE BROTHER GOT IN MY FACE AND THE WIFE WAS TRYING TO
15 LIKE SLAP ME AND A GENTLEMAN WEARING A BLUE SHIRT WITH
16 LONG BLACK HAIR THAT WAS STANDING OVER HEAR IN FROM OF
17 THE TOYOTA KEPT LOOKING AT IT, LOOKING AT IT AND LOOKING AT
18 IT, SO THE TWO OUT IN FRONT OF ME, I KEPT, YOU KNOW, I HAD TO
19 KEEP GLANCING BACK AND FORTH CAUSE THIS GUY LOOKED LIKE
20 HE WAS JUST GONNA WALK IN FRONT OF THE VAN AND PICK IT UP.

21 FEMALE OFFICER: OKAY.

22 OATES: OH YEAH, AND MY... MY... THE KEYS THAT THE GUY TOOK
23 SHOULD'VE BEEN RIGHT BY THE FRONT TIRE OF THIS VAN ALSO

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 WHERE THE BOOT WAS ON THE VEHICLE. BUT NO, I DID NOT...
2 WHERE IT CAME TO REST AFTER IT CAME OUT OF NUMBER TWO'S
3 HAND... AFTER IT CAME TO REST THERE, IT GOT STEPPED ON ONE
4 TIME... A LADY WEARING A WHITE FLUFFY DRESS WITH BLACK, LIKE
5 BOOT STYLE, HIGH HEELS, WAS STANDING NEAR AND KIND OF
6 AROUND IT, LIKE STEP ONE FOOT IN FRONT OF IT, ONE FOOT BEHIND
7 IT, YOU KNOW, LIKE HOVERING RIGHT OVER THE TOP OF IT... AND
8 YOU KNOW, SHE'S A FEMALE, BUT STILL... A GUN IS A GUN. EIGHT
9 YEAR OLDS KILL PEOPLE.

10 FEMALE OFFICER: UH HUH.

11 OATES: SO I WAS ... I WAS YELLING, GET... GET AWAY... GET
12 BACK, STAY AWAY FROM THERE, GET AWAY... PLEASE... I WAS
13 ACTUALLY... POR FAVOR... PLEASE... I DON'T WANNA ... I DON'T
14 WANNA BE HERE, I DON'T WANNA BE DOING THIS... GET AWAY, JUST
15 GET BACK, THE POLICE ARE COMING... POLICIA... THEY'RE COMING
16 SO JUST GET BACK, STOP... I WAS USING... I HAD THE SPEAKERPHONE
17 IN MY RIGHT HAND, CAUSE THIS ONE STAYED AT LOW READY ON MY
18 LEFT. SO THEN THEY SHOWED UP AND DID ALL OF THAT AND NOW
19 WE'RE HERE.

20 MALE OFFICER: OKAY. CAN I GET YOU TO DESCRIBE FOR ME,
21 NUMBER ONE AND NUMBER TWO, LIKE AS MUCH AS YOU REMEMBER
22 ABOUT WHAT THEY WERE WEARING... AH...

23 OATES: NUMBER TWO HAD ON LIKE A REDDISH RUST COLOR

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 SHIRT THAT EITHER HAD A "A" "E" OR LIKE TWO LETTERS ON IT,
2 WITH LIKE A WHITE... IT'S ALMOST LIKE A RUBBER STAMP, YOU
3 KNOW, LIKE A BIG STAMP, LIKE ONE OF THOSE PRINT PATTERNS...
4 MALE OFFICER: RIGHT.
5 OATES: ... ON HIS SHIRT.
6 MALE OFFICER: LONG SLEEVE OR SHORT SLEEVE?
7 OATES: AH... I WANNA SAY IT WAS SHORT SLEEVE BECAUSE HE
8 HAD A JACKET, LIKE A HOODIE, LIKE A BLUE...
9 MALE OFFICER: WARM UP?
10 OATES: ... LIKE POLICE PULLOVER, KIND OF HOODIE TYPE THING.
11 THE BROTHER HAD ON A STRIPED, COLLARED, LIKE POLO SHIRT...
12 LIKE A TWO BUTTON POLO SHIRT...
13 MALE OFFICER: AND THAT'S NUMBER ONE?
14 OATES: YEAH, THAT WAS THE ONE THAT GOT THE KEY ...
15 GRABBED THE KEYS OUT OF MY TRUCK AND LOCKED PART AND
16 WENT BACK TO THE TOYOTA.
17 MALE OFFICER: TAKE... TAKE ONE OF THEM, AND GIVE ME FROM
18 THE TOP OF HIS HEAD, AS FAR DOWN AS YOU REMEMBER.
19 OATES: ALL RIGHT, NUMBER ONE... FIVE... BETWEEN FIVE, SIX
20 AND FIVE, EIGHT... HE WASN'T THAT TALL... A LITTLE BIG BOY
21 THOUGH, HE WAS PROBABLY TWO FIFTY-ISH PLUS...
22 MALE OFFICER: OKAY.
23 OATES: TWO SEVENTY-FIVE-ISH... YEAH, HE WAS...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: SHORT HAIR, LONG HAIR?

2 OATES: (SPEAKING OVER EACH OTHER)... OH, YEAH IT WAS SHORT

3 HAIR... HISPANIC MALE, MEDIUM COMPLEXION OR A LITTLE DARKER,

4 YOU KNOW, HISPANIC SKIN...

5 MALE OFFICER: (INTERRUPTING AND SPEAKING OVER)... ANY

6 FACIAL HAIR?

7 OATES: NONE THAT I REMEMBER. AND, I CAN'T ACCURATELY SAY

8 IT, BUT SOMETHING WANTS TO TELL ME HE HAD GLASSES ON, EYE

9 GLASSES.

10 MALE OFFICER: LIKE READING GLASSES OR...

11 OATES: YEAH, JUST CLEAR...

12 MALE OFFICER: OKAY.

13 OATES: YOU KNOW, SMALL SPECS, NOT LIKE SUNGLASSES AND

14 NOT LIKE BOTTLE CAPS.

15 MALE OFFICER: RIGHT:

16 OATES: BUT... BUT I DON'T KNOW IF THAT'S... CAUSE I REMEMBER

17 THE AFRICAN AMERICAN GUY... SO...

18 MALE OFFICER: ALL RIGHT. GIVE ME HIS SHIRT...

19 OATES: OH, THAT WAS THE NUMBER ONE, HE WAS THE ONE THAT

20 WAS WEARING THE BLUE AND WHITE...

21 FEMALE OFFICER: (INTERRUPTING)... STRIPED.

22 OATES: (SPEAKING OVER EACH OTHER)... STRIPED LIKE POLO

23 SHIRT...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: OKAY.

2 OATES: IT WAS TUCKED IN. HE HAD ON BLUE JEANS. HE HAD ON A
3 NECKLACE, A WRIST WATCH... CAUSE I REMEMBER WHEN HE KEPT
4 THROWING HIS HANDS UP AND (INAUDIBLE)... POINTING HIS HANDS UP
5 AT ME, I REMEMBER SEEING HIS WATCH... I DON'T KNOW WHAT KIND
6 OF SHOES HE WEARING.

7 MALE OFFICER: ALL RIGHT. HOW ABOUT THE OTHER GUY?

8 OATES: LIKE I SAID, HE HAD LIKE A REDDISH RUST COLOR AND
9 THEN...

10 MALE OFFICER: (INTERRUPTING AND SPEAKING OVER EACH
11 OTHER)... ANY HAT OR ANYTHING, HOOD?

12 OATES: NO, NO HAT... NO HOODIE.

13 MALE OFFICER: SHORT HAIR, LONG HAIR?

14 OATES: SHORT HAIR, CREW CUT... YOU KNOW, I HATE TO
15 STEREOTYPE, BUT...

16 MALE OFFICER: FACIAL HAIR?

17 OATES: AH,... NOT THAT I REMEMBER... I REMEMBER SEEING SOME
18 PEOPLE... I KNOW SOME OLDER PEOPLE THERE HAD A MUSTACHE,
19 BUT BOTH OF THESE GUYS, I BELIEVE THEY WERE CLEAN... CLEAN
20 CUT.

21 MALE OFFICER: OKAY, HOW ABOUT HIS SHIRT OR JACKET?

22 OATES: YEAH, LIKE I SAID, IT WAS A BLUE-ISH, DARK COLOR, I
23 DON'T KNOW IF IT WAS LIKE NAVY BLUE, ROYAL BLUE... LIKE I SAID,

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 I'M IN MY TOW TRUCK, I'VE GOT THE STREET LIGHT RIGHT HERE ...

2 MALE OFFICER: RIGHT.

3 OATES: ...SHINING THROUGH MY WINDSHIELD. I'VE GOT MY
4 FLASHLIGHT IN MY HAND... I'M TRYING TO DISTRACT THEM, TRYING
5 ... YOU KNOW, TO DO THAT AND ... I'M TRYING TO THINK... YEAH, I
6 THINK HE HAD BLUE JEANS ON ALSO. YEAH, HE HAD BLUE JEANS
7 AND A BELT, CAUSE I REMEMBER SEEING HIS BELT BUCKLE... CAUSE
8 THAT LITTLE SHINE OF THE BELT BUCKLE IS WHAT MADE ME, YOU
9 KNOW, REALLY CAUGHT MY EYE, AND THEN I SAW THE GRIP
10 STICKING OUT OF THE... YOU KNOW, THE PISTOL PART...

11 MALE OFFICER: RIGHT.

12 OATES: ... PISTOL GRIP PART, THE GRIP PART OF THE HANDGUN.
13 I'M JUST SURPRISED... MAYBE THEY GOT THE HINT... CAUSE I
14 REMEMBER SAYING TO HER EVERYTHING'S FINE, JUST GO BACK,
15 GO... STAY AWAY, GO INSIDE, HE'S GOT A GUN, EVERYTHING'S FINE..
16 I REMEMBER SAYING THAT SO... I DON'T KNOW WHY SHE... OH,
17 WELL...

18 MALE OFFICER: SO SHE WAS OBVIOUSLY RELATED TO THE GUY
19 THAT YOU WERE...

20 OATES: NO, NO RELATION... SHE'S THE NEIGHBOR, SHE... THEY
21 LIVE THERE.

22 MALE OFFICER: NO, NO, NO... TO THE GUY THAT YOU WERE
23 APOLOGIZING TO FOR BEING IN THE YARD.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OATES: YES. ALL OF THE AFRICAN AMERICANS, THEY ARE.... I
2 DON'T KNOW ...

3 MALE OFFICER: (INTERRUPTED AND SPEAKING OVER) ...SOMEHOW
4 RELATED...

5 OATES: ... SOMEHOW RELATED, BUT YEAH, THEY WERE EITHER
6 VISITING OR... IT'S A CLOSE GROUP, YEAH.

7 MALE OFFICER: OKAY.

8 OATES: I DON'T KNOW IF IT'S A BROTHER OR... YOU KNOW WHAT
9 I'M SAYING? WE'RE SHOOTING IN THE DARK, BUT... HEY, BY THE
10 WAY, I'M SORRY I JUST SHOT THIS GUY IN FRONT OF YOU, BUT HEY IS
11 THAT YOUR GIRLFRIEND, YOUR WIFE, YOUR SISTER... YEAH,
12 THAT'S...

13 FEMALE OFFICER: BUT THEY ALL CAME FROM THE SAME HOUSE,
14 PRETTY MUCH...

15 OATES: YEAH, THE AFRICAN AMERICANS WERE ALL FROM [REDACTED],
16 YES.

17 FEMALE OFFICER: [REDACTED]... OKAY.

18 OATES: AND THE WIFE, THE BROTHER, THE GUY THAT PULLED THE
19 GUN ON ME... THEY... THEY WERE ALL... I THINK THEY MIGHT BE
20 NEIGHBORS OR THEY WERE ALL KIND OF HANGING OUT HERE...

21 FEMALE OFFICER: OKAY.

22 OATES: ... AND THEN WHEN HARDY HAD ME IN THE PATROL CAR, I
23 WAS BACK HERE IN THE BACK SEAT... AND THERE WAS A LARGE

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 GROUP OF THEM ALL STANDING AROUND RIGHT HERE... TALKING...
2 THERE WAS A GROUP OF THEM STANDING OVER HERE TALKING...
3 THERE WAS FOUR OF THEM STANDING HERE TALKING... THIS WAS
4 ALL AFTER THE FIVE... AFTER... AFTER THE FACT... THERE WAS
5 STILL, I'D SAY MAYBE SIX TO EIGHT PEOPLE STANDING IN BETWEEN,
6 IN THE DRIVEWAY WHERE THE VAN WAS IN FRONT OF AND THE
7 HOUSE IS OVER HERE, SO... THAT'S THE DRIVEWAY, THEY WERE ALL
8 ... THERE WAS PROBABLY SIX OF THEM ALL STANDING HERE
9 TALKING... EVEN WHEN I WAS LYING FACE DOWN IN THE GRASS
10 WITH HANDCUFFS ON, I LOOKED AT THE DEPUTY AND I WAS LIKE, I
11 REALLY DON'T FEEL SAFE LAYING RIGHT HERE. HE GOES IT'S OKAY,
12 WE GOTCHA COVERED. REALLY? YOU KNOW HOW MANY TIMES I'VE
13 SEEN... HAVE YOU EVER HEARD THE EXPRESSION THE THIRD MAN
14 ON THE MATCH?
15 MALE OFFICER: NO, I'VE NEVER HEARD THAT.
16 OATES: WHEN YOU LIGHT A MATCH TO LIGHT UP A CIGARETTE,
17 BY THE TIME YOU LIGHT THE MATCH AND GET YOURS LIT AND THEN
18 YOUR FRIEND'S LIT, A SNIPER HAS TIME TO SEE THAT MATCH AND
19 FOCUS IN ON IT SO THE THIRD PERSON THAT LIGHTS THEIR
20 CIGARETTE USUALLY CATCHES THE BULLET BECAUSE THE LIGHT
21 FROM THE MATCH EXPOSES YOU. SO I'M LAYING OVER HERE AND
22 I'M GUESSING I'M PROBABLY THE LIGHT.
23 FEMALE OFFICER: PRESTON, WHERE WAS YOUR GUN AT THIS

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 POINT I MEAN...

2 OATES: I SAT IT IN THE GRASS ...

3 FEMALE OFFICER: IN THE GRASS...

4 OATES: ... CLOSE TO THE CURB AND THEN I STEPPED FOUR STEPS
5 AWAY FROM IT AND LAYED DOWN AND PUT MY HANDCUFFS ON.

6 FEMALE OFFICER: OKAY.

7 OATES: AND THEN WHEN I STOOD UP AND THEY WERE TAKING
8 PICTURES ... AND I HAD TO STAND IN FRONT ... (INAUDIBLE
9 MUMBLE)... STAND IN FRONT SO I CAN GET A PICTURE OF YOU... ONE
10 OF THE GUYS STANDING OVER IN FRONT OF THE TOYOTA VAN YELLS
11 OUT "SMILE MOTHERFUCKER" ... I SAID WELL HEY, KEEP HER OFF
12 THE STREET... IT'S NOT MY FAULT SHE'S A WHORE. HE CALLED ME A
13 M-- ... SO I SMILED, JUST LIKE MY MUG SHOT. I'M NOT TRYING TO BE
14 COMICAL...

15 FEMALE OFFICER: (INTERRUPTING AND SPEAKING OVER EACH
16 OTHER)... THAT WAS ONE OF THE HISPANIC PEOPLE?

17 OATES: ... OR CYNICAL, BUT... WE ALL DEAL WITH THIS ON OUR
18 OWN... I'VE DEALT WITH A LOT... AND THIS IS NOT NEEDED, SO IF I
19 COME OFF A LITTLE BRASIN OR IF I COME OFF A LITTLE HUMEROUS,
20 OR NOT CONERNED ABOUT THIS, I'M GONNA APOLOGIZE IN
21 ADVANCE, BUT IT'S CHRISTMAS EVE... I WAS FORCED TO TAKE A
22 MAN'S LIFE, OKAY? I'M... I'M SORRY... I'M COPING WITH IT... OKAY?

23 MALE OFFICER: CAN I GET YOU ANYTHING? SODA, WATER,

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 CRACKERS, ANYTHING?

2 OATES: I'M OKAY. THANK YOU.

3 FEMALE OFFICER: YOU'RE ACTUALLY DOING VERY GOOD,
4 PRESTON.

5 OATES: THANK YOU.

6 FEMALE OFFICER: YOU REALLY ARE, UNDER THE
7 CIRCUMSTANCES.

8 OATES: IT'S LIKE I TOLD THE ISLAND PACKET, I'D RATHER HAVE
9 MY DAD COME AND BAIL ME OUT JAIL THAN IDENTIFY MY BODY IN
10 THE MORGUE... BUT... WITH ERIC HAGEN (SP) ... I'M GLAD HE'S ...
11 YEAH, HE'S A CRIMINAL, BUT I'M... I'M GLAD I DIDN'T HAVE THAT ON
12 MY CONSCIENCE... NOW I'VE GOTTA HAVE THIS ON MY CONSCIENCE
13 EVERY CHRISTMAS.

14 MALE OFFICER: PRESTON, CAN YOU TAKE US THROUGH IT ONE
15 MORE TIME?

16 OATES: YEAH. WHERE DO YOU WANT ME TO START?

17 MALE OFFICER: LET ME ASK... LET ME ASK YOU THIS... FROM THE
18 TIME THAT THE SHOTS OCCURRED TO THE TIME THAT YOU FIRST GOT
19 THERE, WHAT WAS THAT TIME SPAN, ROUGHLY?

20 OATES: WHAT DO YOU MEAN WHEN I FIRST GOT THERE?

21 MALE OFFICER: WHEN YOU FIRST GOT TO THE SCENE AND BACKED
22 YOUR TRUCK UP. WAS IT FIVE MINUTES, WAS IT FOUR MINUTES, TEN
23 MINUTES?

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OATES: OH, NO... WHEN ALL THIS STARTED, I PULLED UP AND
2 STOPPED BACK HERE WHERE THERE'S LIKE A LITTLE SERVICE...
3 ACTUALLY, I STOPPED AT THE VERY FIRST HOUSE ON THE CORNER
4 OF THE ROAD AND A LADY CAME OUT ON HER FRONT PORCH AND LIT
5 UP A CIGARETTE.

6 MALE OFFICER: OKAY.

7 OATES: AND SHE HAD LIKE A CELL PHONE OR A CAMERA,
8 SOMETHING LIKE THAT, BUT SHE WAS STANDING ON THE FRONT
9 PORCH AND I SAW HER LIGHT UP A CIGARETTE. I PICKED UP THE
10 BOOT OFF THE BACK OF MY TRUCK... I WALKED UP TO THE FRONT OF
11 THE TOYOTA, PUT THE BOOT ON THE DRIVER'S SIDE FRONT TIRE...

12 MALE OFFICER: DOES THAT TAKE TWO MINUTES, FOUR MINUTES,
13 TEN MINUTES?

14 OATES: START TO FINISH, LIKE GETTING OUT OF MY TRUCK AND
15 GETTING BACK IN MY TRUCK, I'D SAY POLITELY FOUR... FOUR TO
16 SIX...

17 MALE OFFICER: SO... TELL ME WHY... WHY DO YOU BOOT IT FIRST
18 AND THEN BACK UP TO IT?

19 OATES: THAT DISABLES THE VEHICLE. IT'S A BOOT. IT'S
20 CHRISTMAS EVE.

21 MALE OFFICER: WELL, I GUESS WHAT I'VE SAYING IS, IF YOU'RE
22 GONNA BACK UP TO IMMEDIATELY...

23 OATES: THAT... THAT... THAT'S OUR S.O.P. ... THAT'S THE WAY WE

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 CONDUCT OUR BUSINESS... CAUSE LIKE I SAID, I HAVE LEARNED AND
2 I HAVE INSTALLED SYSTEMS WITHIN THE COMPANY THAT KEEPS MY
3 EMPLOYEES AND MYSELF OUT OF HARM'S WAY. BECAUSE WHEN I
4 GOT THAT TEN INCH KITCHEN KNIFE THROUGH MY BACK IN SHADY
5 GLENN, I FIGURED OKAY, THIS IS DANGEROUS, SO I NEED TO PUT
6 SYSTEMS IN PLACE THAT REDUCE THE AMOUNT OF DANGER AND
7 THREAT TO MY EMPLOYEE. WHEN YOU PULL UP... UNTIL YOU HAVE
8 THAT VEHICLE SECURED ON YOUR TRUCK, THEY CAN DO WHATEVER
9 THEY WANT. WHEN THERE'S A BOOT ON THERE, IF YOUR CHAIN
10 ISN'T TOUCHING YOUR TRUCK, IF YOU'RE NOT HOOKED UP TO THEM,
11 IF YOU'RE... IF YOU'RE LOWERING THAT HYDRAULIC BED WHERE IT
12 TAKES BETWEEN TEN TO TWELVE MINUTES JUST TO GET THE BED
13 DOWN LOWERED, FREE SPOOL THE WINCH, PULL THE CABLES OUT OF
14 THE CHAIN BED, HOOK THE CABLES UP... YOU KNOW, HOOK THE
15 CHAINS UP TO THE VEHICLE, GO BACK, RE-ENGAGE THE WINCH, GO
16 BACK TO THE LEVERS AND, YOU KNOW, TURN THE WINCH ON TO
17 PULL THE TRUCK ON TO THE THING... YOU'RE LOOKING AT TEN TO
18 FIFTEEN MINUTES.

19 MALE OFFICER: OKAY.

20 OATES: SO BY INSTALLING THE BOOT ON THERE, IF THEY COME
21 RUNNING OUT... NO, STOP, DON'T TOW MY CAR. YOU CAN STEP
22 BACK AND SAY OKAY... IF YOU CAME OUTSIDE AND MY TOW TRUCK
23 WAS IN YOUR... RIGHT IN FRONT OF YOUR HOUSE... AND YOU LOOK

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 AT ME AND SAY, HEY STOP WHAT YOU'RE DOING... AND I GO, OKAY,
2 AND I STEP AWAY AND MANAGE TO STEP BACK... WHAT ARE YOU
3 GONNA THINK? OKAY, I'VE GOT THIS UNDER CONTROL NOW, HE'S
4 LISTENING TO ME. I DON'T LOOK AT HIM AND SAY "FUCK YOU" AND
5 KEEP TOWING YOUR CAR... NO, OKAY, FINE... STEP AWAY... YOU'RE
6 NOT BEHIND ME, I'M NOT HAVING TO WATCH MY BACK, I'M NOT
7 HAVING TO TRY AND HUSTLE TO GET THIS CAR HOOKED UP OR
8 SECURED...

9 MALE OFFICER: RIGHT.

10 OATES: ... SO THAT'S WHY I HAVE THIS SYSTEM INSTALLED IN MY
11 COMPANY IS TO KEEP MYSELF AND EMPLOYEES OUT OF HARM'S
12 WAY. THAT'S WHY WE IMPLEMENT THE BOOTING, DISABLING, YOU
13 KNOW, DISABLE THE MOTOR VEHICLE.

14 MALE OFFICER: OKAY.

15 OATES: SO YOU CAN STEP BACK AND SAY, OKAY... WE GOT
16 CALLED HERE TO TOW IT. (INAUDIBLE MUMBLE)... OKAY, WELL.. IF
17 THEY OPEN AND SAY... I HAVE TO TELL YOU, IF YOU MOVE THAT
18 VEHICLE, WE ARE NOT RESPONSIBLE FOR DAMAGES. IT'S... IT'S
19 DISABLED... LOOK AT THE TIRE... IF YOU MOVE IT, WE'RE NOT
20 RESPONSIBLE... (INAUDIBLE)... I DON'T CARE... DO AS YOU WISH...
21 YOU STOP THE FIGHT BEFORE IT STARTS.

22 MALE OFFICER: SO FROM THE TIME THAT YOU PUT IT ON AND GET
23 BACK IN THE TRUCK, TILL THE SHOTS OCCUR IS ROUGHLY HOW

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 LONG?

2 OATES: SO I GET IN MY TRUCK AND I TURN THE HEADLIGHTS
3 BACK ON, I PULL FORWARD, PULL FORWARD ROUGHLY FOURTEEN
4 FEET PAST... WELL, THE TAILBOARD OF MY TRUCK IS FOURTEEN
5 FEET PAST THE VAN, LEAN DOWN, LIFT UP ON THE P.T.O., POWER
6 TAKE OFF, WHICH TURNS ON THE HYDRAULIC SYSTEM OF THE TOW
7 TRUCK... PUT IT IN REVERSE, BACK UP TO THE VEHICLE THAT... PUT
8 IT IN PARK... GRAB MY GLOVES... I'VE GOT MY GLOVES ON ... OPEN
9 THE DOOR, EXITED OUT, WALKED DOWN ABOUT HALFWAY TO THE
10 SIDE OF MY TRUCK AND THEN THREE GENT- ... YOU KNOW, THE
11 THREE GUYS CAME AROUND RUNNING...

12 MALE OFFICER: (INAUDIBLE MUMBLE SPEAKING OVER)...

13 OATES: ... FROM THE SIDE...

14 MALE OFFICER: FAST...

15 OATES: OH, YEAH... THEY WERE... THEY WERE MOVING, THEY
16 WERE GETTING IT. AND SO I TURNED AROUND, GOT BACK IN MY
17 TRUCK, SHUT THE DOOR, LOCKED THE DOOR AND ROLLED THE
18 WINDOW DOWN ALMOST ALL THE WAY...

19 MALE OFFICER: GIVE ME... GIVE ME...

20 OATES: ... AND SAID HOW CAN I HELP YOU.

21 MALE OFFICER: GIVE ME THE TIMEFRAME...

22 OATES: FROM...

23 MALE OFFICER: BOOT TO GUYS RUNNING OUT...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OATES: ... ABOUT THREE TO SIX MINUTES TO PUT THE BOOT ON...
2 I'M SORRY, FOUR TO SIX MINUTES TO BE OUT OF MY TRUCK, PUT THE
3 BOOT ON, AND THEN GET BACK TO MY TRUCK...
4 MALE OFFICER: OKAY.
5 OATES: AND THEN IT WOULD'VE BEEN TWO AND HALF MINUTES...
6 NOT EVEN... FORTY-FIVE SECONDS TO GO FROM RIGHT HERE TEN
7 FEET PAST THEIR VEHICLE, PUT IT IN REVERSE, BACK UP AND PUT IT
8 BACK IN PARK.
9 MALE OFFICER: OKAY.
10 OATES: AND ENGAGE THE P.T.O. I DON'T NEED TO... I MEAN, IF
11 YOU WANT ME TO WALK YOU THROUGH EVERY LITTLE DETAIL, I
12 WILL...
13 MALE OFFICER: WELL, I JUST WANNA KNOW THAT TIMEFRAME.
14 OATES: YOU KNOW, YEAH, THE TIMEFRAME, YOU KNOW, IN A
15 NUTSHELL, I CAN GIVE IT TO YOU THAT WAY. I DON'T WANNA GIVE
16 YOU CARPEL TUNNEL SYNDROME.
17 FEMALE OFFICER: NO, I JUST... BEAR WITH ME, I ALWAYS TAKE
18 NOTES.
19 MALE OFFICER: NO, MAN... YOU'RE DOING...
20 FEMALE OFFICER: IT'S VERY IMPORTANT...
21 MALE OFFICER: ...YOU'RE DOING REALLY GOOD.
22 OATES: SO I... I MADE IT DOWN TO ABOUT THE MIDDLE SIDE OF
23 MY TOW TRUCK AND THEN THEY CAME AROUND FROM THE BACK OF

TRANSCRIPTION OF PRESETON OATES INTERVIEW,
DATED 12/24/2010

1 THE TOYOTA VAN... YOU KNOW, THEY EXITED AND THEN RAN
2 AROUND THIS... FROM OVER HERE, AROUND THIS WAY.
3 MALE OFFICER: ALL RIGHT. NOW, LET ME STOP YOU. TAKE ME
4 FROM THE TIME THAT THE THREE GUYS COME OUT, ALL THE WAY
5 THROUGH IT.
6 OATES: OKAY. SO WHEN I SEE THEM COME AROUND FROM THE
7 BACK OF THE VEHICLE, I GET BACK IN MY TRUCK...
8 MALE OFFICER: (INTERRUPTING)... CLOSE THE DOOR...
9 OATES: ...SHUT THE DOOR, LOCK IT, AND PUT THE WINDOW...
10 MALE OFFICER: (INTERRUPTING AND SPEAKING OVER EACH
11 OTHER)... CRACK THE WINDOW JUST A LITTLE BIT...
12 OATES: YOU KNOW... OH, NO, NO... I HAD THE WINDOW ALMOST
13 ALL THE WAY DOWN. THERE WAS ABOUT THAT MUCH WINDOW
14 EXPOSED.
15 MALE OFFICER: OKAY.
16 OATES: THAT'S HOW MUCH GLASS WAS EXPOSED... ROUGHLY
17 FOUR INCHES OF GLASS WAS EXPOSED. THE TWO GENTLMEN ARE UP
18 THERE, AND THEY...
19 MALE OFFICER: (INTERRUPTING)... THIRD GUY RUNS BACK INTO THE
20 HOUSE...
21 OATES: HE GOES, GO GET ME MY SHOTGUN, SO THE THIRD... NO...
22 I... I DIDN'T WATCH HIM, WHERE HE WENT...
23 MALE OFFICER: BUT HE DISAPPEARED...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OATES: ... I JUST, I HEARD HIM SAY THAT, HE... YOU KNOW, HE
2 WENT OUT OF MY LINE OF SIGHT... I LOST VISION... VISUAL CONTACT
3 WITH HIM.

4 MALE OFFICER: GOTCHA.

5 OATES: I DON'T KNOW WHERE HE EVEN WENT TO... I DON'T KNOW
6 IF HE WAS GOING TO A CAR OR A HOUSE OR... I JUST LOST VISUAL...

7 MALE OFFICER: (INTERRUPTING)... RIGHT AT THAT MINUTE, DID
8 THEY ALREADY KNOW THE BOOT WAS ON THE VEHICLE?

9 OATES: YES.

10 MALE OFFICER: OKAY.

11 OATES: YEAH. BECAUSE THE ... AS THEY, YOU KNOW, CAME UP...
12 ONE GUY STOPPED AND LOOKED DOWN AT IT, AND WHEN THEY SAID,
13 OH, HE'S LEAVING RIGHT NOW. I SAID, YOU CAN'T LEAVE, THE
14 VEHICLE HAS BEEN DISABLED. LOOK AT THE FRONT TIRE, YOU AIN'T
15 GOING NOWHERE, LET ME CALL MY OFFICE AND WE'LL GET THIS
16 FIGURED OUT AND FIND OUT WHAT'S GOING ON. THAT WAS MY
17 EXACT EXPRESSION TO THEM.

18 FEMALE OFFICER: PRESTON, WHAT DID THAT THIRD GUY LOOK
19 LIKE, THE ONE THAT WENT TO GET THE SHOTGUN? OR HE SAID GO
20 GET THE SHOT... YOU DON'T REMEMBER WHAT HE LOOKED LIKE?

21 OATES: I ONLY KNOW... ALL I KNOW...

22 FEMALE OFFICER: DID YOU EVER SEE HIM AGAIN?

23 OATES: HE LOOKED YOUNG... THAT'S IT.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 FEMALE OFFICER: YOUNG... HISPANIC?

2 MALE OFFICER: CAN YOU GIVE US A ROUGH HEIGHT AND WEIGHT?

3 OATES: HE WAS A LITTLE TALLER, HE WAS LIKE MAYBE FIVE...

4 FIVE, TEN... BUT HE WAS SKINNY, HE WAS SMALL... HE WAS

5 PROBABLY FIVE, TEN AND ... OH, I DON'T KNOW... ONE THIRTY TO

6 ONE FIFTY-ISH.

7 MALE OFFICER: SAME THING AGAIN, SHORT HAIR?

8 OATES: NO, LONG, STRAIGHT, BLACK HAIR.

9 MALE OFFICER: HOW LONG?

10 OATES: LONG, PONYTAIL LONG.

11 MALE OFFICER: LIKE, SHOULDER LENGTH?

12 OATES: NO, I SAW AS THEY WERE RUNNING AND HE STOPPED TO

13 TURN AND LOOK AT THE BOOT, I REMEMBER SEEING A PONYTAIL. I

14 DON'T KNOW HOW LONG IT WAS, BUT IT WASN'T CUT OFF LIKE A

15 STEVEN SEGAL, NO, IT WAS... I DON'T KNOW IF IT WAS LIKE ASS

16 CRACK, BUT IT WAS...

17 MALE OFFICER: PAST HIS SHOULDER BLADES?

18 OATES: ... KIND OF... MID-BACK...

19 FEMALE OFFICER: OKAY.

20 MALE OFFICER: OKAY. YOUNG GUY...

21 OATES: YEAH, HE LOOKED YOUNG... HE LOOKED YOUNG.

22 MALE OFFICER: YOU THINK SEVENTEEN, SIXTEEN, EIGHTEEN?

23 OATES: I'M NOT REALLY THAT GOOD AT HISPANICS... AT THE

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 TOPS TWENTY-FIVE...

2 FEMALE OFFICER: OKAY.

3 OATES: ... AND DOWN.

4 MALE OFFICER: OKAY.

5 OATES: LIKE I SAY, I'M NOT... I'VE MET ... I'VE MET SOME...

6 MALE OFFICER: (INTERRUPTED AND SPEAKING OVER)... DO YOU...

7 DO YOU REMEMBER ANYTHING ABOUT HIS CLOTHING?

8 OATES: I THINK IT WAS A WHITE T-SHIRT OR...

9 MALE OFFICER: SHORT SLEEVE?

10 OATES: YEAH.

11 MALE OFFICER: NOTHING ON UNDER IT?

12 OATES: LIKE I SAID, I WAS LOOKING AT HANDS.

13 MALE OFFICER: ANY FACIAL HAIR?

14 OATES: HE REALLY WASN'T THAT CLOSE.

15 MALE OFFICER: OKAY.

16 OATES: NONE THAT I CAN REMEMBER. NONE THAT STOOD OUT TO

17 ME, YOU KNOW...

18 MALE OFFICER: OKAY.

19 OATES: ... USUALLY I CAN TELL IF THEY'VE GOT THE PORK CHOPS

20 OR THE FU MANCHU OR THE CASTRO OR... YOU KNOW... (INAUDIBLE

21 DUE TO INTERRUPTION)...

22 MALE OFFICER: (INTERRUPTING AND SPEAKING OVER) ... THE GUY

23 SAID SO GET MY SHOTGUN...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OATES: GO GET MY SHOTGUN!

2 MALE OFFICER: HE'S NOW OUT OF YOUR SIGHT?

3 OATES: HE'S... HE... I LOST LINE OF SIGHT TO HIM.

4 MALE OFFICER: SO YOU ONLY GOT TWO GUYS...

5 OATES: UH HUH...

6 MALE OFFICER: ... RIGHT BY THE DOOR...

7 OATES: YES.

8 MALE OFFICER: NOW, NUMBER TWO IS CLOSE TO YOU...

9 OATES: THEY ARE... I ... I TRIED TO... I WAS DOING STUFF AND GET
10 MY PHONE AND, YOU KNOW, I WAS GONNA CALL AND FIND OUT
11 WHAT WAS GOING ON AND... THAT WOULD'VE... THAT WOULD'VE
12 CONSUMED ABOUT A MINUTE TO A MINUTE AND A HALF, TWO
13 MINUTES AT THE MOST. CAUSE I WAS TRYING TO STALL...

14 OFFICER: RIGHT.

15 OATES: ... BUT... I DON'T KNOW THE LAST TIME YOU WERE IN A
16 PANIC SITUATION, BUT TIME KIND OF ...

17 MALE OFFICER: (INTERRUPTS)... SLOWS DOWN.

18 OATES: IT EITHER SLOWS DOWN OR SPEEDS UP, I'VE HAD BOTH. I
19 RAN ABOUT FOUR MILES, NON-STOP, NEVER LOOKED OVER MY
20 SHOULDER IN ISTAN BULL. I WAS RUNNING THROUGH ALLEYS,
21 RUNNING, JUMPING OVER CARS, RUNNING THROUGH TRAFFIC,
22 GETTING AWAY FROM ... NEEDLESS TO SAY, THESE PEOPLE WERE
23 TRYING TO ATTACK ME WITH A KNIFE. FELT LIKE FOREVER, BUT

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 THEN WHEN I MADE THE CALL TO THE U.S. EMBASSY AND THEN I GOT
2 THE STATEMENTS FROM THE ATM MACHINES, I WAS LIKE, WOW, I
3 RAN LIKE FIVE MILES IN LIKE SEVEN MINUTES...

4 FEMALE OFFICER: THAT'S ADRENALINE... IT'S AMAZING...

5 OATES: I... I... I KNEW HOW FAR I RAN BECAUSE I WAS ABLE TO
6 GET ON THE MAP, YOU KNOW, I HAVE GOOGLE EARTH ON MY
7 IPHONE...

8 MALE OFFICER: SURE.

9 OATES: YOU KNOW, WHEN I WAS OVER THERE... I MEAN, I KNEW
10 WHERE I WAS AT FROM THE ATM LOCATION FROM MY BANK
11 BECAUSE THEY CONVENIENTLY... AH... THREE GENTLEMEN TOOK
12 ME AT KNIFE POINT TO FIVE DIFFERENT ATM MACHINES IN ABOUT A
13 FOUR BLOCK RADIUS AND HAD ME RUN EVERY CREDIT CARD I HAD
14 THROUGH THE ATM... (INAUDIBLE WHISPER)... THAT WAS ISTAN
15 BULL... BUT, YEAH, I DON'T KNOW HOW LONG IT WAS, BUT IT FELT
16 LIKE... FELT LIKE I DIDN'T RUN LONG. FIVE MILES... FEW MINUTES...
17 WOW... SO, I APOLOGIZE IF I'M TRYING TO WORK OUT THE TIMES
18 HERE. A MINUTE AND A HALF, TWO MINUTES UNTIL THE NUMBER
19 ONE FINALLY GOT THE KEYS AND LOCK FROM ME.

20 MALE OFFICER: GOTCHA.

21 OATES: I KNEW IT WOULDN'T TAKE HIM LONG...

22 MALE OFFICER: (INTERRUPTING)... AND HE FORCEABLY TOOK
23 THAT?

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OATES: OH, YEAH, HE... HE REACHED AND...

2 MALE OFFICER: ... HE REACHED AND GRABBED...

3 OATES: I HAD... I HAVE THE TIRE LOCK IN THIS HAND, AND I HAD

4 THIS, AND I WAS JUST SITTING THERE LIKE THIS, YOU KNOW, JUST

5 KIND OF FLIPPING THROUGH THEM, AND HE JUST...

6 MALE OFFICER: SNATCHED IT AND...

7 OATES: RIGHT OUT OF MY HANDS...

8 MALE OFFICER: AND HE'S ON HIS WAY...

9 OATES: ... AND HE JUMPED OFF OF THE TRUCK AND WALKED

10 BACK TO THE VAN... FINE, GO AHEAD.

11 MALE OFFICER: GOTCHA.

12 OATES: OKAY, I'VE GOT ABOUT TWO OR THREE MINUTES AND

13 THEN I CAN EITHER GET THE HELL OUT OF HERE OR HE'S GONNA

14 PULL ME OUT OF THE TRUCK, BECAUSE...

15 FEMALE OFFICER: SO HE HAD THE MECHANISM, BUT HE DIDN'T

16 KNOW HOW TO USE IT, BASICALLY?

17 OATES: YEAH, HE HAD ALL THE TOOLS, HE HAD EVERYTHING HE

18 NEEDED TO TAKE THE BOOT OFF...

19 FEMALE OFFICER: BUT HE COULDN'T...

20 OATES: I JUST KNEW, IT'S FLIP A COIN... HE'S... HE'S APT ENOUGH

21 TO, YOU KNOW, BE THE VISUAL... YOU KNOW, MECHANICALLY

22 FIGURE OUT HOW IT WORKS AND TAKE IT OFF, OR HE'S NOT... FLIP A

23 COIN.

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 FEMALE OFFICER: UH HUH.

2 OATES: THAT'S MY... THAT WHERE I WAS... MY MIND SET WAS...
3 FOR BETTER OR WORSE... FIFTY, FIFTY, FLIP A COIN... THAT'S WHERE
4 I WAS AT. THAT'S HOW I HAD TO ORGANIZE MY THOUGHTS AND...

5 MALE OFFICER: SURE, SURE.

6 OATES: ... AND... MY ACTIONS.

7 MALE OFFICER: GOTHCA.

8 OATES: AFTER HE LEFT THE WINDOW, THEN THE GUY STARTED
9 ASKING ME ABOUT DOCUMENTATION, PAPERWORK, NUMBERS, IF I
10 CALLED ANYBODY, ALL THAT STUFF. I FIDGETED WITH THE METAL
11 LEDGER, I TOOK MY GLOVES OFF, PUT BOTH OF MY GLOVES ON THE
12 DASH OF MY TOW TRUCK...

13 MALE OFFICER: AND IT'S NUMBER TWO ASKING YOU ABOUT THE
14 DOCUMENTS?

15 OATES: (PAUSES TO LOOK AT SOMETHING)... YEP... I WANTED TO
16 MAKE SURE. THE ONE IN THE ... YOU KNOW, THE... NOT THE GUY
17 WITH THE POLO COLLARED SHIRT WITH TWO BUTTONS... AND A
18 LITTLE HEAVY, A LITTLE CHUNKY... LAGUAPO (SP)... SALU (SP)...
19 (WHISPERS)... AH... I TRIED TO STALL... NOT TO MAKE IT WHERE...
20 (INAUDIBLE MUMBLE)... I WAS JUST TRYING TO... NOT FRUSTRATE,
21 BUT GET SO FRANTICKY AND JUST SO DISPLACED AND THAT HE
22 WOULD EITHER LOSE INTEREST OR JUST KIND OF GET PERTURBED AT
23 ME... LIKE DUDE, COME ON, ENOUGH OF THIS SHIT, LET'S... WHAT'S

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 GOING ON? REALLY? YOU SURE? ... I WAS TRYING TO GET HIM INTO
2 THAT MINDSET. ANYTIME... ANYTIME YOU CAN INCORPORATE
3 ANGER, RAGE, IT BECLOUDS THE THOUGHTS... PEOPLE CAN'T THINK
4 CLEARLY WHEN THEIR THOUGHTS ARE... WHEN... YOU FIND OUT
5 EVERYBODY... EVERYBODY... EVERYBODY HAS A FRACTURE
6 POINT... SOMETHING THAT CAUSES THEM TO CHANGE THE BRAIN
7 WAVES IN THEIR HEAD, AND THAT'S WHAT I WAS TRYING TO DO
8 WITH HIM... WAS FIND THAT CLICKING MECHANICSM.
9 MALE OFFICER: DID YOU EVER GET TO THAT POINT?
10 OATES: I DIDN'T HAVE THE OPPORTUNITY TO. HE PULLED A GUN
11 ON ME... I MEAN, HE... I WAS ABLE AT LEAST LUCKY ENOUGH TO GET
12 MINE OUT AND, YOU KNOW, UNDO IT IN THE PASSENGER'S SEAT...
13 NOT THAT... IT'S HARD TRACKING TIME... AH... FROM THE TIME THE
14 BROTHER LEFT THE DRIVER'S WINDOW AND WENT BACK TO THE
15 VAN WHERE THE BOOT WAS ON IT, FUMBLED WITH THE LEDGER, HAD
16 TO ... OPENED IT UP, SHOWED HIM THE FIRST FIVE TICKETS ON
17 THERE, LOOK, THIS IS IT... YOU KNOW, NONE OF THE VEHICLES
18 MATCHED HIS... SEE, NO, NO PAPERWORK... WAS ABLE TO DO THAT...
19 TOOK MY GLOVES OFF, PUT THEM ON THE DASH, HAD MY
20 FLASHLIGHT OFF THE VISOR, I SAT THAT ON THE DASH... JUST TO
21 CAUSE CLUTTER, TO MAKE MOVEMENT... MOVE THINGS AROUND...
22 WHY DID I NEED TO TAKE MY GLOVES OFF... WHY DID I NEED TO
23 TAKE THE FLASHLIGHT OFF THE VISOR AND PUT IT ON THE DASH...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 JUST TO... TO... TRY TO FIND OUT WHAT MECHANISM MAKES HIM
2 CLICK... WHY AREN'T YOU WEARING A WEDDING RING?
3 FEMALE OFFICER: I'M NOT MARRIED RIGHT NOW.
4 OATES: I DIDN'T ASK IF YOU IF YOU WERE MARRIED, I SAID WHY
5 AREN'T YOU... IS IT BECAUSE OF YOUR JOB?
6 FEMALE OFFICER: I DON'T HAVE A WEDDING RING.
7 OATES: NO?
8 FEMALE OFFICER: UH UH...
9 OATES: IS IT BECAUSE OF YOUR JOB?
10 FEMALE OFFICER: I WOULDN'T SAY IT'S BECAUSE OF MY JOB,
11 NO.
12 OATES: NO... OKAY.
13 FEMALE OFFICER: ANYWAY...
14 OATES: SO... WITH THAT, JUST KIND OF FLUSTERING AROUND,
15 AND MOVING THINGS AROUND AND KIND OF JUST BREAKING THE
16 CYCLES AND THAT WAY, HE STILL FEELS LIKE HE HAS CONTROL...
17 BECAUSE THE FIRST EMOTION IS INTIMIDATION. NINETY PERCENT OF
18 THE PEOPLE THAT CARRY A WEAPON, USE IT FOR INTIMIDATION. I
19 UNDERSTAND THAT... I'VE DEALT WITH IT BEFORE... I DEALT WITH
20 IT LAST YEAR IN THE TRAILER PARK WHEN THAT KID WAS
21 INTIMIDATING YOU WITH IT... WAIVING IT AROUND IN MY FACE...
22 AH, YEAH, GET THE FUCK OUTA HERE... WAIVING IT AROUND...
23 YEAH, DUDE, IT AIN'T GONNA BE ACCURATE... ONE, YOU'VE TOO FAR

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 AWAY, AND TWO, YOU'RE WAIVING IT AROUND ONE-HANDED.

2 YOU... YOU KNOW WHY PEOPLE SHOOT A GUN SIDEWAYS?

3 MALE OFFICER: TELL ME.

4 OATES: THAT'S HOW THAT PICK IT UP OUT THE BOX...

5 (LAUGHING)...

6 MALE OFFICER: THAT'S A GOOD ANSWER... I LIKE THAT...

7 OATES: SO I WAS THROWING HIM SOME MISDIRECTION JUST

8 FIDGETING AROUND, THAT WAY HE GAVE ME THE OPPORTUNITY TO

9 WHERE HE WOULDN'T STUDY ALL MY ACTIONS AS INTENTLY. CAUSE

10 I KNEW THAT IT WAS IN THE GLOVE BOX, IT WAS HOLSTERED, DUH

11 DUH DUH DUH... SO THEN I DID THE LEDGER, THEN I WAS ABLE TO

12 OPEN THE GLOVE BOX UP AND PULL MORE PAPERWORK OUT IN MY

13 LAP, SHOW HIM THIS, SHOW HIM THAT... OH, LOOK... I MEAN, I'M

14 JUST THROWING THE PAPERS AROUND...

15 MALE OFFICER: SURE.

16 OATES: ...THROWING THEM AROUND... JUST...

17 MALE OFFICER: CLASSIC MISDIRECTION...

18 OATES: YEAH... AND THEN I PICKED IT ALL UP AND MOVED THE

19 WEAPON IN THE HOLSTER AND THE PAPERWORK BACK INTO THE

20 PASSENGER'S SEAT, AND AS I WAS DOING THAT, I WAS TO...

21 MALE OFFICER: SNAP IT...

22 OATES: ... POP THE SAFETY OFF, YOU KNOW, POP THE NYLON

23 STRAP OFF, AND TO GET MY THUMB AND PUSH THE CLAMSHELL OFF

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 OF THE WEAPON... AND THEN IT WAS SITTING IN THE PASSENGER'S
2 SEAT BLOCKED BY THE CENTER CONSOLE THAT FOLDED DOWN. AND
3 AFTER THAT, I SAID, NO PAPERWORK, NO PAPERWORK... HE WAS
4 OKAY, WELL... AND THEN HIS BROTHER YELLED OUT SOMETHING IN
5 SPANISH LIKE, WITH THE DEISEL RUNNING, I HEARD SOMETHING...
6 AND THEN THAT'S WHEN HE UNLOCKS THE DOOR AND OPENS...
7 OPENS THE DOOR AND AS HE OPENS THE DOOR, HE STEPS BACK, AND
8 I SEE THIS HANDLE LIKE THAT, AND I STILL HAD... CAUSE I HAD JUST
9 PUT THE PAPERWORK DOWN AND UNCLIPPED IT, I STILL HAD IT IN
10 MY HAND... MY HAND WAS ACTUALLY AS YOU SEE RIGHT NOW. I'M
11 SITTING IN THE DRIVER'S SEAT STEERING WHEEL, HAND LIKE THIS IN
12 THE PASSENGER'S SEAT, CENTER CONSOLE WAS RIGHT HERE... SO
13 MY ARM WAS KIND OF RESTING ON THE CENTER CONSOLE... I HAD
14 MY HAND RIGHT HERE... NEAR THE STEERING WHEEL... WHEN HE
15 OPENED THE DOOR, I SAID ALL RIGHT AND AS I LOOKED THIS WAY,
16 HE WAS PULLING OUT OF HIS PANTS WITH HIS RIGHT HAND AND I
17 HAD MY LEFT FOOT, SQUARED IT OFF, STRAIGHT TOWARD THE
18 NEIGHBORS' HOUSE, AND AS I CAME DOWN, I CAME DOWN, ELBOW
19 DOWN, AND AS I WAS STEPPING DOWN, LOCKED AND...
20 MALE OFFICER: SHOT.
21 OATES: ... AND CAUGHT HIM SOMEWHERE ON HIS LEFT SIDE...
22 UPPER TORSO ON THE LEFT SIDE... I DON'T KNOW IF IT WAS HIS ARM,
23 HIS SHOULDER, WHATEVER, BUT I KNEW...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: (INAUDIBLE MUMBLE - SPEAKING OVER EACH
2 OTHER)...

3 OATES: ... IT WASN'T A HEAD SHOT AND IT WASN'T A CENTER
4 MASS.

5 MALE OFFICER: OKAY.

6 OATES: BECAUSE IT SPUN HIM. OKAY, IF I WINGED HIM... NOW...
7 IT'S ... IT'S GONNA... YOU SHOOT AT ME, I'M GONNA SHOOT BACK...
8 SO I... I DON'T KNOW IF IT WAS A DISABLING OR JUST... JUST A FLESH
9 WOUND. I DIDN'T KNOW IF IT DISABLED HIM OR IF IT WAS A FLESH
10 WOUND, I HAD NO CLUE. SO AS HE WAS TURNING ON HIS FEET AND
11 HE EXPOSED HIS SHOULDER TO ME, MY LINE SIGHT WAS CLEAR, HE
12 STILL HAD THE WEAPON IN HIS HAND... AND THEN AFTER THAT, I
13 REMEMBER STEPPING BACK, PUTTING IT IN MY LEFT HAND, MAKING
14 THE PHONE CALL TO DISPATCH... CAUSE AS I SAID, IT SLID AWAY
15 AND WHEN IT SLID AWAY, I DROPPED LOW GUARD AND...

16 MALE OFFICER: ANY...

17 OATES: ... GOT IT IN MY LEFT HAND...

18 MALE OFFICER: AND IF YOU JUST SLOWLY REPLAY IT IN YOUR
19 MIND, IS THERE ANY WAY FOR YOU TO TELL ME ROUGHLY HOW
20 MANY SHOTS YOU THINK YOU FIRED?

21 OATES: WELL, THE FIRST SHOT SPUN HIM AND THEN IT EXPOSED
22 THE BROAD SIDE OF HIM, CAUSE I DIDN'T KNOW IF HE WAS GONNA
23 CONTINUE TO SPIN AROUND... THAT WAS THE SECOND SHOT... AND

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 THE SECOND SHOT, I DIDN'T REMEMBER SEEING ANY OF HIS BODY
2 MASS FLUXUATE OR MOVE, AND THEN I REMEMBER SEEING HIS
3 FACE, I MADE EYE CONTACT WITH HIM... AND YOU LOOK AT WHERE
4 YOUR SHOOTING... SO WHEN I MADE EYE CONTACT WITH HIM AND
5 HE MADE EYE CONTACT WITH ME, I KNEW HE ... IF HE WAS STILL
6 CAPABLE, HE WAS SWINGING TO GET A LINE OF SIGHT CAUSE YOU
7 LOOK AT WHERE YOU'RE SHOOTING. SO WHEN I MADE EYE
8 CONTACT WITH HIM, I REMEMBER PULLING THE TRIGGER AGAIN...
9 SO THAT WOULD'VE BEEN THREE... AND I DON'T REMEMBER IF HE
10 MOVED... YOU KNOW, IF IT ... IF IT CHANGED HIS POSTURE OR
11 POSURE, I MIGHT HAVE GOTTEN A FOURTH ONE OFF, AND I THINK IT
12 WAS EITHER... IT PROBABLY WAS THE... PROBABLY THE FOURTH
13 ONE WAS... (PAUSES TO THINK)... I THINK... YEAH, IT PROBABLY
14 WOULD'VE BEEN THE FOURTH ONE... IS WHEN I HEARD THE
15 HANDGUN HIT THE GROUND, I HEARD THE METAL CLING...
16 MALE OFFICER: AND YOU...
17 OATES: AND WHEN I HEARD THAT... WHEN I HEARD THAT CLING...
18 MALE OFFICER: AND YOU'RE STILL UP IN THE TRUCK...
19 OATES: ACTUALLY, NO...
20 MALE OFFICER: ...SHOOTING DOWN...
21 OATES: NOW... THIS IS THE RUNNING BOARD...
22 MALE OFFICER: OKAY.
23 OATES: YOU KNOW, WHERE THEY WERE STANDING...

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: RIGHT.

2 OATES: SO WHEN I STEPPED OUT... YOU KNOW, THAT'S THE
3 RUNNING BOARD... DRIVER'S SEAT'S HERE, I HAD THIS HAND BACK
4 HERE, STEERING WHEEL'S HERE... WHEN I GO TO GET OUT, I HAD
5 THIS FOOT THIS WAY, SO AS I TURNED, I BROUGHT THIS HAND UNDER
6 MY ARM... LIKE OVER THE STEERING WHEEL, AND AS I WAS COMING
7 OUT OF THE TRUCK, THAT WAY... RIGHT TOWARD YOU... THAT
8 ...CAUSE I KNEW IF I STEPPED STRAIGHT OUT OF THE TRUCK, THAT
9 WOULD CLEAR MY LINE OF SIGHT...

10 MALE OFFICER: SO...

11 OATES: ... PUTTING YOU DEAD IN THE MIDDLE OF THE ROAD WITH
12 NOTHING BUT ROAD BEHIND ME... NO HOUSES, NO CARS, NO
13 PEOPLE... IT WAS A STRAIGHT SHOT OF ROAD, ALL THE WAY BACK.

14 MALE OFFICER: SO YOU'RE RIGHT...

15 OATES: PLUS I WAS HIGHER... SO SINCE I WAS HIGHER, I KNEW IF
16 THE BULLET WENT PAST YOU, IT WOULD EVENTUALLY HIT THE
17 ASPHALT AND NOT A HOUSE BECAUSE I WAS STEPPING DIRECTLY
18 SQUARE OUT OF THE TRUCK TO GET A CLEAR LINE OF SIGHT DOWN
19 THE ROAD.

20 MALE OFFICER: SO YOU'RE RIGHT FOOT'S ON THE GROUND...

21 OATES: NO, I'M ON MY...

22 MALE OFFICER: STILL ON THE RUNNING BOARD?

23 OATES: MY RIGHT FOOT IS ON... IN THE AIR, ACTUALLY. MY LEFT

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 FOOT IS ON THE RUNNING BOARD BECAUSE I CAME OUT OF THE
2 SEAT WITH MY LEFT FOOT, PUSHING OFF OF THE RUNNING BOARD
3 WITH MY LEFT, YOU KNOW, WHERE THE DOOR CLOSES, IT'S A
4 RUNNING BOARD...

5 MALE OFFICER: RIGHT, RIGHT...

6 OATES: SO MY LEFT FOOT WAS WHERE THE SEAT MEETS THE
7 FLOOR... ON THAT, WHATEVER YOU CALL THAT PIECE OF TRIM,
8 WHERE THE DOOR SHUTS WHERE THE WEATHER STRIPPING IS ...

9 MALE OFFICER: UH HUH.

10 OATES: ... I GUESS THE FLOOR BOARD, WHATEVER...

11 FEMALE OFFICER: (INAUDIBLE)...

12 MALE OFFICER: DOOR JAM.

13 OATES: DOOR JAM, YEAH. THAT'S WHERE MY LEFT FOOT WAS,
14 AND MY RIGHT FOOT WAS IN MO- ... YOU KNOW, COMING AROUND
15 TO STEP DOWN ONTO THE GROUND. CAUSE I WAS ... KIND OF LIKE
16 LEAPED... I EVACKED THE TRUCK... I LEAPED OUT OF THE TRUCK...
17 ONE MOTION, JUST CAME OUT, LEAPED OUT, THAT WAY... RIGHT
18 WHEN I GOT THIS HAND AROUND AND UP STRAIGHT... HIT.. AND I
19 THINK I HIT SOMEWHERE RIGHT IN HERE, CAUSE HE ROTATED
20 TOWARD THE HOUSE THAT WAS OVER THERE, WHICH IS 470...

21 FEMALE OFFICER: UH HUH...

22 OATES: AND WHEN HE ROTATED AND EXPOSED THIS RIGHT HERE,
23 I SAW THE HANDGUN RIGHT HERE IN HIS RIGHT HAND, AND THAT'S

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 WHEN I HIT HIM ON HIS RIGHT SHOULDER CAUSE I KNEW IT WASN'T
2 A LETHAL KILL...

3 MALE OFFICER: RIGHT.

4 OATES: ... OR A LETHA SHOT... KILL SHOT... SORRY, THE WHOLE
5 TERMINOLOGY ... (INAUDIBLE MUMBLE)... THAT IF I HIT HIS RIGHT
6 SHOULDER, IT WOULD DISABLE HIS RIGHT HAND... I'M SAFE... SO
7 WHEN I HIT HIM HERE... I WASN'T SURE OF THE SECOND SHOT AND I
8 HIT WITH WHATEVER AND HE LOOKED AT ME AND IT WAS EITHER
9 THE THIRD OR FOURTH SHOT WAS WHEN WE MADE EYE CONTACT
10 AND THAT WAS THE THIRD OR FOURTH SHOT.

11 MALE OFFICER: AND YOU'RE NOT SURE IF WE'RE ON FOUR OR NOT?

12 OATES: FOR SOME REASON... MAYBE... MAYBE A FIFTH... BUT...

13 MALE OFFICER: IT'S JUST HARD TO REMEMBER... HAPPENED SO
14 FAST...

15 OATES: YEAH. LIKE I SAID, ON THE ISLAND THAT WAS A PANIC
16 FIRE... I EMPTIED A CLIP... I DON'T KNOW HOW MANY SHOT... EITHER
17 TEN, ELEVEN OR TWELVE ROUNDS... DIDN'T EVEN KNOW IT. ALL I
18 HEARD... I REMEMBER DRAWING CAUSE HE WAS COMING AT ME
19 WITH HIS GUN. I REMEMBER SEEING THE MUZZLE FLASH OF HIS GUN
20 GO OFF AND WHEN I SAW HIS MUZZLE FLASH GO OFF, I DON'T EVEN
21 THINK I WAS TOTALLY LINED UP WITH HIM YET, BUT TO GET HIM OFF
22 OF TARGET, CAUSE I SAW HIS MUZZLE FLASH, I JUST STARTED
23 SQUEEZING... AND THE NEXT THING I KNOW, I HEAR CLICK, CLICK,

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 CLICK, AND I WHIPPED BACK LIKE THAT AND MY CHAIN, YOU KNOW,
2 IT SLIDES OPEN, SO I DROPPED THE SLIDE, AND THAT'S WHEN THEY
3 ALL RAN INTO THE WOODS.

4 FEMALE OFFICER: YOU REMEMBER TWO SHOTS IN THIS
5 INCIDENT THOUGH?

6 OATES: IN THIS ONE I CAN CLEARLY REMEMBER THREE.

7 FEMALE OFFICER: THREE...

8 OATES: I DON'T ... THERE'S A STRONG POSSIBILITY OF A FOURTH
9 AND A FIFTH MAYBE, BUT...

10 MALE OFFICER: HARD TO SAY...

11 OATES: LIKE I SAID, I'M ... IT'S... LIKE I SAID... I KNEW THE FIRST
12 SHOT HIT HIM BECAUSE IT SPUN HIM. I DON'T KNOW IF THE SECOND
13 SHOT HIT HIM OR NOT BECAUSE HE WAS STILL COMING AROUND AND
14 THEN WHEN HE MADE EYE CONTACT WITH ME AFTER THE THIRD
15 SHOT, I DIDN'T KNOW, YOU KNOW, IF IT WAS ... I DIDN'T KNOW WHAT
16 HIS INTENTIONS WERE, I DIDN'T KNOW WHAT WAS GOING ON... I
17 JUST KNEW, YOU KNOW WHEN SOMEONE IS STARING... IT'S A
18 THREAT... SO THAT WOULD'VE BEEN, EITHER THAT WOULD'VE BEEN
19 THE FOURTH, IF NOT THE FIFTH SHOT. AND THEN I HEARD THE METAL
20 HIT THE GROUND, THE CLING, CLING, AND THEN (MAKING A
21 SOUND)... LIKE THAT, AND I LOOK UP AND I SEE THE GUN SLIDING
22 INTO THE ROAD, AND ABOUT THAT TIME AS THE GUN WAS SLIDING
23 INTO THE ROAD, MY RIGHT FOOT HITS THE GROUND AND I END AT

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 LOW GUARD, LOOK AROUND, HE'S NOT MOVING AND THE GUN'S,
2 OVER THERE, SO I PUT MY LEFT HAND, PULL MY CELL PHONE OUT,
3 GLANCE, HIT NINE... AND I'M LOOKING AT EVERYBODY, STAY
4 BACK, GET AWAY, AND THAT'S WHEN THE BROTHER AND THE WIFE
5 COME RUNNING AROUND "OH, MY GOD... OH, MY GOD... DAH, DAH,
6 DAH..." AND I'M STANDING AT THE, YOU KNOW, IN THE CREVIS OF
7 MY TOW TRUCK, BETWEEN THE DOOR AND THE BODY, YOU KNOW, IN
8 THAT...

9 MALE OFFICER: RIGHT.

10 OATES: ... AREA, AND THEN I WAS ABLE TO SLOWLY AGRESS
11 MYSELF LOW GUARD, AGRESS MYSELF... STAY BACK, EVERYBODY
12 STAY BACK, YOU KNOW, GET AWAY... ON SPEAKERPHONE AND I WAS
13 ABLE TO WIGGLE MYSELF OVER INTO THE ... YOU KNOW, [REDACTED]'S
14 FRONT YARD FOR CLEAR LINES.

15 MALE OFFICER: ALL RIGHT. PRESTON, CAN WE TAKE A BREAK...

16 OATES: CAN I HAVE A CIGARETTE?

17 FEMALE OFFICER: SURE.

18 MALE OFFICER: ABSOLUTELY.

19 OATES: OKAY... LAUGHING... NO, I DON'T HAVE ANY...

20 FEMALE OFFICER: DID HE SAY ANYTHING AS HE WAS OPENING
21 THE DOOR?

22 MALE OFFICER: I WILL TRACK ONE DOWN.

23 FEMALE OFFICER: ONE QUICK QUESTION... WHEN HE'S OPENING

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 THE DOOR, DID HE SAY ANYTHING TO YOU?

2 OATES: AS HE WAS OPENING THE DOOR, HE SAID "GET OUT".

3 FEMALE OFFICER: THAT'S IT?

4 OATES: (YELLING)... GET OUT! AND HE PULLED THE DOOR OPEN.

5 FEMALE OFFICER: OKAY.

6 OATES: AND AS HE PULLED IT, I LOOKED AT HIM AND HE WAS
7 DRAWING...

8 FEMALE OFFICER: OKAY.

9 OATES: THIS WAS... I WASN'T SURE...

10 MALE OFFICER: WAS IT A ...

11 OATES: WITH... WITH CERTAINTY, NO...

12 MALE OFFICER: WAS IT A STERN TALKING VOICE OR WAS HE
13 SHOUTING AT YOU?

14 OATES: OH, IT WAS ... (YELLING AGAIN)... GET OUT! GET OUT!
15 GET OUT! ... TAKE IT AS YOU WANT IT. AND I WASN'T SURE IF HIS
16 INTENTIONS WHILE HE WAS DRAWING WAS TO HAVE IT OUT THAT
17 WAY THE INTIMIDATION FACTOR... YOU'RE GONNA DO AS I SAY, GET
18 THAT BOOT OFF MY CAR OR ELSE, OR ... YOU KNOW WHAT, HE
19 DOESN'T HAVE ANY OF MY INFORMATION, HE DOESN'T HAVE MY
20 NUMBERS, HE DOESN'T KNOW WHO I AM, THERE'S NO PAPERWORK IN
21 HIS TRUCK LINKING US TOGETHER... THAT'S WHAT WAS GOING
22 THROUGH MY HEAD... FLIP A COIN... FLIP A COIN... THAT'S... THAT'S
23 WHAT I WAS THINKING AT THAT MOMENT... THAT WAS MY FLASH...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/24/2010

1 MALE OFFICER: PRESTON, I'M GONNA TRY AND TRACK DOWN A
2 CIGARETTE FOR YOU.
3 OATES: OKAY.
4 MALE OFFICER: CAN I GET YOU TO JUST CALMLY SIT HERE AND
5 WRITE IT ALL OUT IN WRITING?
6 OATES: I ASKED IF THEY WANTED A STATEMENT FROM ME
7 EARLIER BUT THEY SAID NO.
8 FEMALE OFFICER: (INAUDIBLE)...
9 MALE OFFICER: OKAY, ALL OF THESE ARE CARBONS. DON'T STACK
10 'EM ON TOP OF EACH OTHER...
11 OATES: MY TOW TICKETS ARE THE SAME...
12 MALE OFFICER: ALL RIGHT.
13 OATES: WE'VE GOT THREE PIECES.
14 FEMALE OFFICER: PRESTON, DO YOU WANT SOME MORE WATER
15 OR ANOTHER DRINK?
16 MALE OFFICER: AND IF YOU NEED...
17 OATES: NO, ACTUALLY I'M GOOD CAUSE I DON'T WANNA HAVE TO
18 USE THE TOILET.
19 FEMALE OFFICER: (INAUDIBLE)...
20 MALE OFFICER: AND IF YOU NEED ANYMORE, JUST LET ME KNOW,
21 AND I'M GONNA TRY TO FIND YOU SOME CIGS.
22 OATES: DO YOU WANT THIS AS DETAILED AS EXPLICITLY
23 POSSIBLE STARTING FROM THIS MORNING WHEN I TOWED THAT

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 FORD RANGER WITH THE EVENT NUMBER...

2 MALE OFFICER: NO...

3 OATES: ... OR DO YOU WANT IN A NUTSHELL?

4 MALE OFFICER: I'D LIKE YOU TO START AT THE TIME THAT YOU
5 PULLED UP TO THE INCIDENT LOCATION... HOW ABOUT THAT?

6 OATES: HOW ABOUT WHEN I TURNED ONTO THE ROAD, STOPPED
7 MY TRUCK TO GET OUT TO GO BOOT IT, OR AFTER THE BOOT WAS
8 ON?

9 FEMALE OFFICER: START FROM THERE, THE BOOTING...

10 OATES: OKAY.

11 MALE OFFICER: YEAH.

12 OATES: CAUSE I REMEMBER THE HOUSE ON THE RIGHT, THE LADY
13 CAME OUT ON THE FRONT PORCH AND LIT UP A CIGARETTE.

14 FEMALE OFFICER: YEAH, START THERE.

15 OATES: OKAY. AND I DON'T KNOW WHO THE AFRICAN
16 AMERICANS WERE, BUT I TRIED... IT'S EVERYTHING'S FINE, HE'S GOT
17 A GUN, GO INSIDE, EVERYTHING'S FINE, I GOT THIS, IT'S OKAY, WE
18 GOT THIS COVERED, HE'S GOT A GUN, EVERYTHING'S FINE...
19 NONCHULANTLY LIKE THAT, THAT WAY IT WOULDN'T MAKE HIM
20 GET UPSET.

21 MALE OFFICER: RIGHT. AND I DON'T KNOW IF SHE CALLED OR NOT,
22 SHE MAY HAVE.

23 OATES: WELL, I KNOW AFTER I WAS IN THE FRONT YARD AND I

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

1 SAID CAN YOU CALL MY FAMILY... SAID I'M ON THE PHONE WITH
2 DISPATCH...
3 FEMALE OFFICER: HUM...
4 OATES: OKAY, AND THAT'S WHEN THE MALE SAID... WENT INSIDE
5 AND GOT THE HOUSE PHONE AND SAID, OKAY, WHAT'S YOUR
6 NUMBER... I WAS ON THE PHONE WITH DISPATCH AND I WAS LIKE
7 8157767... AND THIS... PEOPLE PROBABLY THOUGHT I HAD TERETTE'S.
8 MALE OFFICER: IT'S ALL RIGHT, MAN. IF YOU'RE...
9 OATES: I'M LIKE WHAT...
10 MALE OFFICER: IT'S A HIGH STRESS SITUATION.
11 OATES: I MEAN THE WHOLE TIME I WAS LIKE... I JUST KEEP
12 GLANCING AT HANDS...
13 MALE OFFICER: JUST TAKE A DEEP BREATH...
14 FEMALE OFFICER: AND WE HAVE MORE OF THESE...
15 MALE OFFICER: TRY TO PUT AS MUCH DETAIL INTO IT AS YOU CAN.
16 OATES: ALL RIGHT.
17 MALE OFFICER: I'LL GET YOU SOME MORE IF YOU NEED IT.

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(THERE BEING NO FURTHER AUDIO PROVIDED,
THIS TRANSCRIPTION IS CONCLUDED)

TRANSCRIPTION OF PRESETON OATES INTERVIEW
DATED 12/24/2010

CERTIFICATE

I, BEVERLY F. COOK, NOTARY PUBLIC IN AND FOR THE
STATE OF SOUTH CAROLINA, CERTIFY THAT I DID TRANSCRIBE THE
AUDIO DATED 12/24/2010 AS PROVIDED TO ME BY THE 14TH JUDICIAL
CIRCUIT SOLICITOR'S OFFICE IN BLUFFTON, SOUTH CAROLINA; THAT
THE FOREGOING PAGES CONSTITUTE A TRUE AND ACCURATE
TRANSCRIPT OF THE VIDEO / AUDIO GIVEN.

I CERTIFY THAT I AM NOT OF COUNSEL, NOR KIN TO ANY OF
THE PARTIES TO THIS ACTION, NOR AM I INTERESTED IN ANY
MANNER IN ITS OUTCOME.

I HAVE HEREUNTO SET MY HAND AND SEAL THIS 13TH DAY
OF NOVEMBER, 2011.

BEVERLY F. COOK, NOTARY PUBLIC FOR SC

MY COMMISSION EXPIRES: 01/20/2014

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

TRANSCRIPTION OF AUDIO

DATED DECEMBER 27, 2010

RE: STATE VS. PRESTON OATES

THIS IS THE TRANSCRIPTION OF THE AUDIO DATED
DECEMBER 27, 2010, AS PROVIDED BY THE 14TH JUDICIAL CIRCUIT
SOLICITOR'S OFFICE IN BLUFFTON, SOUTH CAROLINA, TO BEVERLY
F. COOK, NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH
CAROLINA. TRANSCRIPTION IS VERBATIM AS HEARD WHERE
AUDIBLE AND IS BEING USED FOR PURPOSES OF DISCOVERY
AND/OR USE AT TRIAL.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

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APPEARANCES

NAMES WERE PROVIDED AS FOLLOWS:

SUBJECT:

PRESTON OATES

BEAUFORT COUNTY SHERIFF'S OFFICE:

CAPTAIN BOB BROMAGE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: THE DATE IS DECEMBER 28TH, 2010. TIME IS
2 FOURTEEN FIFTY. THIS IS CAPTAIN BOB BROMAGE. GONNA DO AN
3 INTERVIEW OF PRESTON OATES REGARDING A SHOOTING INCIDENT
4 THAT OCCURRED ON THE 24TH OF DECEMBER.

5 (BRIEF PAUSE... THEN INAUDIBLE MUMBLING
6 OUTSIDE OF ROOM)

7 (BRIEF MUMBLING REGARDING CELL PHONE
8 PRIOR TO START OF INTERVIEW)

9 CPT. BROMAGE: ALL RIGHT. I HAVE NOT HAD A CHANCE TO TALK TO
10 YOU ABOUT THIS. YOU KNOW I SUPERISED THE INVESTIGATORS, SO
11 OF COURSE BEING OUT THERE THE OTHER NIGHT, I WANNA GO WHAT
12 WENT ON. DID YOU GET A COPY OF THE CONTRACT?

13 OATES: I STOPPED BY I.M.C. CAUSE JOHN MACK AND MIKE SOCKO,
14 THEY SAID THAT I.M.C. IS THEIR MANAGEMENT COMPANY AND THEY
15 HANDLE AND THEY ARE IN CHARGE OF DEALING WITH ALL OF THE
16 VENDORS FOR EDGEFIELD. SO I STOPPED BY EDGEFIELD, I MEAN I
17 STOPPED BY I.M.C. AND MS. JACOBS TOLD ME THAT SHE HAS
18 ALREADY GIVEN EVERYTHING TO MASTER SERGEANT COVINGTON IN
19 REGARDS TO A INCIDENT THAT HAPPENED WITH ERIC HARDY. SO
20 THE... ALL THE CONTRACTS, THE ORIGINALS WITH THE SIGNATURES
21 SHOULD BE HERE...

22 CPT. BROMAGE: (INTERRUPTING AND SPEAKING OVER EACH
23 OTHER)... I... I... I KNOW STACY, THAT'S FINE... I THINK I RECOGNIZE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 BOTH OF THESE NAMES, THAT'S FINE.

2 OATES: AND STACY SAID THAT MASTER SERGEANT COVINGTON
3 HAS ALL THAT.

4 CPT. BROMAGE: I JUST WANTED TO COVER THAT BASE CAUSE I
5 KNOW THERE WAS ... (INAUDIBLE)... THE OTHER NIGHT. OKAY.
6 YOU'VE ALREADY TALKED TO DON COLONGELI, SO...

7 OATES: WELL...

8 CPT. BROMAGE: AND I UNDERSTAND WHY, NOT A PROBLEM.

9 OATES: I WAS GETTING DEATH THREATS. I CALLED DAVID BERRY,
10 I WAS LIKE, WHAT DO I DO.

11 CPT. BROMAGE: YEAH.

12 OATES: AND DAVID'S LIKE, WELL, CALL DON AND SEE WHAT HE
13 THINKS.

14 CPT. BROMAGE: ALL RIGHT. DON'S A GOOD MAN.

15 OATES: DON... DAVID TOLD ME TO GIVE YOU A CALL. SO...

16 CPT. BROMAGE: YEAH.

17 OATES: I DON'T KNOW IF YOU SAW SOME OF THE POSTINGS ON
18 THERE.

19 CPT. BROMAGE: YEAH, IT'S GETTING... IT'S GETTING KINDA NASTY,
20 IT'S GETTING KINDA DICY...

21 OATES: YEAH.

22 CPT. BROMAGE: SO... I MEAN, THAT'S WHY... I MEAN, I GOTTA READ
23 YOUR RIGHTS WHILE YOU'RE TALKING TO ME ANYWAY, SO YOU

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 UNDERSTAND PROCEDURE. OKAY, YOU HAVE THE RIGHT TO REMAIN
2 SILENT... YOU UNDERSTAND THAT?

3 OATES: YES.

4 CPT. BROMAGE: OKAY. ANYTHING YOU SAY CAN AND WILL BE USED
5 AGAINST YOU IN A COURT OF LAW. YOU UNDERSTAND THAT?

6 OATES: YES.

7 CPT. BROMAGE: YOU HAVE THE RIGHT TO TALK TO AN ATTORNEY
8 AND HAVE HIM OR HER PRESENT WITH YOU WHILE YOU'RE BEING
9 QUESTIONED. DO YOU UNDERSTAND THAT?

10 OATES: YES.

11 CPT. BROMAGE: OKAY. IF YOU CANNOT AFFORD TO HIRE AN
12 ATTORNEY, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE
13 ANY QUESTIONING IF YOU WISH. DO YOU UNDERSTAND THAT?

14 OATES: YES.

15 CPT. BROMAGE: OKAY. DO YOU UNDERSTAND EACH... EACH OF
16 THESE RIGHTS I HAVE EXPLAINED TO YOU?

17 OATES: I DO.

18 CPT. BROMAGE: OKAY. THAT'S OUT OF THE WAY.

19 OATES: OF COURSE. FORMALITIES.

20 CPT. BROMAGE: AND IT IS... IT CERTAINLY IS. YOU KNOW, I KNOW
21 YOU TOLD THE GUYS ALL ABOUT WHAT YOU DO IN THERE, BUT I... I
22 NEED TO UNDERSTAND, SO... EXPLAIN TO ME WHAT YOUR... WHAT
23 YOUR JOB IS WITH THE H.O.A. AT EDGEFIELD, WHAT YOUR

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CONTRACTUAL AGREEMENT WITH ... WITH THEM IS AND
2 EVERYTHING.

3 OATES: THE CONTRACTUAL AGREEMENT WAS THAT I AM TO
4 COME IN THERE AND CHECK ON THE PARKING PERMITS, PARKING
5 PASSES, THAT ARE ISSUED AT THE POOL PARKING LOT, TO KEEP
6 VEHICLES THAT ARE PARKED IN THE POOL PARKING LOT, TO MAKE
7 SURE THEY HAVE A PASS BECAUSE THE SIGNAGE IS POSTED... YOU
8 KNOW, THE SIGNS ARE POSTED TO DO ALL OF THAT. AND ALSO TO
9 RANDOMLY DRIVE THROUGH THE NEIGHBORHOOD TO MAKE SURE
10 THAT THERE ARE NO CARS PARKED IN THE STREETS. AND IF THERE'S
11 A VEHICLE PARKED IN THE GRASS, TO WRITE DOWN THE TAG
12 NUMBER AND THE HOUSE NUMBER AND SUBMIT THAT TO I.M.C.,
13 CAUSE WE'RE NOT ALLOWED TO GO... THAT WAS ANOTHER
14 PREVIOUS PROBLEM WAS THAT I WAS GOING ON THE GRASS OR IN
15 THEIR YARDS, BUT...

16 CPT. BROMAGE: WELL USUALLY THE...

17 OATES: THE ARGUMENT BACK AND FORTH IS THAT EDGEFIELD
18 SAYS WE HAVE THE RIGHTS TO THE PROPERTY...

19 CPT. BROMAGE: (INAUDIBLE MUMBLE)...

20 OATES: ... IF THEY DON'T... IF THEY DON'T MOW THEIR LAWN... IF
21 THEY DON'T MOW THEIR YARD, WE CAN HIRE A LANDSCAPER AND
22 THEN FINE THEM.

23 CPT. BROMAGE: YEAH.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: SO EDGEFIELD'S ON THE GROUNDS OF HEY, THE GRASS IS
2 OURS, WHERE THE HOMEOWNER IS LIKE WE OWN THE PROPERTY, SO
3 THAT WAS A BATTLE THERE, BUT...

4 CPT. BROMAGE: SO WHAT ABOUT THE STREETS THEMSELVES?

5 OATES: IF THE VEHICLE IS PARKED MORE THAN FIFTY PERCENT IN
6 THE ROAD, THEY ARE TO BE REMOVED IMMEDIATELY.

7 CPT. BROMAGE: THAT'S THEIR RULE?

8 OATES: THAT'S THE BLACK AND WHITE PRINTED ON THE
9 CONTRACT AND THE NOTICE THAT WENT OUT TO EVERY
10 HOMEOWNER BACK BEFORE I STARTED DOING SERVICE IN THERE.
11 AND IT SAYS PLEASE... THESE ARE THE RULES, HERE THEY ARE, IT
12 GAVE THEM A LIST OF THE PRICE... ON ONE OF THE NEWS... IF YOU
13 GOOGLE SEARCH IT, ONE OF THE WEBSITES, I THINK IT WAS LIKE
14 SAVANNAH TODAY OR SOMETHING, HAD A ... HAD A LIST... HAD A
15 COPY OF THAT PRINTED POSTED ON THE SITE SAYING THAT, YOU
16 KNOW, THIS... THIS MEMO GOES OUT TO ALL HOMEOWNERS,
17 GUESTS... ALL HOMEOWNERS AND RENTERS, PLEASE ADVISE ANY
18 GUEST THAT THE PARKING POLICIES ARE, YOU KNOW... YOU'RE NOT
19 ALLOWED TO PARK IN THE STREET. ALL VEHICLES MUST BE IN THE
20 DRIVEWAY... TOWING WILL BE ENFORCED, THE FEE IS THREE
21 HUNDRED DOLLARS... AS I SAY, THIS IS THE CONTRACT...

22 CPT. BROMAGE: RIGHT.

23 OATES: WE DON'T SET THE RATES...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: RIGHT.

2 OATES: IT'S JUST THE NUMBER THAT THE I.M.C., EDGEFIELD AND
3 US ALL KIND OF AGREED UPON.

4 CPT. BROMAGE: OKAY. AND THEY'RE NOT VERY TOLERANT WHEN
5 IT COMES TO ANYBODY PARKING IN THE STREET OBVIOUSLY?

6 OATES: THEY SAID IF THEY HAVE THEIR FLASHERS ON, THEN
7 THEY'VE GOT ... GIVE 'EM TEN TO FIFTEEN MINUTES, OR IF YOU
8 WANT TO FEEL THE HOOD, IF THE HOOD'S ICE COLD, TOW 'EM.

9 CPT. BROMAGE: WOW.

10 OATES: I SAID, OKAY. I... I... HEY, I'M THE VENDOR, I DO AS I'M
11 TOLD. AND JUST TO TELL YOU HOW RADICAL PEOPLE ARE IN
12 THERE... WE GOT A CALL A FEW WEEKS AGO... MY DAD TOOK THE
13 CALL AND SENT ME OUT THERE FOR A WHITE FORD TAURUS... I
14 CAN'T REMEMBER THE HOUSE NUMBER BUT I KNOW EXACTLY
15 WHERE IT WAS, I CAN DRIVE BACK OUT THERE AND POINT AT THE
16 HOUSE... SO I PULL UP AND THERE'S A WHITE FORD TAURUS THERE,
17 AND IT'S GOT A BIG GREEN STRIPE DOWN THE SIDE AND IT SAYS
18 BEAUFORT COUNTY, YOU KNOW...

19 CPT. BROMAGE: RIGHT, RIGHT, COUNTY GOVERNMENT.

20 OATES: SO... INSTEAD OF FREAKING OUT... OKAY, SO ... I PULL UP
21 AND A LADY COMES OUT AND SAID WHAT ARE YOU DOING? I SAID
22 SOMEONE CALLED MY COMPANY AND SAID THERE'S A CAR PARKED
23 IN THE STREET... I'M OUT HERE. SHE PULLED OUT HER CREDENTIALS

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 AND SAID I WORK FOR HUMAN SERVICES...

2 CPT. BROMAGE: UH HUH.

3 OATES: OR SOMETHING LIKE THAT, DUH...DA...DA... AND THIS IS
4 THE TRANSLATOR AND WE'RE DOWN AT THIS FAMILY, WE'RE HERE
5 ON OFFICIAL BUSINESS. I WAS LIKE THAT'S FINE.

6 CPT. BROMAGE: YEAH, SEE YA LATER.

7 OATES: AND IT WAS A MARKED CAR. I WAS WAITING... I WAS
8 WAITING... NOW THAT IT'S CHRISTMAS, I WAS WAITING FOR THEM
9 TO CALL ME, THERE'S A FEDEX TRUCK PARKED IN THE STREET.
10 THAT'S IT... THAT'S HOW BAD IT IS... THAT'S HOW PEOPLE THAT LIVE
11 IN OWNED HOUSES, AND THAT'S HOW INTOLERANT THEY ARE...
12 THAT'S THE STUFF I GOTTA PUT UP WITH.

13 CPT. BROMAGE: IT'S BASICALLY NOT A PLACE TO RENT OR BUY IF
14 YOU HAVE MORE THAN TWO CARS.

15 OATES: IF YOU... YEAH, NOT A PLACE TO RENT OR BUY...

16 CPT. BROMAGE: YEAH.

17 OATES: AND IF YOU ALREADY LIVE IN THERE... IT'S JUST...

18 CPT. BROMAGE: YEAH, THEY JUST COME...

19 OATES: ... DO WHAT YOU WANT CAUSE IT'S... YEAH, IT'S...

20 CPT. BROMAGE: YEAH.

21 OATES: AND THAT'S WHAT THE H.O.A. AND THE BOARD'S TRYING
22 TO DO...

23 CPT. BROMAGE: TO REVERSE...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: ... IS TO CLEAN IT UP IN THERE... IS TO GET... NO THE
2 GHETTO... (INAUDIBLE)... THE GHETTO, THE SLUM... JUST LIKE I WAS
3 READING IN THE ISLAND PACKET, SOME GUY SAYS WHAT KIND OF
4 MAN CARRIES A HANDGUN TO DELIVER PRESENTS TO HIS FAMILY.
5 THAT WAS A GOOD POINT... I WAS LIKE, WOW. THAT WAS ON ONE OF
6 THE COMMENTS ON ISLAND PACKET. I MEAN, A GUY NEEDS A GUN
7 TO TAKE CHRISTMAS PRESENTS TO HIS FAMILY. WHAT KIND OF GUY
8 IS THIS... YOU KNOW, IS IT REALLY THAT DANEROUS IN THERE?
9 CPT. BROMAGE: HUM... THAT'S AN INTERSTING POINT.
10 OATES: AND I THINK ON THE SAME POSTING OR SOMETHING
11 ABOUT ALCOHOL... IT SAID WAS THERE ALCOHOL INVOLVED OR
12 WHATEVER... I DON'T KNOW. I KNOW THERE WASN'T ON MY PART,
13 BUT I... I...
14 CPT. BROMAGE: DID YOU SMELL ANY ON THE OTHER PARTIES... DID
15 YOU SMELL ANY WHILE YOU WERE...
16 OATES: THEY WERE ALL IN THE WINDOW... I SMELLED GUN
17 POWDER...
18 CPT. BROMAGE: YEAH.
19 OATES: ... NOT ALCOHOL, I MEAN, I WAS BEING HELD... NO, THERE
20 WAS ANOTHER COMMENT ON THERE... JUST LIKE WHEN I WAS
21 DEBRIEFING WITH THE DETECTIVES THE NIGHT IT HAPPENED AND
22 THEY SAID, YOU KNOW, DID YOU SEE WHAT THE CALIBER OF THE
23 GUN WAS, AND I SAID, YOU KNOW, WHEN YOU'RE LOOKING DOWN

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 THE BARREL OF A GUN, IT'S NOT THAT IMPORTANT TO TRY AND
2 GUESSTIMATE WHAT CALIBER THAT BARREL IS...

3 CPT. BROMAGE: (LAUGHING)...

4 OATES: ... YOU JUST SEE THE GUN, AND, YOU KNOW, EVERYTHING
5 IS JUST... YOU REVERT INTO JUST, YOU KNOW, JUST SELF
6 PRESERVATION MODE, JUST... YOU KNOW, DO SOMETHING, GET OUT
7 OF HERE. JUST LIKE WHEN I WAS IN ISTANBUL IN OCTOBER.

8 CPT. BROMAGE: WHAT WERE YOU DOING OVER THERE?

9 OATES: I WAS DOING BUSINESS. I WAS IN UKRANE FOR THREE
10 WEEKS AND THEN FROM THERE I HAD TO GO OVER TO ISTANBUL
11 AND TO A TWO DAY VENTURE IN ISTANBUL.

12 CPT. BROMAGE: WHAT KIND OF STUFF YOU DOING OVER THERE?

13 OATES: JUST CONSULTING WORK AND I DO VACATION
14 AFTERWARDS... I GOT A...

15 CPT. BROMAGE: WHAT KIND OF CONSULTING.

16 OATES: ADVICE... GIVING ADVICE...

17 CPT. BROMAGE: AT WHAT?

18 OATES: ENTERTAINMENT.

19 CPT. BROMAGE: FOR CHRIST'S SAKES... JESUS...

20 OATES: I'M SÖRRY. ENTERTAINMENT, MEDIA, DIGITAL DELIVERY,
21 ENTERTAINMENT SYSTEM, POINT OF SALES, POINT OF POINT, AND
22 BUSINESS OPERATION.

23 CPT. BROMAGE: OKAY.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: PUTTING ... INSTALLING SYSTEMS. YOU KNOW, LIKE A
2 BAR, THERE SALES ON THIS TYPE OF ALCOHOL IS DOWN, OR THIS IS
3 BAD, WHAT... WHAT CAN YOU DO TO KIND OF PROMOTE BUSINESS
4 OR TO BRING CUSTOMER'S IN OR TO CHANGE... YOU KNOW, JUST ...
5 JUST TO KIND OF FRESHEN UP THE BUSINESS OR...

6 CPT. BROMAGE: (INAUDIBLE)...

7 OATES: ... ON THE SLOWER SIDE OF THE WEEK. LIKE I WAS AT A
8 MOVIE THEATRE... SLOWEST NIGHT OF THE WEEK RUN ONE DOLLAR
9 MOVIES... DOLLAR MOVIE TICKET...

10 CPT. BROMAGE: WON'T BE THE SLOWEST NIGHT ANYMORE, WILL IT?

11 OATES: AND GUESS WHAT, THAT SNACK BAR, YOUR PROFITS WILL
12 TRIPLE...

13 CPT. BROMAGE: UH HUH...

14 OATES: CAUSE YOU PAY A DOLLAR, YOU KNOW, YOU PLAN TO
15 DROP TEN BUCKS INTO A MOVIE...

16 CPT. BROMAGE: UH HUH...

17 OATES: ...AND SO...

18 CPT. BROMAGE: I MEAN, THAT MAKES SENSE...

19 OATES: ... MAKE IT UP AT THE SNACK BAR. YOU AND YOUR WIFE
20 CAN GO FOR TWO DOLLARS, SO YOU'RE BOTH GONNA GET A SODA
21 AND A POPCORN, NOT...

22 CPT. BROMAGE: EXACTLY, THE WAY THE TIMES ARE NOW, YOU
23 HAVE TO START DOING THAT...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: YEAH.

2 CPT. BROMAGE: YOU HAVE TO ECONOMIZE, YOU HAVE TO BE SMART
3 TO GET PEOPLE IN THE DOOR. THAT'S WHY PEOPLE FOLD LEFT AND
4 RIGHT.

5 OATES: YEAH.

6 CPT. BROMAGE: THEY TRY TO STICK TO THEIR GUNS ON THEIR
7 PRICES, YOU CAN'T DO IT.

8 OATES: I WAS ... I WAS COMING OUT OF THE BAR... I HAD A
9 GENTLEMAN APPROACH ME, HE LOOKS AT ME, HE GOES... ENGLISH...
10 I KIND OF THREW A NOD, AND THEN HE SAID AMERICAN... LIKE
11 THAT... AND... ALL RIGHT... GIVE ME EVERYTHING... AIN'T
12 HAPPENING, BUDDY... AND ME AND HIM GOT INTO A PHYSICAL
13 ALTERCATION, I HAD HIM IN A ... I MEAN I HAD HIM ALMOST FULLY
14 ARM BARRED EXTENDED, I WAS ABOUT TO JUST RUB HIS FORHEAD
15 INTO THE ASPHALT, AND THEN I FELT A SHARP POKE ON MY
16 SHOULDER. SO OVER MY EYEBROWS, I GOT ANOTHER GUY WITH A
17 KNIFE, HOLDING IT TO MY SHOULDER, YOU KNOW, TO MY BACK... SO
18 I ... OKAY, LET GO OF MY GRIP... HE STOOD ME UP AND THEN THERE
19 WAS A THIRD GUY STANDING THERE. THEY TOOK MY CREDIT CARDS
20 OUT, RAN EVERY CREDIT CARD I HAD THROUGH FIVE DIFFERENT
21 ATM MACHINES RIGHT AROUND A HALF A BLOCK AREA. I KEPT
22 TRYING TO PUT IN THE WRONG PIN CODE OPEN THE ATM WOULD EAT
23 MY CARD...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: YEAH.

2 OATES: THEY GOT A COUPLE GRAND, BUT AT THE LAST ATM,
3 WHEN IT SPIT THE MONEY OUT...

4 CPT. BROMAGE: YEAH.

5 OATES: ... I SAW ABOUT A TWO AND HALF FOOT OPENING
6 BETWEEN THE BUILDING AND THE GUY BEHIND ME... AND HE...
7 THEY KNEW WHAT THEY WERE DOING BECAUSE HE WAS HOLDING
8 THE KNIFE HIGH... HE DIDN'T HAVE IT LOW ON ME...

9 CPT. BROMAGE: YEAH.

10 OATES: HE HAD IT HIGH... SO RIGHT WHEN THE MONEY CAME OUT
11 THE MACHINE, I TOOK IT AND FLUNG IT AND RIGHT AS I FLUNG IT, I
12 WAS ALREADY IN TURN AND STRIDE AND STEP, AND I SHOT
13 THROUGHT THAT TWO AND HALF FOOT OPENING BETWEEN THE
14 BUILDING AND THAT GUY. I DIDN'T EVEN LOOK OVER MY
15 SHOULDER, I RAN ABOUT A HALF...

16 CPT. BROMAGE: (INAUDIBLE MUMBLE)...

17 OATES: ... ABOUT A HALF A KILOMETER.

18 CPT. BROMAGE: WELL THERE'S NO QUESTION, AMERICANS HAVE
19 BEEN THE TARGETS OVER THERE FOR SEVERAL YEARS...

20 OATES: ... SO I FINALLY DOVE... DOVE INTO A TAXI CAB AND
21 BEAT THE DRIVER UNTIL HE DROVE ME TO THE AIRPORT BECAUSE IT
22 WAS NOW ABOUT FOUR IN THE MORNING AND I KNEW... I DIDN'T GO
23 TO THE POLICE, NOTHING LIKE THAT... I TOLD HIM AIRPORT... IT'S

TRANSCRIPTION OF PRESTON OATES INTERVIEW.
DATED 12/27/2010

1 ALWAYS OPEN, THERE'S AN ASSLOAD OF CAMERAS AND THERE'S A
2 LOT OF POLICE THERE.
3 CPT. BROMAGE: UH HUH...
4 OATES: SO THE SAFEST PLACE FOR ME TO GO WAS THE AIRPORT.
5 CPT. BROMAGE: CAN'T BEAT THAT... THAT'S... THAT'S GOOD
6 THINKING RIGHT THERE.
7 OATES: SO I SHOT STRAIGHT TO THE AIRPORT.
8 CPT. BROMAGE: SO ESSENTIALLY, YOU DRIVE THROUGH, FIND THESE
9 CARS...
10 OATES: UH HUH...
11 CPT. BROMAGE: AND THERE'S NO TOLERANCE BY THE H.O.A.
12 OATES: NO.
13 CPT. BROMAGE: THEY JUST SAY TOW THE CARS.
14 OATES: WE GET CALLED TO TOW TWENTY VEHICLES OUT OF
15 THERE... I MEAN THAT'S THE CALLS...
16 CPT. BROMAGE: YEAH... AND THAT'S... THAT'S A POINT TAKEN.
17 WHAT ABOUT ... TELL ME ABOUT WHAT HAPPENED THAT NIGHT AS
18 FAR AS WHEN YOU GOT THERE... WERE YOU CALLED OR IS THAT
19 SOMETHING YOU OBSERVED... THE CARS THERE...
20 OATES: I WAS CALLED FOR A VEHILCE PARKED IN THE POOL
21 PARKING LOT.
22 CPT. BROMAGE: RIGHT.
23 OATES: WHEN I PULLED IN TO ... WHEN I PULLED IN THERE...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 THERE WAS NO CARS IN THE PARK- ... IN THE POOL PARKING LOT. IT
2 HAPPENS.

3 CPT. BROMAGE: YEAH.

4 OATES: THEY SEE IT, THEY CALL IT, THEY LEAVE, THEY'LL CALL
5 BACK, OR THEY SAY OKAY AND THEY GO OFF ABOUT THEIR
6 BUSINESS, THEY NEVER CALL BACK AND SAY CANCEL.

7 CPT. BROMAGE: YEAH.

8 OATES: LOVE FUEL BILLS.

9 CPT. BROMAGE: YEAH.

10 OATES: NOTHING IN THERE. ALL RIGHT. CHRISTMAS EVE... I'M
11 ALREADY OUT HERE... I ALREADY MADE THE DRIVE, AND INSTEAD
12 OF HAVING TO TURN AND MAKE A U-TURN IN THE PARKING LOT OF
13 THE POOL... THE SECOND... THE THIRD STREET RIGHT,
14 , CONNECTS BACK TO STONEY... STONEY CROSSING...

15 CPT. BROMAGE: UH HUH...

16 OATES: MAKE A RIGHT, MAKE A LEFT, AND IT JUST LOOPS YOU
17 RIGHT BACK OUT. YEAH, CAUSE THAT TRUCK... SO WHEN I MADE
18 THAT RIGHT AND I GOT ABOUT HALF WAY DOWN, I SAW A VAN
19 PARKED ON THE SIDE OF THE ROAD. GREAT... IF I IGNORE IT, I'M
20 GONNA GET A PHONE CALL AND HAVE TO COME BACK OUT HERE. I
21 THROW IT IN PARK, SHUT THE LIGHTS... PUT... PUT YOUR PARKING
22 LIGHTS ON. I GET OUT... RIGHT WHEN I GET OUT, CAUSE I HAVE A
23 TIRE BOOT ON MY CHAIN BED, I LOOK UP AND THERE'S THE FIRST

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 HOUSE ON THE RIGHT FACING , THERE'S A LADY OUT
2 THERE AND SHE LIGHTS UP A CIGARETTE... SHE HAS ... SHE HAS
3 BROWN, WAVY, STRAIGHT, BROWN HAIR... MID-LENGTH, YOU KNOW,
4 JUST DOUCED HER SHOULDERS... PICKED UP THE BOOT, WALKED UP
5 TOP THE VAN, FELT THE HOOD, IT WAS ICE COLD... OKAY... STUCK
6 THE BOOT ON THERE, TIGHTENED THE BOOT DOWN, LOOKED
7 AROUND, NO ONE... WALKED BACK TO MY TRUCK, GOT IN, PUT MY
8 GLOVES ON, REACHED OVER, PULLED THE P.T. ON, WHICH TURNS THE
9 HYDRAULIC POWER ON TO OPERATE THE TRUCK...
10 CPT. BROMAGE: UH HUH...
11 OATES: ... PUT IT IN DRIVE, PULLED FORWARD, PULLED PAST THE
12 VAN, TEN, FIFTEEN FEET... REVERSE, LINED UP, BACKED UP TO IT,
13 STOPPED, THREW IT IN PARK, TAPPED THE BUTTON A FEW TIMES TO
14 REV THE TRUCK UP A LITTLE BIT, GOT OUT... I WAS WALKING
15 TOWARDS THE LEVERS THAT CONTROL THE BED WHICH IS RIGHT
16 BEHIND THE BACK TIRES, AND I MADE IT JUST BEFORE THE BACK
17 TIRES AND HERE COMES THREE GUYS SPRINTING THROUGH THE
18 YARD TOWARD ME. AND THE LAST TIME I SAW SOMEONE RUN LIKE
19 THAT WAS WHEN THE GUY HAD THE KNIFE IN SHADY GLENN. SO I
20 TURNED AROUND AND I RAN BACK INTO THE CAB OF MY TOW
21 TRUCK, GOT IN, SHUT THE DOOR, LOCKED IT...
22 CPT. BROMAGE: DID YOU SEE ANY WEAPONS OR ANYTHING AT THAT
23 POINT?

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: AT THAT POINT, NO.

2 CPT. BROMAGE: OKAY.

3 OATES: LOCKED IT, ROLLED THE WINDOW DOWN... ROLLED THE
4 WINDOW ALL BUT ABOUT THAT FAR DOWN... SO THERE WAS THAT
5 MUCH GLASS STICKING UP... PULLED MY CELL PHONE OUT, I HAD MY
6 CELL PHONE IN MY HAND AND I WAS GETTING READY TO CALL, AND
7 THEY JUMP UP IN THE WINDOW, HEY THAT'S OUR VAN, WE'RE
8 TAKING IT, WE'RE OUT OF HERE, FUCK YOU... I WAS LIKE, IT'S FINE,
9 YOU KNOW, IT'S BOOTED, IF YOU AND TRY AND MOVE IT, WE'RE NOT
10 RESPONSIBLE FOR ANY DAMAGES THAT HAPPEN, JUST WANNA LET
11 YOU... I GOTTA SAY THAT TO YOU...

12 CPT. BROMAGE: WHO... WHO WERE YOU GONNA CALL AT THAT
13 POINT?

14 OATES: I WAS GONNA CALL DISPATCH.

15 CPT. BROMAGE: OKAY.

16 OATES: I HAVE IT STORED... YOU HOLD DOWN NUMBER NINE AND
17 IT SPEED DIALS THE NON-EMERGENCY NUMBER BECAUSE I HAVE TO
18 CALL IN, GIVE 'EM THE TAG NUMBER, GET THE EVENT NUMBER, LET
19 'EM KNOW THE ADDRESS...

20 CPT. BROMAGE: RIGHT.

21 OATES: YOU KNOW... PART OF PROCEDURE... WELL... HOW MUCH
22 IS IT GONNA COST US... THE CONTRACT SAYS THREE HUNDRED
23 DOLLARS. AND THAT'S WHEN THE BROTHER GOES OH, FUCK NO,

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 FUCK THAT... AND I HEAR ... (MAKES A SOUND)... YOU'RE GONNA
2 GIVE ME MY FUCKING VAN BACK RIGHT NOW... AND I LOOK OVER
3 AND HE'S GOT THE GUN IN THE WINDOW AND IT'S SITTING THERE...
4 OKAY, OKAY, IT'S NO PROBLEM, OKAY, MAN... IT'S FINE... IT'S FIND...
5 NO PROBLEM...
6 CPT. BROMAGE: WELL HOW WAS HE HOLDING IT, LIKE SIDEWAYS,
7 OR...
8 OATES: HE... HE PULLED IT THIS WAY...AND I REMEMBER HE... HE
9 CHAMBERED IT, I COULD SEE THE BOTTOM, A SERIAL NUMBER
10 PLATE, RIGHT ABOVE WHERE THE TRIGGER GUARD WAS, SO HE
11 CHAMBERED IT THAT WAY AND LET GO, AND THEN FROM THERE, HE
12 HAD IT DOWN BELOW... YOU KNOW, HE DIDN'T HAVE IT POINTED...
13 AT THAT TIME, HE DIDN'T HAVE IT POINTED IN THE CAP...
14 CPT. BROMAGE: RIGHT.
15 OATES: HE WAS... I GUESS HE WAS HOLDING IT IN HIS RIGHT HAND
16 DOWN BY HIS SIDE CAUSE HIS LEFT HAND WAS ON MY SIDE... REAR
17 VIEW SIDE MIRROR... HE WAS USING THAT TO STAY ON... ON THE
18 RUNNING BOARD, CAUSE HIS BROTHER HAD THE GRAB HANDLE TO
19 THE RIGHT AND HE HAD THE MIRROR TO THE LEFT.
20 CPT. BROMAGE: SO WHERE WAS THIS GUY... THE GUY IN THE
21 MIDDLE WITH THE GUN?
22 OATES: HE WAS STANDING ON MY RUNNING BOARD...
23 CPT. BROMAGE: YEAH.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: WITH HIS LEFT HAND HOLDING MY MIRROR...

2 CPT. BROMAGE: OKAY.

3 OATES: AND HIS RIGHT HAND WAS BELOW MY LINE OF SIGHT IN
4 THE DOOR....

5 CPT. BROMAGE: OKAY, I GOTCHA... I GOTCHA...

6 OATES: AND HIS BROTHER WAS STANDING ... IF YOU'LL GIVE ME A
7 PIECE OF PAPER, I'LL SHOW YOU MY VIEW OF IT... I DREW IT FOR THE
8 DETECTIVES, BUT...

9 CPT. BROMAGE: OKAY... NO, THAT'S FINE... THAT'S FINE...

10 OATES: SO THEN HIS... WELL, I'LL... YEAH... ONE OF THE ... THE
11 BROTHER, THE HEAVIER SET BROTHER, WAS TO MY LEFT, RIGHT BY
12 WHERE THE DOOR HANDLE WOULD BE...

13 CPT. BROMAGE: SO YOU HAD THREE GUYS LINED UP THERE...

14 OATES: I HAD TWO GUYS IN THE WINDOW.

15 CPT. BROMAGE: TWO GUYS IN THE WINDOW, WHERE'S THE THIRD
16 GUY AGAIN?

17 OATES: HE WAS STANDING ON THE ASPHALT CAUSE THERE'S NO
18 ROOM TO STAND ON THE RUNNING BOARD.

19 CPT. BROMAGE: OKAY, OKAY.

20 OATES: AND THAT'S WHEN THE GUY WITH THE GUN LEANED
21 OVER, AND YOU KNOW, LOOKED OVER HIS SHOULDER AND SAID GO
22 GET MY SHOTGUN.

23 CPT. BROMAGE: WHICH ONE SAID THIS?

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: THE GUY HOLDING THE PISTOL. THE ONE THAT JUST
2 CHAMBERED, THAT JUST RATCHETED IT...

3 CPT. BROMAGE: SO HE SAID GO GET MY SHOTGUN TO WHO... WHICH
4 ONE?

5 OATES: THE THIRD GUY STANDING IN THE ROAD...

6 CPT. BROMAGE: (INAUDIBLE MUMBLE – SPEAKING OVER EACH
7 OTHER)...

8 OATES: ... THREE OF 'EM RAN UP ON THE TRUCK... THREE OF 'EM
9 RAN UP ON THE TRUCK... TWO OF 'EM JUMPED ON THE TRUCK AND
10 THE THIRD GUY STAYED ON THE ASPHALT CAUSE THERE WAS NO
11 ROOM LEFT...

12 CPT. BROMAGE: WAS HE IN THE MIDDLE OF THE TWO OF 'EM OR WAS
13 HE KIND OF...

14 OATES: I COULDN'T TELL CAUSE THEY WERE SHOULDER TO
15 SHOULDER.

16 CPT. BROMAGE: GOTCHA.

17 OATES: I COULDN'T SEE... SEE, HE WAS LIKE THIS... SAY YOU'RE
18 LOOKING AT ME... HE WAS LIKE ... HE GOES ... GO GET MY
19 SHOTGUN... LIKE THAT, SO...

20 CPT. BROMAGE: SO HE WAS BEHIND HIM SOMEWHERE PROBABLY...

21 OATES: YOU KNOW, HE LEANED OVER HIS SHOULDER AND HE
22 GOES... GO GET MY SHOTGUN... LIKE THAT...

23 CPT. BROMAGE: OKAY.

TRANSCRIPTION OF PRESTON OATES INTERVIEW,
DATED 12/27/2010

1 OATES: BUT I COULDN'T SEE THEM CAUSE THEY HAD THAT
2 WINDOW SOMEWHAT OCCUPIED. SO I...

3 CPT. BROMAGE: BUT YOU DID SEE THE PISTOL AND ON THEIR
4 INITIAL APPROACH TO THE CAR WHEN YOU TOLD HIM HOW MUCH
5 MONEY IT WAS... YOU SAW...

6 OATES: NO, THE FIRST TIME I SAW THE PISTOL WAS WHEN I WAS
7 ALREADY IN THE DRIVER'S SEAT OF MY TRUCK...

8 CPT. BROMAGE: RIGHT...

9 OATES: AND THEY WERE BOTH IN THE WINDOW YELLING AT ME.

10 CPT. BROMAGE: RIGHT... HE BRANDISHED THE PISTOL...

11 OATES: WHEN HE PULLED IT OUT... AND DROPPED IT, CHAMBERED
12 IT...

13 CPT. BROMAGE: OKAY.

14 OATES: AND SO ALL I SAW WAS THE TRIGGER GUARDED AND I
15 SAW THE LITTLE SILVER SERIAL NUMBER PLATE BY THE END OF THE
16 BARREL AND IT WAS BLACK. THAT'S ALL I SAW AT THAT MOMENT. I
17 WASN'T ABLE TO SEE WHAT CALIBER IT WAS AT THAT TIME, CAUSE
18 HE... ALL I ... I'LL KEEP THE STORY IN CHRONOLOGICAL ORDER FOR
19 YOU.

20 CPT. BROMAGE: THAT WOULD BE ... (INAUDIBLE)...

21 OATES: I DON'T WANNA JUMP AROUND, YOU KNOW...

22 CPT. BROMAGE: YEAH, THAT'S FINE. SO HE WAS ON YOUR RUNNING
23 BOARD WITH HIS BROTHER?

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: YES.

2 CPT. BROMAGE: AND HE WAS OBVIOUSLY THE CLOSEST ONE TO YOU
3 CAUSE HE'S RIGHT SMACK IN YOUR WINDOW AND THE BROTHER'S
4 KIND OF TO THE RIGHT...

5 OATES: WELL, THEY'RE BOTH IN THE WINDOW...

6 CPT. BROMAGE: (INAUDIBLE MUMBLE)...

7 OATES: I MEAN, I COULD SEE BOTH OF THEIR FACES.

8 CPT. BROMAGE: I GOTCHA... I GOTCHA...

9 OATES: I COULD SEE MORE OF THE GUY... MORE OF THE ONE
10 HOLDING ... THAT BRANDISHED THE FIREARM BECAUSE HE WAS IN
11 THE MIDDLE, YOU KNOW... I MEAN, HE WAS IN BETWEEN MY MIRROR
12 AND HIS BROTHER.

13 CPT. BROMAGE: OKAY, GO AHEAD, I'M SORRY.

14 OATES: SO I GRABBED THE TIRE LOCK TOOL... THAT LOCKS THE
15 BOOT ONTO THE CAR. I HAD THAT IN MY HAND AND I HAD THE KEYS,
16 JUST MY PERSONAL KEYS IN MY HAND, WHICH IS MY P.O. BOX KEY,
17 THE KEYS TO MY GATES, MY PERSONAL KEYS HAVE NOTHING TO DO
18 WITH THAT TIRE BOOT.

19 CPT. BROMAGE: RIGHT.

20 OATES: THEY'RE INSIGNIFICANT.

21 CPT. BROMAGE: THE LOCK NUT FROM A...

22 OATES: YEAH, IT'S LIKE A SPECIAL TOOL... A GOOD EXAMPLE...
23 CUSTOM RIMS, THE LOCKING LUGNUTS...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: RIGHT.

2 OATES: IT'S THE SAME PRINCIPAL...

3 CPT. BROMAGE: YOU CAN'T GET TO IT...

4 OATES: IT'S... IT'S AN INTERNAL ... WITH A SPECIAL PIN AND THE

5 LOCK TOOL IS THE OPPOSITE MIRROR THAT HAS TO SLIDE OVER IT...

6 CPT. BROMAGE: (INAUDIBLE MUMBLING – SPEAKING OVER EACH

7 OTHER)... RIGHT... RIGHT...

8 OATES: IT'S JUST LIKE A LOCK TOOL ON A LUGNUT... IT'S THE

9 LOCK TOOL THAT TAKES THE BOOT ON AND OFF THE CAR.

10 CPT. BROMAGE: OKAY.

11 OATES: SO MY PERSONAL KEYS HAD NOTHING TO DO WITH THAT

12 BOOT OPERATION SYSTEM. BUT HE JUST GRABBED EVERYTHING OUT

13 OF MY LEFT HAND BECAUSE I WAS HOLDING IT... I WAS FUMBLING

14 AROUND...

15 CPT. BROMAGE: WAS THAT... WAS THAT BOOT KEY WITH IT TOO?

16 OATES: YEAH, I HAD... I HAD THE METAL BOOT KEY...

17 CPT. BROMAGE: RIGHT.

18 OATES: ... AND MY PERSONAL KEYS WERE RIGHT HERE...

19 CPT. BROMAGE: UH HUH...

20 OATES: HOOKED ON TO MY... LIKE I HAVE 'EM ... (MOTIONING)...

21 LIKE I HAVE 'EM HOOKED ON TO MY PANTS. SO I WAS HOLDING THE

22 BOOT KEY WITH MY LEFT HAND, AND I'M FUMBLING AROUND AND I

23 HAVE MY GLOVES ON, AND I GRAB THE FLASHLIGHT, AND I WAS

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 SHAKING... I DROP THE FLASHLIGHT... SO I REACH DOWN AND I PICK
2 THE FLASHLIGHT... SO OKAY, I'M SORRY, I'M SORRY... I'M SCARED,
3 I'M SCARED... AND MY HAND WAS SHAKING WITH THE
4 FLASHLIGHT... I ACTUALLY REMEMBER SEEING THE GLARE
5 BOUNCING OFF THE MIRRORS... I MEAN, OFF THE GUAGES... I WAS....
6 IT'S OKAY, IT'S OKAY... I'M FINE, I'M FINE... YOU KNOW, I'M SORRY...
7 THIS IS NOT A PROBLEM, YOU HAVE THE VAN, JUST GO, IT'S NOT
8 WORTH IT, JUST GO, IT'S OKAY, IT'S OKAY... AND I GUESS FROM ME
9 STALLING, THE BROTHER WAS... JUST REACHED DOWN AND
10 SNATCHED MY PERSONAL KEYS AND THE BOOT KEY OUT OF MY
11 HAND.

12 CPT. BROMAGE: YOU HAD GLOVES ON?

13 OATES: AT THE TIME, YES.

14 CPT. BROMAGE: OKAY... (BRIEF PAUSE)... OKAY, GO AHEAD, I'M
15 SORRY.

16 OATES: SO I TOOK THE FLASHLIGHT AND I SAT THE FLASHLIGHT
17 ON THE DASH. AND I TOOK MY RIGHT GLOVE OFF...

18 CPT. BROMAGE: OKAY.

19 OATES: AND I SAT THAT ON THE DASH... (BRIEF PAUSE FOR
20 WRITING)... AND HIS BROTHER... I'M SORRY, HIS BROTHER TOOK THE
21 KEY AND THE BOOT... THE BOOT LOCK KEY AND MY PERSONAL KEYS
22 AND HE... YOU KNOW, HE WENT BACK TO THE VAN, TO THE FRONT
23 OF THE VAN. SO NOW JUST HIS BROTHER, WITH THE WEAPON, WAS

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 STANDING IN MY WINDOW.

2 CPT. BROMAGE: OKAY.

3 OATES: AND THAT'S WHEN I SAY, YOU KNOW, I PULL THIS GLOVE
4 OFF, PUT IT ON THE DASH... PUT THE FLASHLIGHT BACK ON THE...
5 YOU KNOW, SET THE FLASHLIGHT ON THE DASH AND HE LOOKS AT
6 ME AND HE GOES, WHAT DOCUMENTA- ... WHAT DO HAVE ON MY
7 VAN... WHAT INFORMATION DO YOU HAVE... I SAID I DON'T HAVE
8 ANYTHING... I DON'T KNOW WHAT YOU'RE TALKING ABOUT... I
9 DON'T HAVE ANYTHING... WHAT DO YOU HAVE... NO NUMBERS, YOU
10 DON'T... I ... I DON'T WANT THEM TO COME AND LOOK FOR ME... AND
11 I HELD MY BREATH... CAUSE I WISH I DIDN'T HEAR THAT...

12 CPT. BROMAGE: WELL, I MEAN, THAT'S PRETTY SUBJECTIVE... YOU
13 KNOW, YOU MAY BE READING A LITTLE BIT MORE INTO IT THAN HE...

14 OATES: AT THE TIME...

15 CPT. BROMAGE: OKAY... YEAH, OKAY...

16 OATES: IF... IF... IF I'M HOLDING A GUN AND I LOOK AT YOU AND I
17 SAY ... I ... THERE'S NO EVIDENCE THAT ME AND YOU MET...

18 CPT. BROMAGE: UH HUH...

19 OATES: HOW WOULD YOU TAKE IT?

20 CPT. BROMAGE: WELL, TO BE DOING WHAT I DO, I'M GONNA TAKE IT
21 THAT WAY, BUT NORMAL PEOPLE... I THINK A REASONABLE PERSON
22 WOULD NOT TAKE IT THAT WAY... A REGULAR GUY, HE'S NOT
23 GONNA TAKE IT THAT WAY NINETY PERCENT OF THE TIME...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 THEY'RE GONNA BE LIKE, OKAY, SO THEY'RE NOT GONNA COME
2 BACK LOOKING FOR ME... MAYBE THERE'S A WARRANT ON 'EM,
3 MAYBE THERE'S SOMETHING ELSE... YOU KNOW, BUT ANYWAYS...
4 THAT'S... IT'S ... IT'S...

5 OATES: IT WAS A HIGH STRESSED...

6 CPT. BROMAGE: NO, NO... I'M NOT CRITICIZING YOU.

7 OATES: AND I SAID NO, NO, NO, I DON'T, I DON'T... AND THEN HE...
8 THAT'S WHEN HE STUCK THE GUN THROUGH THE WINDOW AT ME
9 RIGHT INTO MY FACE AND SAID SHOW ME.

10 CPT. BROMAGE: SO HE STUCK THE DAMN GUN IN YOUR FACE
11 THROUGH THE WINDOW?

12 OATES: YEAH. THAT'S WHEN I SAW IT WAS... I TOLD THE
13 DETECTIVES IT LOOKED LIKE EITHER A THREE FIFTY-SEVEN OR A
14 FORTY OR SOMEWHERE RIGHT IN THERE. IT WAS...

15 CPT. BROMAGE: HOW CLOSE WAS THE GUN TO YOU?

16 OATES: I COULD SEE THE RIFLING IN THE BARREL... THAT'S WHY I
17 SAID IT LOOKED LIKE EITHER A THREE FIFTY-SEVEN OR A FORTY...
18 THAT'S WHAT I TOLD THE DETECTIVE THAT NIGHT. LIKE A GLOCK
19 TWENTY-TWO OR A GLOCK SEVENTEEN OR WHATEVER.

20 CPT. BROMAGE: SO, YOU'RE SITTING RIGHT HERE... NOW WHERE'S
21 THE GUN TO YOU'RE HEAD?

22 OATES: (MOTIONING... INAUDIBLE)... SHOW ME...

23 CPT. BROMAGE: SHOW ME WHAT... HE WANTED TO SEE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 DOCUMENTATION?

2 OATES: HE WANTED TO SEE THE PAPERWORK I HAD IN THE

3 TRUCK.

4 CPT. BROMAGE: DID HE ASK YOU TO SHOW DOCUMENTATION THAT

5 YOU HAD THE RIGHT TO TOW THE CAR?

6 OATES: HE SAID SHOW ME.

7 CPT. BROMAGE: OKAY.

8 OATES: THAT'S ALL HE SAID WAS SHOW ME.

9 CPT. BROMAGE: OKAY, SO WHAT KIND OF DOCUMENTATION WAS HE

10 LOOKING FOR? WAS HE LOOKING FOR...

11 OATES: HE SAID...

12 CPT. BROMAGE: ... THAT YOU HAD THE RIGHT TO TOW THE CAR

13 FIRST?

14 OATES: HE SAID DO YOU HAVE ANY... AND HE USED THE WORD

15 DOCUMENTATION...

16 CPT. BROMAGE: ALL RIGHT.

17 OATES: HE SAID DO YOU HAVE ANY DOCUMENTATION THAT

18 WILL... THAT SHOWS MY CAR. AND I SAID NO... AND THEN HE GOES, I

19 DON'T WANT THEM TO COME LOOK FOR ME. SO ... SO I KNEW BY

20 THEN THAT HE WAS ASKING, YOU KNOW, OF SOMETHING RELATING

21 TO HIS VEHICLE.

22 CPT. BROMAGE: HE SAID HE DOESN'T WANT THEM TO COME

23 LOOKING FOR HIM?

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: YES. HE SAID I DON'T WANT ANYBODY COMING TO LOOK
2 FOR ME.

3 CPT. BROMAGE: OKAY. (BRIEF PAUSE).... GO AHEAD, I'M SORRY. <

4 OATES: ON THE CENTER CONSOLE, I HAD MY METAL LEDGER,
5 WHERE I KEEP ALL MY TOW TICKETS AT... (BRIEF PAUSE)...

6 CPT. BROMAGE: GO AHEAD... (INAUDIBLE MUMBLE)...

7 OATES: SO I... I PICKED THAT UP AND I SAT IT BETWEEN MY LAP
8 AND THE STEERING WHEEL, USING THE STEERING WHEEL TO PROP IT
9 ON, I FLIPPED IT OPEN, AND I HAD A STACK OF TOW TICKETS ON
10 THERE, AND THE FIRST ONE I SAID... LOOK, DODGE CARAVAN... I
11 MEAN, A... I THINK THE FIRST ONE WAS... (INAUDIBLE)... I CAN'T
12 REMEMBER... IT WAS A...

13 CPT. BROMAGE: THAT'S OKAY...

14 OATES: IT... IT WAS A DIFFERENT VEHICLE. I FLIPPED TO THE
15 SECOND PAGE, IT WAS A DIFFERENT VEHICLE. AND THE THIRD ONE,
16 AND I WENT THROUGH WITH THE FIRST AND IT WAS LIKE SIX
17 TICKETS ON TOP AND I WAS LIKE, LOOK, NOTHING, NOTHING,
18 NOTHING, NOTHING... AND AT THAT TIME I PULLED THE LEDGER
19 CLOSED AND I TOOK THE VELCRO ON MY LEFT GLOVE AND I
20 UNVELCROED MY LEFT GLOVE... AND AS I ... SO I SAT THE METAL
21 LEDGER ON THE DASH OF MY TRUCK ON TOP OF MY RIGHTHAND
22 GLOVE AND I PUT MY ELBOW ON TOP OF THE STEERING WHEEL AND
23 TOOK MY FINGER... YOU KNOW, THE FINGER OF MY GLOVE...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: YEAH, RIGHT... RIGHT...

2 OATES: I PUT IT AT MY MOUTH, AND AT THE TIME I REACHED
3 OVER AND I WAS LEANING FORWARD USING THE STEERING WHEEL
4 KIND OF WITH MY SHOULDER TO BLOCK THE VIEW, AND I PULLED
5 MY GLOVE OFF OF MY HAND AND OPENED MY GLOVE BOX. I KNEW I
6 HAD TOW TICKETS AND PAPERWORK IN MY GLOVE BOX ON TOP. SO I
7 REACHED INTO MY GLOVE BOX AND I PULLED OUT MY FIREARM AND
8 TOW TICKETS AND PAPERWORK ON TOP OF THE PAPERWORK TO HIDE
9 THE GUN. SAT IT ON MY LAP, TOOK THE FIRST FEW PAGES OFF THE
10 TOP, FLIP THROUGH THOSE, SAID... SEE, NOTHING, NOTHING, NADA,
11 NADA, NOTHING... AND I REMEMBER ONE POINT IN TIME WHEN HE
12 WAS... YOU KNOW, WHEN I WAS TRYING TO FUMBLE WITH THE KEYS
13 AND TRYING TO FIGURE OUT WHAT TO DO... UN MOMENTO POR
14 FAVOR... UN MOMENTO POR FAVOR... AND THAT'S PROBABLY WHEN
15 THEY GOT PISSED OFF AND SNATCHED MY KEYS. AND SO THEN I
16 PICKED UP ALL THAT PAPERWORK AND I SAT IT ALL BACK IN THE
17 PASSENGER'S SEAT. AS I SAID... THE PASSENGER'S SEAT... HE STILL
18 HAD THE GUN ON ME AND I HEAR A LADY... A FEMALE VOICE, SAY...
19 EVERYTHING OKAY... AND I LOOKED OVER HIS SHOULDER AND
20 THERE'S AN AFRICAN AMERICAN WOMAN STANDING IN THE GRASS
21 DIRECTLY ACROSS OUT THE WINDOW OF MY TRUCK.

22 CPT. BROMAGE: HOW FAR WAS SHE?

23 OATES: STANDING IN, RIGHT AROUND WHERE THE DRIVEWAY

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 GRASS KIND OF MEETS RIGHT THERE A FEW FEET BACK OFF THE
2 CURB IN HER YARD.

3 CPT. BROMAGE: FIFTEEN FEET FROM THE CAR MAYBE?

4 OATES: YEAH, TEN, FIFTEEN... FIFTEEN-ISH... SOMEWHERE IN
5 THERE...

6 CPT. BROMAGE: OKAY.

7 OATES: I WOULD SAY... I WAS ALMOST IN THE MIDDLE OF THE
8 ROAD... SO YEAH, TEN, FIFTEEN FEET...

9 CPT. BROMAGE: (INAUDIBLE MUMBLE)...

10 OATES: AND I LOOKED AT HER AND I SAID, EVERYTHING'S OKAY
11 MA'AM... I'M SORRY FOR THE DISTURBANCE, EVERYTHING'S FINE,
12 GO INSIDE, HE'S GOT A GUN, EVERYTHING'S OKAY, WE'RE GONNA
13 HANDLE IT, HE'S LEAVING SOON, EVERYTHING'S TAKEN CARE OF...
14 JUST PLEASE GO BACK INSIDE, EVERYTHING'S FINE, HE HAS A GUN...
15 WE'RE OKAY... KIND OF LIKE HINT, HINT, NUDGE, NUDGE... YOU
16 KNOW, IF I WAS WORKING AT A LIQUOR STORE, I'D TELL YOU YOUR
17 BILL WAS NINE HUNDRED AND ELEVEN DOLLARS... YOU KNOW, 9-1-
18 1...

19 CPT. BROMAGE: (LAUGHING)...

20 OATES: (LAUGHING)...

21 CPT. BROMAGE: SO YOU WERE HOPING THAT MAYBE SHE WOULD
22 CALL?

23 OATES: I WAS HOPING... I MEAN THAT WAS MY ONLY LIFELINE.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: OKAY, WHAT WAS THIS GUY SAYING AT THE TIME?

2 WHAT WAS HIS DEMEANOR? WHAT WAS HE SAYING TO YOU?

3 OATES: HE WAS PISSED, HE WAS... WHAT THE FUCK... YOU

4 KNOW... YOU MOTHERFUCKER... NO, YOU GONNA FUCKING TAKE MY

5 VAN, NO... FUCK YOU... AND HE WAS JUST SCREAMING AND

6 YELLING, YOU KNOW, NOT SCREAMING, BUT... YOU MOTHERFUCKER,

7 FUCK YOU... WHAT THE FUCK ARE YOU DOING... YOU THINK YOU

8 CAN DO THIS, NO, FUCK YOU, MAN... LIKE THAT... I MEAN, HE WAS

9 BITING HIS TEETH... I COULD SEE THE WHITENING... JUST... WHAT

10 THE FUCK YOU THINK YOU'RE DOING... WHO DO YOU ... WHO ARE

11 YOU...

12 CPT. BROMAGE: OKAY, SO YOU HAD TO... WHEN...

13 OATES: WHEN... WHEN THE LADY INTERRUPTED HIM...

14 CPT. BROMAGE: RIGHT... RIGHT...

15 OATES: WHEN I LOOKED BACK, HE... HE... HIS... HE DIDN'T HAVE

16 THE GUN ANYMORE... HE DIDN'T HAVE IT ANYMORE... IT WASN'T IN

17 MY... YOU KNOW, HE HAD IT... HIS RIGHT HAND WAS NOW DOWN...

18 CPT. BROMAGE: WELL, WHEN SHE INITIALLY SPOKE, HE STILL

19 WOULD'VE HAD THE GUN IN THE WINDOW SILL...

20 OATES: HE STILL HAD THE GUN IN THE WINDOW, YEAH, BLOCKED

21 BY HIS BODY...

22 CPT. BROMAGE: RIGHT.

23 OATES: AND THEN WHEN THE VOICE, AND I LOOKED OVER THE

TRANSCRIPTION OF PRESTON OATES INTERVIEW,
DATED 12/27/2010

1 SHOULDER AND STARTED TALKING TO HER, YOU KNOW, AFTER
2 THAT... AND LIKE THAT... YOU KNOW, AND THEN HE WAS STANDING
3 WITH JUST HIS RIGHT HAND BACK ON THE MIRROR... HIS LEFT HAND
4 ON THE MIRROR... I GUESS HE... I DON'T KNOW WHAT HE DID WITH
5 IT... I DON'T KNOW IF IT WAS IN HIS PANTS OR HIS HIP... I DON'T
6 KNOW WHAT HE... OR IF IT WAS STILL IN HIS HAND... I HAVE NO
7 CLUE.

8 CPT. BROMAGE: WHERE'S YOUR GUN AT THIS POINT?

9 OATES: STILL IN MY RIGHT HAND UNDER THE PAPERWORK...

10 CPT. BROMAGE: OH, OKAY...

11 OATES: ... IN THE PASSENGER'S SEAT...

12 CPT. BROMAGE: OKAY, SO YOU MOVED IT OFF YOUR LAP WITH THE
13 PAPERS...

14 OATES: YEAH, YEAH, I JUST KINDA PICKED IT UP LIKE THAT AND
15 JUST MOVED IT ALL IN ONCE PIECE BACK TO THE... SO THE CENTER
16 CONSOLE WAS UNDER THERE...

17 CPT. BROMAGE: OKAY, I GOTCHA...

18 OATES: ... SO IT WAS KIND OF TUCKED UNDERNEATH... IN MY
19 HAND RIGHT THERE AND MY LEFT HAND BY THE STEERING WHEEL...
20 ON IT... KIND OF RESTING ON THE STEERING WHEEL. AND SHE SAID
21 OKAY... AND SHE ... SHE TURNED AND STARTED WALKING INSIDE
22 AND WHEN SHE STARTED WALKING INSIDE, HE LOOKS AT ME AND
23 GOES, OKAY, NOW... AND THEN I HEARD SOMETHING IN SPANISH...

TRANSCRIPTION OF PRESTON OATES' INTERVIEW
DATED 12/27/2010

1 DUH, DA, DA... AND THE DEISEL TRUCK WAS RUNNING AND I HEARD,
2 YOU KNOW, A VOICE... I COULDN'T MAKE OUT THE CONTEXT OF THE
3 WORDS, AND IN ... I GUESS... I'M GUESSING IT WAS HIS BROTHER
4 OVER THERE BECAUSE WHEN I GLANCED IN THE REAR VIEW
5 MIRROR... YOU KNOW, THE SIDE MIRROR ON THE TRUCK, I DIDN'T
6 SEE ANYBODY ON THE SIDE OF THE TRUCK. SO I'M GUESSING IT WAS
7 HIS BROTHER OVER THERE TRYING TO FIGURE OUT HOW TO OPERATE
8 THAT BOOT...

9 CPT. BROMAGE: (LAUGHS)...

10 OATES: SO AFTER THAT, HE STEPS BACK, AND AS HE'S ... HE HAS
11 HIS LEFT... HE STEPS ONE... NOT STEPS BACK, BUT HE STEPS OVER...
12 A LITTLE BIT MORE AWAY FROM THE MIRROR... LOOKS AT ME AND
13 SAYS OKAY, YOU'RE GETTING OUT NOW, WE'RE DONE... AND I ... I
14 WENT TO ASK HIM WHAT DO YOU MEAN WE'RE DONE... HE SAYS, GET
15 OUT NOW, WE'RE DONE... AND HE PULLED THE DOOR OPEN WITH HIS
16 LEFT HAND AND HE STEPPED BACK, AND AS HE WAS STEPPING BACK,
17 HE... I SAW HE HAD HIS HAND RIGHT HERE AT HIS WAIST... AND HE
18 STEPPED BACK AND HE STEPPED... HE STEPPED BACK OFF THE TRUCK
19 AND RIGHT AS HE STEPPED OFF THE TRUCK, I SAW HIS ELBOW LIFT
20 UP ON HIS RIGHT ARM, HIS ELBOW LIFTED UP... RIGHT AS HIS ELBOW
21 LIFTED UP, AND I TURNED, AND AS I WAS... I TURNED AND I HAD MY
22 BODY... SO I WAS SITTING ON THE SEAT LIKE THIS... THE STEERING
23 WHEEL IS HERE AND I HAD MY HAND ON THE STEERING WHEEL. I

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 PUT MY LEFT HAND ON MY KNEE AND I STILL HAD MY RIGHT HAND
2 WITH IT KIND OF BEHIND THE CONSOLE, THAT WAY IF HE WALKED
3 BACK AROUND, HE WOULDN'T SEE IT IN MY HAND... AND RIGHT
4 WHEN HE DID THAT, HE STARTED TO DRAW IT... AND RIGHT AS HE
5 STARTED TO DRAW HIS WEAPON OUT AND I SAW IT COMPLETELY
6 OUT OF HIS PANTS, I SWUNG MY RIGHT HAND IN BETWEEN MY ...
7 RIGHT HERE... (MOTIONING)... I JUST SWUNG MY RIGHT HAND
8 AROUND AND AS I WAS STEPPING OUT OF THE TRUCK, I TURNED
9 AND...

10 CPT. BROMAGE: TURNED WHAT?

11 OATES: AH...

12 CPT. BROMAGE: WHAT HAPPENED EXACTLY?

13 OATES: I REMEMBER COMING OUT OF THE TRUCK AND TURNING,
14 AND HE WAS PULLING... AND I SAW THE GUN IN HIS HAND... AND ...
15 AND IT WAS COMPLETELY OUT OF HIS PANTS NOW CAUSE HIS HAND
16 WAS HERE... YOU KNOW, KIND OF LIKE IN HIS GROIN....

17 CPT. BROMAGE: UH HUH...

18 OATES: AND I SAW THE ENTIRE GUN AGAIN... YOU KNOW, OUT...
19 AND I SWUNG UP AND I REMEMBER THE LAST THING I THOUGHT WAS,
20 I'M GONNA DIE...

21 CPT. BROMAGE: SO WHAT HAPPENED?

22 OATES: I REMEMBER HEARING A VOICE IN THE BACK OF MY HEAD,
23 I'M GONNA DIE... AND THEN I SAW MY MUZZLE FLASH...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: DO YOU KNOW WHERE YOU HIT HIM THE FIRST
2 TIME?

3 OATES: WITHOUT A HUNDRED PERCENT ACCURACY... I
4 REMEMBER SEEING HIS LEFT SHOULDER, HIS LEFT SIDE, HIS LEFT
5 ARM... CAUSE HE HAD HIS BODY TURNED A LITTLE BIT, BUT I
6 REMEMBER CLEARLY SEEING RIGHT HERE...

7 CPT. BROMAGE: SO HE'S... THIS IS...

8 OATES: STAY RIGHT WHERE YOU'RE AT... (MOTIONING)... HE'S
9 FROM ME TO YOU.

10 CPT. BROMAGE: OKAY. NOW YOU'RE GETTING OUT OF YOUR CAR...

11 OATES: I'M... I'M STEPPING OUT OF THE TRUCK AND I'M... I'M
12 SWINGING MY BODY AND STEPPING OUT OF THE DRIVER'S DOOR...

13 CPT. BROMAGE: OKAY... SO YOU'RE STILL FACE TO FACE WITH HIM
14 AT THAT POINT?

15 OATES: HE'S... ON THE GROUND AND HE'S... WHEN HE DREW HE...
16 HE OPENED THE DOOR THIS WAY... YOU KNOW, OPEN THE DOOR THIS
17 WAY AND HE WENT LIKE THAT... (MOTIONING)... AND THE GUN, YOU
18 KNOW, I SAW HIS HAND RIGHT HERE... SO HE HAD HIS BODY KIND
19 OF... NOT FORTY-FIVE TO ME, BUT... WHERE YOU'RE AT... HE... YOU
20 KNOW, HE OPENED THE DOOR THIS WAY...

21 CPT. BROMAGE: OKAY, BUT IF YOU'RE SITTING IN A CAR...

22 OATES: OKAY, YOU'RE SITTING IN THE CAR LIKE THAT...
23 (MOTIONING)... HE OPENS THE DOOR, STEPS BACK, AND GOES LIKE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 THIS...

2 CPT. BROMAGE: OKAY.

3 OATES: ... AND HE GOES LIKE THAT... (MOTIONING)... SEE, HE HAD

4 HIS BODY TURNED LIKE THAT...

5 CPT. BROMAGE: AND THAT'S WHEN YOU FIRED?

6 OATES: AND THEN I SAW HIS ELBOW COME UP LIKE THAT...

7 CPT. BROMAGE: RIGHT.

8 OATES: ... AND WHEN HIS ELBOW COME UP LIKE THAT, I SAW THE

9 GUN COME OUT OF HIS PANTS, THAT'S WHEN I SAID, I'M GONNA DIE...

10 AND THEN WHAT HAPPENED... NOW I'M NOT ALREADY NOT FULLY

11 BUT I WAS OUT OF THE TRUCK AND I REMEMBER... I REMEMBER ...

12 (INAUDIBLE)... ON THERE... I REMEMBER SEEING THE LEFT SIDE OF

13 HIS BODY RIGHT HERE SOMEWHERE... RIGHT IN HERE...

14 (MOTIONING)...

15 CPT. BROMAGE: YEAH... OKAY...

16 OATES: SOMEWHERE HERE... (INAUDIBLE MUMBLE)...

17 CPT. BROMAGE: OKAY.

18 OATES: I REMEMBER THE MUZZLE FLASH GOING OFF... I

19 REMEMBER THE MUZZLE FLASH GOING OFF AND WHEN I DID LIKE

20 THAT AND KIND OF REOPENED MY EYES... I WENT LIKE THAT...

21 (MOTIONING)... I SAW HIS RIGHT SHOULDER... I SAW IT RIGHT HERE,

22 CAUSE HE HAD... IT WAS A ... IT WAS A RUSTY COLORED SHIRT AND

23 IT HAD LIKE A ... A FADED WHITE... I DON'T KNOW LIKE ONE OF

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 THOSE PRINT STAMPS...

2 CPT. BROMAGE: YEAH.

3 OATES: ... LIKE WHERE THEY STAMP THE BIG LOGO, OR
4 SOMETHING, YOU KNOW, OR KIND OF PARTIAL ON PARTS OF THE
5 SHIRT. I REMEMBER SEEING THAT. AND I REMEMBER SOMEWHERE
6 SEEING THE GUN IN HIS HAND CAUSE NOW THE GUN WAS STICKING
7 OUT POINTING TOWARD THE GROUND AND I SAW HIS SHOULDER
8 RIGHT HERE. AND I REMEMBER WHEN I ... WHEN I GOT MY VISION
9 CLEARED, I REMEMBER MY SITES WERE LINED UP RIGHT IN HIS
10 SHOULDER. AND I THOUGHT, OKAY, HE'S ... YOU KNOW, IF I HIT
11 HIM... OKAY... IF I... HE'S ... HE'S STILL GOT A GUN, HE'S GONNA
12 KILL ME NOW... NOW, THERE'S NO QUESTION ABOUT IT...

13 CPT. BROMAGE: UH HUH...

14 OATES: THAT VOICE THAT TOLD ME I WAS GONNA DIE, HE WAS
15 PROBABLY TELLING THE TRUTH.

16 CPT. BROMAGE: SO.... YOU THINK YOU HIT HIM IN THIS SHOULDER
17 RIGHT HERE?

18 OATES: SO THEN I REMEMBER THE SECOND SHOT WAS
19 SOMEWHERE WHERE MY HAND IT...

20 CPT. BROMAGE: OKAY.

21 OATES: SOMEWHERE RIGHT IN HERE, CAUSE...

22 CPT. BROMAGE: ALL RIGHT. OKAY...

23 OATES: JUST... INSTINCT, REACTING...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: WHERE DO YOU THINK THE FIRST SHOT HIT HIM?
2 ANY IDEA?
3 OATES: SOMEWHERE...
4 CPT. BROMAGE: CENTER MASS, PERHAPS?
5 OATES: SOMEWHERE AROUND HERE... (MOTIONING)...
6 SOMEWHERE ON HIS LEFT SOMEWHERE...
7 CPT. BROMAGE: OKAY, OKAY...
8 OATES: I DON'T KNOW... I DON'T KNOW...
9 CPT. BROMAGE: SECOND SHOT'S IN THE BACK OF THE RIGHT
10 SHOULDER...
11 OATES: THE RIGHT... RIGHT...
12 CPT. BROMAGE: IN THAT AREA?
13 OATES: AT AN ANGLE, YEAH... CAUSE I REMEMBER HE HAD THE
14 GUN IN HIS RIGHT HAND AND I DON'T KNOW WHY I THOUGHT THIS,
15 BUT I SAID OKAY... IF HE'S GOT THE GUN IN HIS RIGHT HAND,
16 DISABLE HIS RIGHT HAND...
17 CPT. BROMAGE: UH HUH...
18 OATES: MARTIAL ARTS TRAINING, IF YOU DISABLE YOUR
19 OPPONENT BEFORE HE CAN STRIKE YOU, THE FIGHTS OVER.
20 CPT. BROMAGE: YES, I'VE DONE THAT FOR MANY, MANY YEARS.
21 OATES: OKAY.
22 CPT. BROMAGE: MARTIAL ARTS. YOU'RE ABSOLUTELY RIGHT
23 ABOUT THAT.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: YEAH.

2 CPT. BROMAGE: SO AFTER THAT, WHERE'S HIS BODY GOING?

3 OATES: SO WHEN I HIT HIM HERE... AND I THOUGHT, OKAY,
4 GREAT, YOU KNOW... I ... I WAS ACTUALLY GONNA START TAKING A
5 BREATH, IS WHAT I THOUGHT WAS HAPPENING, BUT THEN I SAW...
6 AND HE WAS LOOKING AT ME AND WE WERE EYE TO EYE WITH EACH
7 OTHER AND I COULD SEE THE FRONT OF HIS CHEST, AND HE WAS
8 SWINGING TOWARD ME.

9 CPT. BROMAGE: SO THE SHOT... YOU'RE SAYING THE SHOT IN THE
10 RIGHT ARM DID NOT FORCE HIM TO DROP THE GUN?

11 OATES: HE WAS COMING... I... I...

12 CPT. BROMAGE: WELL...

13 OATES: I REMEMBER LOOKING INTO HIS EYES AND HIS BODY WAS
14 SWINGING...

15 CPT. BROMAGE: OKAY.

16 OATES: I DIDN'T SEE THE GUN IN HIS HAND...

17 CPT. BROMAGE: OKAY.

18 OATES: I DIDN'T EVEN LOOK AT HIS HANDS... WE... BECAUSE WE
19 WERE EYE TO EYE...

20 CPT. BROMAGE: YEAH.

21 OATES: AND HIS BODY WAS SWINGING... SO I WENT AGAIN...
22 RIGHT, I MEAN, JUST... PANIC FIRE...

23 CPT. BROMAGE: OKAY.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: I... I DON'T EVEN KNOW IF THAT BULLET HIT OR NOT... I
2 ONLY KNOW IT WAS PANIC FIRE. AND I WAS... AND THEN I HIT
3 AGAIN... AND THEN I HEARD THE GUN HIT THE GROUND AND SLIDE...
4 I HEARD THE METAL... YOU KNOW, THE ... (MAKES A
5 DROPPING/SLIDING SOUND)... THE ... THE NOISE... I HEARD THE
6 METAL HIT THE GROUND AND THEN SLIDE.
7 CPT. BROMAGE: AND THAT WAS AFTER THREE, FOUR...
8 OATES: I WANNA SAY FOURTH... I'M... I'M ... IT'S A LITTLE...
9 CPT. BROMAGE: WHERE WAS HE AT... WHERE WAS HE AT WHEN YOU
10 FIRED THE FOURTH SHOT, DO YOU KNOW?
11 OATES: AH...
12 CPT. BROMAGE: CAUSE HE'S FACE TO FACE ON THE THIRD ONE...
13 OATES: THE THIRD ONE, YEAH, AND THE FOURTH, AND I'M PRETTY
14 SURE THEY WERE NOT CONSECUTIVE BUT I DIDN'T EVEN HAVE TIME
15 TO TAKE A BREATH IN BETWEEN... I MEAN IT WAS WAM... WAM...
16 CPT. BROMAGE: OKAY.
17 OATES: AND SO, YEAH, IT WAS STILL PRETTY... I MEAN...
18 CPT. BROMAGE: OKAY, AND WHAT ABOUT ANY OTHERS?
19 OATES: AND THEN I HEARD THE GUN HIT THE GROUND AND
20 SLIDE... AND RIGHT WHEN I HEARD THAT GUN HIT THE GROUND AND
21 SLIDE, THAT'S WHEN I REMEMBER TAKING THE BREATH.
22 CPT. BROMAGE: WHERE DID THE GUN GO?
23 OATES: IT SLID SIX TO EIGHT, TEN FEET FROM WHERE... CAUSE HE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 WAS, YOU KNOW, ON HIS FEET, AND THEN AFTER I HEARD THE GUN
2 HIT THE GROUND, I TOOK A BREATH, AND THAT'S WHEN HE KIND OF
3 WENT DOWN AND WENT ONTO HIS BACK.

4 CPT. BROMAGE: OKAY.

5 OATES: AND THEN WHEN I LOOKED, YOU KNOW, OUT OF MY EYES,
6 I SAW THAT HE WASN'T MOVING, AND I SAW THE GUN SIX TO EIGHT
7 FEET PAST... ME, HIM, THE GUN...

8 CPT. BROMAGE: OKAY, SO THE GUN'S FURTHER FROM YOU AND
9 IT'S...

10 OATES: (INTERRUPTING)... YEAH, IT'S... I'D HAVE TO WALK PAST
11 HIM TO GET TO THE GUN.

12 CPT. BROMAGE: OKAY. WHAT KIND OF... WHAT KIND OF LOAD DID
13 YOU HAVE IN YOUR GUN, AS FAR AS AMUNITION?

14 OATES: THE FEDERAL HYDROSHOCK... THE FEDERAL... I BELIEVE
15 THERE THE HYDRO- ... THERE THE HOME DEFENSE LOW RECOIL SOFT
16 LEAD... I BOUGHT 'EM AT WAL-MART, I BELIEVE, A WHILE BACK LIKE
17 A YEAR, YEAR AND A HALF.

18 CPT. BROMAGE: HYDROSHOCK YOU THINK?

19 OATES: NO, NO... THERE FEDERAL, BUT THEY'RE FULL METAL...
20 THEY'RE NOT FULL METAL JACKETS, THEY'RE... CAN I HAVE A PIECE
21 OF PAPER...

22 CPT. BROMAGE: OKAY. HERE YA GO.

23 OATES: (BRIEF PAUSE FOR DRAWING AND/OR WRITING)... THEY

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 LOOK LIKE THAT, BUT THEY'RE NOT HOLLOW POINT. THEY'RE NOT A
2 FULL METAL JACKET WHERE THEY POINTER DOWN. IT HAS A FLAT
3 FRONT TO IT... IMAGINE TAKING A HOLLOW POINT AND FILLING IT
4 FULL OF LEAD...

5 CPT. BROMAGE: I... YEAH, YEAH, I'VE SEEN 'EM.

6 OATES: OKAY.

7 CPT. BROMAGE: I'VE SEEN 'EM.

8 OATES: OKAY.

9 CPT. BROMAGE: IT'S THAT THE ONLY KIND YOU HAD IN THERE, ONE?
10 OR DID YOU HAVE TWO DIFFERENT BRANDS?

11 OATES: I FEDERAL LOAD STACKED IN THERE. I HAD FIVE... I HAD
12 FIVE OF MY TARGET ROUNDS IN THERE AND THEN I HAD FIVE
13 FEDERALS ON TOP OF THAT. SO I BELIEVE I SHOULD'VE HAD TEN
14 ROUNDS IN THE GUN TOTAL... SHOULD HAVE... IT COULD'VE BEEN
15 NINE, I DON'T REMEMBER. LIKE I SAID, BOB, IT WAS...

16 CPT. BROMAGE: NO, THAT'S OKAY.

17 OATES: (INAUDIBLE MUMBLE)...

18 CPT. BROMAGE: SO FIVE FEDERAL, THE ONES YOU WERE JUST
19 TELLING ME ABOUT...

20 OATES: YEAH.

21 CPT. BROMAGE: AND FIVE WHAT?

22 OATES: AH... BALL TARGET ROUNDS.

23 CPT. BROMAGE: OKAY.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: AH... MIGHT EVEN GO HOME AND SEE WHAT'S IN MY...
2 CPT. BROMAGE: BALL AMUNITION?
3 OATES: JUST... YEAH... TARGET...
4 CPT. BROMAGE: OKAY.
5 OATES: SORRY, BUT HEY, YOU KNOW, WE ALL GOTTA KEEP ON
6 POINT.
7 CPT. BROMAGE: ALL RIGHT. SO... SO YOU THINK YOU FIRED FOUR
8 TIMES WHEN YOU SAW THE GUN WHISKING AWAY?
9 OATES: I... I REMEMBER I FIRED UNTIL I HEARD THE GUN HIT THE
10 GROUND. HE ... HE, YOU KNOW, HE WAS... I HAD NO OTHER CHOICE.
11 BOB, HE WAS GONNA KILL ME... I MEAN, I'M SORRY, BUT...
12 CPT. BROMAGE: I SEE... I MEAN, YOU KNOW... IT'S...
13 OATES: I MEAN, I DON'T KNOW IF THERE'S A RULE ABOUT HOW
14 MANY TIMES YOU'RE ALLOWED TO DO IT, BUT I ... I KNEW HE WAS A
15 THREAT TO ME. I WAS IN DANGER UNTIL HE WAS EITHER DISARMED
16 OR, YOU KNOW, UNCONSCIOUS.
17 CPT. BROMAGE: SO EVEN AFTER, YOU KNOW, THE RIGHT BACK
18 SHOULDER SHOT, YOU WEREN'T SURE IF HE HAD THE GUN OR NOT,
19 AT THAT POINT?
20 OATES: HE STILL HAD IT... HE TURNED BACK HIS HEAD... HE
21 TURNED HIS BODY TOWARD ME AND WE MADE EYE CONTACT, AND
22 AT THAT POINT IT WAS EITHER FIGHT OR FLIGHT.
23 CPT. BROMAGE: WAS HE SAYING ANYTHING?

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: I DIDN'T HEAR ANYTHING.

2 CPT. BROMAGE: YEAH.

3 OATES: I MEAN, IT WAS SILENT... I DON'T EVEN REMEMBER
4 TAKING A BREATH... I JUST REMEMBER TAKING THE BREATH, CAUSE
5 I COULD ACTUALLY HEAR MY BREATH GO.... UHHHH ... (MAKING
6 BREATHING IN SOUND)... I COULD ACTUALLY HEAR MYSELF BREATH
7 IN...

8 CPT. BROMAGE: SO... YOU WEREN'T FEELING THERE WAS ANY WAY
9 YOU COULD'VE GOT OUT OF THIS WITHOUT WHAT HAPPENED?

10 OATES: I WAS... I TRIED STALLING...

11 CPT. BROMAGE: I MEAN...

12 OATES: ... I TRIED TELLING THAT LADY, EVERYTHING'S OKAY, GO
13 INSIDE, HE'S GOT A GUN, EVERYTHING'S FINE, YOU KNOW, TRYING
14 TO HINT, HINT, NUDGE, NUDGE, YOU KNOW... I ... I MEAN... WHAT
15 WAS I SUPPOSED TO DO? HE'S HANGING ON THE SIDE OF MY
16 TRUCK... I COULDN'VE DROPPED IT IN DRIVE, BUT THEN WHAT?

17 CPT. BROMAGE: WELL, I DON'T KNOW... (INAUDIBLE MUMBLE)...

18 OATES: I DON'T KNOW EITHER... AND I... I'D BE WILLING TO ROLL
19 THE DICE, BUT NOT WITH MY LIFE. SO YOU'VE NEV- ... YOU'VE
20 NEVER TOUCHED HIS GUN WHATSOEVER?

21 OATES: NEVER TOUCHED IT.

22 CPT. BROMAGE: OKAY, SO THAT GUN, WHILE IN THIS BURRAGE OF
23 FIRE... SOMEHOW IT EITHER HITS THE GROUNDS AND SAILS OFF ...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OR... OR SOMETHING... BUT AT SOME POINT YOU HEAR... YOU SEE
2 THE GUN...

3 OATES: I HEAR... I HEAR THE GUN HIT THE GROUND AND SLIDE,
4 AND THAT'S WHEN I REMEMBER I FROZE AND TOOK A BREATH, AND
5 WHEN I OPENED MY EYES, THE GUN WAS LAYING THERE AND HE WAS
6 KIND OF ALMOST... (MAKES THUMPING SOUND)... TO THE GROUND.

7 CPT. BROMAGE: OKAY, WAS HE ON HIS STOMACH, OR...

8 OATES: NO, HE WAS LYING ON HIS BACK. HE WAS LOOKING UP AT
9 THE SKY.

10 CPT. BROMAGE: WHEN HE STOPPED MOVING, HE WAS LYING ON HIS
11 BACK?

12 OATES: WHEN HE... WHEN HE FINALLY CAME TO REST, CAUSE HE
13 WAS STANDING AND THEN HE KIND OF WENT DOWN, AND LANDED
14 ON HIS BACK, AND HE ALMOST... ALMOST... HIS KNEES WERE BENT,
15 HE WASN'T LAYING YET... HE WAS ALMOST ON THE GROUND AS I,
16 YOU KNOW, TOOK A BREATH AND, YOU KNOW, WAS ABLE TO GET
17 CLEAR VISION AND SEE THAT THE GUN FINALLY SLID AND STOPPED
18 AND WHENEVER THE GUN STOPPED, I LOOKED AT HIM AND HE WAS
19 ALMOST ON THE GROUND.

20 CPT. BROMAGE: OKAY, BUT THAT WAS IT... HE WAS...

21 OATES: YEAH.

22 CPT. BROMAGE: SO, WERE YOU EVER TO HIS BACK, PER SE? WAS HIS
23 BACK EVER TO YOU DURING THIS WHOLE EVENT THAT YOU

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 REMEMBER... HIS BACK?

2 OATES: I REMEMBER WHEN I WAS EXITING THE TRUCK AND HE
3 WAS DRAWING IT, HE WAS STANDING KIND OF LIKE THIS...
4 (MOTIONING)... YOU KNOW, HE WAS... LIKE I SAID... LIKE I
5 DESCRIBED, HE WAS ... YOU KNOW, IF YOU WERE THE TOW TRUCK...
6 HE OPENED THE DOOR, I STEPPED BACK, HE WAS LIKE THIS...
7 (MOTIONING)... RIGHT HERE...

8 CPT. BROMAGE: RIGHT.

9 OATES: AND THEN I REMEMBER THE SECOND SHOT AFTER I HIT
10 HIM SOMEWHERE ON THE LEFT SIDE, AND THEN HE TURNED, AND HE
11 HAD... AND I REMEMBER LOOKING AND I SAW THE GUN AND
12 FOLLOWED THE GUN UP TO HIS SHOULDER AND SO... WE WERE
13 STANDING RIGHT ABOUT HERE, LIKE THIS...

14 CPT. BROMAGE: OKAY.

15 OATES: ACTUALLY, HE WAS MORE LIKE THAT RIGHT THERE...
16 (MOTIONING)...

17 CPT. BROMAGE: NOW, THE THIRD... THE THIRD ONE...

18 OATES: THE THIRD ONE, I WAS LOOKING HIM RIGHT INTO HIS EYES
19 AND I REMEMBER SEEING HIS THROAT CAUSE HE TOOK A BREATH,
20 AND THEN I SAW... THE... HIS EYES LIGHT UP...

21 CPT. BROMAGE: HOW TALL WAS THIS GUY COMPARED TO YOU.
22 YOU'RE ABOUT SIX, TWO, RIGHT?

23 OATES: A... ABOUT WHERE YOU'RE HAND WAS, I MEAN, HE'S

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 RIGHT ABOUT HERE... (MOTIONING)...

2 CPT. BROMAGE: OKAY. SO HE'S BACK UP AND AT IT...

3 OATES: WELL, HE'S LIKE THIS... (MOTIONING)...

4 CPT. BROMAGE: OKAY.

5 OATES: AND NOW... WHERE YOU'RE STANDING, RIGHT... HE'S

6 LIKE THIS RIGHT HERE. CAUSE I REMEMBER SEEING THE GUN,

7 FOLLOWING IT UP AND SEEING HIS SHOULDER, AND MY SITES WERE

8 ALREADY LOCKED ON HIS SHOULDER.

9 CPT. BROMAGE: OKAY, SO... I'VE PRETTY MUCH GOT THE IDEA HERE.

10 THE... SO WAS HE EVER DOWN WHERE YOU WOULD'VE... CAUSE YOU

11 GOTTA COMPARE THE WITNESS, YOU KNOW, THE WITNESS

12 TESTIMONY ON A DARK NIGHT WITH WHAT YOU'RE SAYING AND TRY

13 TO MAKE SOME SENSE OUT OF IT, AS YOU KNOW... WAS HE EVER...

14 WAS HIS BACK EVER TO YOU RUNNING AWAY FROM YOU? WAS HE

15 EVER FLEEING?

16 OATES: NO.

17 CPT. BROMAGE: SO EVERYTHING WAS FAIRLY...

18 OATES: WHEN HE GOT OUT OF THE TRUCK, THE ONLY TIME HE

19 WAS STEPPING AWAY FROM ME, WAS AFTER HE... AS HE PULLED THE

20 DOOR OPEN, HE WAS STEPPING BACK, TURNED AND STARTED TO

21 DRAW, AND ONCE HE GOT THE GUN FULLY OUT, I SAID, OKAY, I'M...

22 YOU KNOW, I'M GONNA DIE, THIS IS... THIS IS IT... THERE'S... THERE'S

23 NO GOING BACK... I HAVE...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: AT THAT POINT, YOU...

2 OATES: ... I HAVE NO OTHER CHOICE... I MEAN, HE'S PULLING THIS
3 GUN ON ME, YOU KNOW, I DON'T KNOW WHY HE'S PULLING IT...

4 CPT. BROMAGE: UH HUH...

5 OATES: NOT TO THREATEN ME, CAUSE HE'S ALREADY DONE THAT,
6 SO HE'S NOT GONNA THREATEN ME AGAIN... HE'S PULLING IT NOW
7 BECAUSE HE'S DONE, HE KNOWS I HAVE NO EVIDENCE, I HAVE
8 NOTHING TO CONNECT HIS VAN TO MY TOW TRUCK, THEY GOT THE
9 KEYS AND THE BOOT, THEY'RE GETTING THE BOOT OFF... I HAVE NO
10 MORE PURPOSE THERE...

11 CPT. BROMAGE: YEAH, YEAH...

12 OATES: SO I WAS... IT WAS...

13 CPT. BROMAGE: SO EVERYTHING WAS FAIRLY EITHER TO THE SIDE
14 OR TO THE FRONT... ESSENTIALLY... FRONT OR SIDE?

15 OATES: LIKE I SAID, THE... THE FOURTH SHOT, IT WAS... I DON'T
16 KNOW IF I EVEN HIT OR NOT... I DON'T KNOW...

17 CPT. BROMAGE: OKAY.

18 OATES: IT WAS A PANIC FIRE.

19 CPT. BROMAGE: WAS THERE ANYMORE SHOTS?

20 OATES: WHEN WE MADE... WHEN WE MADE EYE CONTACT AND
21 HIS BODY WAS TURNING TOWARD ME, IT WAS JUST FIGHT OR FLIGHT,
22 I JUST CLOSED MY EYES AND SQUEEZED THE TRIGGER.

23 CPT. BROMAGE: AND SO HE WAS FACE TO FACE WITH YOU

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 ESSENTIALLY?

2 OATES: I REMEMBER SEEING HIS EYES... WE... WE HAD EYE
3 CONTACT AND I JUST... I CLOSED MY EYES AND I SQUEEZED THE
4 TRIGGER.

5 CPT. BROMAGE: HOW MANY TIMES DID YOU SQUEEZE IT?

6 OATES: EITHER ONCE OR TWICE.

7 CPT. BROMAGE: OKAY, SO YOU THINK... HOW MANY SHOTS DID YOU
8 FIRE OUT THERE DO YOU THINK?

9 OATES: I'M GUESSING... GUESSING... WOULD BE FIVE...
10 CALCULATED GUESS WOULD BE FOUR.

11 CPT. BROMAGE: OKAY.

12 OATES: I KNOW FOR CERTAIN TWO...

13 CPT. BROMAGE: EXCUSE ME...

14 OATES: THAT'S OKAY... DO YOU NEED A MOMENT?

15 CPT. BROMAGE: NO, NO...

16 OATES: OKAY, SO I KNOW FOR CERTAIN, TWO... I CAN CLEARLY
17 REMEMBER FIRING THE FIRST TWO SHOTS. AND THEN THE THIRD
18 SHOT I REMEMBER, HE WAS... WE WERE EYE TO EYE... HE WAS
19 STARING AT ME AND I WAS STARING AT HIM.

20 CPT. BROMAGE: OKAY.

21 OATES: AND THERE WAS NO PAUSE IN BETWEEN BECAUSE I READ
22 IN THE BLUFFTON TODAY, THE GUY THOUGHT IT WAS LIKE
23 FIRECRACKERS GOING OFF.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: WELL...

2 OATES: ONE OF THE... ONE OF THE PEOPLE COMMENTED ON
3 THAT...

4 CPT. BROMAGE: YEAH, THERE WAS PEOPLE SAYING THAT HE WAS
5 GOING A DIFFERENT DIRECTION, AN OPPOSITE DIRECTION... IN
6 OTHER WORDS, ONCE YOU GOT OUT AND STARTED FIRING, HE
7 STARTED FLEEING, AND AT THAT POINT... SO HE... YOU DON'T
8 RECALL ANY SHOTS TOWARDS THE BACK OR TO THE HEAD OR
9 ANYTHING LIKE THAT?

10 OATES: THE THIRD THROUGHT THE FOURTH OR FIFTH...

11 CPT. BROMAGE: OKAY.

12 OATES: ... IT WAS... I WAS... I'M SORRY, BOB... I WAS...

13 CPT. BROMAGE: NO, YOU REMEMBER LOOKING AT HIS BACK OR NOT
14 WHEN HE WAS DOWN? I MEAN...

15 OATES: NO, CAUSE AS SOON AS I TOOK A BREATH AND OPENED
16 MY EYES, HE WAS, YOU KNOW, ALMOST FINISHING HIS FALL TO THE
17 GROUND AND I SAW, YOU KNOW, THE GUN STOPPED RIGHT THERE...
18 TOOK A BREATH. I MOVED MY FIREARM TO MY LEFT HAND, PULLED
19 MYSELF ON OUT OF MY HOLSTER... (MOTIONING)... RIGHT HERE...

20 CPT. BROMAGE: UH HUH...

21 OATES: ... HELD DOWN, AH... MADE THE PHONE CALL AND HIT
22 SPEAKERPHONE AND JUST HELD IT, AND I STOOD RIGHT THERE.

23 CPT. BROMAGE: OKAY.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: AND EVERYBODY STARTED COMING OUT. THE BROTHER
2 CAME OUT RUNNING AT ME, OH, YOU FUCKING GOT MY...
3 (INAUDIBLE)... STARTED SCREAMING, I MEAN HE WAS SCREAMING
4 AT...
5 CPT. BROMAGE: SO THERE WAS NO MORE FIRING AFTER THAT?
6 OATES: NO.
7 CPT. BROMAGE: WHEN YOU'RE SAYING HE'S GOING DOWN, HE'S
8 DONE, JUST ABOUT, HIS GUN...
9 OATES: ONCE THE GUN IS OUT OF HIS HAND, HE'S NO LONGER A
10 THREAT TO ME.
11 CPT. BROMAGE: RIGHT.
12 OATES: AT... HE WAS DISARMED, OKAY, HE'S... HE CAN'T KILL ME
13 NOW... NOW THAT THE GUN IS OUT OF HIS HAND, HE CAN'T KILL ME.
14 CPT. BROMAGE: OKAY. AH...
15 OATES: AND THAT'S WHEN IT CLICKED TO ME ... (SNAPPING
16 SOUND)... OKAY... OH SHIT, NOW I'VE GOT A LIVE WEAPON OUT IN
17 THE ROAD AND I'VE GOT TWENTY PEOPLE STANDING AROUND...
18 CPT. BROMAGE: SURE... COULD'VE BEEN QUITE HOSTILE AT THAT
19 POINT I WOULD IMAGINE...
20 OATES: IT GOT VERY HOSTILE. I DON'T KNOW IF YOU GOT THE 9-1-
21 1 RECORDING...
22 CPT. BROMAGE: I DIDN'T HEAR IT.
23 OATES: BUT IT WAS PUMPED. CAUSE I REMEMBER STANDING IN

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 THE AFRICAN AMERICAN'S YARD AND I HAD MINE AT LOW READY, IN
2 MY LEFT HAND, LOW READY, AND I HAD DISPATCH ON THE
3 SPEAKERPHONE, AND I REMEMBER MY LEFT LEG WAS TREMBLING... I
4 MEAN, IT WAS LIKE... LIKE I HAD TO KIND OF BALANCE FROM LEFT
5 TO RIGHT LEGGED TO KEEP MYSELF FROM FALLING...
6 CPT. BROMAGE: WAS... WAS THAT LADY OUT THERE AS WELL?
7 OATES: YEAH... WELL, THE AFRICAN AMERICAN LADY WAS OUT
8 THERE CAUSE I REMEMBER... I HAD LEFT IN THE CREVICE OF THE
9 DRIVER'S DOOR OF MY TRUCK, AND I CIRCLED AROUND HALF WAY
10 AND STOOD IN THEIR FRONT YARD CAUSE...
11 CPT. BROMAGE: (INAUDIBLE MUMBLE)...
12 OATES: THEY... THEY... THEY WEREN'T PART OF THE FAMILY,
13 THEY WEREN'T INVOLVED...
14 CPT. BROMAGE: NO, NO, I GET IT...
15 OATES: ... THEY WEREN'T AS HOSTILE TO ME AS THE REST OF THE
16 PEOPLE, SO I KNEW I COULD HAVE MY BACK TOWARD THEIR HOUSE
17 WITHOUT BEING THAT THREATENED. THAT'S WHEN MY TRAINING
18 CAME OVER JUST FOR SELF-PRESERVATION AND CONTROL THE
19 SCENE, AND... AND...
20 CPT. BROMAGE: NOW, WHERE'S THIS TRAINING YOU'RE TALKING
21 ABOUT... WHERE'S THIS AT? WHERE'D YOU GO?
22 OATES: I'VE BEEN TO A FEW DIFFERENT PLACES.
23 CPT. BROMAGE: ELABORATE.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: AH... LEFT HIGH SCHOOL AND WENT TO FORT STEWART
2 AND DID BASICS THERE...
3 CPT. BROMAGE: OKAY, YOU WERE IN THE MILITARY THEN...
4 OATES: NO, NEVER IN THE MILITARY... NO RECORD OF IT.
5 CPT. BROMAGE: WHAT DO YOU MEAN, THERE'S FORT STEWART, YOU
6 DID BASIC THERE.
7 OATES: NO... THERE'S NO RECORD OF ME EVER BEING IN THE
8 MILITARY. THAT'S... THAT'S HOW IT HAS TO STAND... THAT'S HOW
9 IT HAS TO BE...
10 CPT. BROMAGE: MY BAD... OKAY...
11 OATES: I...
12 CPT. BROMAGE: ... I WAS SPECIAL OPS IN THE ARMY. I KNOW...
13 OATES: I DOUBT YOU WERE IF YOU'D SHARE THAT WITH ME.
14 CPT. BROMAGE: REALLY? IS THAT RIGHT?
15 OATES: I'VE NEV- ...
16 CPT. BROMAGE: YOU KNOW WHAT, SIR, WHAT... (INAUDIBLE)... THE
17 FIRST RANGE, THE BATALION IN SAVANNAH, THAT'S MY DEP DOWN
18 HERE...
19 OATES: OKAY.
20 CPT. BROMAGE: AND I'M NOT GONNA SIT HERE ARGUING WITH YOU.
21 OATES: NO.
22 CPT. BROMAGE: I KNOW PEOPLE THAT GO TO FORT STEWART ONE
23 AND DISAPPEAR. SO ONE, IF WE'RE GONNA BE FRIENDS HERE, IF

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 WE'RE GONNA TALK, DON'T BULLSHIT ME...

2 OATES: I'M NOT.

3 CPT. BROMAGE: CAUSE YOU'RE GONNA PISS ME OFF RIGHT NOW. SIT
4 DOWN... SIT DOWN... I'LL BE GLAD TO TAKE A LOOK AT IT, PLEASE...

5 OATES: (OBVIOUSLY PRESENTING SOMETHING TO OFFICER)...
6 DOESN'T THAT SATISFY YOU?

7 CPT. BROMAGE: NO... I'D LIKE TO LOOK AT IT. YOU'RE TALKING
8 ABOUT SOMETHING THAT I'M FAMILIAR WITH, AS A MATTER OF
9 FACT... GEEZE... (INAUDIBLE)... GEORGIA NATIONAL GUARD...

10 OATES: FORT STEWART, SAVANNAH, GEORGIA.

11 CPT. BROMAGE: NEW CHALLENGE ACADEMY... WHY DIDN'T YOU
12 JUST SAY THAT, MAN? I REALLY WAS IN THE FIRST RANGE OF
13 BATALLION TO LET YOU KNOW IN EIGHTY-FIVE.

14 OATES: OKAY.

15 CPT. BROMAGE: NOW DROP THAT.

16 OATES: ALL RIGHT. YOU BROUGHT THIS UP...

17 CPT. BROMAGE: DON'T MAKE IT SOUND LIKE SOME BLACK OPS
18 GROUP YOU'RE A PART OF, IT'S A STUDENT WITH...

19 OATES: YOU BROUGHT IT UP, NOT ME.

20 CPT. BROMAGE: YOU LISTEN, I WANTED TO KNOW THE KIND OF
21 TRAINING YOU HAD, DON'T MAKE IT SOUND LIKE A MYSTERY, CAUSE
22 THAT'S NOT HELPING YOU.

23 OATES: OKAY.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: YOU'RE MAKING IT SOUND WORSE.
2 OATES: I APOLOGIZE FOR THAT, I WAS JUST...
3 CPT. BROMAGE: WHAT WERE YOU THINKING?
4 OATES: I DON'T WANNA GET INTO IT...
5 CPT. BROMAGE: DON'T GO THERE...
6 OATES: I'M NOT PROUD OF IT.
7 CPT. BROMAGE: OKAY. NOT PROUD OF WHAT HAPPENED THE OTHER
8 NIGHT, PERHAPS?
9 OATES: I'M NOT PROUD OF ANYTHING.
10 CPT. BROMAGE: THAT'S... THAT'S TOTALLY BENIGN WHAT YOU'RE
11 DOING. IF YOU'RE SAYING YOU HAD SOME TRAINING THROUGH THE
12 MILITARY, THAT'S GREAT... I MEAN, THERE'S NOTHING WRONG WITH
13 THAT...
14 OATES: OKAY.
15 CPT. BROMAGE: AND I'M NOT TRYING TO ARGUE ANY, WHAT I'M
16 TRYING TO SAY TO IS...
17 OATES: OKAY...
18 CPT. BROMAGE: ... YOUR LINGO IS CONSISTENT WITH POLICE
19 LINGO...
20 OATES: I WENT TO THE SOUTH CAROLINA FIRE ACADEMY. I DID
21 MY OSHA INTERIOR CERTIFICATION, WHICH IS TALKING ABOUT, YOU
22 KNOW, ONCE YOU ... (INAUDIBLE)... A FIRE, YOU GO TO A WRECK,
23 YOU GO TO A HOUSE FIRE, YOU DO SCENE CONSERVATION,

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 PRESERVATION BECAUSE OF ARSON INVESTIGATIONS, THAT'S
2 WHERE I LEARNED ALL OF THAT STUFF... WAS AT THE SOUTH
3 CAROLINA FIRE ACADEMY.

4 CPT. BROMAGE: ALL RIGHT, WELL THAT'S WHERE I'M KIND OF
5 WONDERING WHERE YOU... YOU SAID TRAINED.

6 OATES: I ALSO WENT TO... I WAS IN CIVIL AIR PATROL AS A
7 YOUTH...

8 CPT. BROMAGE: I REALIZE THAT... I REMEMBER THAT ACTUALLY...

9 OATES: YEAH...

10 CPT. BROMAGE: I REALIZE THAT... I HAD FORGOT ALL ABOUT THAT.

11 OATES: I PLAYED WITH DAVE LANAGAN (SP), KIRK O'LEARY AND
12 ALL OF THEM OUT THERE AT THE STRIKE ZONE AND PAINT BALL.

13 CPT. BROMAGE: OKAY.

14 OATES: I HANG OUT WITH A BUNCH OF FRIENDS... A BUNCH OF MY
15 FRIENDS ARE IN THE MILITARY. A GOOD FRIEND OF MINE, HER
16 BOYFRIEND, HER LAST FEW BOYFRIENDS...

17 CPT. BROMAGE: OKAY...

18 OATES: ... HAVE BEEN MILITARY... I MEAN, JUST... I'M AROUND...

19 CPT. BROMAGE: (INTERRUPTING AND OVER SPEAKING EACH
20 OTHER)... GOOD ADVICE FROM TALKING FROM AN OLD SCHOOL
21 SOLDIER... KEEP IT SIMPLE.

22 OATES: OKAY.

23 CPT. BROMAGE: DON'T ELABORATE TOO MUCH. DON'T MAKE IT

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 SOUND LIKE IT'S SOMETHING MYSTERIOUS.

2 OATES: OKAY.

3 CPT. BROMAGE: CAUSE THAT'S GONNA MAKE ME DIG FURTHER.

4 OATES: I UNDERSTAND.

5 CPT. BROMAGE: OKAY, YOU MAKE IT SOUND LIKE YOU'RE SOME

6 SPECIAL OPS THE WAY YOU'RE RUNNING AROUND AT FORT STEWART

7 AND THERE'S NO RECORD OF IT... YOU WEREN'T IN THE MILITARY,

8 THAT JUST TOLD ME THAT, YOU WERE A STUDENT WITH NASA,

9 GREAT.

10 OATES: THAT'S ALL IT IS.

11 CPT. BROMAGE: LAY IT OUT.

12 OATES: I WENT TO FORT STEWART... I LEFT HIGH SCHOOL AND

13 WENT TO FORT STEWART... THAT'S CUT AND DRY...

14 CPT. BROMAGE: ALL RIGHT.

15 OATES: I LEFT HIGH SCHOOL AND WENT TO FORT STEWART.

16 CPT. BROMAGE: OKAY. I... I GOT A COUPLE QUESTIONS TO ASK...

17 AND THIS STUFF, YOU WONDER WHY IT EVEN POPS UP, BUT... YOU

18 KNOW, THE PAPER PRINTS THINGS...

19 OATES: UH HUH...

20 CPT. BROMAGE: ... AFTER THE FACT...

21 OATES: AND SINCE THE DETECTIVE SAYS NOT TO SAY ANYTHING,

22 THEY ONLY GOT ONE SIDE OF THE STORY, WHICH IS A COMPLETE

23 BIASED OPINION FROM THEM...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: WELL...

2 OATES: AND SO I DIDN'T EVEN HAVE A CHANCE TO...

3 CPT. BROMAGE: RIGHT.

4 OATES: SAY I WAS BEING, YOU KNOW... I MEAN, ONE GUY DOWN
5 THERE POSTED, WELL, DAMN, WHAT WOULD YOU DO IF YOU WERE
6 BEING HELD HOSTAGE IN YOUR TRUCK?

7 CPT. BROMAGE: THERE'S GONNA BE BACK AND FORTH WITH THESE
8 BLOGS, NO QUESTION ABOUT IT, BUT WHEN YOU'RE TALKING TO
9 REPORTERS, IT WAS SUICIDE... IT WAS SUICIDE... WHAT IS THAT...
10 HOW... HOW AM I, AS THE CHIEF INVESTIGATOR HERE, SUPPOSED TO
11 INTERPRET THAT COMMENT, IT WAS SUICIDE? THAT'S WHAT I
12 WANNA KNOW...

13 OATES: CAUSE I...

14 CPT. BROMAGE: WHAT DOES THAT MEAN? WHAT IS THE MEANING
15 OF THAT? SATISFY ME WITH THAT...

16 OATES: WE ALL COPE WITH, WE ALL HANDLE STRESSFUL
17 SITUATIONS. WE ALL DO IT OUR OWN PERSONAL WAY. I'VE HAD TO
18 DEAL WITH BEFORE, MY GRANDFATHER JUST COMMITTED SUICIDE.
19 HE PULLED THE PLUG, HE SAID NOPE, I'M DONE. I'M NOT DOING
20 ANYMORE DIALYSIS. I'M THROUGH WITH IT.

21 CPT. BROMAGE: THAT'S...

22 OATES: MY MOM WAS AT HIS FUNERAL AND SHE SAID... (SOUNDS
23 AS IF OATES BEGINS TO CRY)... I'M SORRY, I DIDN'T WANT YOU TO

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 GO, YOU WERE THE ONLY PARENT THAT LOVED ME WHEN I WAS A
2 KID. AND HE DID IT. IT WAS HIS CHOICE. AND THE COMMENT IN THE
3 PAPER WAS... I WASN'T LEFT A CHOICE. I FELT LIKE MY MOTHER... I
4 WASN'T LEFT A CHOICE.

5 CPT. BROMAGE: ARE YOU SAYING BASICALLY HE WAS COMMITTING
6 SUICIDE BY PUTTING YOU IN THAT SITUATION?

7 OATES: HE... HE WAS GONNA KILL ME. THERE WAS NO DOUBT IN
8 MY MIND. IT WAS DONE. HIS CHOICE, HIS ACTIONS LED TO THIS JUST
9 LIKE MY GRANDFATHER'S. MY MOM DIDN'T KILL MY
10 GRANDFATHER...

11 CPT. BROMAGE: NO, NO...

12 OATES: HE MADE THE CHOICE.

13 CPT. BROMAGE: HE DID. HE MADE THE CHOICE BECAUSE PROBABLY
14 HE WAS IN A LOT OF PAIN AND SUFFERING AND STUFF LIKE THAT,
15 YOU KNOW... OKAY, BECAUSE THAT WAS IN BOTH PAPERS AND IT'S
16 JUST ONE OF THOSE THINGS...

17 OATES: THAT'S... THAT'S HOW I COPE WITH IT.

18 CPT. BROMAGE: IT KIND OF NEEDS TO BE EXPLAINED, DON'T YOU
19 THINK?

20 OATES: (INAUDIBLE)...

21 CPT. BROMAGE: (INAUDIBLE)... YOU KNOW?

22 OATES: IT'S HOW I COPE WITH IT, I'M SORRY.

23 CPT. BROMAGE: CAUSE, I MEAN, THAT COULD BE CONSTRUED AS,

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 WHO THE HELL DOES HE THINK HE'S MESSING WITH... CAUSE I'M
2 GONNA GO BACK TO WHAT WE JUST TALKED ABOUT... YOU LEAVING
3 IT OUT THERE LIKE YOU COULD'VE BEEN SPECIAL OPS OR
4 SOMETHING WHEN YOU'RE TALKING TO SOMEBODY THAT WAS.
5 NOW LET ME TELL YOU SOMETHING, IT COULD BE CONSTRUED THAT
6 HE DIDN'T KNOW WHO HE WAS FUCKING WITH... COMING UP TO MY
7 CAR WITH A GUN... THAT'S LIKE SUICIDE... YOU UNDERSTAND? DO
8 YOU UNDERSTAND HOW IT CAN BE CONSTRUED? THAT COMMENT?

9 OATES: EVERYBODY... YEAH, I...

10 CPT. BROMAGE: NO... AND IT'S PRETTY... YOU KNOW, THAT'S THE
11 KIND OF STUFF YOU REALLY NEED TO EXPLAIN.

12 OATES: OKAY. WELL...

13 CPT. BROMAGE: I MEAN, WERE YOU BEING COCKY WITH THE PAPER?

14 OATES: NO.

15 CPT. BROMAGE: WERE YOU COPING WITH IT THAT WAY AND
16 SAYING...

17 OATES: THAT'S... THAT'S...

18 CPT. BROMAGE: ... YOU KNOW, THAT'S JUST NOT MY FAULT HERE, I
19 AIN'T GONNA...

20 OATES: THAT'S JUST HOW I DEAL WITH IT. I MEAN, WE ALL
21 HANDLE DEATH IN OUR OWN WAY...

22 CPT. BROMAGE: RIGHT, RIGHT...

23 OATES: AND THAT'S...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: RIGHT... WHAT DID YOU MEAN BY THIS WAS
2 SUICIDE... WHAT DID YOU MEAN BY THAT EXACTLY?
3 OATES: WHAT DID I MEAN BY IT? IT MEANT THAT HE WAS THERE,
4 HE WAS GONNA KILL ME, HE WAS... I HAD NO OTHER... I WAS DEAD...
5 I WAS A DEAD MAN... I HAD NO OTHER CHOICE. HE PUT HIMSELF IN
6 THAT POSITION, JUST LIKE MY GRANDFATHER DID, THAT'S WHY
7 USED THE TERM BECAUSE MY MOM SAID THAT. SHE SAID, YOUR
8 GRANDFATHER COMMITTED SUICIDE... (CRYING AGAIN)... IT WAS... I
9 MEAN, I WAS TRYING TO LET HIM... I... WHEN THEY JAG... WHEN HE
10 GRABBED THE KEYS AND THE PULLED FROM ME AND WALKED OFF, I
11 DIDN'T ARGUE, I DIDN'T YELL AT HIM, I DIDN'T HOOT AND HOLLER
12 AND SAY I'M GONNA CALL THE COPS, I'M GONNA DO THIS, I'M
13 GONNA DO THAT, YOU CAN'T TOUCH MY EQUIPMENT, YOU'RE
14 STEALING MY KEYS... NO... WHEN HE TOOK 'EM AND WALKED... I
15 DIDN'T EVEN SAY ANOTHER WORD ABOUT IT TO THE GUY...
16 CPT. BROMAGE: (INTERRUPTING)... OKAY... OKAY... WELL, LET'S
17 GET BACK INTO THIS, CAUSE THESE ARE QUESTIONS I'M GONNA BE
18 ASKED LATER...
19 OATES: AND I WAS JUST TELLING...
20 CPT. BROMAGE: ... CAUSE MY BOSS... OKAY...
21 OATES: AND THAT'S WHY I WAS TELLING THE LADY...
22 EVERYTHING'S FINE, HE HAS A GUN, HE'S FINE, GO INSIDE,
23 EVERYTHING'S... HE'S LEAVING... I EVEN SAID HE'S LEAVING SOON...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 I WANTED HIM TO GO... GO, GO...FINE...

2 CPT. BROMAGE: SO HE WASN'T TALKING WHILE YOU WERE TALKING

3 TO THIS LADY? HE ALLOWED YOU TO TALK... WAS THE WINDO ALL

4 THE WAY DOWN OR WAS IT STILL...

5 OATES: THERE WAS THIS MUCH GLASS EXPOSED... (MOTIONING)...

6 SO THE WINDOW WAS...

7 CPT. BROMAGE: ALMOST DOWN...

8 OATES: NINETY PERCENT OPEN...

9 CPT. BROMAGE: SO SHE WOULD'VE HEARD YOU?

10 OATES: OH, YEAH. I MEAN, I MADE EYE CONTACT WITH HER... I

11 SAID THAT AND SHE LOOKED AT ME AND... OKAY...

12 CPT. BROMAGE: OKAY... GEEZE...

13 OATES: WELL SHE DIDN'T LOOK AT ME AND SAY OKAY... SHE

14 JUST, YOU KNOW...

15 CPT. BROMAGE: YEAH, I KNOW...

16 OATES: OKAY, YEAH... LIKE TOUCHÉ...

17 CPT. BROMAGE: OKAY, SO... INITIALLY WHEN YOU SEE THESE

18 PEOPLE COMING OUT OF THE HOUSE RUNNING AND YOU JUMP BACK

19 IN THE TRUCK, WHY THE HELL DIDN'T YOU JUST DRIVE OFF?

20 OATES: THAT HAPPENS TO ME EVERY DAY.

21 CPT. BROMAGE: WHY DIDN'T...

22 OATES: EVERY SINGLE DAY...

23 CPT. BROMAGE: UNDERSTOOD, BUT THERE IS LAW ENFORCEMENT

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 TO TAKE CARE OF THESE SITUATIONS AND YOU, OF ALL PEOPLE,
2 KNOW THAT.

3 OATES: RIGHT.

4 CPT. BROMAGE: THERE IS LAW ENFORCEMENT... (INAUDIBLE)...

5 OATES: (INTERRUPTING - SPEAKING OVER EACH OTHER)... AT THE
6 TIME, WHEN ... WHEN THEY COMING UP TO MY TRUCK, I HAD NO
7 REASON TO RUN AWAY, I WASN'T BEING THREATENED, I WASN'T
8 BEING ASSAULTED.

9 CPT. BROMAGE: THEY'RE RUNNING TOWARDS YOUR CAR AND
10 YOU'RE JUMPING IN. YOU'RE OPENING YOUR WINDOW ABOUT THREE
11 OR FOUR INCHES...

12 OATES: NO, NO, NINETY PERCENT OPEN.

13 CPT. BROMAGE: WELL, YOU...

14 OATES: I ROLLED IT... I ROLLED IT ALL THE WAY DOWN. I TOLD
15 THE INVESTIGATORS...

16 CPT. BROMAGE: YOU TOLD ME THERE WAS THIS MUCH...

17 OATES: THERE WAS THIS MUCH WINDOW EXPOSED. THERE WAS
18 THIS MUCH GLASS EXPOSED.

19 CPT. BROMAGE: SO YOU'RE LEAVING THEM AN OPPORTUNITY TO
20 PUNCH YOU IN THE HEAD OR HIT YOU WITH A BRICK OR WHATEVER
21 THEY WANNA DO?

22 OATES: I HAVE... OH, I'M IN MY TRUCK WITH THE DOORS LOCKED,
23 BUT I HAVE TO COMMUNICATE WITH THEM. I CAN'T JUST ROLL THE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 WINDOW UP AND TELL 'EM TO GO FUCK OFF.

2 CPT. BROMAGE: YOU COULD.

3 OATES: YES.

4 CPT. BROMAGE: YOU COULD... PROBABLY NOT GOOD BUSINESS, BUT

5 YOU COULD...

6 OATES: THAT'S GONNA INSTIGATE ... THAT'LL BE ME PICKING A

7 FIGHT... I'M NOT TRYING TO PICK A FIGHT... I DIDN'T EVEN WANNA

8 BE OUT THERE.

9 CPT. BROMAGE: I UNDERSTAND... IT'S CHRISTMAS AND YOU DON'T

10 WANNA BE OUT THERE DICKING AROUND...

11 OATES: YOU KNOW...

12 CPT. BROMAGE: ... TOWING CARS, BUT THAT'S YOUR BUSINESS...

13 THAT'S WHAT YOU GOTTA DO. NOW...

14 OATES: IF I DON'T DO IT, OBVIOUSLY THEY'LL HIRE SOMEONE

15 ELSE.

16 CPT. BROMAGE: NO QUESTION ABOUT IT.

17 OATES: JEFFREY GOT RID OF THE CONTRACT AFTER THE

18 SHOOTOUT WITH HIS SON, PHIL.

19 CPT. BROMAGE: YEAH.

20 OATES: I READ THAT ONLINE TOO. I HAVEN'T CALLED JEFFREY

21 YET TO ASK HIM ABOUT IT, BUT I DON'T CARE WHAT PEOPLE...

22 (INAUDIBLE)...

23 CPT. BROMAGE: SO...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: AND IT WASN'T UNTIL THEY WERE ALREADY IN THE
2 WINDOW AND AFTER I... AFTER I EXPLAINED TO THEM, YOU KNOW,
3 THREE HUNDRED DOLLARS AND YOU'RE OUT OF HERE...
4 CPT. BROMAGE: RIGHT.
5 OATES: OH, NO, FUCK THIS... NO, FUCK YOU, MAN... AND THAT'S
6 WHEN HE PULLED THE GUN OUT...
7 CPT. BROMAGE: I'LL BE... I'LL BE HONEST, A CAR PARKED IN THE
8 STREET... I'M GONNA BE TELLING YOU THE SAME DAMN THING IF
9 YOU TRY TO TOW MY CAR. CAUSE THAT'S NOT AN UNLEGALLY
10 PARKED CAR. THAT MAY BE THE H.O.A., AND THEY'RE GIVING YOU
11 BACK ADVICE PERHAPS... BECAUSE, I MEAN, BY LAW...
12 OATES: (INAUDIBLE)...
13 CPT. BROMAGE: ... AS LONG AS A FIRE TRUCK OR AMBULANCE CAN
14 GET BY, AND IT'S CLOSE ENOUGH TO THE CURB, I GUESS IT WOULD
15 BE, WHAT, EIGHTEEN INCHES... WITHIN EIGHTEEN INCHES... THEY'RE
16 GOOD.
17 OATES: I'M... I'M NOT A LAWYER. I NOT A POLICE OFFICER...
18 CPT. BROMAGE: I KNOW THAT, BUT YOU KNOW WHAT... YOU HAVE
19 A CONTRACT WITH THESE PEOPLE...
20 OATES: AND THE SIGN IS POSTED AT THE ENTRANCE THAT SAYS...
21 CPT. BROMAGE: BUT YOU'VE ALSO GOTTA KNOW THE LAW TOO,
22 ESPECIALLY WHEN IT SAYS IT RELINQUISHES JURISDICTION OF
23 TRAFFIC RELEATED MATTERS TO LAW ENFORCEMENT. IT'S RIGHT

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 THERE ON THE FRONT TOO.

2 OATES: (INAUDIBLE)...

3 CPT. BROMAGE: PERHAPS NOT...

4 OATES: MASTER SERGEANT COVINGTON SENT ME AN E-MAIL

5 SAYING THAT...

6 CPT. BROMAGE: WE'RE NOT TALKING ABOUT MASTER SERGEANT

7 COVINGTON...

8 OATES: I'M TELLING YOU WHAT INFORMATION I'VE RECEIVED

9 THAT WAY YOU UNDERSTAND WHAT PAGE I'M ON.

10 CPT. BROMAGE: YEAH.

11 OATES: YOU KNOW WHERE I'M AT IN THIS WHOLE THING.

12 CPT. BROMAGE: I KNOW.

13 OATES: AM I SAVY WITH EVERY SINGLE LAW...

14 CPT. BROMAGE: YOU'RE DOING THIS...

15 OATES: NO, I'M NOT...

16 CPT. BROMAGE: NO, YOU'RE DOING... NO... NO, YOU'RE NOT...

17 OATES: (SPEAKING OVER EACH OTHER)... I'M JUST TRYING TO ...

18 FULL DISCLOSURE, LIKE YOU SAID, WE GOTTA BE FRIENDS HERE.

19 CPT. BROMAGE: YOU'RE DOING A SERVICE, RIGHT? FOR...

20 OATES: I'M PERFORMING A SERVICE... YES.

21 CPT. BROMAGE: YOU GOTTA MAKE SURE YOU'RE NOT PUTTING

22 YOURSELF IN A BAD WAY AND PUTTING YOURSELF IN A LIABLE

23 POSITION, AND THAT'S ESSENTIALLY WHAT YOU COULD BE DOING

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 HERE.

2 OATES: AND IT DID START THAT WAY, AND THAT'S WHY WHEN I
3 WAS PULLING VEHICLES OFF THE GRASS, BECAUSE THE H.O.A.
4 INSTRUCTED ME TO, I HAD TO GO BACK TO THEM AFTER MS. JACOBS
5 AND WE ALL... THAT'S ABOVE MY PAY GRADE, I'LL LET THE
6 MANAGEMENT COMPANY DEAL WITH ALL OF THAT...

7 CPT. BROMAGE: THAT'S FINE.

8 OATES: I'LL LET THEM HASH IT OUT WITH COVINGTON, REPORT
9 BACK TO ME. OKAY, PRESTON, WE'RE NOT GONNA TOW CARS OFF
10 THE GRASS. WE'RE NOT GONNA TOW ANYMORE CARS OFF THE
11 GRASS, WE CAN'T DO THAT, AND SO... BUT IF THEY'RE PARKED IN
12 THE STREET, TOW 'EM... AND IF THEY'RE PARKED AT THE POOL
13 WITHOUT A PARKING PASS, TOW 'EM. THAT'S WHAT I WAS TOLD
14 AFTER I LET STACY AND ALL THEM HASH IT OUT WITH COVINGTON.

15 CPT. BROMAGE: NO, AND THAT'S, YOU KNOW WHAT... THAT'S FINE...
16 CAUSE...

17 OATES: (INTERRUPTING)... IT'S LIKE A CHAIN OF COMMAND.

18 CPT. BROMAGE: THAT'S THE APPROPRIATE WAY TO HANDLE THINGS.
19 THAT'S FINE. I'VE GOT NO PROBLEM WITH THAT. YOU KNOW... I'VE
20 GOTTA BE CRITICAL OF WHAT HAPPENED... (INAUDIBLE)... AND ASK
21 THESE QUESTIONS TO YOU. OKAY? THAT'S MY JOB.

22 OATES: (INAUDIBLE MUMBLE)...

23 CPT. BROMAGE: THE SUICIDE THING DID NOT GO OVER WELL. I'M

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 GONNA TELL YOU THAT RIGHT NOW. IT SOUNDS LIKE SHIT AND IT
2 LOOKS IN THE PAPER... IT LOOKS LIKE... LOOK, AND YOU'VE GOT A
3 REPUTATION OF BEING COCKY, SO WHEN YOU'RE AT THAT POINT
4 AND YOU MAKE COMMENTS LIKE THAT, PEOPLE ARE GONNA
5 CONSTRUE IT THE WAY THEY WANT TO. AND THEY'RE THINKING
6 OKAY, YEAH, PRESTON'S BEEN RUNNING AROUND WITH A GUN, HE'S
7 BEEN STABBED, HE'S BEEN SHOT AT, HE'S SHOT BACK AT PEOPLE,
8 HE'S SAID ALL KINDS OF THINGS ALONG THE LAST COUPLE YEARS,
9 AND PEOPLE ARE AWARE OF IT. YOU'RE A BIG TARGET FOR THIS
10 KIND OF THING.

11 OATES: THEY CALL ME RACIST.

12 CPT. BROMAGE: WELL, IT'S PRETTY APPARENT TO ME, OKAY. I
13 MEAN, I'LL BE QUITE FRANK WITH YOU. YOU DON'T LIKE THE
14 LATINS. I'M GONNA BE...

15 OATES: DO YOU KNOW... AH... DO YOU KNOW NANCY ...
16 (INAUDIBLE LAST NAME)... USED TO BE NANCY DEMBACK (SP),
17 MARRIED TO JOSEPH DEMBACK (SP), FIREFIGHTER JOSEPH DEMBACK
18 (SP)...

19 CPT. BROMAGE: I REALLY DON'T KNOW.

20 OATES: HER NAME'S NANCY... NANCY GERERRA (SP)... SHE
21 WORKED AT MOE'S AND THEN AT GOLDEN CORAL...

22 CPT. BROMAGE: OKAY.

23 OATES: I RENT HER A ROOM IN MY HOUSE. SHE'S FROM

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 COLUMBIA. SHE'S LATIN.

2 CPT. BROMAGE: OKAY.

3 OATES: I SPEAK TO HER IN SPANISH.

4 CPT. BROMAGE: ALL RIGHT. OKAY... SO...

5 OATES: AND SO... LAST MONDAY I STAYED AT MY PARENTS

6 HOUSE BECAUSE THIS IS THE FIRST TIME IN ELEVEN YEARS THAT HER

7 ENTIRE FAMILY HAS BEEN TOGETHER FOR THE HOLIDAYS. SO

8 INSTEAD OF THERE BEING AN OUTSIDE CULTURE INFLUENCING ON

9 THEM OR BEING AROUND, I MADE THE PROPOSAL TO HER, NANCY, I

10 APOLOGIZE BUT I'VE GOT TO HELP MY MOM WITH CHRISTMAS STUFF.

11 I'VE GONNA STAY THE NIGHT AT MY PARENTS HOUSE THE ENTIRE

12 HOUSE IS YOURS AND YOUR FAMILY'S. IF YOU WOULD LIKE, YOU

13 AND YOUR SISTER, CAUSE THEY WERE TRYING TO GET SLEEPING

14 ARRANGEMENTS DONE... YOU'RE MORE THAN WELCOME TO USE MY

15 ROOM. BUT PLEASE ONLY YOU AND YOUR SISTER, I DON'T WANT ...

16 CPT. BROMAGE: AH...

17 OATES: ...RANDOM GUYS IN MY BED. IF YOU CAN RESPECT THAT,

18 THE HOUSE IS YOURS. AND I WENT AND STAYED AT MY PARENT'S

19 THAT WEEK...

20 CPT. BROMAGE: OKAY, OKAY... YOU KNOW WHAT, SOMETIMES IN

21 OUR TRAINING, IT'S A YES OR NO ANSWER, IT'S NOT AN

22 EXPLANATION, WHICH MEANS THERE'S SOME FUEL TO THE FIRE

23 SOMETIMES.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: OH, THERE'S PLENTY OF FUEL TO THE FIRE...

2 CPT. BROMAGE: MAYBE... MAYBE YOU DON'T LIKE... MAYBE YOU
3 DON'T LIKE ILLEGAL LATINS COMING IN THIS COUNTRY AND
4 SOAKING UP THE SOCIAL SERVICES AND EVERYTHING THEY'RE DOING.
5 MAYBE YOU... TELL ME YOU LIKE THAT...

6 OATES: NO COMMENT.

7 CPT. BROMAGE: WELL, I MEAN... THAT'S... AGAIN...

8 OATES: WE DON'T TALK... THERE'S THREE THINGS YOU DON'T
9 TALK ABOUT... THAT'S RELIGION, POLITICS AND MONEY.

10 CPT. BROMAGE: WHAT ARE WE TALKING ABOUT HERE?

11 OATES: FACTS.

12 CPT. BROMAGE: RIGHT.

13 OATES: I'M NOT RACIST. I DONATED... I GAVE RAY SMART'S MOM
14 A REALLY NICE CHECK WHEN HE COMMITTED SUICIDE IN THE
15 DETENTION CENTER. RAY SMART... RAY RAY.... RAY SMART ... THE
16 AFRICAN AMERICAN KID THAT HUNG HIMSELF IN BEAUFORT
17 COUNTY LAST YEAR...

18 CPT. BROMAGE: AH...

19 OATES: I GAVE...

20 CPT. BROMAGE: I MEAN THAT'S... THAT'S...

21 OATES: I GAVE HIS WIDOW... I GAVE HIS WIDOWED WIFE... HIS...
22 HIS WIFE A SUBSTANTIAL CHECK AT HIS FUNERAL...

23 CPT. BROMAGE: (INTERRUPTING)... I'M NOT SITTING HERE TRYING

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 TO BEAT YOU DOWN ABOUT RACISM, OKAY? YOU SAID PEOPLE
2 THOUGHT THAT OF YOU. I'VE HEARD THAT ABOUT YOU...
3 OATES: YOU WANT...
4 CPT. BROMAGE: I'M NOT POSING A QUESTION TO YOU.
5 OATES: YOU WANT IT ON THE RECORD?
6 CPT. BROMAGE: WHAT, ON THE RECORD WHETHER YOU'RE RACIST
7 OR NOT?
8 OATES: YEAH.
9 CPT. BROMAGE: IF YOU FEEL LIKE IT, YOU'VE ALREADY SAID NO
10 COMMENT... IT'S UP TO YOU.
11 OATES: I'M NOT RACIST. I HATE EVERYBODY EQUALLY...
12 (LAUGHS)...
13 CPT. BROMAGE: THAT'S THE OLD CLINT EASTWOOD, DIRTY HARRY
14 TRICK, RIGHT THERE... I HATE EVERYBODY... YOU KNOW WHAT...
15 PROBABLY NOT TRUE, BUT THAT'S YOUR STATEMENT. ALL RIGHT.
16 OATES: THAT'S WHY PEOPLE SAY I'M ARROGANT, COCKY, AND
17 KIND OF... YOU KNOW, PERSONALITY...
18 CPT. BROMAGE: WELL, NEVER COME IN AND... NEVER COME IN AND
19 PURPORT THAT YOU'RE SOMETHING THAT YOU'RE NOT. OKAY?
20 OATES: ALL RIGHT.
21 CPT. BROMAGE: DON'T LEAVE IT OUT THERE, CAUSE YOU...
22 PEOPLE...
23 OATES: I ... I UNDERSTAND.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: THAT'S THE BAD IDEA.

2 OATES: OKAY.

3 CPT. BROMAGE: OKAY, YOU KNOW WHAT PEOPLE COULD THINK
4 ABOUT THIS WHOLE INCIDENT HERE, YOU'RE WAITING FOR AN
5 OPPORTUNITY TO PUT A CAP IN SOMEBODY. IS THAT TRUE?

6 OATES: FURTHEST THING FROM IT.

7 CPT. BROMAGE: OKAY.

8 OATES: I DID EVERYTHING. I STALLED. I WAS TRYING TO GIVE
9 MISDIRECTION. I WAS DOING EVERYTHING I COULD JUST TO GET THE
10 THREAT AWAY, JUST GET 'EM AWAY FROM ME.

11 CPT. BROMAGE: ALL RIGHT.

12 OATES: IT'S LIKE I SAID, WHEN I MADE THE COMMENT, HE JUST
13 TOOK MY KEYS AND WALKED OFF... I KNEW, HE...

14 CPT. BROMAGE: (INTERRUPTING - SPEAKING OVER EACH OTHER)...
15 THE GUY'S GOT A GUN...

16 OATES: ... HE DIDN'T KNOW HOW TO USE 'EM...

17 CPT. BROMAGE: HE RACKS A GUN, HE PUTS IT BACK IN HIS
18 WASTEBAND...

19 OATES: NO, HE NEVER PUT IT BACK IN HIS WASTEBAND, HE... I
20 LOST IT OUT OF MY LINE OF SIGHT. I DON'T KNOW IF HE PUT IT BACK
21 IN HIS WASTEBAND OR IF HE STILL HAD IT IN HIS HAND...

22 CPT. BROMAGE: BUT YOU CLEARLY SEE HIM... HE RACKS IT...

23 OATES: HE RACKS IT AND THEN HE PUTS IT BACK BELOW THE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 EDGE OF THE DOOR AND THE WINDOW THAT WAS OPEN NINETY
2 PERCENT... EVEN THE DIAGRAM I DREW FOR THE DETECTIVES
3 SHOWS HOW FAR THE WINDOW WAS OPEN.
4 CPT. BROMAGE: SAYING HE WAS GONNA KILL YOU OR ANYTHING
5 LIKE THAT? WAS HE SAYING THAT? NOT THAT THAT...
6 OATES: FUCKER YOU'RE DONE... YA, YA... THIS IS MY VAN, YOU
7 KNOW, FUCK YOU... WHO THE FUCK DO YOU THINK YOU ARE... AND
8 HONESTLY, I ... I DIDN'T... I CAN'T RECOLLECT IF I SMELLED
9 ALCOHOL ON HIS BREATH WHEN HE WAS BARKING AT ME... BUT
10 REGARDLESS, ALCOHOL WAS NOTHING TO DO WITH THE GUN, THAT
11 WAS MY MAIN FOCUS. I WAS TRYING TO GET OUT OF HARM'S WAY.
12 AND SINCE MY FLIGHT OPTIONS WERE TAKEN, I WAS TRYING TO JUST
13 REVERT BACK TO BASIC LIFE SAFETY, CONSERVATION, JUST
14 PACIFY... BE... I FELL... I ACTUALLY TURNED AND BECAME
15 SUBMISSIVE. I ACTED... I WAS AS SUBMISSIVE AS POSSIBLE UNTIL
16 THAT RAN OUT... UNTIL, OKAY... THERE'S NO OTHER OPTION NOW. I
17 FELT LIKE WHEN HE OPENED THAT DOOR, I WAS WALKING INTO MY
18 EXECUTION. I FELT LIKE HE WAS WALKING IN... LIKE I WAS GONNA
19 DIE.
20 CPT. BROMAGE: OKAY... YOU SAY THAT...
21 OATES: CAUSE HIS BROTHER... I ... I WAS...
22 CPT. BROMAGE: (INTERRUPTING - SPEAKING OVER EACH OTHER)...
23 HIS BROTHER WAS PROBABLY TRYING TO GET THE BOOT OFF THE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CAR...

2 OATES: I WAS PROBABLY NINETY-NINE PERCENT SURE HIS
3 BROTHER COULDN'T GET THAT BOOT OFF.

4 CPT. BROMAGE: NO, PROBABLY NOT. HE WAS PROBABLY TRYING TO
5 GET YOU OUT OF THE CAR TO GET THE BOOT OFF THE DAMN CAR, IS
6 WHAT HE WAS DOING. YOU DON'T HAVE ANY RECORD OF ME, SO I'M
7 GONNA GET THE HELL OUT OF HERE AND I'M NOT GONNA WORRY
8 ABOUT IT. HE'S TRYING TO COVER HIS BEHIND, THIS GUY... THAT'S
9 WHAT IT SOUNDS LIKE TO ME. OKAY. YOU GOT A LADY ACROSS THE
10 STREET WHO KNOWS SOMETHING'S GOING ON HERE... YOU'RE NOT
11 BEING DRAGGED OUT TO YOUR EXECUTION... EITHER THAN OR HE'S
12 SCREWED. HE'S GOT WITNESSES ALL OVER THE STREET, NOW THIS IS
13 CHRISTMAS EVE, THIS IS NOT SOME DEAD STREET... THERE'S PLENTY
14 OF ACTIVITY THERE. NOW, I'M... I'M TELLING YOU AS SOMEBODY
15 THAT IS TRAINED IN THESE THINGS.

16 OATES: OKAY, WELL I'M NOT TRAINED...

17 CPT. BROMAGE: RIGHT, SO THE...

18 OATES: I DON'T KNOW... THIS WAS JUST GOING THROUGH MY
19 MIND...

20 CPT. BROMAGE: ALL RIGHT... (INTERRUPTING - RAISING VOICES
21 OVER EACH OTHER)... BUT YOU DID SAY YOU HAVE TRAINING IN
22 STUFF LIKE THAT AND THAT'S WHAT YOU WERE PURPORTING A
23 LITTLE WHILE AGO, THE FIRE TRAINING AND STUFF LIKE THAT. IS IT

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 REASONABLE FOR YOU NOT TO DRIVE OFF WHEN THESE LUNATICS
2 ARE COMING AT YOUR CAR. I WOULD'VE PROBABLY DROVE OFF
3 AND CALLED THE COPS AND HAVE THEM COME THERE AND RESOLVE
4 THE ISSUE. YOU GET YOUR CAR, YOU GET YOUR MONEY...

5 OATES: HOW WOULD I HAVE DRIVEN OFF? HE WAS STANDING ON
6 MY TRUCK HOLDING ON TO THE MIRROR.

7 CPT. BROMAGE: BEFORE THEY EVEN GOT TO THE CAR. THERE'S
8 THREE GUYS COMING AT YOUR CAR, BUT YOU KNOW ONE THING,
9 YOU'VE GOT A GLOCK IN YOUR GLOVE BOX, DON'T YOU?

10 OATES: THAT... I ONLY THOUGHT OF THAT AFTER...

11 CPT. BROMAGE: THAT'S THE ONLY REASON YOU STUCK AROUND...

12 OATES: AFTER... AFTER...

13 CPT. BROMAGE: YOU'RE TELLING ME... YOU'RE TELLING ME YOU
14 STUCK AROUND TO BE REASONABLE WITH THREE GUYS RUNNING
15 AFTER YOUR CAR? I'LL CALL YOU A LIAR...

16 OATES: IT HAPPENS EVERY DAY...

17 CPT. BROMAGE: RIGHT NOW...

18 OATES: IT HAPPENS EVERY DAY, BOB.

19 CPT. BROMAGE: AND WHERE IS YOUR GUN WHEN THIS HAPPENS?

20 OATES: IN THE BOX.

21 CPT. BROMAGE: WHERE'S YOUR GUN? AND DON'T BULLSHIT ME,
22 WHERE'S YOUR GUN WHEN THIS HAPPENS?

23 OATES: IT'S USUALLY IN THE GLOVE BOX. IT'S ALWAYS IN THE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 GLOVE BOX.

2 CPT. BROMAGE: SITS IN THE GLOVE BOX... YOU GOT THREE PEOPLE
3 SURROUNDING YOUR CAR... HOW YOU GONNA DEFEND YOURSELF?
4 THAT GLOCK...

5 OATES: SAME THINGS AT SHADY GLENN. I NEVER GOT IT OUT, IT
6 NEVER HAPPENED... I GOT... I ... I GOT A TEN INCH KITCHEN KNIFE IN
7 MY BACK, BOB. I NEVER... I HAD THE OPPORTUNITY TO GET IT OUT
8 OF THE GLOVE BOX, BUT GUESS WHAT... IT WASN'T THE SAME... IT
9 WASN'T THE RIGHT THING TO DO. IT WASN'T ... THERE WOULD'VE
10 BEEN MORE VICTIMS... IF I WOULD'VE GOTTEN THAT GUN OUT OF MY
11 GLOVE BOX, MORE THAN THE GUY WITH THE KNIFE PROBABLY
12 WOULD'VE GOTTEN HARMED BECAUSE IT WAS A FUCKING PINATA
13 EXPLODED. I WAS GETTING HIT ... THEY WERE THROWING CHUNKS
14 OF CINDER BLOCKS AT ME. I GOT HIT IN BETWEEN THE LEGS BY A
15 CHUNK OF A CINDER BLOCK. I MEAN, I HAD ROCK CHUNKERS OVER
16 STANDING IN THE YARDS IN SHADY GLENN THROWING CHUNKS OF
17 CINDER BLOCKS AT ME. SO THE PRUDENT PERSON WOULD SAY
18 YOU'RE NOT GONNA... YOU DON'T WANNA INTENSIFY THE
19 SITUATION. YOU DON'T WANNA BRING A GUN INTO A SITUATION
20 AND MAKE IT MORE VOLATILE ...

21 CPT. BROMAGE: OKAY.

22 OATES: THAT'S WHAT THE PRUDENT MAN WOULD SAY TO THAT.

23 CPT. BROMAGE: OKAY. YOU GOT A LADY THAT ...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: I HAVE ...

2 CPT. BROMAGE: YOU HAD A NICE... YOU HAD A NICE DISTRACTION
3 AT ONE POINT WHERE YOU COULD'VE EITHER... YOU COULD'VE
4 EITHER TOOK OFF OR YOU COULD'VE...

5 OATES: HE WAS STILL STANDING IN MY WINDOW...

6 CPT. BROMAGE: YOU COULD'VE SHOT HIM RIGHT THROUGH THE
7 WINDOW, COULDN'T YOU HAVE, IF YOU WANTED TO.

8 OATES: IF I WANTED TO, FUCK YEAH.

9 CPT. BROMAGE: ALL RIGHT. WHY DIDN'T YOU?

10 OATES: AND DID HIM WHEN THAT LADY WAS STANDING BACK
11 THERE.

12 CPT. BROMAGE: THERE YA GO. WHY DIDN'T YOU DO IT?

13 OATES: BECAUSE I WASN'T IN FEAR FOR MY LIFE AT THAT TIME.

14 CPT. BROMAGE: (INAUDIBLE)...

15 OATES: I WAS TRYING TO NEGOTIATE WITH HIM...

16 CPT. BROMAGE: ALL RIGHT, LET ME GET...

17 OATES: (INTERRUPTING - SPEAKING OVER EACH OTHER)... I WAS
18 TRYING TO RESOLVE THIS THING.

19 CPT. BROMAGE: LET ME GET THIS... LET ME GET THIS STRAIGHT.
20 YOU'VE GOT A FUCKING GUN POINTED IN THE WINDOW AND YOU'RE
21 NOT FEARED FOR YOUR LIFE AT THAT POINT?

22 OATES: HE DIDN'T POINT... HE DIDN'T STICK THE GUN INTO MY
23 FACE UNTIL AFTER THE BLACK LADY... ME AND THE BLACK LADY

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 HAD THE CONVERSATION.

2 CPT. BROMAGE: LOOK, MAN...

3 OATES: YES, THAT'S WHEN HE PUT IT BACK DOWN AND WHEN WE
4 WERE TALKING AND THEN HE...

5 CPT. BROMAGE: AND HE TOOK IT BACK OUT OF THE WINDOW WHEN
6 YOU WERE TALKING...

7 OATES: (INTERRUPTING - SPEAKING OVER EACH OTHER)... BOB,
8 WHEN I WAS LOOKING AT HER OVER THE SHOULDER, AND THEN I
9 CAME BACK ... DOWN, HE HAD THE GUN DOWN...

10 CPT. BROMAGE: HE HAD THE GUN DOWN AT THAT POINT.

11 OATES: BUT HOW WAS I GONNA DIVE FOR THE GLOVE BOX WHEN
12 HE HAD IT...

13 CPT. BROMAGE: BUT YOU WERE ALREADY... YOU'RE... YOU'RE IN
14 FEAR FOR YOUR DAMN LIFE, THERE'S NO QUESTION IN MY MIND...

15 OATES: IF I HAD REACHED FOR THAT GUN IN THE HOLSTER, IN THE
16 GLOVE BOX, AND HE STILL HAD THAT GUN ON ME... DONE. LIKE, IT
17 WOULD'VE BEEN THE PERFECT TIME, BUT HE STILL HAD THE GUN ON
18 ME. IT WASN'T UNTIL AFTER THE INCIDENT WITH THE BLACK LADY
19 HAPPENED...

20 CPT. BROMAGE: ALL RIGHT. YOU'VE HAD AN OPPORTUNITY...

21 OATES: ... THAT HE LOWERED IT DOWN...

22 CPT. BROMAGE: YOU HAD AN OPPORTUNITY BECAUSE HE DID NOT
23 HAVE THE GUN AT YOU AT THAT POINT.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: YES, SIR.

2 CPT. BROMAGE: THAT'S A POINT, IS IT NOT?

3 OATES: THAT'S...

4 CPT. BROMAGE: AND I'M JUST... I'M JUST BE ARGUMENTATIVE...

5 OATES: THAT'S NOT ACCURATE.

6 CPT. BROMAGE: I'M BEING... I'M BEING ARGUMENTATIVE HERE.

7 OATES: THAT'S FINE. IT'S INACCURATE.

8 CPT. BROMAGE: LET ME... LET ME THROW A LITTLE KEY IN THERE

9 TOO... WHEN YOU SHOT HIM IN THE RIGHT BACK SHOULDER, YOU

10 BROKE HIS FUCKING ARM. YOU SHATTERED HIS ARM. HE ... HE

11 DIDN'T HAVE THE GUN ANYMORE. THAT GUN WAS GONE.

12 OATES: (BLOWING SOUND)...

13 CPT. BROMAGE: ALL RIGHT. WOULDN'T YOU SAY? I MEAN, YOU

14 IMMOBILIZED THE HELL OUT OF THE ARM, I'M GONNA TELL YOU

15 THAT RIGHT NOW.

16 OATES: OKAY, WELL...

17 CPT. BROMAGE: I'M JUST LETTING YOU KNOW.

18 OATES: I SAW...

19 CPT. BROMAGE: IT'S NOT ABOUT... YOU KNOW WHY HE HAD THAT

20 ARM LIKE THAT, CAUSE HE COULDN'T MOVE IT...

21 OATES: NO, THE GUN WAS IN HIS HAND... AND I FOLL- ...I SAW THE

22 GUN IN HIS HAND AND I FOLLOWED IT UP TO HIS ARM AND I SAW HIS

23 SHOULDER AND THAT'S WHERE MY TRIJICON (SP) NIGHT SITES WERE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 LINED UP RIGHT THERE AND THAT WAS THE SECOND SHOT WAS INTO
2 HIS SHOULDER.

3 CPT. BROMAGE: RIGHT. AND THEN YOU SAID HE CAME BACK AT
4 YOU...

5 OATES: AND THEN HE MADE EYE CONTACT WITH ME AND HE WAS
6 TURNING BACK AND I SAID I DIDN'T SEE HIS HANDS. I DIDN'T LOOK
7 AT HIS HANDS.

8 CPT. BROMAGE: OKAY.

9 OATES: I WAS STARING INTO HIS EYES AND I SAW HIS BODY
10 SWINGING TOWARD ME.

11 CPT. BROMAGE: OKAY, WELL LET ME ASK YOU THIS AND I'M JUST
12 GONNA THROW THIS OUT THERE TOO. HOW THE HELL WAS HE SHOT,
13 DIRECT CENTER, THROUGH THE TOP OF THE HEAD RIGHT HERE, BACK
14 OF THE NECK, AND THROUGH HIS FACE, IF HIS BACK WASN'T TO
15 YOU? HOW WAS HE THOUGHT... SHOT THROUGH THE SOFT TISSUE UP
16 HERE IN HIS LEFT SHOULDER, DOWNWARD WHERE THE BULLET
17 LODGED IN HIS HEART IF YOU WEREN'T BEHIND HIM... IF HE WASN'T
18 FLEEING OR IF HE WASN'T DOWN WHEN YOU WERE FIRING? THESE
19 ARE QUESTIONS I HAVE.

20 OATES: AS I TOLD YOU BEFORE, I CAN CLEARLY REMEMBER
21 SHOTS ONE AND TWO.

22 CPT. BROMAGE: RIGHT.

23 OATES: I REMEMBER THE FIRST AND THE SECOND SHOT. THREE,

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 FOUR AND IF A FIVE, I HAD MY... IT WAS A PANIC FIRE. I TOLD YOU...
2 I TOOK MY EYES... I TOOK A BREATH AND SQUEEZED UNTIL I HEARD
3 THAT GUN HIT THE GROUND. I HAVE... AS I TOLD YOU BEFORE, I
4 HAVE NO IDEA IF... WHERE THREE AND FOUR WENT AND EVEN IF
5 THERE WAS A FIVE. IF A FIFTH...

6 CPT. BROMAGE: A FIVE AND SIX.

7 OATES: OKAY.

8 CPT. BROMAGE: THERE WERE SIX.

9 OATES: OKAY.

10 CPT. BROMAGE: ALL RIGHT.

11 OATES: WELL, I DON'T KNOW WHETHER... IT'D BE A SHOT OR
12 GUESS IN THE DARK, A FART IN THE WIND, I...

13 CPT. BROMAGE: SO YOU'RE BASICALLY SAYING YOU BLACKED OUT
14 WHEN THIS WAS HAPPENING?

15 OATES: WHEN WE MADE EYE CONTACT, I DIDN'T WANNA LOOK
16 INTO HIS EYES.

17 CPT. BROMAGE: OKAY.

18 OATES: AND I REMEMBER HOLDING MY BREATH CAUSE I
19 REMEMBER... AND WHEN I HEARD THE GUN, I REMEMBER GOING...
20 (MAKES LOUD BREATHING INWARD SOUND)... LIKE THAT... I
21 REMEMBER JUST GASPING FOR AIR.

22 CPT. BROMAGE: OKAY. NOW, THIS WHOLE RACIAL THING THAT
23 COMES UP. YOU KNOW WHY IT COMES UP IN BEAUFORT? YOU

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 KNOW, LOOKED AT SOME OF YOUR ACCOUNTS AND SEEING THIS MY
2 SPACE AND STUFF LIKE THAT AND THERE'S...

3 OATES: I HAVEN'T BEEN ON MY SPACE SINCE...

4 CPT. BROMAGE: RIGHT.

5 OATES: 2005...

6 CPT. BROMAGE: WELL, IT'S SOMETHING YOU MIGHT WANNA
7 CONSIDER.

8 OATES: I DON'T EVEN KNOW THE PASS- ...

9 CPT. BROMAGE: THERE'S THIS RIDICULOUS STUFF ON IT, LIKE THE ...
10 ABOUT PHONE CALLS, YOU KNOW, THE PHONE SYSTEM, CAUSE
11 THERE'S ENTER ONE IF YOUR LATIN AND STUFF LIKE THAT... THAT'S
12 THE KIND OF STUFF.

13 OATES: HABLA ESPAÑOL?

14 CPT. BROMAGE: HUH?

15 OATES: HABLA ESPAÑOL?

16 CPT. BROMAGE: POQUITO, MAN.

17 OATES: UH POQUITO? ESPAÑOL ESQUELA?

18 CPT. BROMAGE: HUH?

19 OATES: ESCA ESCUELA (SP)...

20 CPT. BROMAGE: NO...

21 OATES: STUDIO ESPAÑOL ESCUELA (SP)... (SPEAKING IN SPANISH -
22 UNDETERMINED IF SPOKEN/SPELLED CORRECTLY)...

23 CPT. BROMAGE: NO I DIDN'T GO TO SCHOOL ON SPANISH.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: NO, DID YOU STUDY SPANISH... ESCUELA IS SCHOOL...

2 CPT. BROMAGE: NO, I DIDN'T STUDY SPANISH.

3 OATES: OKAY..

4 CPT. BROMAGE: JUST SO YOU KNOW. THAT IS NOTHING TO DO WITH
5 THIS.

6 OATES: I'M SAYING, I SPEAK A LITTLE SPANISH...

7 CPT. BROMAGE: (INAUDIBLE)...

8 OATES: WE'LL CALL IT THE FIRST AMENDMENT...

9 CPT. BROMAGE: LOOK, THERE'S NOTHING WRONG WITH THAT.
10 YOU'VE GOT EVERY RIGHT TO SAY WHAT YOU WANNA SAY. BUT
11 OKAY, WHEN YOU GET AN INCIDENT LIKE THIS AND YOU HAVE
12 OTHER INSTANCES INVOLVING LATINS, THAT'S THE STUFF THAT
13 GETS AROUND.

14 OATES: TRAILER PARK... THAT WAS A WHITE BOY.

15 CPT. BROMAGE: GOT IT... KNOW THAT. KNOW THAT... (INAUDIBLE
16 MUMBLE)... NO...

17 OATES: HUH?

18 CPT. BROMAGE: IT'S JUST A LOT OF DIFFERENT STUFF GOING ON
19 WHERE YOU'VE HAD ISSUES WITH ... YOU KNOW WHAT, IT'S PART OF
20 YOUR JOB.

21 OATES: BUT AS SHADY GLENN I WAS THE VICTIM.

22 CPT. BROMAGE: RIGHT. I REALIZE THAT.

23 OATES: EVEN WHEN THERE WERE NO ARREST MADE, YOU KNOW,

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 PEOPLE HAVE A RIGHT TO DEFEND THEIR PROPERTY, AND I WAS
2 OKAY, THEY CAN STAB YOU IN THE BACK WITH A KNIFE EVEN
3 THOUGH HE CAME OUT, APPROACHED ME... I'LL GET MONEY, I'LL BE
4 RIGHT BACK, AND HE RAN BACK TO HIS HOUSE, GOT THE KITCHEN
5 KNIFE AND THEN CAME BACK TO ME WITH IT... WITH IT OUT.

6 CPT. BROMAGE: WERE YOU LAWFULLY TOWING THE CAR?

7 OATES: YES. I WASN'T EVEN HOOKED UP TO IT YET. I WAS IN
8 FRONT OF THE HOUSE.

9 CPT. BROMAGE: LET ME TELL YOU THIS, THERE'S A BIG QUESTION
10 WHETHER YOU WERE LAWFULLY TOWING THE CAR THE OTHER
11 NIGHT. I'M WANNA BE FRANK WITH YOU..

12 OATES: OKAY.

13 CPT. BROMAGE: AND JUST SO YOU KNOW, AND AGAIN...

14 OATES: OH WELL I WASN'T TOWING...

15 CPT. BROMAGE: ... THAT'S NOT MY DECISION TO MAKE...

16 OATES: I ... I WASN'T TOWING IT. MY VEH- ... MY TOW...

17 CPT. BROMAGE: WELL, YOU BOOTED THE DAMN CAR, YOU SEIZED
18 THE CAR ESSENTIALLY...

19 OATES: YEAH...

20 CPT. BROMAGE: IT'S WAS A SEIZURE, RIGHT?

21 OATES: YEAH.

22 CPT. BROMAGE: AND IT IS. AND, YOU KNOW, FOR WHAT IT'S... WHAT
23 IT'S WORTH...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: RIGHT.

2 CPT. BROMAGE: I MEAN. THAT'S NOT BLACK AND WHITE, THAT'S

3 JUST OUT THERE. BUT, YOU KNOW...

4 OATES: AND MS. JACOBS, I DIDN'T...

5 CPT. BROMAGE: NOW DON'T SAY STUFF...

6 OATES: NO, I WAS GONNA TELL YOU I CAN TELL YOU THE EXACT

7 TIME SHE CALLED ME EARLY THAT MORNING AND ASKED ME TO

8 PLEASE MAKE SURE TO PATROL HEAVILY OUT THERE THROUGH

9 CHRISTMAS...

10 CPT. BROMAGE: (INTERRUPTING - LOUDLY SPEAKING OVER EACH

11 OTHER - INAUDIBLE)... I BELIEVE THAT'S A HUNDRED PERCENT TRUE

12 TOO, SO WHY DON'T YOU... YOU'VE GOT IT ON YOUR PHONE, GIVE IT

13 TO ME.

14 OATES: OF COURSE, OF COURSE...

15 CPT. BROMAGE: MAKING THE CALLS WHEN YOU'RE WAITING FOR US

16 TO GET THERE OR WAS IT JUST 9-1-1?

17 OATES: I STAYED ON THE PHONE WITH DISPATCH FROM EIGHT

18 THIRTY-ONE P.M. UNTIL THE DEPUTIES TOLD ME TO HANG UP THE

19 PHONE, PUT MY GUN DOWN, LAY ON THE GROUND.

20 CPT. BROMAGE: OKAY, LET ME ... THREE GUYS WERE STANDING AT

21 YOU, WHY DIDN'T YOU HIT THAT SPEED DIAL?

22 OATES: BECAUSE THE PHONE WAS IN MY... IN MY SIDE...

23 CPT. BROMAGE: I THOUGHT YOU SAID IT WAS IN YOUR HAND?

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: I GOT INTO THE TRUCK AND I HAD IT OUT.

2 CPT. BROMAGE: RIGHT.

3 OATES: AND THEN...

4 CPT. BROMAGE: (INAUDIBLE)...

5 OATES: YEAH. I WAS GOING TO, BUT...

6 CPT. BROMAGE: (INAUDIBLE)... IT'S NO GOOD, I'M NOT GONNA SIT

7 HERE AND DO WITH YOU.

8 OATES: IT HAPPENED, BOB. IT WAS ...

9 CPT. BROMAGE: HOW LONG WERE YOU THERE TO NEGOTIATE WITH

10 THE ONE GUY AT YOUR WINDOW? HOW LONG DID THAT GO ON?

11 OATES: THREE, FOUR, FIVE MINUTES... SEVEN MINUTES... SIX

12 MINUTES... I...

13 CPT. BROMAGE: THE ONE GUY WAS THERE WITH THE GUN

14 BRANDISHED FOR THAT LONG?

15 OATES: TWO MINUTES, THREE MINUTES... WELL, THE TOTAL TIME

16 BECAUSE HIS BROTHER GOT THE KEYS AND THE BOOT... THE TOOLS

17 ALL THAT... HE SNATCHED THAT FROM ME AND WALKED AWAY... IT

18 WAS JUST ME AND HIM.

19 CPT. BROMAGE: WAS THE GUY TO THE WINDOW WHEN YOU

20 GRABBED YOUR GUN FROM THE GLOVE BOX WITH ALL THE

21 PAPERWORK?

22 OATES: HE... HE... THE... AFTER THE LADY, EVERYTHING'S FINE,

23 IT'S OKAY, YOU KNOW, GO INSIDE, DUH DA DA... THAT'S WHEN HE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 HAD THE GUN BACK DOWN AND I... I ... I ALREADY HAD THE GUN IN
2 MY RIGHT HAND UNDER THE PAPERWORK AND ALL THAT STUFF
3 CAUSE AS I WAS SHOWING HIM THE PAPERWORK AND STUFF LIKE
4 THAT...

5 CPT. BROMAGE: YOU WEREN'T IN THE GLOVE BOX IN FRONT OF HIM
6 WHEN HE...

7 OATES: I HAD MY RIGHT HAND...

8 CPT. BROMAGE: (INAUDIBLE)...

9 OATES: I PULLED MY LEFT GLOVE OFF...

10 CPT. BROMAGE: OKAY.

11 OATES: AND I USED MY SHOULDER, YOU KNOW... FLIP IT, YEAH,
12 HERE'S A LOOK AT THESE PAPERS.

13 CPT. BROMAGE: AND THE GUN WAS ACTUALLY ON YOUR LAP AT
14 THAT POINT?

15 OATES: I ... I PICKED UP, YOU KNOW, ALL THE PAPERWORK...

16 CPT. BROMAGE: YEAH, I... (INTERRUPTING)... (INAUDIBLE)...

17 OATES: ALL AT ONCE AND JUST PUT THE WHOLE THING IN MY
18 LAP.

19 CPT. BROMAGE: OKAY.

20 OATES: THEN I PICKED UP EVERYTHING AND THE GUN IN MY
21 HAND AND BROUGHT IT BACK OVER TO THE SEAT AND AS I WAS
22 MOVING IT, YOU KNOW, MOVING IT, YOU KNOW, SLINGING OVER...

23 CPT. BROMAGE: YEAH.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: ...YOU KNOW, MOVING IT, MY THUMB POPPED OFF THE
2 CENTER SNAP THAT HOLDS THE NYLON...

3 CPT. BROMAGE: YEAH.

4 OATES: ... ROPE AROUND THE GUN...

5 CPT. BROMAGE: YOU READIED IT, JUST IN CASE. I UNDERSTAND.

6 SO...

7 OATES: AND...

8 CPT. BROMAGE: SO WHERE'S ALL THE PAPERWORK WHEN WE GET
9 TO YOUR CAR AND CHECK IT? WHERE'D ALL THE PAPERWORK GO
10 THAT WAS...

11 OATES: IN THE GLOVE BOX, THERE WAS...

12 CPT. BROMAGE: DID YOU PUT IT IN...

13 OATES: THERE SHOULD'VE BEEN A STACK, I MEAN, A FRICKIN
14 STACK OF TOW TICKETS THIS THICK IN THERE.

15 CPT. BROMAGE: YEAH, BUT I MEAN, YOU PUT IT BACK IN?

16 OATES: NO.

17 CPT. BROMAGE: IT SHOULD'VE BEEN ON THE PASSENGER'S SEAT,
18 THEN, RIGHT?

19 OATES: IT MIGHT HAVE BEEN IN THE FLOOR BOARD. I REMEMBER
20 PUTTING MY LEDGER BACK ON THE DASH AND THE ... I REMEMBER I
21 LEFT THE NYLON HOLSTER THING IN THE PASSENGER'S SEAT.

22 CPT. BROMAGE: RIGHT. WHERE WAS THE PAPERWORK YOU PULLED
23 OUT OF THE GLOVE BOX?

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: IT WAS EITHER ON THE CENTER CONSOLE AT THE AT TIME
2 OR IN THE PASSENGER'S SEAT. SOMEWHERE... IT SHOULD'VE BEEN
3 BETWEEN MY LAP AND THE PASSENGER'S SEAT. I DON'T KNOW IF IT
4 WAS THE CENTER CONSOLE OR...

5 CPT. BROMAGE: OKAY, WHAT DID YOU PULL OUT, JUST RANDOM
6 PAPERWORK?

7 OATES: I DON'T EVEN KNOW. I MEAN, IT WAS JUST JUNK. YOU
8 KNOW, GAS RECEIPTS OR ...

9 CPT. BROMAGE: I GOTCHA.

10 OATES: ... TOW TICKETS AND A PRICE LIST... PRICE LIST... YOU
11 KNOW, PRICES SHOWING ALL OF MY PRICES ON EVERYTHING. JUST
12 RAND- ANYTHING I COULD GET. YOU KNOW, BOB, I WAS IN A
13 PANIC AND I WAS TRYING TO STALL, TRYING TO JUST PACIFY. I WAS
14 IN SUBMISSIVE, PACIFYING MODE.

15 CPT. BROMAGE: OKAY.

16 OATES: A LOT OF THE REASONS WHY POLICE WHEN THEY
17 QUESTION YOU, THEY HAVE YOU SITTING ON THE GROUND AND
18 THEY STAND OVER YOU. IT'S A SUBMISSIVE THING.

19 CPT. BROMAGE: WELL, THAT'S NOT HOW QUESTION ANYBODY.

20 OATES: WELL, I'M... I'M NOT GETTING PERSONAL.

21 CPT. BROMAGE: NO, I KNOW THAT. WHO THE HELL WOULD ... IF
22 YOU'RE BEING QUESTIONED LIKE THAT, YOU LET ME KNOW. NO,
23 THIS IS NOT RIGHT. (LAUGHING)... I'M JUST TELLING YOU. THAT'S

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 NOT HOW YOU...

2 OATES: WELL THAT'S ALL I...

3 CPT. BROMAGE: ... GET ANY COOPERATION WHATSOEVER... THAT'S
4 WHY YOU'RE SITTING IN MY OFFICE RELAXING, YOU'RE NOT IN A
5 HOSTILE ENVIRONMENT. SO... NOW, YOUR FIRST STATEMENT TO THE
6 LAW ENFORCEMENT THAT NIGHT, WHICH YOU KNOW I LISTENED
7 TO...

8 OATES: OKAY.

9 CPT. BROMAGE: AND THIS ONE, THERE'S A DISTINCT DIFFERENCE. A
10 HUGE DIFFERENCE ACTUALLY. THE DIFFERENCE IS THAT NOW THIS
11 GUY'S GOT A GUN COMING THROUGH THE WINDOW AND NOW YOU
12 SAW HIM RACKET RATHER THAN HEARD HIM RACKET... SO WHAT'S
13 THE TRUTH?

14 OATES: I COULD SEE THE LITTLE SILVER PLATE OF THE SERIAL
15 NUMBER SHINE...

16 CPT. BROMAGE: RIGHT. YOU SAID... (INTERRUPTING)...

17 OATES: (INAUDIBLE)...

18 CPT. BROMAGE: YOU SAID HE PICKED IT UP AND RACKED...

19 OATES: YES.

20 CPT. BROMAGE: (INAUDIBLE)... YOU SAID THAT CLEARLY TO ME...

21 OATES: ~ YES.

22 CPT. BROMAGE: AND YOU SAW THAT...

23 OATES: I SAW THE FLASH OF THE LITTLE SILVER PLATE WHERE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 THE SERIAL NUMBER WAS.
2 CPT. BROMAGE: OKAY.
3 OATES: I COULDN'T SEE THE SERIAL NUMBER, I'M SORRY.
4 CPT. BROMAGE: WHEREAS... WHEREAS YOU HEARD IT THE OTHER
5 NIGHT. AND NOW HE'S GOT A GUN POINTED INSIDE AT YOUR HEAD
6 IN YOUR DIRECTION. THAT NEVER CAME OUT THE OTHER NIGHT.
7 OATES: IT DIDN'T?
8 CPT. BROMAGE: NO.
9 OATES: WELL... I... I COULD'VE... I HAVE MY WRITTEN
10 STATEMENT SOMEWHERE. I CAN GO CHECK IT.
11 CPT. BROMAGE: THAT'S... THAT'S PRETTY SIGNIFICANT. THAT'S A
12 SIGNIFICANT DETAIL.
13 OATES: IS IT?
14 CPT. BROMAGE: YEAH, THAT SOMEBODY'S POINTING A GUN AT
15 YOUR HEAD?
16 OATES: OH, I MADE... (INAUDIBLE)...
17 CPT. BROMAGE: (INTERRUPTING)...
18 OATES: I THOUGHT I MADE IT CLEAR, BOB, I'M SORRY.
19 CPT. BROMAGE: THAT WASN'T CLEAR. I'LL TELL YOU THAT RIGHT
20 NOW...
21 OATES: BOB...
22 CPT. BROMAGE: TO ME, THAT'S A HUGE DETAIL. YOU KNOW, I
23 WOULD'VE THOUGHT TO PROBABLY SAY BECAUSE THAT'S WHY I

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 FEEL MY LIFE'S IN DANGER, BECAUSE UP TO THAT POINT YOU'RE
2 NOT... (INAUDIBLE)... YOU DON'T HAVE A GUN POINTED AT YOU...

3 OATES: ALL RIGHT. HE... HE BRANDISHED IT, HE SHOWED IT TO
4 ME AND THEN... AFTER HIS BROTHER LEFT THE WINDOW, THAT'S
5 WHEN HE GOT MORE AGGRESSIVE.

6 CPT. BROMAGE: AND ACTUALLY HAD THE GUN OUT...

7 OATES: AND THAT'S WHEN HE HAD IT AND...

8 CPT. BROMAGE: THRUUGH THE WINDOW...

9 OATES: YES. WHEN HIM AND HIS BROTHER WERE THERE AND
10 THEY WERE FOCUSING ON THE KEY THING. IT WAS HIM AND HIS
11 BROTHER STANDING THERE AND SINCE THEY WERE BOTH, YOU
12 KNOW, KIND OF SHOULDER TO SHOULDER IN THE WINDOW, HE
13 RATCHEDED IT, HE RATCHEDED IT...DID THAT AND THEN...

14 CPT. BROMAGE: WHERE WAS THE OTHER GUY AT THAT POINT...
15 (INAUDIBLE MUMBLE)...

16 (BRIEF PAUSE AND INAUDIBLE MUMBLE)...

17 OATES: SO... THE THIRD, YOU KNOW, ALL THREE OF THEM CAME
18 OUT... RIGHT AFTER THAT AND THAT'S WHEN HE SAID... HE TOLD
19 THE GUY GO GET MY SHOTGUN AND I COULDN'T SEE... I COULDN'T
20 EVEN SEE WHAT THE GUY... I THINK...

21 CPT. BROMAGE: ARE YOU SURE IT WAS A GUY, THERE WERE THREE
22 GUYS? OR COULD IT HAVE BEEN TWO GUYS AND A WOMAN.

23 OATES: IT WAS... BLUE PANTS, WHITE SHIRT AND MIDDLE, JUST

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 PAST SHOULDER LENGTH STRAIGHT BLACK HAIR PULLED INTO A
2 PONYTAIL.

3 CPT. BROMAGE: SO, IT COULD'VE BEEN EITHER?

4 OATES: AND MAYBE SHE SUFFERED A... OR MAYBE HE... OR YEAH,
5 IF SHE HAD NO BOOBS, I MEAN, I WASN'T... I MEAN, I ... IT... I'M
6 NINETY-NINE PERCENT SURE IT WAS THREE GUYS THAT CAME
7 RUNNING...

8 CPT. BROMAGE: WELL, ONCE AGAIN, IT'S JUST SOMETHING WE'VE
9 GOTTA LOOK AT TO SEE WHAT HAPPENED, YOU KNOW. CAUSE ALL
10 OF THIS COMES INTO PLAY...

11 OATES: IT WAS ... HE HAD LIKE BLUE ADDIDAS SPORT WORKOUT
12 PANTS, A WHITE T- ... A HANES WHITE T-SHIRT ON, STRAIGHT BLACK
13 HAIR IN A SINGLE PONYTAIL. THAT'S... THAT'S MY BEST
14 DESCRIPTION... AGE, TWENTY-FIVE AND UNDER.

15 CPT. BROMAGE: OKAY. NOW...

16 OATES: THAT ... THAT PERSON DIDN'T ... YOU KNOW, DIDN'T
17 LOOK OLD.

18 CPT. BROMAGE: LET'S...

19 OATES: LOOKED LIKE A YOUNG...

20 CPT. BROMAGE: LET'S MOVE ON TO SOMETHING ELSE, CAUSE, I
21 MEAN, I'M SURE THEY... I'M SURE THEY'VE ALREADY TALKED TO
22 THAT PERSON.

23 OATES: OKAY.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 CPT. BROMAGE: SO YOU FIRE THE FIRST COUPLE SHOTS, HE'S COME
2 BACK AT YOU, HE'S ALMOST LOOKING YOU FACE TO FACE AT THAT
3 POINT. YOU THINK YOU FIRED TWO MORE TIMES.
4 OATES: (INAUDIBLE) ...
5 CPT. BROMAGE: WELL SAY HE'S LAYING ON HIS BACK THOUGH ...
6 HE'S ON HIS BACK.
7 OATES: HE LANDED ... HE LANDED ON THE GROUND LOOKING UP ...
8 LOOKING AT THE SKY. THAT'S WHERE HE CAME TO REST.
9 CPT. BROMAGE: NOW HOW IN THE HELL ...
10 OATES: CAUSE AFTER I ...
11 CPT. BROMAGE: WHERE DID ...
12 OATES: ... AFTER I SAW THE GUN ...
13 CPT. BROMAGE: (INTERRUPTING - SPEAKING OVER EACH OTHER ...
14 WHERE DID THESE ACCURATE SHOTS FROM BEHIND COME FROM?
15 THAT'S MY QUESTION TO YOU?
16 OATES: I ...
17 CPT. BROMAGE: WHERE DID THESE TWO SHOTS THAT REALLY WERE
18 FATAL COME FROM?
19 OATES: THE FIRST TWO SHOTS I REMEMBER CLEARLY.
20 CPT. BROMAGE: AND YOU'RE SAYING OVER HERE SOMEWHERE ...
21 OATES: ON THE LEFT SIDE ... ON THE LEFT SIDE ... WHICH SPUN
22 HIMI AND THEN EXPOSED THE GUN, HIS ARM UP TO HIS RIGHT
23 SHOULDER AND THE SECOND SHOT WAS THE RIGHT SHOULDER.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 CPT. BROMAGE: RIGHT.

2 OATES: AND I SAW EYE CON- ... I MEAN, WE ... I LOOKED RIGHT
3 INTO HIS EYES. AND I HELD MY BREATH, CLOSED MY EYES AND
4 PULLED THE TRIGGER. AND I HEARD THE GUN HIT THE GROUND AND
5 SLIDE AND THAT'S WHEN I... (MAKES DEEP BREATHING IN SOUND)...
6 AND SWITCHED TO MY LEFT HAND, LOOKED, YOU KNOW, SAW THE
7 GUN ALL THAT, PULLED MY CELL PHONE OUT, AND YOU KNOW,
8 CALLED THE POLICE...

9 CPT. BROMAGE: DID THE GUN SAIL... DID THE GUN SAIL OFF, DID HE
10 KICK IT OFF, OR WAS THAT A RESULT OF HIS ACTION, THE GUN
11 SLIDING OFF?

12 OATES: WELL WHEN THE GUN CAME TO REST, IT DIDN'T MOVE...
13 NEVER MOVED.

14 CPT. BROMAGE: OKAY.

15 OATES: ONE POINT IN TIME, ONE GUY WAS WALKING AND HE WAS
16 WALKING LIKE RIGHT TOWARD IT AND I POINTED AT HIM AND I WAS
17 DOWN AT LOW READY, AND I WAS ON THE PHONE WITH DISPATCH, I
18 SAID DON'T... DON'T EVEN THINK ABOUT IT, IF YOU TOUCH THAT
19 YOU'RE DONE...

20 CPT. BROMAGE: RIGHT.

21 OATES: IF YOU TOUCH THAT, YOU'RE DONE.

22 CPT. BROMAGE: RIGHT.

23 OATES: IF YOU TOUCH THAT GUN, I'M GONNA TAKE IT AS A

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 THREAT TO ME. YOU TOUCH THAT GUN AND I'M... I MEAN, I'LL KILL
2 YOU.
3 CPT. BROMAGE: OKAY.
4 OATES: DON'T THREATEN ME. GET AWAY FROM THAT GUN.
5 CPT. BROMAGE: HOW DID THE GUN...
6 OATES: AND THEN HE STEPPED ON IT AND THEN KEPT WALKING
7 AND THEN... MAYBE, I DON'T EVEN KNOW HOW LONG. IT FELT LIKE
8 FIVE MINUTES, MAYBE IT WAS FIVE SECONDS, A LADY WEARING A
9 FLUFFY, BIG, WHITE, PUFFY SKIRT WITH BLACK HEELS THAT WERE
10 ALMOST LIKE WITCH HEELS, YOU KNOW, WITH LITTLE POINTY TOES
11 AND THIN STILLETOS IN THE BACK... CAME OVER AND SHE WAS
12 STANDING RIGHT NEXT TO IT AND JUST STARING AT ME. AND ALL I
13 WAS DOING... IT LOOKED LIKE I HAD TURRET'S, I WAS LOOKING AND
14 MY EYES KEPT... I WAS LOOKING AT EVERYBODY'S HANDS, EVERY
15 TIME SOMEBODY WOULD MOVE, I WOULD LOOK AT THEM JUST TO
16 SEE IF THEY HAD A WEAPON OR WHAT WAS GOING ON... I WAS ON
17 THE PHONE AND I REMEMBER ONE POINT IN TIME I LEANED OVER MY
18 SHOULDER AND TOLD THE AFRICAN AMERICAN MAN... I TOLD THE
19 LADY, CAN YOU CALL MY FAMILY, CAN YOU CALL MY MOM OR MY
20 DAD... CALL SOMEONE. SHE'S LIKE I'M ON THE PHONE WITH
21 DISPATCH, I SAID I'M ON THE PHONE WITH THEM TOO... AND THEN
22 THE MALE SAID I'LL GET THE HOUSE PHONE... HE RAN IN THE HOUSE
23 AND CAME OUTSIDE AND I REMEMBER I SAID, OKAY... THE

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 NUMBER'S ON THE SIDE OF THE TRUCK... LIKE THAT... AND I CAN
2 REMEMBER VERBALLY TELLING HIM TO IT, AND THEN HE SAID
3 OKAY, I ... I GOT AHOLD OF YOUR FATHER, HE SAID HE'S ON THE
4 WAY OUT HERE. I SAID ALL RIGHT MAN, THANK YOU, AND THEN
5 DISPATCH WAS LIKE... WHERE... WHERE'S PEOPLE AT... I'M TRYING
6 TO KEEP EVERYBODY AWAY FROM THIS GUN.
7 CPT. BROMAGE: (INTERRUPTING)... BUT HOW ... HOW DID THE GUN
8 GET FROM WHERE THE VICTIM WAS TO WHERE IT LAID?
9 OATES: IT EITHER CAME OUT OF HIS HAND OR... I DIDN'T TOUCH
10 IT, NO ONE TOUCHED IT... NO ONE MOVED IT...
11 CPT. BROMAGE: YOU DIDN'T KICK IT OFF WHEN HE HAD IT IN HIS
12 HAND?
13 OATES: I NEVER CAME WITHIN TEN FEET OF THAT GUN ONCE IT
14 WAS, YOU KNOW...
15 CPT. BROMAGE: YEAH. BUT...
16 OATES: THE CLOSEST I EVER CAME...
17 CPT. BROMAGE: (INTERRUPTING)... HOW... HOW DID IT END UP
18 GOING ACROSS THE PAVEMENT? HOW DID IT END UP GOING THERE?
19 WHAT ACTION DID HE TAKE TO MAKE IT SAIL IN THAT DIRECTION?
20 OATES: I HAVE NO CLUE.
21 CPT. BROMAGE: OKAY.
22 OATES: LIKE I SAID, WHEN I TOOK THAT BREATH, THE GUN WAS
23 LYING IN THE ROAD. THE CLOSEST I EVER GOT TO THAT GUN, WAS

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 WHEN HE HAD IT IN HIS HAD. THAT'S THE CLOSEST I'VE EVER BEEN
2 TO IT.

3 CPT. BROMAGE: OKAY. OKAY, LET'S ... I WAS JUST KINDA...

4 OATES: AND ONCE IT CAME TO REST THERE, I DIDN'T GO PAST
5 HIM, I CIRCLED AROUND HIM AND WENT AROUND TO THE GRASSED
6 FORNT YARD TO WHERE I HAD A STRAIGHT LINE FROM WHERE I WAS
7 STANDING TO THE WEAPON TO THE MINIVAN, AND I STOOD THERE
8 AND I HAD MY BACK UP TO THE HOUSE AND I KNEW THAT WAS A
9 NEUTRAL TERRITORY, THERE WAS NO HOSTILITIES BEHIND ME AND
10 THE BROTHER PROBABLY WASN'T GONNA LET PEOPLE, YOU KNOW,
11 COME IN... COME IN TO HIS YARD, AND YOU KNOW, MAKE A SCENE,
12 SO I FELT LIKE THAT WAS JUST THE BEST PLACE TO TRY, AND YOU
13 KNOW, CALL, GET HELP, GET PEOPLE HERE AND JUST PROTECT THE
14 SCENE, KEEP EVERYBODY SAFE, DON'T LET ANYBODY GO FOR THAT
15 GUN, I DON'T WANNA ADD MORE VIOLENCE TO THIS, NO... SO I JUST
16 STOOD MY GROUND AND I HELD EVERYBODY OFF TILL POLICE GOT
17 THERE.

18 CPT. BROMAGE: OKAY.

19 OATES: I DIDN'T WANT ANYMORE INCIDENTS. I DIDN'T EVEN
20 WANT THIS ONE.

21 CPT. BROMAGE: WELL... WELL, YOU KNOW, AND WHAT I'M
22 WONDERING IS, YOU'VE HAD SO MUCH SHIT GO ON WITH THIS CRAZY
23 BUSINESS OF YOURS, IS THAT... IS THAT CREATING A SITUATION

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 WHERE YOU'RE HYPERVIGILANT? HYPERVIGILANT MEANING THAT
2 YOU'RE LOOKING FOR ANY... EVERYTHING'S WRONG WHEN YOU'RE
3 OUT THERE. YOU KNOW, YOU'RE ANTICIPATING THE WORSE CASE
4 SCENARIO EVERY TIME.

5 OATES: NO.

6 CPT. BROMAGE: I MEAN, IS IT CREATING THAT FOR YOU? I MEAN, I'M
7 THINKING THAT'S PROBABLY A GOOD SIGN FOR ANOTHER LINE OF
8 WORK, MAN. YOU KNOW, THIS STUFF KEEPS HAPPENING OVER AND
9 OVER... THAT'S A PRETTY BAD SIGN. YOU KNOW...

10 OATES: \ SOME WOULD SAY.

11 CPT. BROMAGE: WELL, YOU'RE VERY CALM ABOUT IT, BUT WHAT
12 I'M SAYING...

13 OATES: IT'S MY JOB. IT'S MY...

14 CPT. BROMAGE: WHAT DO YOU MEAN IT'S YOUR JOB... THAT'S MY
15 JOB. THAT'S NOT YOUR JOB, YOU DRIVE TOW TRUCKS.

16 OATES: THAT'S MY JOB, I DRIVE A TOW TRUCK.

17 CPT. BROMAGE: RIGHT... YOU'RE...

18 OATES: (INTERRUPTING - SPEAKING OVER EACH OTHER)... THAT'S
19 NOT JUST MY LINE OF WORK, THAT'S MY JOB.

20 CPT. BROMAGE: (INAUDIBLE)...

21 OATES: I OWN THE COMPANY. I STARTED THE BUSINESS BECAUSE
22 I LOVE TO DO IT.

23 CPT. BROMAGE: (INAUDIBLE)... (INTERRUPTING)... YOU'VE HAD JUST

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 A TOTALITY... WHY DO YOU LOVE TO DO IT WHEN YOU'RE BEING
2 SHOT AT, YOU'RE BEING STABBED WITH KNIVES AND STUFF AND
3 LIKE THAT. WHAT IS IT ABOUT THAT JOB THAT INTERESTS YOU THAT
4 MUCH? TELL ME THIS...

5 OATES: BOB. NOVEMBER 20TH, 2008, WAS THE LAST TIME I HAD
6 DRIVEN A TOW TRUCK.

7 CPT. BROMAGE: OKAY.

8 OATES: (BRIEF PAUSE)... CHRISTMAS EVE... IVAN WAS UP IN NEAR
9 D.C. AREA WITH HIS FAMILY AND MY OLDER BROTHER HAD HIS
10 MOTHER AND FATHER-IN-LAW FLYING IN. I AGREED TO COVER THE
11 SHIFT.

12 CPT. BROMAGE: SO YOU'VE NOT DRIVEN IN TWO YEARS?

13 OATES: I HAVE DRIVEN, YES, TO GO TO THE GAS STATION. THERE
14 WAS ONE TIME IN BLUFFTON CITY WHERE THEY HAD A POLICE CALL
15 SO I DROVE THERE BECAUSE I KNEW THE POLICE WERE ON THE
16 SCENE, IT WAS A SAFE, CONTROLLED ENVIRONMENT, ALL THAT, YES.
17 AND WHEN WE GOT THE EDGEFIELD ACCOUNT, I WOULD BE OUT
18 THERE IN MY P.O.V. AND I WOULD HAVE EITHER IVAN, MY BROTHER
19 OR STEVE, THEY'VE COME IN WITH THE TOW TRUCK.

20 CPT. BROMAGE: GOTCHA.

21 OATES: AND I WAS OUT THERE IN MY P.O.V.

22 CPT. BROMAGE: SO SPYING MORE THAN ANYTHING ELSE...

23 (INAUDIBLE)...

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1 OATES: YEAH. CAUSE THAT WAS IN THE CONTRACT THAT I
2 WOULD PATROL AND YOU KNOW...
3 CPT. BROMAGE: (INTERRUPTING)... SO OKAY... SO AT THAT POINT,
4 YOU WERE JUST MANAGING THE BUSINESS OR YOU'D JUST HAD
5 ENOUGH OF DRIVING AND HAVING THIS KIND OF SHIT HAPPEN.
6 OATES: I HAD... I'VE HAD ENOUGH GUNS BEING PUT IN MY FACE.
7 I'VE HAD ENOUGH, YOU KNOW, BEING ATTACKED. I'VE... YEAH, I'M
8 TRYING TO GET OUT OF THIS LIFESTYLE. I GOT MY BUSINESS
9 PARTNER UP IN CHARLOTTE, CHARLES SLEIGHBAUGH (SP), HE IS THE
10 DIRECTOR OF THE CHARLOTT BRANCH FOR JOHN HANCOCK. HE IS
11 THE NUMBER THREE INVESTOR IN THE UNITED STATES. HE
12 MANAGES ABOUT A FOUR BILLION DOLLAR PORTFOLIO, AND TWO
13 WEEKS AGO I HAD LUNCH WITH HIM AND HANS MOLAR (SP) IN
14 CHARLOTTE. HANS MOLAR (SP), HE'S THE C.O.O. VICE PRESIDENT OF
15 MAERSK (SP) INETERNATIONAL, THE WORLD'S LARGEST SHIPPING
16 COMPANY. ANOTHER GOOD FRIEND OF MINE, WHO WAS
17 INTRODUCED TO ME THROUGH CHUCK, IS BORAS EDSON (SP); HE JUST
18 RESIGNED FROM AIG AND HE TOOK A POSITION AS DIRECTOR OF
19 INVESTMENTS FOR MAERSK GAS BANK (SP) IN MOSCOW. HE
20 GRADUATED FROM MOSCOW UNIVERSITY. BOLIA (SP), MY RUSSIAN
21 TUTOR, IS FROM MOSCOW, SHE'S GOT FAMILY IN MOSCOW. CHUCK
22 WANTS ME TO GO... RIGHT NOW I NEED TO CHECK E-MAILS... ME,
23 TATYANA, DEMA (SP), AND VOLVA (SP), ARE SETTING UP A

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 COMMERCIAL AGRICULTURAL FARMING BUSINESS RIGHT OFF THE
2 BLACK SEA IN UKRAINE, HENCE ANOTHER REASON WHY I'M
3 LEARNING RUSSIAN, BECAUSE CHUCK'S DREAM IS TO BE ABLE TO SIT
4 IN A HAMMOCK ON HIS FARM, LOOKING AT THE BLACK SEA, WRITING
5 POETRY. IF HE CAN WRITE THE CHECK, I'LL GIVE HIM HIS DREAM.
6 AND I... I'VE WATCHED HANS...

7 CPT. BROMAGE: (INAUDIBLE WHISPERING)...

8 OATES: CURTIS BIRCHFIELD (SP)...

9 CPT. BROMAGE: (INAUDIBLE WHISPERING)...

10 OATES: AH...

11 CPT. BROMAGE: WELL... I'M NOT TALKING ABOUT WHAT YOU...

12 OATES: I'VE WATCHED HANS WRITE A CHECK FOR HIS BEAMER...

13 CPT. BROMAGE: RIGHT, WHO WOULDN'T?

14 OATES: AND I'VE WATCHES CHUCK WRITE A CHECK...

15 CPT. BROMAGE: AND ALL THESE MONEY MEN... YOU KNOW...

16 OATES: I'M TRYING ON IT. I'M WORKING ON IT, OKAY...

17 CPT. BROMAGE: THAT'S GOOD...

18 OATES: I'VE GOT ONE FOOT OUT THE DOOR, BOB. I'VE GOT ONE
19 FOOT OUT THE DOOR.

20 CPT. BROMAGE: THEN LEAVE IT THERE... LEAGE IT THERE, MAN.

21 OATES: NO, I'VE GOT ONE FOOT OUT THE DOOR.

22 CPT. BROMAGE: LEAVE IT AND SAY, LOOK, I'M TRYING TO GET OUT
23 OF THIS LIFESTYLE.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 OATES: I'VE GOT ONE FOOT OUT OF THE DOOR ALREADY, DUDE.
2 CPT. BROMAGE: ALL RIGHT.
3 OATES: I'VE BEEN TRYING TO GET OUT FOR TWO YEARS.
4 CPT. BROMAGE: ALL RIGHT, WELL...
5 OATES: YOU KNOW...
6 CPT. BROMAGE: WELL, YOU'VE BEEN THROUGH A LOT...
7 OATES: I'VE GOT A TEN INCH KNIFE THROUGH MY BACK AND
8 THAT... THAT WAS THE THIRD TIME MY LIFE FLASHED BEFORE ME.
9 SO, YOU KNOW, WHAT ... IS THIS REALLY WORTH IT? IT'S NOT
10 WORTH IT.
11 CPT. BROMAGE: ABSOLUTELY NOT.
12 OATES: NO. AND THAT'S WHY ... THE OTHER NOT... I WAS
13 SUBMIT... OKAY, FINE, IT'S NOT WORTH IT, JUST GO, GO... IT'S FINE,
14 NO, I DON'T ... NO PAPERWORK... NO, I COULD'VE LIED AND SAID
15 YEAH, I GOT PAPERWORK, I GOT ALL YOUR NUMBERS, THE POLICE
16 HAVE ALREADY BEEN CALLED, THEY'RE ON THE WAY...
17 CPT. BROMAGE: RIGHT.
18 OATES: SO YOU BETTER PAY ME AND LEAVE OR THE POLICE ARE
19 GONNA COME HERE AND YOU'VE GOT A GUN, YOU KNOW, THIS IS
20 GONNA GET REALLY NASTY, I'VE GOT ALL YOUR INFORMATION, I
21 KNOW WHO YOU ARE, THE POLICE KNOW, THEY'RE ALREADY ON THE
22 WAY. I COULD'VE LIED TO HIM AND GAVE HIM ALL THAT LINE OF
23 BULLSHIT AND TRY TO THREATEN AND SCARE HIM LIKE HE DID TO

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 ME, TO TRY AND MAKE IT HAPPEN, NO... FUCK THAT, IT'S NOT
2 WORTH IT, GO, JUST GO, FINE, GO, GET OUTA HERE. IT'S OKAY,
3 MA'AM, HE'S LEAVING, HE'S ALMOST... HE'S GETTING READY TO GO,
4 EVERYTHING'S FINE, WE GOT IT TAKEN CARE OF.
5 CPT. BROMAGE: YEAH, BUT AGAIN, THAT CAN GO BACK TO THE
6 OTHER WAY. YOU'RE GONNA TAKE CARE OF THIS YOURSELF
7 RATHER THAN LETTING LAW ENFORCEMENT DO IT. YOU HAD YOUR
8 HAND ON YOUR PHONE IN THE CAR AND YOU GOT THREE JACKASSES
9 STANDING HERE, WHICH I'M NOT DEBATING WHETHER THEY'RE
10 JACKASSES OR NOT, THEY PROBABLY ARE, STANDING AT YOUR
11 WINDOW GIVING YOU A RASH OF CRAP ABOUT A BOOT YOU'VE GOT
12 ON THEIR CAR AND YOU'VE GOT THE PHONE RIGHT IN YOUR HAND...
13 OATES: NO, I HAD...
14 CPT. BROMAGE: (INTERRUPTING)... HOW DO YOU ...
15 OATES: I HAD THE FLASHLIGHTS IN MY HAND, BOB.
16 CPT. BROMAGE: YOU TOLD ME...
17 OATES: NO, I TOLD YOU IT WAS THE FLASHLIGHT, CAUSE
18 REMEMBER I SAID I WAS SHAKING, I WAS SO FUCKING SCARED...
19 CPT. BROMAGE: (INTERRUPTING - SPEAKING OVER EACH OTHER)...
20 NO, YOU SAID WHEN YOU GOT IN THE CAR...
21 OATES: OH, WHEN I WAS GETTING BACK INTO MY TRUCK, YEAH, I
22 GOT THE PHONE OUT...
23 CPT. BROMAGE: YOU HAD THE PHONE...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 OATES: BUT ONCE THEY GOT IN THE WINDOW, THEN...

2 CPT. BROMAGE: YOU GAVE THEM AN OPPORTUNITY TO... YOU GAVE

3 THEM, AND I WILL SAY THIS, YOU GAVE THEM AN OPPORTUNITY FOR

4 THIS TO HAPPEN. YOU COULD'VE WALKED AWAY, YOU COULD'VE

5 DROVE THAT CAR AWAY, AND YOU COULD'VE CALLED 9-1-1. YOU

6 DIDN'T DO IT. YOU DON'T HAVE A... YOU KNOW, THAT'S ... THAT'S

7 FOR A LAWYER TO DECIDE HOW THAT STUFF WORKS OUT DOWN THE

8 ROAD, I'M JUST SAYING, YOU DID HAVE... YOU DID HAVE AN

9 OPPORTUNITY... YOU KNOW... YEAH...

10 OATES: I... I...

11 CPT. BROMAGE: YOU KNOW...

12 OATES: ARE YOU ASKING ME OR TELLING ME?

13 CPT. BROMAGE: NO, NO. IT'S...

14 OATES: ARE YOU ASKING ME OR TELLING ME, BOB?

15 CPT. BROMAGE: ... HOW ... HOW IT CAN BE CONSTRUED... DON'T TRY

16 TO BE SO SMART, OKAY?

17 OATES: I'M NOT.

18 CPT. BROMAGE: RELAX, OKAY?

19 OATES: I'M NOT.

20 CPT. BROMAGE: OKAY: HOW IT CAN BE CONSTRUED IS... DAMN IT,

21 I'M TIRED OF THIS SHIT HAPPENING TO ME, I'M GONNA TAKE CARE OF

22 THIS MYSELF THIS TIME. I'VE GOT A GLOCK. I'M GONNA TAKE CARE

23 OF THIS. AND YOU... AND IN THAT EVENT, YOU DID.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
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1 OATES: I SHOULD'VE DONE IT IN SHADY GLENN WHEN I GOT A
2 KNIFE THROUGH MY BACK.

3 CPT. BROMAGE: WELL MAYBE YOU SHOULD'VE. I'M NOT SAYING
4 YOU SHOULDN'T HAVE.

5 OATES: I SHOULD'VE DONE THAT... OKAY...

6 CPT. BROMAGE: YOU KNOW, THAT WOULD'VE BEEN A HELL OF A
7 LOT MORE OBVIOUS THAN THIS THREAT RIGHT HERE.

8 OATES: I COULDN'VE DONE THAT THE WHOLE TIME. I DON'T
9 WANT THAT, BOB. I DON'T WANT THAT... THAT'S THE POINT!

10 CPT. BROMAGE: THAT THREAT WAS ALLOWED TO FESTER. YOU
11 COULD'VE SAID, YEAH I GOT THE COPS COMING, YEAH, I GOT YOUR
12 TAG NUMBER, I GOT EVERYTHING. WHY DO YOU THINK HE WAS
13 ASKING THAT? HE DIDN'T WANT THE COPS TO FIND HIM, I WOULD
14 SUGGEST, RIGHT?

15 OATES: AT THE TIME... THE HEAT OF THE MOMENT, BOB...

16 CPT. BROMAGE: THE HEAT FO THE MOMENT, YOU TOOK IT LIKE, I'M
17 HYPERVIGILANT...

18 OATES: NO.

19 CPT. BROMAGE: OKAY, HE'S TRYING TO COVER HIS TRACKS FOR A
20 FUTURE CRIME HERE LIKE HE'S GONNA KILLE ME.

21 OATES: NO.

22 CPT. BROMAGE: RIGHT?

23 OATES: NO. YOU'RE OFF BASES.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: WHAT...

2 OATES: WRONG IDEA... WRONG...

3 CPT. BROMAGE: WHERE IS THE THREAT WHEN HE STARTED SAYING

4 DO YOU HAVE MY INFORMATION...

5 OATES: (INAUDIBLE)... DO YOU HAVE ANYTHING THAT CAN

6 LINK... THAT CAN TIE ME BACK TO THIS. DO YOU HAVE ANY

7 DOCUMENTS...

8 CPT. BROMAGE: THAT WOULD...

9 OATES: ... WITH MY INFORMATION THAT WILL LINK... THAT CAN

10 TIE... I DON'T WANT THEM TO LOOK FOR ME.

11 CPT. BROMAGE: RIGHT... RIGHT.

12 OATES: WHY, WHAT DO YOU HAVE TO HIDE? NOTHING YET.

13 WHAT DO YOU HAVE TO HIDE? NOTHING YET.

14 CPT. BROMAGE: SEE, ONCE AGAIN...

15 OATES: WHAT'S HE GONNA DO TO ME?

16 CPT. BROMAGE: ... THAT'S HYPERVIGILANT. THAT'S NOT RATIONAL.

17 I DON'T THINK IT IS.

18 OATES: THE PRUDENT PERSON...

19 CPT. BROMAGE: THE PRUDENT PERSON WOULD NOT BE THINKING

20 THAT FAR DOWN THE ROAD AND THEN TRYING TO CONCEAL A

21 FUTURE CRIME. HE'S PROBABLY GOT SOMETHING TO HIDE ALREADY

22 IS WHAT HE'S THINKING AND HE'S SCREWING WITH YOU. HE'S

23 LOOKING TO GET THE HELL OUT OF THERE BEFORE THE COPS COME.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: THAT PART LEADS BACK TO WHY WOULD A MAN HAVE
2 A... HAVE TO CARRY A HANDGUN TO GO DELIVER CHRISTMAS
3 PRESENTS.

4 CPT. BROMAGE: YOU KNOW WHAT, I GUESS THAT'S...

5 OATES: I DON'T KNOW EITHER... THAT'S... THAT'S... WE WILL
6 NEVER KNOW. LET'S NOT TALK ABOUT OPINIONS BECAUSE OPINIONS
7 ARE NOT IMPORTANT, IT'S FACTS.

8 CPT. BROMAGE: WELL... YEAH, WELL THE FACTS, IT SEEMS LIKE
9 THERE CHANGING TOO. THE GUN IN THE WINDOW, THE GUN POINTED
10 AT YOUR HEAD, THINGS LIKE THAT. HUGE THINGS... IT WAS SUICIDE,
11 THAT'S... THAT COULD BE A FACT... HIS COMMITTING SUICIDE
12 CAUSE HE WAS FUCKING WITH YOU, THE COMMANDO WHO PULLED A
13 MILITARY I.D. OUT OF HIS POCKET FROM A HIGH SCHOOL PLAY OR
14 WHATEVER THE HELL IT WAS...

15 OATES: I TOLD YOU I LEFT HILTON HEAD HIGH SCHOOL AND WENT
16 TO FORT STEWART... AND YOU... YOU JUMPED TO CONCLUSIONS,
17 BOB.

18 CPT. BROMAGE: I ASKED IF YOU WERE IN THE ARMY, MY FRIEND.
19 AND YOU SAID THERE'S NO RECORD OF ME IN THE ARMY.

20 OATES: RIGHT, THERE ISN'T ANY.

21 CPT. BROMAGE: YOU PERPETUATED SOMETHING...

22 OATES: THERE'S NO RECORD.

23 CPT. BROMAGE: ... THAT WAS NOT EVEN NECESSARY. YOU

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 COULD'VE MERELY SAID, YOU KNOW WHAT...

2 OATES: NO, YOU ASKED...

3 CPT. BROMAGE: I DID SOME R.O.T.C OVER THERE...

4 OATES: BOB, YOU ASKED THE QUESTION, YOU KNOW, WHAT

5 TRAINING YOU HAD... I SAID I LEFT... I LEFT HILTON HEAD HIGH

6 SCHOOL...

7 CPT. BROMAGE: AND WENT TO FORT STEWART.

8 OATES: AND WENT TO FORT STEWART, WHICH IS A HUNDRED

9 PERCENT ACCURATE STATEMENT.

10 CPT. BROMAGE: IT IS, BUT WHAT ARE YOU LEADING ME TO BELIEVE?

11 THAT YOU'VE GOT SOME MILIATARY BACKGROUND...

12 OATES: I'M NOT LEADING YOU TO BELIEVE ANYTHING.

13 CPT. BROMAGE: WHEN YOU SAY SOMETHING LIKE THAT, YOU

14 CERTAINLY ARE. YOU NEED TO START LOOKING AT YOURSELF A

15 LITTLE BIT HARDER.

16 OATES: OKAY.

17 CPT. BROMAGE: AND SOME OF THE THINGS YOU SAY.

18 OATES: OKAY.

19 CPT. BROMAGE: THAT'S NOT IMPRESSIVE.

20 OATES: I'VE NOT...

21 CPT. BROMAGE: ALL RIGHT?

22 OATES: OKAY.

23 CPT. BROMAGE: MARTIAL ARTS, THINGS LIKE THAT. HELL, I DON'T

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 KNOW WHERE YOU TRAINED. DON'T THROW THINGS OUT THERE

2 LIKE THAT, CAUSE IT MAKES YOU...

3 OATES: YOU ASKED ME ABOUT TRAINING.

4 CPT. BROMAGE: IT MAKES YOU MORE IN CONTROL. WHERE'D YOU

5 DO MARTIAL ARTS, I'M GONNA ASK YOU THAT, WHERE'D YOU DO

6 THAT?

7 OATES: WHEN I WAS YOUNGER I DID IT IN BLUFFTON AT THE

8 FAMILY REC CENTER AND I DID IT OUT NORTH PAST EXIT 33, I THINK

9 HAMPTON OR RIDGELAND, SOMEWHERE UP THERE...

10 CPT. BROMAGE: OKAY...

11 OATES: I... I... I CAN GET THE NAME OF THE SENSEI IF YOU NEED

12 IT.

13 CPT. BROMAGE: RIGHT. THAT'S OKAY, I DON'T NEED IT. WHAT I'M

14 SAYING IS, JUST CUT TO THE CHASE WHEN SOMEBODY ASKS YOU A

15 QUESTION. I ASKED YOU IF YOU HAVE A PROBLEM WITH LATINS. I

16 WOULD SAY BASED ON YOUR ANSWER, YOU DO. I WOULD SAY YOU

17 DO. I DON'T CARE IF YOU RENT A ROOM TO SOME GOOD LOOKING

18 GIRL FROM COLUMBIA. I'M SURE SHE'S GOOD LOOKING, ISN'T SHE?

19 OATES: (QUIET - NO VERBAL RESPONSE)....

20 CPT. BROMAGE: COME ON, MAN.

21 OATES: (INAUDIBLE)...

22 CPT. BROMAGE: ANYWAYS....

23 OATES: YOU KNOW HOW THEY ARE, THEY'RE KIND OF...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: AH...

2 OATES: (LAUGHING)...

3 CPT. BROMAGE: WHAT I'M SAYING IS, YOU CAN BE DIRECT...

4 OATES: (INAUDIBLE)...

5 CPT. BROMAGE: BUT THINGS CHANGING IN THE STORY, THAT'S

6 WHAT'S BOTHERING ME. AND THERE'S HALF OF ME THAT SAYS, THIS

7 IS PAUL'S SON, THIS IS A GOOD GUY, AND THERE'S HALF OF ME

8 THAT'S SAYING THIS KID'S HAD A PRETTY HARD LIFE, HE'S GOT IN A

9 MOTORCYCLE WRECK, HE MIGHT BE A LITTLE HYPERVIGILANT HERE

10 AND HE COULD HAVE PROBABLY, PROBABLY GOT AWAY FROM THIS

11 SITUATION WITHOUT IT ESCALATING TO WHAT IT DID. NOW, YOU

12 KNOW, NINETY-NINE PERCENT OF THE TIME, IT PROBABLY

13 WOULDN'T HAPPEN LIKE THIS. BUT IF YOU ALLOW IT TO HAPPEN,

14 AND THEN THINGS IN THE STORY START CHANGING LIKE A GUN'S TO

15 YOUR HEAD... YOU'RE JUSTIFYING IT AT THAT POINT. SO IF IT DIDN'T

16 HAPPEN THE WAY YOU'RE SAYING... SAY IT NOW... AND BE DONE

17 WITH IT.

18 OATES: NO... I FEEL A LITTLE OFFENDED BY YOU SAYING THAT IT

19 WASN'T DOCUMENTED IN THE INITIAL REPORT BECAUSE I...

20 CPT. BROMAGE: I HEARD YOU ON TAPE.

21 OATES: I'M SAYING, YEAH, I REMEMBER...

22 CPT. BROMAGE: DISTINCTLY.

23 OATES: I REMEMBER TELLING ... I REMEMBER TELLING...

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 CPT. BROMAGE: (INTERRUPTING – SPEAKING OVER EACH OTHER)...

2 YOU HEARD A SLIDE, YOU HEARD IT SLIDE...

3 OATES: I REMEMBER THEM ASKING ME WHAT WAS IT, WAS IT A
4 TWENTY-TWO ...

5 CPT. BROMAGE: (INTERRUPTING)... HE WAS PULLING IT OUT OF HIS
6 PANTS...

7 OATES: NO, I SAID WHEN YOU HAVE A GUN TO YOUR FACE, YOU
8 DON'T REALLY LOOK DOWN THE BARREL TO SEE WHAT CALIBER IT
9 IS.

10 CPT. BROMAGE: YOU KNOW WHAT, THE FIRST TIME I'M HEARING
11 ABOUT A GUN TO YOUR FACE IS RIGHT NOW. OKAY. I LISTENED TO
12 THAT WHOLE DAMN TAPE. I COULD BE WRONG. I DOUBT IT. I'M
13 GONNA SIT HERE AND BLOW SMOKE UP YOUR ASS. WHAT I'M
14 SAYING, THEY ASKED YOU ABOUT THE GUN, WHAT KIND OF GUN
15 WAS IT, HE WAS PULLING IT OUT WHEN YOU SAW THE WHOLE GUN,
16 THAT'S WHAT I RECALL ON THE TAPE, WHICH IS DIFFERENT THAT
17 HIM STICKING IT THROUGH THE WINDOW AND THE LADY SAYING...
18 OR COME BY, HEY HE'S GOT A GUN... I UNDERSTAND WHAT YOU'RE
19 TRYING TO DO THERE, HINT, CALL... RIGHT?

20 OATES: YEAH... HELLO.

21 CPT. BROMAGE: YOU PROBABLY SHOULD'VE SAID THE GUY'S GOT A
22 GUN, CALL THE POLICE, GEE... WHAT DO YOU THINK HE'S GONNA DO
23 NOW, THERE'S A WITNESS RIGHT THERE? NOTHING.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: THE SAME THING THAT COULD'VE HAPPENED TO MY
2 LITTLE BROTHER AT TRAILER PARK. THE WORLD'S FULL
3 OF IF ANDS OR BUTS, BOB. WE COULD SIT HERE ALL AFTERNOON
4 AND RUN DIFFERENT SCENARIOS THROUGH, BUT WE CAN'T,
5 BECAUSE THIS IS WHAT IT IS.

6 CPT. BROMAGE: THIS IS WHAT IT IS AND WE'VE GOT A GUY THAT
7 ENDS UP ON THE GROUND AND WE'VE GOT TWO CLEAR FATAL
8 WOUNDS TO HIS BACK THAT CAN'T BE EXPLAINED AT ALL BY ... BY
9 YOUR EXPLANATION.

10 OATES: I CAN'T EXPLAIN 'EM. NO.

11 CPT. BROMAGE: HE WAS NOT FACING YOU WHEN HE GOT HIT. HE
12 GOT HIT MAYBE ONCE OR TWICE WHEN HE WAS FACING YOU. AND
13 HE...

14 OATES: LIKE I SAID, I DON'T EVEN KNOW HOW MANY SHOTS...

15 CPT. BROMAGE: WELL THAT'S... OKAY... WELL, AGAIN... THAT'S
16 SOMETHING I WANNA...

17 OATES: AND AFTER THE SECOND SHOT, RIGHT WHEN I WAS
18 PULLING THE THIRD ONE, WHEN I WAS LOOKING INTO HIS EYES, HE
19 WAS TURNING, HE WAS TURNING TOWARDS ME AND ... PANIC FIRE. I
20 MEAN, I REMEMBER THAT, AND THEN I REMEMBER... FROM HEARING
21 THE GUN HIT, I ... FROM GASP- ... I TOOK A BREATH, AND I TOOK A
22 BREATH AND I... YOU KNOW, AND I SAW HIM ALMOST TO THE
23 GROUND, YOU KNOW, AND FALL, AND THE GUN WAS... SIX, EIGHT,

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 TEN FEET AWAY, BUT... YOU KNOW...

2 CPT. BROMAGE: YOU HEARD THE GUN...

3 OATES: WHEN I HEARD THE GUN HIT THE GROUND AND SLIDE,
4 YOU KNOW, I (MAKES DEEP BREATHING SOUND)... TOOK A BREATH
5 AND OPENED MY EYES, CAUSE I KNEW NOW THE GUN WAS ON THE
6 GROUND.

7 CPT. BROMAGE: ON THE GROUND, OKAY.

8 OATES: YOU KNOW, HE CAN'T KILL ME ANYMORE.

9 CPT. BROMAGE: OKAY.

10 OATES: ANYTHING ELSE YOU CAN REMEMBER ABOUT THIS THAT I
11 NEED TO KNOW ABOUT? ANYTHING ELSE ABOUT THIS WHOLE
12 INCIDENT THAT YOU REMEMBER THAT'S, YOU KNOW...

13 OATES: I THINK WE COVERED MOST OF IT, I MEAN... OTHER THAN,
14 I MEAN, IT'S A TRAGEDY AND... I REALLY DON'T WANNA HAVE TO
15 GO DOWN THIS ROAD, BUT I'LL ...

16 CPT. BROMAGE: WHAT ARE YOU TALKING ABOUT?

17 OATES: I'M JUST REPLAYING IT ALL IN MY HEAD TO SEE IF
18 THERE'S ANYTHING I LEFT OUT... AH... WHEN THEY HAD ME IN THE
19 BACK OF THE PATROL CAR, HARDY... ERIC HARDY HAD ME IN THE
20 BACK OF THE PATROL CAR AND MY FATHER WAS OUTSIDE,
21 FIREFIGHTER BAKER WAS TO THE LEFT, AND THERE WAS PEOPLE
22 RIGHT BY THE WINDOW, AND I HEARD A (BANGS)... TWO TAP ON THE
23 GLASS AND I LOOKED OVER AND THERE WAS A SPANISH GUY IN A

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 BLUE SHIRT WITH THIN WHITE PINSTRIPE HORIZONTAL ON IT AND
2 HE LOOKED RIGHT AT ME, POINTED AND WENT LIKE THAT
3 (MOTIONING)... AND I FLIPPED OUT... I WAS IN THE HANDCUFFS IN
4 THE BACK OF THE PATROL CAR, I SAID WHAT THE... THAT GUY JUST
5 THREATENED MY LIFE, WHAT THE... GET ME OUT OF HERE, DO
6 SOMETHING, THAT GUY JUST THREATENED MY LIFE... AND HE'S LIKE
7 OKAY, WE HAVE IT, WE HAVE EVERYTHING UNDER CONTROL HERE.
8 PROTECT AND SERVE, PROTECT AND SERVE, I MEAN, I STARTED, I
9 FREAKED OUT...
10 CPT. BROMAGE: I MEAN, THAT'S GONNA HAPPEN...
11 OATES: (INAUDIBLE)...
12 CPT. BROMAGE: DID YOU EVER SAY FELIZ NAVIDAD TO SOMEBODY
13 WHEN YOU WERE GETTING INTO THE CAR?
14 OATES: I DON'T REMEMBER THAT.
15 CPT. BROMAGE: WAS THERE PEOPLE YELLING AT YOU, GIVING
16 YOU...
17 OATES: OH, ALL KINDS OF SHIT. I REMEMBER WHEN THEY HAD...
18 WHEN THEY STOOD ME UP, ERIC WAS GONNA STAND ME UP AND I
19 SAID JUST STEP BACK, I DON'T WANT, YOU KNOW, MY LEG TO KICK
20 YOU, I CAN GET UP ON MY OWN EVEN THOUGH I'M IN HANDCUFFS.
21 SO HE STEPPED BACK AND I GOT MYSELF... AND I GOT MYSELF UP
22 AND WHEN I TURNED AROUND, MY HANDGUN WAS IN THE FRONT
23 YARD IN THE GRASS AND THE DEPUTY WITH THE CAMERA SAID

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OKAY, STAND IN FRONT AND TAKE A PICTURE, AND ONE GUY
2 STANDING BEHIND THE HOOD OF THE MINIVAN LOOKED UP AND
3 SAID SMILE MOTHERFUCKER... JUST LIKE THAT TO ME AND I WAS IN
4 HANDCUFFS... AND I'M SURE YOU SAW THE PHOTO, I WASN'T
5 SMILING.

6 CPT. BROMAGE: I DIDN'T SEE THAT PHOTO.

7 OATES: YEAH.

8 CPT. BROMAGE: WHAT DID YOU SAY TO HIM.

9 OATES: OH, KEEP YOUR MOM OFF THE STREET. HE CALLED ME A
10 MOTHERFUCKER. THAT'S NOT MY...

11 CPT. BROMAGE: WERE YOU MAKING COMMENTS TO ONE OF THESE
12 PEOPLE WHEN THEY WERE SMARTING OFF TO YOU LIKE FELIZ
13 NAVIDAD...

14 OATES: I DON'T KNOW. I DON'T... IT WAS A BAD SITUATION. I
15 DON'T RECALL THAT.

16 CPT. BROMAGE: OKAY.

17 OATES: I'M SURE A LOT OF THINGS WERE SAID AND DONE BUT I
18 CAN'T RECALL THAT ACTUAL QUOTE.

19 CPT. BROMAGE: BUT YOU KNOW THE QUOTE, AND IT WAS
20 CHRISTMAS?

21 OATES: I KNOW HOW TO SPEAK SPANISH... WELL, UN POQUITO
22 HABLA ESPAÑOL.

23 CPT. BROMAGE: OKAY. . A LITTLE BIT MORE THAN ME OBVIOUSLY.

TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

1 OATES: (INAUDIBLE)...

2 CPT. BROMAGE: SO IT GOES...

3 OATES: (INAUDIBLE)... (SPEAKING ANOTHER LANGUAGE)... I
4 DON'T KNOW.

5 CPT. BROMAGE: WELL... LET'S GO DOWN STAIRS AND GET A
6 CIGARETTE. I'M DONE.

7 OATES: YOU SMOKE?

8 CPT. BROMAGE: I DO.

9 OATES: SHAME ON YOU. OH, DID YOU SEE THE NEW...
10 (INAUDIBLE)... I GUESS WE'LL WAIT TILL WE'RE OUT OF THE OFFICE
11 TO GET PERSONAL. SHUT IT?

12 CPT. BROMAGE: AH... YEAH.

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18 (THERE BEING NO FURTHER AUDIO PROVIDED,

19 THIS TRANSCRIPTION IS CONCLUDED)

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TRANSCRIPTION OF PRESTON OATES INTERVIEW
DATED 12/27/2010

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CERTIFICATE

I, BEVERLY F. COOK, NOTARY PUBLIC IN AND FOR THE STATE
OF SOUTH CAROLINA, CERTIFY THAT I DID TRANSCRIBE THE AUDIO
DATED 12/27/2010 AS PROVIDED TO ME BY THE 14TH JUDICIAL
CIRCUIT SOLICITOR'S OFFICE IN BLUFFTON, SOUTH CAROLINA;
THAT THE FOREGOING PAGES CONSTITUTE A TRUE AND ACCURATE
TRANSCRIPT OF THE AUDIO GIVEN.

I CERTIFY THAT I AM NOT OF COUNSEL, NOR KIN TO ANY OF
THE PARTIES TO THIS ACTION, NOR AM I INTERESTED IN ANY
MANNER IN ITS OUTCOME.

I HAVE HEREUNTO SET MY HAND AND SEAL THIS 14TH DAY OF
NOVEMBER, 2011.

BEVERLY F. COOK, NOTARY PUBLIC FOR SC
MY COMMISSION EXPIRES: 01/20/2014

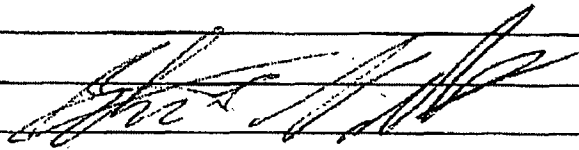
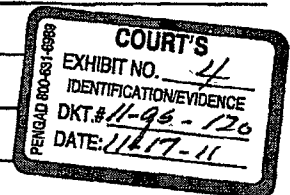
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Date 12-24-2010 Page No. _____

STATEMENT OF:

ne: Steve Laredo DOB: _____ H: _____
 Add: _____ SSN: _____ C: _____
 W: _____

I watched pro tow show up, Then I went over to Nelsons house to tell him he was going to get towed. We went out to the vehicle. as preston exited his. prestin immediately got back in his Truck, Nelson and his brother went to Talk to preston as I stayed next ~~to~~ to the Van. That had a boot on the Left Front tire. Nelson came back to the Van with keys to unlock the boot when we heard gun shots, I turned to look and saw preston shooting at nelsons brother. After with he began pointing the gun at the rest of us. We all buckled up, Preston got on the Phone and started yelling at everyone to get back. Nelson and the Victims wife ran over to the ~~body~~ on the ground while I walked into the street and noticed a gun on the ground near the Van. I do not know how or when the gun got there. Preston stayed on the Phone till the police arrived.



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 Department of Pathology and Lab Medicine
 165 Ashley Avenue, Suite 309
 PO Box 250908
 Charleston, SC 29425

Patient: OLIVERA, CARLOS ALERTO
 Med Rec: OLIVERACARLOS
 DOB:

Male Race: Hispanic
 ACCESSION: FA-10-00862
 Date Received: 12/25/2010
 Date Collected: 12/25/2010

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Autopsy Information

Date of Death: 12/24/10 Time: 8:47 p.m.
 Date of Autopsy: 12/25/10 Time: 9:00 a.m.
 County: Beaufort
 Coroner: David Ott, Deputy
 Attending Pathologist: Ellen C. Riemer, MD, JD
 Pathologist Assistant: Eowyn Corcrair
 Autopsy Technician: Kimberly Boretsky
 Prosector(s): Ellen C. Riemer, MD, JD

(If Injury) How occurred: Subject was shot
 Date of Injury: 12/24/10 Time: 8:31 p.m.
 Place of Injury: Road At Work: No

Cause of Death

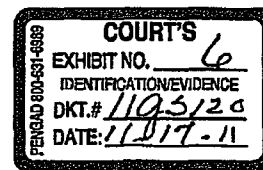
Multiple gunshot wounds

Manner of Death

Homicide

CASE HISTORY

According to the coroner's investigative report, the decedent was a 34 year old Hispanic man who was parked in his vehicle on the side of a residential street with the motor running. A tow truck driven by another individual was reportedly under contract to tow all vehicles parked on the side of the street on which the decedent's vehicle was parked. The tow truck driver placed a



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Forensic Autopsy Final Report

boot (tire lock) on the decedent's vehicle front tire. The decedent and his brother reportedly went outside in an attempt to stop the vehicle from being towed and decedent then started yelling at the tow truck driver telling him he was not going to tow his vehicle. The tow truck driver reportedly told the decedent he would not tow the vehicle if the decedent paid him \$300 to remove the boot. The decedent then reportedly then pulled a .40 caliber semi-automatic pistol from his waist band and pointed it at the tow truck driver who then got back into his tow truck and closed the door. The tow truck driver then passed through the window to the decedent and his brother the key to unlock the boot from the tire and as the decedent walked away from the driver's door of the tow truck the tow truck driver got out of the tow truck and shot the decedent in his back numerous times with a .40 caliber semi-automatic pistol. Reportedly, there were 6 spent shell casings were recovered at the scene, all believed to be fired from the pistol belonging to the tow truck driver. The decedent's pistol was reportedly not fired during the incident. The decedent reportedly fell in the middle of the roadway face down and died at the scene as a result of his injuries.

GROSS DESCRIPTION

EXTERNAL EXAMINATION

The body is that of a well-developed, well-nourished, adult Caucasian male who weighs approximately 172 pounds, is 69 inches in length, and appears compatible with the stated age of 34 years.

The body is identified by the coroner. The body is received clad in a black jacket, a black button-down shirt, a black t-shirt, gray plaid boxer shorts, khaki pants with a black belt, black socks, and black shoes. Personal effects consist of a yellow metal ring on his left fourth finger and a gray metal ring with a blue stone on the right fourth finger. The body is cool to the touch. Rigor mortis is fully fixed in all extremities and jaw. Diffuse, unfixated, purple livor extends over the posterior surfaces of the body, except in areas exposed to pressure.

The scalp hair is brown, straight and up to 1 inch in length over the crown. The irides are brown; the pupils are bilaterally equal at 0.2 inch. The corneae are clear. The sclerae and conjunctivae are unremarkable. The nose and ears are not unusual. The lips and gums are intact. The teeth are natural and in good condition. Facial hair consists of an unshaven beard

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and mustache. The neck is without masses, and the larynx is in the midline. The thorax is symmetrical with an anteroposterior/lateral ratio of about 1:2. Injury to the torso is described in "Evidence of Injury". The abdomen is flat. The penis is unremarkable; the testes are bilaterally descended within the scrotum. The anus and back are unremarkable. The upper and lower extremities are well-developed without absence of digits. Injury to the upper extremities is described in "Evidence of Injury". No identifying marks and scars are seen. Evidence of emergency resuscitation and / or medical therapy includes EKG leads on the chest and abdomen.

EVIDENCE OF INJURY

I. MULTIPLE (6) GUNSHOT WOUNDS:

A. GUNSHOT WOUND TO NECK

There is a 5/16 x 1/4 inch ovoid entrance gunshot wound on the right side of the posterior neck, located 7 3/4 inches below the top of the head and 1/2 inch to the right of midline. The gunshot wound has a 1/8 inch abrasion collar but no evidence of soot deposition or gunpowder stippling on the surrounding skin. The wound path goes through skin, subcutaneous tissue, and musculature of the posterior aspect of the neck, musculature and soft tissue of the lateral aspect of the neck and continues into musculature and soft tissue of the right cheek of the face and exits via a 1/4 x 1/4 inch lacerated defect on the right cheek of the face located 6 inches below the top of the head and 3 3/4 inches to the right of midline. No projectile or projectile fragments are recovered. The wound path is directed from back to front, upward and to the right.

B. GUNSHOT WOUND TO ABDOMEN

There is an ovoid entrance gunshot wound on the right side of the abdomen, located 20.5 inches below the top of the head and 2 1/2 inches to the right of midline. The wound measures 1 1/4 x 7/8 inch and has a crescent of abrasion measuring up to 1/4 inch which is most prominent medially. The wound path goes through skin and subcutaneous tissue of the right side of the abdomen and exits on the right side of the abdomen via a 5/8 x 11/16 inch exit defect, situated 21 inches below the top of the head and 5 1/4 inches to the right of midline. No

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Forensic Autopsy Final Report

projectile or projectile fragments are recovered. The wound path is directed from left to right and downward with minimal front to back deviation.

C. GUNSHOT WOUND TO MID BACK

There is a round, 5/16 x 5/16 inch entrance gunshot wound on the middle of the back situated 19 inches below the top of the head and 1/2 inch to the left of midline. The wound has a 1/8 inch abrasion collar. There is no evidence of soot deposition or gunpowder stippling on the surrounding skin. The wound path goes through skin, subcutaneous tissue and musculature of the back, the ninth thoracic vertebrae and underlying spinal cord, the caudate and left lobe of the liver, the pericardium, main pulmonary artery and right ventricle of heart, and continues through the musculature, subcutaneous tissue and skin of the front of the abdomen, exiting the body via a 3/4 x 1/4 inch lacerated exit defect with dried edges on the anterior aspect of the torso situated 20 inches below the top of the head and 1/4 inch to the right of midline. The wound path is directed from back to front with minimal upward and minimal left to right deviation. No bullet or bullet fragments are recovered. The wound is associated with 600 ml of blood in the right pleural cavity, 40 ml of blood in the pericardial cavity and scant blood in the peritoneal cavity with localized bleeding around the liver. In addition, the wound is associated with scant subarachnoid hemorrhage of the thoracic spinal cord.

D. GUNSHOT WOUND TO LEFT SIDE OF BACK

There is a 7/16 x 7/16 inch round entrance gunshot wound on the left side of the back located 16 1/2 inches below the top of the head and 5 1/4 inches to the left of midline. The wound has a 1/16 inch abrasion collar with no evidence of soot deposition or gunpowder stippling on the surrounding skin. The wound path goes through skin, subcutaneous tissue and musculature of the left side of the back, soft tissue and musculature of the left axilla and arm, the left humerus and exits via a 1/2 x 5/8 inch lacerated defect situated on the anterior aspect of the left arm, 4 1/2 inches the top of the left shoulder. A fragment of copper jacket is recovered in the subcutaneous tissue of the exit defect. The wound path is directed from back to front, right to left and upward.

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 165 Ashley Avenue, Suite 309
 PO Box 250908
 Charleston, SC 29425

Patient: OLIVERA, CARLOS ALERTO
 Med Rec: OLIVERACARLOS
 DOB: 12/20/1976
 Male Race: Hispanic
 ACCESSION: FA-10-00862
 Date Received: 12/25/2010
 Date Collected: 12/25/2010

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Forensic Autopsy Final Report

E. GUNSHOT WOUND TO RIGHT ARM

There is a ¼ x ¼ inch entrance gunshot wound on the posterior aspect of the right arm situated 5½ inches below the top of the right shoulder. The wound has a 1/16 inch abrasion collar but no evidence of soot deposition or gunpowder stippling on the surrounding skin. The wound path goes through skin, subcutaneous tissue and musculature of the right arm and humerus (bone of the right arm) with associated fracture of right humerus and exits the anterior aspect of the right arm via a ½ x ½ inch lacerated defect located 5½ inches below the top of the right shoulder. The wound path is directed forward with no discernible upward/downward or left/right deviation. No bullet or bullet fragments are recovered.

F. GUNSHOT WOUND TO LEFT SIDE OF UPPER BACK

There is a ½ x ½ inch entrance gunshot wound on the left side of the upper back located 12¼ inches below the top of the head and 4 inches to the left of midline. The wound has a 1/16 x 1/16 inch abrasion collar but no evidence of soot deposition or gunpowder stippling on the surrounding skin. The wound path goes through skin, subcutaneous tissue and musculature of the left side of the back, the left third rib posteriorly, the upper lobe of the left lung the left chondrocostal cartilage and the sternum from where a deformed, copper projectile jacket is recovered. The bullet core continues through the sternum and is recovered in subcutaneous tissue of the anterior chest at midline overlying the sternum. The projectile terminates 16½ inches below the top of the head at midline. The gunshot wound is associated with 1000 ml of blood in the left pleural cavity. No exit wound is identified. The wound is directed forward, toward the right, and downward.

INTERNAL EXAMINATION

BODY CAVITIES: No adhesions are present in any of the body cavities. There is 40 ml of blood in the pericardial cavity, 600 ml of blood in the right pleural cavity and 1000 ml of blood in the left pleural cavity. Otherwise, no abnormal collections of fluid are in any of the body cavities. All body organs are present in normal anatomical positions.

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HEAD (CENTRAL NERVOUS SYSTEM): The brain weighs 1470 grams. The dura mater and falx cerebri are intact. The leptomeninges are thin and delicate. The cerebral hemispheres are symmetrical. The structures at the base of the brain, including cranial nerves and blood vessels, are intact and free of abnormality. Sections through the cerebral hemispheres reveal no lesions within the cortex, subcortical white matter, or deep parenchyma of either hemisphere. The basal ganglia, thalamus, and hippocampi are unremarkable. The cerebral ventricles are of normal caliber. Sections through the brainstem and cerebellum are unremarkable.

NECK: Injury to the neck is described in "Evidence of Injury" otherwise, examination of the soft tissues of the neck, including strap muscles, thyroid gland, and large vessels, reveals no abnormalities. The hyoid bone and larynx are intact. The lingual mucosa is intact; the underlying firm red-brown musculature is devoid of hemorrhage.

CARDIOVASCULAR SYSTEM: The heart weighs 290 grams. Injury to the pericardium is described in "Evidence of Injury" otherwise, the pericardial and epicardial surfaces are smooth, glistening and unremarkable. The coronary arteries arise normally, follow the usual distribution and are patent, without evidence of significant atherosclerosis or thrombosis. The myocardium is dark red-brown, firm, and unremarkable except as described in "Evidence of Injury." The atrial and ventricular septa are intact. The left ventricular thickness = 1.4 cm, right ventricular thickness = 0.5 cm, and the interventricular septum = 1.4 cm. The aorta and its major branches arise normally, follow the usual course and are patent, free of significant atherosclerosis and other abnormality. The venae cavae and their major tributaries return to the heart in the usual distribution and are free of thrombi.

RESPIRATORY SYSTEM: Injury to the left lung is described in "Evidence of Injury." The right and left lungs weigh 270 and 210 grams, respectively. There is scant bloody mucous in the upper airway. Otherwise, the upper airway is clear of debris and foreign material; the mucosal surfaces are smooth, yellow-tan and unremarkable. The uninjured pleural surfaces are smooth, glistening and unremarkable. Lobar divisions are of the usual configuration. The pulmonary parenchyma is dark red-purple, exuding slight to moderate amounts of blood and frothy fluid; no focal non-traumatic lesions are noted. The uninjured pulmonary arteries are normally developed, patent, and without thrombus or embolus.

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LIVER AND BILIARY SYSTEM: The liver weighs 1350 grams. Injury to the liver is described in "Evidence of Injury." The uninjured hepatic capsule is smooth, glistening and intact, covering red-brown parenchyma, with no focal non-traumatic lesions noted. The gallbladder contains 8 ml of amber-colored, slightly mucoid bile; the mucosa is velvety and unremarkable. The extrahepatic biliary tree is patent, without evidence of calculi. The portal vein and its tributaries are unremarkable.

ALIMENTARY TRACT: The esophagus is lined by gray-white, smooth mucosa. The gastric mucosa is arranged in the usual rugal folds, and the lumen contains 100 ml of pink-tan fluid and partially digested food fragments. The small and large bowel are unremarkable. The appendix is present and unremarkable. The pancreas has a normal gray-white, lobulated appearance, and the ducts appear clear.

GENITOURINARY TRACT: The right and left kidneys weigh 100 grams each. The renal capsules are smooth and thin, semi-transparent, and strip with ease from the underlying, smooth, red-brown, firm, cortical surfaces. The cortices are sharply delineated from the medullary pyramids, which are red-purple to tan and unremarkable. The calyces, pelves, and ureters are unremarkable. The relationships at the trigone are unremarkable. The urinary bladder contains 200 ml of clear yellow urine; the mucosa is gray-tan and smooth. The testes, prostate and seminal vesicles are unremarkable.

RETICULOENDOTHELIAL SYSTEM: The spleen weighs 140 grams and has a smooth, intact capsule covering red-purple, moderately firm parenchyma; the lymphoid follicles are unremarkable. There are two accessory spleens each measuring up to 3/8 inch in greatest dimension. The regional lymph nodes appear normal. The bone marrow is red-purple and homogeneous, without evidence of focal abnormality.

ENDOCRINE SYSTEM: The pituitary, thyroid, and adrenal glands are unremarkable.

MUSCULOSKELETAL SYSTEM: Other than described in "Evidence of Injury," the bony framework, supporting musculature, and soft tissues are not unusual.

ECR:saw
 12/27/10

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Forensic Autopsy Final Report

01/07/11

Ellen C Riemer, M.D., J.D. (1-4726)/ MTR

CASE SUMMARY

A complete autopsy was performed on the body of Carlos Alberto Olivera at the Medical University of South Carolina Autopsy Suite on 12/25/2010. The postmortem examination began at 9:00 a.m. The prosecutor was Dr. Ellen C. Riemer. The autopsy technician was Ms. Kimberly Boretsky. The autopsy was authorized by the Beaufort County Deputy Coroner, Mr. David Ott.

Significant findings at autopsy included six gunshot wounds. None of the gunshot wounds displayed any evidence of soot deposition or gunpowder stippling on the surrounding skin. Five of the gunshot wounds were directed from back to front. All of the gunshot wounds were exiting gunshot wounds except for one gunshot wound to the back which terminated in the body. The gunshot wounds caused significant internal injury including injury to the heart, left lung, liver, and thoracic spinal cord. In addition, the gunshot wounds caused fractures of the bones in both arms and abundant internal bleeding.

Toxicologic analysis of peripheral blood is being performed at NMS Laboratories and results are pending. However results thereof are not expected to influence a determination of the cause and manner of death.

In light of the historical information and the findings at autopsy, it is the opinion of the pathologist that the decedent died as the result of multiple gunshot wounds. Furthermore, the manner of death is best deemed homicide.

FINAL DIAGNOSIS

- I. Multiple (6) gunshot wounds.

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- a. Exiting Gunshot wound to back of neck with injury to skin, subcutaneous tissue and musculature. Exit defect on right cheek of face.
- b. Exiting Gunshot wound to right side of abdomen with injury to skin and subcutaneous tissue. Exit defect on right side of abdomen.
- c. Exiting Gunshot wound to mid-back with injury to ninth thoracic vertebrae, thoracic spinal cord, caudate and left lobes of liver, pericardium, right ventricle of heart, right main pulmonary artery. Exit defect on front of torso.
- d. Exiting Gunshot wound to left side of back with injury to skin, subcutaneous tissue, musculature, left axillary soft tissue and musculature, and left humerus. Exit defect on anterior aspect of left arm.
- e. Exiting Gunshot wound to back of right arm with injury to skin, subcutaneous tissue and musculature of right arm and right humerus. Exit defect on anterior aspect of right arm.
- f. Non-exiting Gunshot wound to left side of the upper back with injury to skin, subcutaneous tissue, musculature, left third rib posteriorly, upper lobe of left lung, and sternum. No exit wound identified.

CERTIFICATION

I certify that I personally conducted the diagnostic evaluation of the above specimen(s) and have rendered the above diagnosis(es).

Ellen C Riemer, M.D., J.D. (1-4726)
 (Electronically signed by)
 Verified: 01/07/2011 03:14
 ECR/MTR

Department of Pathology and Laboratory Medicine
 Forensic Pathology

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Page No. 4

DOB:

SSN:

W

MY LITTLE BROTHER CALLED ME AROUND 7:45 OR 7:50 PM. IN DECEMBER 24TH AND SAID, NELSON I WILL BE THERE AT YOUR HOUSE WITHIN 5 MINUTES. I WAS HAPPY AND SAID TO MY WIFE AND CHILDREN THAT UNCLE CARLOS & HIS FAMILY WERE COMING, SO THEN I WENT OUTSIDE TO RECEIVE HIM AND SAID COME IN. SO WE WERE HUGGING AND LAUGHING IN THE COURSE OF ABOUT 7 MINUTES, SUDDENLY SOME BODY KNOCKING MY FRONT DOOR. IT WAS STEVE MY NEXT DOOR NEIGHBOR AND SAID TOWTRUCK TOWING YOUR VISITOR MINIVAN. SO MY BROTHER AND I WENT OUTSIDE AND EXPLAIN THE GUY THAT MY BROTHER JUST CAME A FEW MINUTES BEFORE AND THAT WAS A SHORT VISIT AND HE WILL BE GONE SHORTLY, BECAUSE MY BROTHER WANTED TO PAY ~~OTHER~~ VISITS TO OTHER OF OUR RELATIVES THAT LIVE ON DIFFERENT AREAS OF BLUFFTON. THE GUY SAID THAT HE NEEDED \$300 ON THE SPOT OR \$400 IF HE TOW THE CAR AWAY. AT THIS TIME OTHER PEOPLE IS DRIVING BY AND MY WIFE AND MY KIDS PLUS MY SISTER IN LAW AND MY NEPHEW AND NICHE WERE OUTSIDE ALSO. THE GUY WAS INSINUATING US WEND WE WERE TRYING TO BRING HIM TO A COMMON SENSE AND EVEN OTHER PEOPLE DRIVING BY WERE SAYING ITS CHRISTMASS DONT DO THAT. BUT THE GUY WAS WALKING AWAY TOWARD HIS TRUCK CABINE, THEN HE SAID IF YOU DONT HAVE THE MONEY GO AWAY AND WENT INSIDE HES TRUCK AND SHOW US MY BROTHER AND I A SEMI AUTO PISTOL AND SAID IF YOU DONT HAVE THE MONEY GO AWAY THEN...

Date

12/28/1

Page No 2

STATEMENT OF:

Name: NELSON OLIVERA

DOB:

H:

Add:

SSN:

C:

W:

SHORTLY AFTER THAT, MY BROTHER CARLOS WHO HAVE A PERMIT TO CARRY A CONCEALED WEAPON, FLEX HIS SHIRT AND SHOWS THAT GUY THAT HE ALSO HAVE A PISTOL, THEN CARLOS SAID DO YOU THINK THAT YOU GOING TO SCARE ME?

THE TOW TRUCK DRIVER SAID I OKAY, OKAY, OKAY! WHILE HE TOUCHED HIS FOREHEAD, SO I REPLY YOU GOING TO GIVE MY BROTHER LET GO SOONER HE REPLY AND SAID YES SO HE HANDED THE KEYS TO ME AND A TOOL THAT I DIDNT KNOW WHAT WAS FOR. BUT I SAID TO MY SELF I WILL FIGURE OUT LATTER, SO I ROWN BACK TO MY BROTHER CAR AND TRY TO UNLOCK THE PAD LOCK ATTACHED TO THE BOOT THAT WAS ATTACHED TO MY BROTHERS CAR, ON MY KNEE AND DESPERATE TO OPEN IT, ON THE MEAN TIME, CLAUDIA MY WIFE WAS DIRECTING THE TRAFFIC ON THE TAIL SIDE OF CARLOS MINIVAN AND CARLOS WAS ON THE FRONT SIDE OF THE TRUCK ALSO DIRECTING THE TRAFFIC, WORKING AS A TEAM WITH MY WIFE CLAUDIA I HEAR CARLOS SAID TO CLAUDIA TELL THEM TO GO FORWARD (TO THE OTHER CARS PASSING BY) LATTER ~~CAR~~ TRAFFIC WAS CLEAR NO CARS ON EITHER SIDE OF ROAD CLAUDIA MY WIFE THEN AFTER APPROCHE TO ME AND SAID THOSE KEY DONT WORK THAT GUY TRICKED YOU YES I REPLY KEY DONT WORK, ~~AS~~, IM ON MY KNEE BUT FACING CLAUDIA AT THE SAME TIME CARLOS

Date 12/28/17 Page No. 3

STATEMENT OF:

Name: NELSON OLIVERA DOB: _____ H: CR

Add: _____ SSN: _____ C: _____

W: _____

CARLOS TURNED HIS BACK AND STARTED WALKING TOWARD CLAUDIA AND I SINCE THE TRAFFIC WAS CLEAR IN BOTH SIDES OF ROAD CARLOS DIDNT SAID NOTHING JUST WALK TOWARD US.

SUDENTLY I HEAR THE GUN SHOTS I TURNED MY HEAD TO SEE IN DIRECTION WHERE CARLOS WAS AND I SO CARLOS LAY DOWN ON THE GROUND, THIS GUY THEN RUNN TO CARLOS AND SHOOT HIM AGAIN MULTIPLE SHOTS ~~IN~~ EXECUTION STYLE THE GUY (MURDER) PULL CARLOS PISTOL AWAY FROM CARLOS WAIST, I RUN TO THIS GUY AND ASKED WHY? HE DID THAT SHOOT MY BROTHER HE TREATNED ME AND POINT THE BARREL IN MY FOR HEAD AND SAID THE BAD WORD AND ALLSO SAID THAT IF YOU MAKE OTHER STEP I WILL KILL YOU TO.

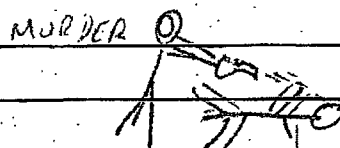
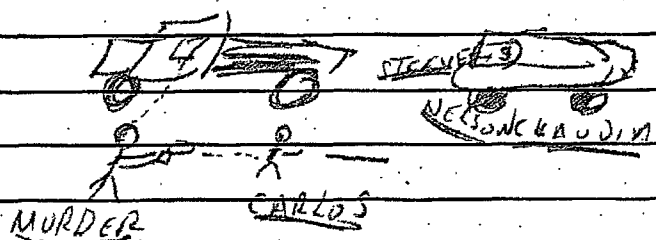
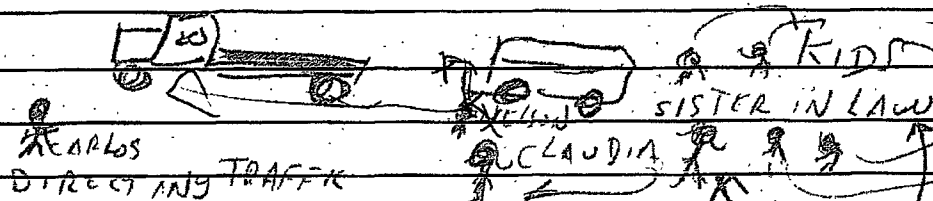
I TOLD MY WIFE MY KIDS, MY SISTER IN LAW MY BROTHER CARLOS KIDS TO HIDE AWAY AND THE RUN INSIDE THE HOUSE, THEN I WENT TO CARLOS AND STARTED TO GIVE CPR. MOUTH TO MOUTH RESPIRATION.

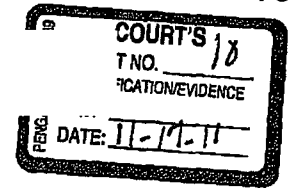
WILLE I ~~HAVE~~ LISTEN A STRONG SLIDING SOUND PASSING BY IT WAS CARLOS GUN (PISTOL) THAT THIS MURDER THROW, THIS LADY MIRIAM SAID TO ME I WILL HELP YOU I KNOW C.P.R. AND I SAID YES PLEASE HELP MY BROTHER, IN THE MEAN TIME THIS MAN WAS POINTING THE GUN TO ALL DIRECTIONS

Date 12/28/00 Page No 4STATEMENT OF: (4)Name: NELSON OLIVERA DOB: _____ H: _____Add: _____ SSN: _____ C: WFO

W: _____

AND SAYING THAT IF SOME ONE COME NEAR HE WILL SHOOT, AND HE WAS RUNNING BACK AND FORTH TO ONE DIRECTION TO A OTHER, CLAUDIA MY WIFE COME BACK ~~AFTER~~ SAME MY SISTER IN LAW DIANAM AND APPROCH TO THE AREA WHER CARLOS WAS AND THIS GUY SAID AGAIN IF YOU COME NEAR I WILL KILL YOU TO, I TOLD THE GUY OKAY KILLME KILLME BUT HE WAS MOVING BACK IN FORWARD FROM THE STREET TO THE FRONT YARD OF NEIGHBORE HOUSE, HE POINTED THE GUN TO STEVE ALSO (MY NEXT DOOR NEIGHBOR) THIS GENTELMAN I DONT KNOW WHO IT WAS DRIVING BY, PULL TO THE SIDE OF THE ROAD AND EXCLAIMED WILLE HE GET OUT AND OFFERED CAN I HELP BUT THIS MANIAC SAID TO THEM POINTING HIS GUN TO THE OLD MAN GO AWAY OR I KILL YOU TO THEN THE OLD MAN RUN TO HIS CAR AND DRIVE AWAY

CARLOS IN THE
GROUND



STATEMENT OF:
Name: Claudia E. Olivera
Add: [REDACTED]

Date: 1-1-2011
DOB: 7-8-75
SSN: [REDACTED]

On December 24, 2010 my brother-in-law Carlos came to visit us; it had been about 6 -7 minutes since his arrival. He was greeting, when my neighbor knocked on the door and told us, they are taking the car. My husband, Carlos, Carlos' wife and me ran outside. Carlos and my husband were telling the man in the tow truck to return the car. My husband would tell the man in the tow truck to give us back the car. My brother has only been here for 5 minutes. He just came to say hello for (illegible word). The man was in the car sitting inside the cab. My brother-in-law and my husband were standing near the cab talking to the man. I looked and my husband was coming with the keys, and I said, he gave you the keys? My husband said, yes he is going to give us back the car; and I said, thank God.

My husband was trying to open the lock that was on the wheels...at that time there was traffic, about 4 cars on my side and about 2 cars on my brother-in-law's side. Carlos told me to tell them to pass. I told the people to pass...and my brother-in-law was directing traffic. As I said before, there were about 6 cars stopped. Well, all the cars passed. I went to see my husband who was trying to open the lock and my neighbor was providing light. I told him, those are not the keys. My husband said

(PAGE 2) it is true. At that moment, my husband was standing up and my brother-in-law was coming toward us when the man shot him in the back, my brother-in-law Carlos. My brother-in-law fell to the ground and he kept firing until he was brutally killed.

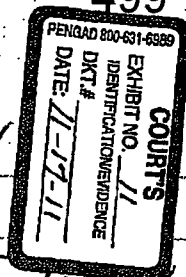
Everything was so fast. I was very afraid. I tried to hide behind the car. I was shouting a lot because my husband ran off to see his brother who was shot dead. My husband cried, screamed, little brother, little brother open your eyes. My husband would tell the tow truck man, you killed my little brother!!! You do not know who we are; my husband would tell the murderer. We are citizens of this country. We will not be silent. My whole family is a resident...and my husband cried. The tow truck man, the murderer, he put the gun to my husband's head. I thought he was going to kill my husband because he pointed to his head. In all that time, the murderer was telling my husband, I do not care and do not come near me because I will kill you. And the man, the murderer, he aimed at

everybody who was around and said, stay away or I will kill you. I wanted to go see my brother-in-law who was lying on the pavement covered in blood, but could not because I was afraid because the murdered told me stay away

(PAGE 3) because I will kill you. My neighbor wanted to help my husband and the man, the murderer, aimed the gun at his chest or head and said, do not get involved, do not move, go because if you do not I will kill you. My neighbor raised his hands up and said, ok. ok. I was there so afraid taking care of the children because my children and my nephews were crying and screaming call 911. I did not know what was to do at that moment. My sister-in-law Claudia told me do not let my children look at their father lying dead; and I brought them inside my house and told them not to cry daddy is fine. They cried and said, no no, he is dead; I told them no he is okay he is only wounded but he is fine; lets pray. I gathered the children to pray and we prayed. I left the children inside my house and went outside and the man was still there with the gun in his hand and told me there is the gun, do not grab it because I will kill you. People did want to help us. They would get out of their cars, he would point the gun at them, and say, stay away, and the people fearful would leave. I remember a man with a salmon-colored shirt got out of his car (PAGE 4) to help us. He said, can I help you with something, but the murdered pointed the gun at him and the poor man, very afraid, got into his car and left. He went into his car and was scared.

Ahaaa...and the murderer was on the phone. I do not know with whom, but he was talking. Well, when the murdered was on the phone he had already killed my brother-in-law. He would walk and point at us and while talking on the phone. Then the police came and arrested him.

I do not know who he was on the phone with, but he was speaking.



Testimony of Zabeli D. Olivera dated
12-24-10 - translated 11-17-2011
by Alfredo Ayala Jr. Qualified Legal Interpreter

We were inside the house when our door received a knock because our car was being towed. My husband Carlos Olivera and my brother-in-law asked to please take out the key of the car and that man discussed, threaten my husband, arguing he gave the key to my brother-in-law told him to take the key away from my husband and he give it to my brother-in-law so that he can take the lock from the tire then the one from the ~~the~~ truck. took away the gun from the waist from my husband and my husband ran when he saw him with a gun. He turns toward the house and the individual shoots to the back 3 times and shot to kill again on the ground he shoots again. He tells me that he will shoot me and will kill me threatens to kill my brother-in-law. Also he points to us with the gun while crying. A neighbor intends to give him mouth to mouth and could not. He killed him without notice no motive.

~~mark~~ hole punch in statement cannot decipher word by Alfredo Ayala Jr.

AGENCY I.D.
SCO 070000

SUPPLEMENTAL INCIDENT REPORT

CASE NO.	20101224-882	NO.	ENTD

☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE	OF	PAGES.
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY			

He stated that Preston then proceeded back into the cab of his truck as they approached the van. Varedi stated that Nelson Olivera and his brother went to the tow truck to speak to Preston while he stayed by the mini van. Varedi stated that a short time later, Nelson came back to the mini van with a set of keys to unlock the boot that was on the van to remove it. Varedi stated that he assisted Nelson by holding a flashlight. He stated that Nelson's brother remained at the tow truck talking to the driver. Varedi stated that Nelson and his wife were going through the set of keys for the boot and he heard gun fire. He stated that he turned around and saw Preston shooting Nelson's brother after which he began waving the gun around and pointing it at the rest of the people in the street. Varedi stated that Preston got on the phone and then started yelling at everyone to stay back. Varedi stated that he walked into the street and noticed a gun on the ground near the mini van. He stated that he does not know how or when the gun got there. Varedi stated that he did not see the shooting as it was initiated as his back was to the tow truck while he was assisting Nelson with the flashlight. Varedi did not hear a loud exchange of words prior to the shooting. Varedi provided a written statement.

Varedi has video surveillance cameras installed at his residence that monitor the front door and garage area of his home. He provided LCpl. Cooler with a copy of a recording that was made during the time of the shooting.

LCpl. Cooler and LCpl. Conant were tasked with processing the crime scene in front of [REDACTED] Cpl. Rodriguez and Cpl. Resto responded to assist in interviewing potential witnesses that may have a language barrier. Sgt. Albertin and Cpl. Adams met with Sgt. Hardy at the BCSO Hilton Head substation and initiated an interview with Preston Oates. See supplements to follow.

I met with Nelson Olivera at his residence at [REDACTED] Nelson Olivera was obviously upset by the confrontation that he had just witnessed. Nelson Olivera stated that he received a call from his brother, Carlos Olivera, sometime around 2000 hrs. and his brother told him that he would like to stop by and visit and drop off Christmas presents. He stated that Carlos only intended on staying for a short time because he was going to visit other family members. He stated that he asked his brother if he wanted to have something to eat. He stated that he had a shot of Jose Cuervo after he arrived and a short time later Steve, his neighbor, came over and knocked on his door. He said that there was a tow truck in the road getting ready to tow his brother's van. He stated that he and Carlos went outside to talk to the tow truck driver about not towing his brother's van. He stated that they begged him to leave the vehicle and the driver stated that he needed to call someone because it was not the driver's decision to release the vehicle. He stated that it appeared that the tow truck driver made a phone call and then told him he had to pay \$300-\$400 to have the boot released from the van. Nelson stated that his brother begged for the subject to give him a break due to it being Christmas. The driver refused. Nelson stated that his brother has a state issued concealed weapons permit. He stated that his brother pulled a gun out of his pants and demanded that the subject release his car. Nelson stated that the subject ran to his truck and closed the door and he appeared very nervous. Nelson stated that he thought that the subject was looking for his keys. He stated that his brother still had his gun in his hand. At that point the subject stated that he was nervous and that there would be no problem and handed him (Nelson) a set of keys. He stated that he took the keys to unlock the boot. At that point he heard about five shots from a gun. He stated that Carlos' wife was in the street. He stated that Steve was at the van trying to help him remove the boot. Nelson stated that his wife and sister in law (victim's wife), told him that Carlos had put his gun back in his waist band. Nelson stated that after his brother was shot and laying in the street, the subject that shot him was waving his gun around, threatening people in the street.

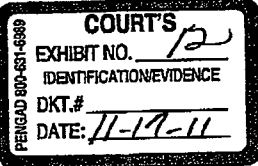
Nelson Olivera provided a written statement that is attached to this report.

The tow truck that was found in the roadway was a Ford F-650 XLT Super Duty Pro loader with black, red and white logos, indicating that it was operated by the business known as Pro-Tow. The vehicle was found by deputies after the shooting with the ignition running and it remained running after the shooting incident.

Interview with Reba Bryan: (12-24-10)

Reba Bryan resides at [REDACTED] LCpl. Cooler and I met with Reba Bryan, who resides across from [REDACTED] and whose residence faces the street where the shooting incident occurred. Bryan stated that she noticed the tow truck in front of her home and went out to see what was going on. She stated that the tow truck driver sitting in the driver's seat of his vehicle and the deceased was near the truck arguing with the driver. She stated that she mentioned to them that they should call the police to assist with the disagreement over the tow and someone told her to mind her own business. She stated that she went back into her house and said that she was going to call the police. Shortly thereafter, a woman knocked on the door and told her not to call the police as they had

SUBJECT IDENTIFIED ☒ YES ☐ NO	SUBJECT LOCATED ☒ YES ☐ NO	☐ ACTIVE ☐ ADM CLOSED ☐ UNFOUNDED	☒ ARRESTED UNDER 18 ☐ ARRESTED	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR, 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED				
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	
Viens, A.	1-1-11	V3613	 Michael M. Heston Sheriff, Beaufort County	
COURT'S EXHIBIT NO. 12 IDENTIFICATION/EVIDENCE DKT.# DATE: 11-19-11		FOLLOW-UP INVESTIGATION ☐ YES ☒ NO		



With the Office of Sheriff for Beaufort County
 Michael M. Heston
 Sheriff, Beaufort County