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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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|---------------------------|---|--------------------------|
| UNITED STATES OF AMERICA, | : | 20-CR-00213(KAM) |
| | : | |
| | : | |
| -against- | : | United States Courthouse |
| | : | Brooklyn, New York |
| | : | |
| | : | January 26, 2023 |
| QUANDEL SMOTHERS, | : | 9:00 a.m. |
| | : | |
| Defendant. | : | |

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TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL
BEFORE THE HONORABLE KIYO A. MATSUMOTO
UNITED STATES SENIOR DISTRICT COURT JUDGE

A P P E A R A N C E S:

For the Government: BREON PEACE
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: MATTHEW GALEOTTI, ESQ.
GENNY NGAI, ESQ.
JONATHAN SIEGEL, ESQ.
Assistant United States Attorneys

For the Defendant: PETER J. GUADAGNINO, ESQ.
30 Wall Street, 8th Floor
New York, NY 10005
BY: PETER J. GUADAGNINO, ESQ.

Court Reporter: Michele Lucchese, RPR, CRR,
Official Court Reporter
718-613-2272
E-mail: MLuccheseEDNY@gmail.com

Proceedings recorded by computerized stenography. Transcript
produced by Computer-aided Transcription.

1 (In open court - jury not present.)

2 (Defendant present.)

3 THE COURT: This is criminal cause for trial, docket
4 20-CR-213, USA versus Quandel Smothers.

5 Will the Government please state their appearances,
6 please.

7 MR. GALEOTTI: Good morning, Your Honor.

8 For the Government, Assistant United States
9 Attorneys Matthew Galeotti and Genny Ngai. We are joined by
10 Paralegal Specialist Brittany Wissel and Special Agent Steven
11 Schiliro of the FBI. And we note that AUSA Siegel is dealing
12 with another matter, which I expect we will discuss briefly,
13 related to this trial and he will be joining us later.

14 THE COURT: Thank you.

15 THE COURTROOM DEPUTY: On behalf of defendant Mr.
16 Smothers.

17 MR. GUADAGNINO: For Mr. Smothers, Peter Guadagnino,
18 joined by paralegal Isabella Montoya.

19 THE COURT: Mr. Smothers, good morning. He is
20 present.

21 What would you like to be heard about?

22 MR. GUADAGNINO: Mr. Smothers is requesting if we
23 can step in the back with me to have a brief consultation.

24 THE COURT: Well, if the jurors are all here, I can
25 give you know more than five minutes.

Proceedings

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1 MR. GUADAGNINO: That's fine.

2 THE COURT: Five minutes.

3 (Pause.)

4 THE COURT: We are going to bring the jury out as
5 soon as Mr. Smothers is in his seat.

6 MR. GUADAGNINO: When he sits down, I need to put
7 something on the record quickly.

8 THE COURT: Yes.

9 MR. GUADAGNINO: Your Honor, and I disclosed to the
10 Government, I received a phone call last night from a
11 potential Government witness, Mr. Damian Bullock. He said
12 that he got information that he was supposed to testify in
13 this case. What should he do?

14 I said, I'm not allowed to consult with him about
15 that. He needs to have an independent lawyer consult with him
16 and I left it at that and I hung up.

17 THE COURT: Thank you for informing the Court.

18 MR. GUADAGNINO: You're welcome.

19 THE COURT: Are we ready to bring the jury out at
20 this time?

21 Or is there anything that the Government wants to
22 say in response before we bring the jury out?

23 MR. GALEOTTI: No, Your Honor.

24 THE COURT: Okay.

25 (The jury enters the courtroom.)

1 THE COURT: All jurors are present. Please have a
2 seat.

3 Good morning, members of the jury.

4 THE JURY: Good morning.

5 THE COURT: Is the Government ready to proceed?

6 MS. NGAI: Yes, Your Honor.

7 THE COURT: All right.

8 MS. NGAI: The Government calls its first witness
9 for today, Detective Derick Russ.

10 THE COURT: Thank you.

11 (Witness takes the witness stand.)

12 THE COURT: Good morning, please step up.

13 THE COURTROOM DEPUTY: Please raise your right hand.

14 (Witness sworn.)

15 THE COURTROOM DEPUTY: Please have a seat and state
16 and spell your full name, please.

17 THE COURT: Good morning.

18 THE WITNESS: Good morning.

19 THE COURT: Will you please state and spell your
20 full name, sir.

21 THE WITNESS: It's Detective Derick Russ,
22 D-E-R-I-C-K, R-U-S-S.

23 THE COURT: Thank you, sir. You may proceed.

24 MS. NGAI: Thank you, Your Honor.

25 (Continued on next page.)

Russ - direct - Ngai

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1 **DERICK RUSS,**

2 called as a witness, having been first duly

3 sworn/affirmed, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. NGAI:

6 Q Where do you work?

7 A I am assigned to the intelligence bureau.

8 Q Is that with a particular agency?

9 A It's with the NYPD.

10 Q Is that also referred to as the New York City Police
11 Department?

12 A Correct.

13 Q What is your job title?

14 A I am a detective.

15 Q And how long have you been a detective with the NYPD for?

16 A Approximately two and a half, three years.

17 Q A detective?

18 A Correct.

19 Q And you mentioned that you are currently in the
20 intelligence unit. Can you briefly explain what your role and
21 responsibilities are in that position?

22 A Right now I work on the operations unit, so I receive
23 tips city-wide in regard to numerous things, school threats
24 and things of that nature.

25 Q So you respond to just information and then you

Russ - direct - Ngai

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1 investigate it?

2 A We kick it to the units that investigate it, yes.

3 Q Back in 2019, what unit were you assigned to?

4 A I was assigned to the field intelligence program.

5 Q And can you briefly explain what is that department?

6 A It's a department within intel that is tasked with
7 obtaining information regarding crime trends, drivers of
8 violence, act of violence within the precinct that I was
9 assigned to.

10 Q Is that assigned to a particular precinct?

11 A Yes, I was assigned to the 75th Precinct.

12 Q 75th?

13 A Correct.

14 Q What areas does the 77 cover?

15 A East New York, Brooklyn.

16 Q I'm going to direct your attention to July 24th of 2019.
17 Were you working that day?

18 A Yes, I was.

19 Q What did you do that day?

20 A I was assigned to the FIO program.

21 Q And what is what does FIO stand for?

22 A Field intelligence office.

23 Q You were assigned to the FIO office that day?

24 A Yes.

25 Q What, if anything, did you do while you were assigned to

Russ - direct - Ngai

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1 that unit?

2 A We responded to 4 Van Siclen Court, which is in the
3 confines of East New York, Brooklyn.

4 Q Did you participate in the arrest of anyone that day?

5 A Yes.

6 Q Was that at 4 Van Siclen Court?

7 A Correct.

8 Q And who was arrested?

9 A Quandel Smothers and others.

10 Q Was anything recovered in connection with Quandel
11 Smothers's arrest?

12 A Yes.

13 Q What?

14 A A phone.

15 Q What did you do with the cell phone after it was
16 recovered?

17 A I vouchered it.

18 Q And, again, what does vouchering mean?

19 A We take it, we invoice it, and we secure it and it goes
20 to the property clerk office.

21 Q Is there a number that's assigned to this voucher?

22 A Yes.

23 Q Is it a unique number?

24 A Yes.

25 Q And what information did you document on that voucher?

Russ - direct - Ngai

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1 A I documented a cell phone and then any accessory that was
2 with the cell phone and then the IMEI number and serial number
3 of that phone.

4 Q What is an IMEI number again?

5 A It is a unique number assigned to that phone which
6 distinguishes it from other phones.

7 Q As you sit here today, do you know the IMEI number for
8 the phone that you vouchered?

9 A No.

10 Q Did you know th IMEI number at the time that you
11 vouchered it?

12 A Yes.

13 Q Did you accurately record this number down anywhere when
14 it was fresh in your mind?

15 A Yes. I recorded it on the property invoice.

16 THE COURT: Can you keep your voice up and use the
17 microphone.

18 A The property clerk invoice.

19 THE COURT: Thank you.

20 Q I'm sorry, for the witness, you may also pull down your
21 mask when you're speaking.

22 THE COURT: Yes.

23 Q My apologies. You mentioned you recorded it on a
24 property voucher?

25 A Yes.

Russ - direct - Ngai

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1 MS. NGAI: Showing just the witness, defense counsel
2 and court what is marked as Government 3500-DR-1.

3 Q Do you see that document in front of you?

4 A Yes, I do.

5 Q Do you recognize this document?

6 A Yes.

7 Q What is it?

8 A This was the property clerk invoice that I prepared.

9 Q Do you see the IMEI number for the recovered cell phone
10 on this document?

11 A Yes, I do.

12 MS. NGAI: Permission to have the witness read the
13 IMEI number from the report as a past recollection recorded.

14 THE COURT: Any objection, Mr. Guadagnino?

15 MR. GUADAGNINO: No objection.

16 THE COURT: You may read the number, IMEI number.

17 A The reads as follows: 355865/10/295973/8.

18 THE COURT: Thank you.

19 MS. NGAI: Hold on one second.

20 (Pause.)

21 MS. NGAI: Thank you. No further questions.

22 THE COURT: Is there any cross, Mr. Guadagnino?

23 MR. GUADAGNINO: One second, Your Honor. May I have
24 a moment, Your Honor, to confer with Mr. Smothers?

25 THE COURT: Yes.

Russ - cross - Guadagnino

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1 MR. GUADAGNINO: Thank you.

2 (Pause.)

3 MR. GUADAGNINO: Just a few questions, Your Honor.

4 THE COURT: All right.

5 CROSS-EXAMINATION

6 BY MR. GUADAGNINO:

7 Q Detective Russ, I'm going to ask you some questions about
8 July 24, 2019. Do you understand?

9 A Yes, sir.

10 Q Okay. Your report that you have was dated -- the invoice
11 date is July 25, 2019; correct?

12 A Correct.

13 Q So, is it safe to assume that the following day, after
14 you took these phones into custody, that's when you vouchered
15 them?

16 A Correct.

17 Q So, on the day that you took the phones into custody,
18 were you the officer or the detective that actually took the
19 phones from Mr. Smothers?

20 A No.

21 Q Who was that detective?

22 A It would be Detective Walsh.

23 Q Okay. And besides this particular phone, Detective Walsh
24 -- withdrawn.

25 Detective Walsh gave you that phone; is that right?

Russ - cross - Guadagnino

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1 A Yes.

2 Q Besides this phone, did Detective Walsh give you other
3 phones?

4 A No.

5 Q Did you have other arrests that day that you participated
6 in that you were given other phones?

7 A I was given no other property.

8 Q Okay. And -- so your testimony is this is the only phone
9 that you were given that day?

10 A Correct.

11 Q Okay. And then you took this phone from Detective Walsh.
12 And how long did you have it on your person for before you
13 vouchered it?

14 A I vouchered it right away.

15 Q Well, you vouchered it right away or the following day?

16 A Once it was given to me for vouchering, I vouchered it.

17 Q Okay. But this report that you made wasn't made until
18 the next day?

19 A Correct.

20 Q And is there any reason why it wasn't made
21 contemporaneously with you vouchering the phone?

22 A Say that again.

23 Q Is there a reason why you didn't make your report the
24 same day that you received the phone, you waited the next day?

25 A Yes, because Detective Walsh went to apply for a search

Russ - cross - Guadagnino

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1 warrant for the residence the following day and it was not
2 granted. So, after that, that's when we vouchered the phone.

3 Q So, before -- so, you vouchered the phone the 25, not the
4 4th?

5 A Correct.

6 Q So, you didn't voucher it the same day that you got it,
7 you vouchered it the following day?

8 A Yes. That's what I said.

9 Q Right? How long did you have it on you before -- so,
10 would it be safe to assume that about 24 hours you had the
11 phone on you before vouchering it?

12 A I didn't have the phone on me.

13 Q Detective Walsh did?

14 A It was -- he had the phone secured, yes.

15 Q 24 hours before it was vouchered?

16 A The arrest was the 24th. I vouchered it on the 25th.
17 So, in that, timeframe yes, the phone was secured by Detective
18 Walsh.

19 MR. GUADAGNINO: Thank you.

20 No further questions.

21 THE COURT: Any redirect?

22 MS. NGAI: One moment, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. NGAI:

25 Q Just a few questions, Detective Russ.

Russ - redirect - Ngai

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1 Do you remember approximately what time you arrived
2 at 4 Van Siclen.

3 A I believe it was around 7:40 p.m.

4 Q Do you remember what time Quandel Smothers was arrested?

5 A I believe the arrest time was around 9:30. Around that
6 time.

7 Q And do you remember approximately how long you were on
8 the scene?

9 A It was a few hours.

10 Q Thank you.

11 THE COURT: Any recross?

12 MR. GUADAGNINO: May I have a moment, Your Honor?

13 THE COURT: Yes.

14 RECROSS-EXAMINATION

15 BY MR. GUADAGNINO:

16 Q Detective Russ, on July 25th, when you vouchered the
17 phone you were working at the 75Th Precinct for -- withdrawn.

18 You were working as a detective for two and a half
19 to three years, is that your testimony?

20 A I was not a detective at that time.

21 Q You were a police officer?

22 A Correct.

23 Q Okay. But you weren't working at the 75th, you were in
24 some other units?

25 A No, at that time I was still assigned to the 75th

Russ - redirect - Ngai

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1 Precinct.

2 Q Okay. And I think the U.S. Attorney asked you about how
3 long you were on the scene that day?

4 A Correct.

5 Q And how long was that?

6 A Approximately two, two and a half hours.

7 Q Okay. This is the scene of, which scene are we talking
8 about?

9 A 4 Van Siclen.

10 Q And you received the phone from Walsh at 4 Van Siclen?

11 A I didn't receive it at 4 Van Siclen.

12 Q Where did you receive it?

13 A The next day at the 75th Precinct. That's when I
14 vouchered it.

15 Q So, you didn't get it at the scene, you got it at the
16 precinct?

17 A Correct.

18 MR. GUADAGNINO: Thank you.

19 THE COURT: Anything else?

20 MS. NGAI: No further questions.

21 THE COURT: Sir, you are excused.

22 THE WITNESS: Thank you.

23 THE COURT: Have a good day. You can take the water
24 if you want.

25 All right. Who else do we have?

Russ - redirect - Ngai

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1 MS. NGAI: Your Honor, at this time we will call
2 Officer Chilton.

3 THE COURT: All right. Good morning, step up to the
4 stand, please.

5 THE COURTROOM DEPUTY: Please raise your right hand.
6 (Witness sworn.)

7 THE COURTROOM DEPUTY: Please have a seat and state
8 and spell your full name, please.

9 THE WITNESS: Good morning, Judge.

10 THE COURT: Good morning.

11 THE WITNESS: Mask down?

12 THE COURT: Yes, you may take the mask down.

13 THE WITNESS: Good morning.

14 My name is Patrick Chilton. P-A-T-R-I-C-K.

15 C-H-I-L-T-O-N.

16 THE COURT: Thank you, you may proceed.

17 MS. NGAI: Thank you, Your Honor.

18 (Continued on next page.)
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Chilton - direct - Ngai

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1 **PATRICK CHILTON,**

2 called as a witness, having been first duly
3 sworn/affirmed, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. NGAI:

6 Q Good morning, sir.

7 A Good morning.

8 Q Who do you work for?

9 A The NYPD.

10 Q And what is your title?

11 A Sergeant.

12 Q How long have you been a sergeant for?

13 A Two years.

14 Q How long have you been with NYPD?

15 A Almost 18.

16 Q And prior to being sergeant, what other positions did you
17 hold at the department?

18 A Excuse me. When I was a police officer out of the
19 academy, I worked in the 75th Precinct, then the 83rd
20 Precinct, and then Brooklyn North evidence collection, and I
21 got transferred.

22 Q Where do you currently work, what unit or task force?

23 A After my promotion, I was transferred to the 102
24 Precinct, and then I was just recently transferred to the
25 Highway Division special training school.

Chilton - direct - Ngai

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1 Q I'm going to direct your attention to 2019 and focus on
2 what you were doing with NYPD at that time. Where did you
3 work at that time?

4 A I was assigned to the Brooklyn North evidence collection
5 team.

6 Q And when you say Brooklyn North, is that a particular
7 precinct or an office?

8 A It's -- I guess it's an office that covers Borough of
9 Brooklyn North.

10 Q What boroughs would that include?

11 A The precincts included are the 7 -- the 73, the 75, the
12 77, 79, 81, 83, 84, 88, 90, 94, and all of the housing and
13 transit in that -- in those precincts.

14 Q Understood. And you mentioned that you were with ECT at
15 that time?

16 A Yes.

17 Q What does ECT stand for?

18 A Evidence collection team.

19 Q What does the evidence collection team do?

20 A They're requested to respond to crime scenes to attempt
21 to collect forensic evidence, like DNA and fingerprints.

22 Q What about physical items that have be found on the
23 scene?

24 A Absolutely.

25 Q And what were your particular duties and responsibilities

Chilton - direct - Ngai

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1 in ECT?

2 A My -- I guess all police officers and detectives assigned
3 to that unit, when they respond -- when I responded to a scene
4 or a location, I would speak with any officers or detectives
5 or really any member of the service who's -- who's at the
6 scene. I would talk to complainants, victims, witnesses.

7 I try to view video and just get an idea of what the
8 alleged crime was, how it happened, and then focus my
9 attention on what the best course of action would be to take
10 -- to collect the forensics.

11 Q And in a situation where there's physical items left
12 behind, for example, what do you do with those items?

13 A I would photograph the scene and the item, how it was
14 presented to me. I would take several photographs, actually.
15 You take like an overall photograph and then a little closer
16 on the item that was going to be processed.

17 And then I would don my protective equipment, gloves
18 and then start trying to collect the forensic.

19 Q And what is the purpose of taking photographs of the
20 evidence that's left behind?

21 A Just to, you know, to rebuild the scene, I guess, to show
22 court evidentiary reasons how I found the evidence and how it
23 was presented to me.

24 Q I'm going to direct your attention to January 1st, 2019
25 at approximately 11:00 p.m.?

Chilton - direct - Ngai

811

1 Were you working that night?

2 A Yes.

3 Q And were you with ECT at that time?

4 A I was.

5 Q What did you do that night?

6 A I responded to the 75th Precinct, and at the 75th
7 Precinct, there's Emergency Services Unit, truck 7, their
8 garage where a vehicle was being stored.

9 Q And where is the 75th Precinct again?

10 A Sutter Avenue.

11 Q Is that --

12 A I'm sorry, in East New York.

13 Q And why were you asked to go to the 75th Precinct?

14 A It was in regards to an arrest and there was a possible
15 gun that was found inside of a car.

16 Q Did you go to the precinct that night?

17 A I did.

18 Q Did you go alone?

19 A No, I was with Officer Hutchinson.

20 Q What happened when you and Officer Hutchinson arrived at
21 the precinct?

22 A We were met by Officer Jacobsen, who was the arresting
23 officer, who directed us to the red Nissan Altima and
24 particularly under the hood of the Nissan.

25 Q Did you know Officer Jacobsen before that night?

Chilton - direct - Ngai

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1 A No.

2 Q And you mentioned that you saw a red Nissan.

3 A Yes.

4 Q What were you asked to document and recover from that
5 car?

6 A I took -- there was a possible gun that was underneath
7 the hood next to the battery the car. So I took photographs
8 of the car, how it was presented to me, front and back, and
9 then also the object that I later learned to -- or I later
10 found out was a gun.

11 Q Did you take photographs of what you saw that night?

12 A I did.

13 MS. NGAI: Your Honor, may I please show the witness
14 what has been marked as Government Exhibit 900.

15 THE COURT: Yes.

16 MS. NGAI: I can put this on the elmo, Ms. Jackson?

17 THE COURT: It's not an elmo.

18 MS. NGAI: I can approach.

19 THE COURT: Okay.

20 Q Do you recognize the item that I just handed you that's
21 marked as Government Exhibit 900?

22 A I do.

23 Q What, is it?

24 A That's a DVD of photographs that I took at the scene.

25 Q Did you review this CD before you came here today?

Chilton - direct - Ngai

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1 A I did.

2 Q And how do you recognize this particular CD?

3 A My signature and my initials are on it, that I wrote on
4 it.

5 Q You signed it?

6 A I signed it and put my initials on it.

7 Q Does this CD or DVD contain Government Exhibit 173 to
8 188?

9 A Yes.

10 Q Are those documents fair and accurate representations of
11 the photographs that you took on January 1st, 2019?

12 A Yes.

13 MS. NGAI: Your Honor, at this time, Government
14 Exhibit 173, 177 were already admitted. So we will move to
15 admit the rest the exhibits: Government Exhibits 900 and
16 Government Exhibit 174 to 176, and 178 to 188.

17 THE COURT: Any objection, Mr. Guadagnino?

18 MR. GUADAGNINO: No objection.

19 THE COURT: All right. We receive Government
20 Exhibits 900, 174 to 176, 178 to 188.

21 MS. NGAI: Yes, Your Honor.

22 THE COURT: All right. Those are admitted.

23 MS. NGAI: Thank you.

24 THE COURT: Thank you.

25 (Government's Exhibits 900, 174 to 176, 178 to 188

Chilton - direct - Ngai

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1 received in evidence.)

2 MS. NGAI: Ms. Wissel, if we can publish Government
3 Exhibit 173 at this time.

4 Q Sir, do you recognize this photograph?

5 A Yes.

6 Q What does this photo show?

7 A The front of the -- and under the hood of the car, the
8 photo that I took.

9 Q That was the car that was at the 75th Precinct?

10 A Yes.

11 Q Where was the firearm when you arrived?

12 A It was near the battery the car, which is right --

13 Q You can circle on the screen.

14 A Okay. Right in this area.

15 MS. NGAI: Let the record reflect that the witness
16 has circled the battery.

17 Q Is that right, Sergeant?

18 A Yes.

19 MS. NGAI: Publishing Government Exhibit 174.

20 Q Sergeant, what is this a photo of?

21 A The license plate in the rear of the car.

22 MS. NGAI: Publishing Government Exhibit 175.

23 Q Sergeant Chilton, did you take this photo as well?

24 A I did.

25 Q What is this a photo of?

Chilton - direct - Ngai

815

1 A The VIN number, the vehicle identification number.

2 Q You can actually remove your circle by pressing the clear
3 button.

4 THE COURT: If you touch the upper right side of
5 your screen, there is a little eraser, and it says clear. So
6 push the eraser and push clear.

7 THE WITNESS: Got it, thank you, Judge.

8 Q You were just explaining this is the VIN number; is that
9 right?

10 A Yes. It's a unique 17-digit number that's put on every
11 vehicle to identify it.

12 MS. NGAI: Publishing Government Exhibit 177.

13 Q What does this photo show?

14 A That is the gun that was wrapped in a white rag and a
15 gray rag, still next to the battery. You can actually see the
16 red covering right here from the battery and then this is the
17 whole battery, or part of the battery right there.

18 MS. NGAI: Let the record reflect the witness has
19 circled the battery at the bottom right-hand side of the
20 photo.

21 Q And where's the firearm?

22 A It's right in here.

23 MS. NGAI: Let the record reflect the witness has
24 circled right next to the battery.

25 Q Was this the state of the firearm as you found it?

Chilton - direct - Ngai

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1 A Yes.

2 Q Or as you saw it?

3 A When I got to the scene, this is how I found it, yes.

4 MS. NGAI: Publishing Government Exhibit 179.

5 Q What is this a photo of?

6 A Before I recovered the gun, I put this brown paper in --
7 paper bag as a work area, and then when I did recover the gun,
8 I -- I unwrapped it, found that it was wrapped inside an
9 additional rag that I couldn't see when I first recovered it,
10 so I stopped and took another photograph to show all the parts
11 of the evidence.

12 MS. NGAI: And Ms. Wisse1, publishing Government
13 Exhibit 180.

14 Q What is this a photo of?

15 A That is the gun.

16 Q And you unwrapped that as well?

17 A I did, yes.

18 MS. NGAI: And publishing Government Exhibit 186.

19 Q What is this a photo of?

20 A That's the gun. The gun, the magazine, and the
21 cartridges after I unloaded it.

22 Q Why did you unload it?

23 A I unloaded it to show the state of the load and also to
24 make the firearm safe so it wouldn't accidentally discharge.

25 Q And did you also do that to document what was inside the

Chilton - direct - Ngai

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1 actual gun?

2 A Can you repeat that.

3 Q Did you document it also to show what was inside the gun?

4 A Yes. Yes, there were ten .9-millimeter cartridges inside
5 of magazine, which was inside the grip of the gun, which is
6 right here is the grip of the gun.

7 Q So let's just slow down a little bit, Sergeant.

8 A Yes.

9 Q On the left-hand side of the photo, the item that you
10 circled, what is that?

11 A That's the magazine.

12 Q What is a magazine?

13 A It's a container that holds the ammunition.

14 Q And it goes into the grip as you just demonstrated?

15 A It's called magazine well, but the magazine well is
16 inside the grip, yes.

17 Q And on the right side of the photo, what did you circle?

18 A The cartridges.

19 Q What are cartridges?

20 A Cartridges are all of components of ammunition when they
21 are together. Basically like, in layman's term, a bullet that
22 hadn't been fired yet.

23 Q How many bullets were in there, as you testified?

24 A There were 10 in the magazine.

25 Q And that blue card at the bottom of the screen, what is

Chilton - direct - Ngai

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1 that?

2 A That's my name, first and last name and the number one.

3 Q Who put it there?

4 A I did.

5 Q What else did you do with the firearm and the contents

6 inside that firearm after you finished photographing?

7 A I swabbed them for DNA.

8 Q What does swabbing mean?

9 A You use a swab or basically a Q-tip, lubricate the tip
10 with distilled water, and then just rub the swab on whatever
11 surface you're attempting to collect DNA from.

12 Q And why do you swab the firearm as part of your recovery
13 -- as the part of your recovery process?

14 A Protocol.

15 Q How many swabs did you do that night?

16 A Six.

17 Q For this particular item?

18 A Six total swabs.

19 Q And could you tell us where did you swab the firearm?

20 A Well, there was three swabs from the firearm. Swab
21 number one was from the trigger and the trigger guard.

22 Swab number two -- swab number two was from the
23 grip. It's noted as the front strap, the back strap and then
24 the side grip on that, and also the other side. That was swab
25 number two.

Chilton - direct - Ngai

819

1 Swab number three was the slide grip grooves, which
2 are these cuts right here in the slide. That slides back and
3 forth. And the magazine release, which is right here.
4 There's a little button that drops the magazine out.

5 And then -- I'm sorry, I misspoke. There was four
6 swabs, actually, from the gun.

7 The fourth one was from this little bump on the
8 front. It's called the front sight.

9 Q So you did four swabs on the actual gun?

10 A Four swabs on the gun, yes.

11 Q Did you do any additional swabs?

12 A I did.

13 There was another swab from the lips, basically the
14 top of the magazine and the base plate of the magazine, and
15 then there was another swab from the cartridges.

16 Q What, if anything, did you do with the swabs after you
17 completed that process?

18 A I packaged them and vouchered them under vouchered number
19 3001055382 and sent it to the Office of the Chief Medical
20 Examiner for analysis.

21 Q So, it was one voucher number for all six swabs?

22 A Yes, all the swabs were packaged in separate envelopes,
23 which were all placed in one bag and then sent to the medical
24 examiner for analysis.

25 Q And what happened to the firearm and ballistics evidence

Chilton - cross - Guadagnino

820

1 after you completed these steps?

2 A I gave all of that to Officer Jacobsen for vouchering.

3 MS. NGAI: A moment to confer with counsel.

4 (Pause.)

5 MS. NGAI: No further questions.

6 THE COURT: Any cross, sir?

7 MR. GUADAGNINO: Yes, Your Honor.

8 Can we have Government Exhibit 186 up, please.

9 CROSS-EXAMINATION

10 BY MR. GUADAGNINO:

11 Q Good morning, Officer Chilton.

12 A Good morning, sir.

13 Q On direct examination you testified that you had
14 recovered this gun under the hood of the car; correct?

15 A Yes.

16 Q And that it was wrapped up in I think a rag or some kind
17 of towel?

18 A It was wrapped inside of one rag which was wrapped inside
19 of another rag.

20 Q Okay. And you had testified that you used a swab dipped
21 in distilled water to swab parts of the gun; correct?

22 A Yes.

23 Q And the purpose of that was to see if you can get a DNA
24 sample of who had that gun; correct?

25 A Recover any DNA from it, yes.

Chilton - cross - Guadagnino

821

1 Q Okay. And you want to recover DNA to find out who had
2 touched that gun?

3 A Yes. Or who had come into contact with that gun.

4 Q Right. Who had come into contact.

5 So, you have been a police officer for how many
6 years, sir?

7 A Almost 18 years.

8 Q AND in those 18 years, obviously, you have handled many
9 firearms; correct?

10 A Yes.

11 Q So this is a semi-automatic handgun; correct?

12 A Yes.

13 Q And the reason for the locations of the swabbing that you
14 did was based on your knowledge of where someone who would
15 handle a gun would touch a gun at certain points handling the
16 gun; correct?

17 A It's protocol, the locations that were swabbed, but it's
18 my belief that the reason it is protocol is because it's the
19 most commonly -- it's the most common areas handled on the
20 gun, yes.

21 Q So, first of all, someone would be touching the
22 cartridges to put them into the magazine.

23 Could you please circle magazine?

24 A Right there.

25 Q And could you circle the cartridges?

Chilton - cross - Guadagnino

822

1 A Sure.

2 Q So, the cartridges, the bullets would have to be touched
3 by the handler of the firearm one by one and put into the
4 magazine; correct?

5 A No. That's not correct.

6 Q How would someone load the cartridge?

7 A Well, someone could load the -- someone could load the
8 cartridges into magazine, but that doesn't necessarily mean
9 that they're also handling the gun.

10 Q My question is: Before they handle the gun, they would
11 have to pick up a bullet, a cartridge and load it into the
12 magazine one by one with their thumb; correct?

13 A Someone would, yes.

14 Q Right.

15 And it's possible that their skin cells would rub
16 against the lip of the cartridge that you circled; correct?

17 A If they're not using gloves, absolutely.

18 Q Okay.

19 A It's a possibility.

20 Q And also you tested, you said, the trigger guard and the
21 trigger; correct?

22 A Yes.

23 Q Can you circle the trigger guard and the trigger?

24 A The trigger is right here and the trigger guard right
25 there.

Chilton - cross - Guadagnino

823

1 Q Those two areas, it also -- it would be common for the
2 handler of the firearm to touch with their fingers those
3 areas; correct?

4 A It's possible, yes.

5 Q Well, you'd have to definitely pull the trigger with your
6 finger for the gun to operate, correct, if you were going to
7 fire it?

8 A Well, I mean, if you are handling it, you're -- I would
9 say you're most likely holding the grip, and now if you are
10 going to use it, then, yes, you have to use the trigger.

11 Q Right. Because you can't fire the gun without pulling
12 the trigger; right?

13 A There are instances where there's accidental discharges.

14 I'm not sure I know, you know -- my firearm is
15 inspected by the NYPD and it can't fire without pulling the
16 trigger.

17 Q Right.

18 A But --

19 Q Normally you would have to pull the trigger to fire the
20 gun?

21 A I'd say a majority of the time, yes.

22 Q Right.

23 And then, lastly, can you show the slide that you
24 also tested?

25 Can you circle that part with the grooves?

Chilton - cross - Guadagnino

824

1 A The slide grooves, right there.

2 Q And then also the cartridge release button?

3 A The magazine release button?

4 Q I'm sorry, the magazine release button.

5 A The magazine release button, right there.

6 Q If someone is going to handle that firearm after they
7 loaded it, they would have to pull the slide back, right,
8 where you had tested the grooves; correct?

9 A No. That's not correct.

10 Q How do they charge the weapon?

11 A Well, to load the magazine into the magazine well, you
12 just need to slide it in and give a little tap to the bottom
13 of the magazine well.

14 If you were going to load a cartridge into the
15 chamber of the weapon, which this actually was found with no
16 cartridge in the chamber, but if you were going to put a
17 cartridge into the chamber, you would have to manipulate the
18 slide to the rear. That's why the slide grip grooves are
19 there.

20 But, I mean, you could touch anywhere on the slide
21 to manipulate it to the rear. And then once it comes forward,
22 it would pick up a cartridge from the top of the magazine and
23 slide into the chamber.

24 Q And normally that would be done by the handler of the
25 firearm where the grooves are on the slide; correct?

Chilton - cross - Guadagnino

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1 A Again, I mean, I -- if you're asking me the probability,
2 I'd say it's probable that the person loading the chamber is
3 going to use the slide grip grooves. But, I mean, you see it
4 in movies all the time. People don't know how to handle
5 weapons. They're not trained in how to handle weapons. They
6 can do whatever they want.

7 Q But it appears that you didn't swab in the areas that you
8 said --

9 MS. NGAI: Objection.

10 THE COURT: Let him finish his question and I will
11 rule on the objection.

12 Q It appears that you chose to swab the slide where the
13 grooves are but nowhere else on the gun?

14 MS. NGAI: Objection.

15 THE COURT: Sustained.

16 MR. GUADAGNINO: Withdrawn.

17 Q It appears that you chose to swab just the grooves of the
18 slide, but nowhere else on the slide?

19 MS. NGAI: Objection.

20 THE COURT: He chose to swab the slide, but nowhere
21 else on the slide?

22 MR. GUADAGNINO: Yes.

23 THE COURT: I'm going to sustain the objection.

24 MR. GUADAGNINO: The grooves, Your Honor. I will
25 withdraw the question.

Chilton - cross - Guadagnino

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1 Q What I am asking is basically you circled the groves on
2 the slide; correct?

3 A Yes.

4 Q And that's where you swabbed the slide, where the groves
5 are?

6 A Yes.

7 Q But you didn't swab the slide anywhere else by the
8 sights?

9 A I swabbed the front sight as well.

10 Q Right, you swabbed the front sight, but you didn't swab
11 anywhere else on the slide itself other than where the groves
12 are in the back of the slide?

13 A I mean, the front sight is on the top of -- on the front
14 of the slide, so I swabbed the front sight on the slide, on
15 the top of the slide.

16 Q You didn't swab the middle of the slide?

17 MS. NGAI: Objection. It's been asked and answered.

18 THE COURT: Can the witness please maybe circle what
19 is the slide.

20 Until now I thought the slide was circled. Is the
21 slide bigger than that?

22 THE WITNESS: Should I take away all of the --

23 THE COURT: Is that all right?

24 MR. GUADAGNINO: Yes, please.

25 THE COURT: Just please circle the slide after you

Chilton - cross - Guadagnino

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1 delete everything else. Thank you.

2 THE WITNESS: So this is the entire slide.

3 THE COURT: So the sight in the front.

4 THE WITNESS: So the sight in the front, the front
5 sight is right there. I swabbed that. And then -- I'll make
6 a box. The slide grip grooves are right there.

7 Q So on the slide that you circled, you swabbed the slide
8 grip grooves; right?

9 A Yes.

10 Q And you swabbed the front sight; right?

11 A Yes.

12 Q But you didn't swab anywhere between the front sight and
13 the slide grip grooves on the slide?

14 A No.

15 Q Okay. And, again, the purpose for that is to see if you
16 can get some DNA from the weapon, from the slide?

17 A I mean, the purpose is that's the protocol and the
18 protocol is in place to attempt to collect forensics, yes.

19 Q Okay. And when you say forensics, forensics includes
20 DNA?

21 A Yes.

22 Q What other things does it include?

23 A Fingerprints.

24 Q Okay. But you don't swab for fingerprints, do you?

25 A No.

Chilton - cross - Guadagnino

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1 Q How do you lift fingerprints from a gun?

2 A With powder and tape.

3 Q Okay. And was that employed in this investigation?

4 THE COURT: For this gun?

5 MR. GUADAGNINO: For this gun, yes.

6 A I did dust for fingerprints, but I did not see any.

7 Q Okay. Isn't there another method called the cyanide gas
8 tank method?

9 A That's not what it's called.

10 Q What is it called?

11 A But it's basically like, it's fuming.

12 You turn liquid glue into like a glue vapor and it's
13 meant to -- as far as I know, it's meant to cover any possible
14 fingerprints, so then the gun can be transported.

15 I know from personal experience that I had latent
16 fingerprints on a surface. I used the glue, the fuming, and
17 then I was unable to lift the fingerprint because of the glue
18 covering the fingerprint.

19 Q Okay. But that's another possible method; right?

20 A Like I said, it prevented me from recovering a
21 fingerprint. So I wouldn't say its used in the recovery of
22 fingerprints.

23 Q Okay. And then after you did your forensic swabbing and
24 dusting for prints, you said that you turned this weapon over
25 to PO Hutchinson; correct?

Chilton - cross - Guadagnino

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1 A No.

2 Q Who did you turn it over to?

3 A I gave all of that evidence to Officer Jacobsen.

4 Q Officer Jacobsen.

5 And Officer Jacobsen, you said, sent that to OCME?

6 A No. I said I sent the swabs that I recovered to OCME.

7

8 (Continued on following page.)

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Chilton - cross - Guadagnino

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1 BY MR. GUADAGNINO: (Continuing)

2 Q Who sent it?

3 A I sent the swabs that I recovered to OCME.

4 Q Office of the Chief Medical Examiner?

5 A Yes.

6 Q And the purpose of that was to analyze the samples from
7 the swabs --

8 A Yes.

9 Q -- for DNA, right?

10 Have you gotten any results to figure out who
11 handled that weapon?

12 A My involvement is basically over when I send it. They
13 don't ever tell me good job or bad job or anything.

14 Q Thank you. Thank you so much for your testimony.

15 A Thank you.

16 THE COURT: Any further redirect?

17 MS. NGAI: No further questions.

18 THE COURT: All right. Thank you, sir. You are
19 excused. Have a good day.

20 (Witness excused.)

21 THE COURT: Do you want to retrieve the DVD?

22 MR. GALEOTTI: Yes, Your Honor.

23 THE COURT: Who else do we have?

24 MS. NGAI: Your Honor, at this time, the government
25 calls Criminalist Benjamin Torres.

Torres - direct - Ngai

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1 THE COURT: Good morning. Come on up to the witness
2 stand, please.

3 THE CLERK: Good morning. Please raise your right
4 hand.

5 (The witness, BENJAMIN TORRES, was duly
6 sworn/affirmed by the clerk.)

7 THE CLERK: Please have a seat and state and spell
8 your full name for the record.

9 THE WITNESS: My name is Benjamin Torres, last name
10 T-O-R-R-E-S.

11 THE COURT: Thank you. You may proceed.

12 MS. NGAI: Thank you Your Honor.

13 DIRECT EXAMINATION

14 BY MS. NGAI:

15 Q Good morning, sir.

16 A Good morning.

17 THE COURT: Good morning.

18 Q Mr. Torres, where do you work?

19 A I work for the NYPD at the police laboratory.

20 Q Are you assigned to any particular unit in the police
21 laboratory?

22 A Yes. I work for the controlled substance analysis
23 section.

24 Q And just let me take a step back. The police laboratory,
25 are there different sections in that laboratory?

Torres - direct - Ngai

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1 A Yes, there's multiple different units.

2 Q And you worked at the controlled substance analysis?

3 A Correct.

4 Q What is your title -- what is your current title?

5 A I'm a criminalist.

6 Q And how long have you been a criminalist for?

7 A A little more than five years now.

8 Q And what are your duties and responsibilities as a
9 criminalist in the controlled substance analysis section?

10 A I am to analyze evidence I receive and test for the
11 presence or lack thereof of controlled substances.

12 Q What is a controlled substance?

13 A Anything that has been scheduled by our federal or state
14 government in Schedules I through V.

15 Q And when you say "Schedules," what do you mean by that?

16 A It's a system to rank the intensity of addictive
17 possibility and the just severity of the usage of the drug.

18 Q Is it fair to say that anything that's scheduled is
19 regulated by the government?

20 A Yes.

21 Q The lab that you're working in currently, is that
22 accredited?

23 A Yes, it is.

24 Q What does it mean to be accredited?

25 A It just means that we have a specific accreditation body

Torres - direct - Ngai

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1 come in and make sure that we are following the necessary
2 standards we need to meet in order to be a functioning
3 laboratory.

4 Q And what body, what body accredits the lab that you're
5 in?

6 A The American National Accreditation Board.

7 Q And has -- and is that lab still accredited to this day?

8 A Yes, we are.

9 Q Was it accredited back in 2019?

10 A Yes, it was.

11 Q What training experience do you have to analyze
12 controlled substances?

13 A So upon joining the laboratory, I had to go through about
14 a seven month training program that consisted of written
15 exams, oral exams, practical exams and then at the end of it,
16 we had tests with both a written and oral component.

17 Q Did you pass that test?

18 A Yes, all of them.

19 Q And specifically, what kind of training -- can you just
20 describe some of the courses that you may have taken or
21 training that you received in the area of controlled
22 substances?

23 A Yes. So we go over just any of our testing procedures,
24 what our standard operating procedures are going to be, what
25 our scheme of analysis would be for different kinds of drugs

Torres - direct - Ngai

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1 and then we work with both known and unknown samples and start
2 with found property cases.

3 THE COURT: When you say you "start with found
4 property cases," what does that mean?

5 THE WITNESS: Just kind of as an introduction to
6 case work. We start with found property.

7 THE COURT: When you're new?

8 THE WITNESS: Correct.

9 Q So that's the training you received once you joined or
10 before you joined the lab, is that right?

11 A Correct, at the laboratory.

12 Q At the laboratory?

13 A Yes.

14 Q Do you continue to receive periodic training on how to
15 test and identify for the presence of controlled substances?

16 A Yes, we do.

17 Q How often do you receive this training?

18 A It's more situation based, based on changes in the law or
19 changes kind of in the drugs that we are seeing, but every few
20 months, we have some sort of training or meeting to keep us
21 all up to date.

22 Q Is it fair to say that if there are any changes in the
23 test that you use to perform to identify for the presence of
24 controlled substances, would you also receive training on
25 that?

Torres - direct - Ngai

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1 A Yes, absolutely.

2 Q Approximately how many analyses of controlled substances
3 have you conducted during your time with the New York City
4 Police Department?

5 A I've worked a little over 1,200 cases.

6 Q And have you ever testified in court as an expert in the
7 identification of controlled substances?

8 A I have.

9 Q Approximately how many times?

10 A Two times.

11 Q Have you been designated as an expert in that subject
12 area on both occasions?

13 A Yes.

14 Q Ever been denied or not qualified as an expert in that
15 area?

16 A No, I have not.

17 MS. NGAI: Your Honor, the government at this time
18 moves pursuant to Rule 702 to designate and qualify
19 Criminalist Benjamin Torres as an expert in the identification
20 of controlled substances analysis.

21 THE COURT: Do you have any objection,
22 Mr. Guadagnino?

23 MR. GUADAGNINO: No, Your Honor.

24 THE COURT: All right. We will accept Mr. Torres as
25 an expert in the identification of controlled substances and

Torres - direct - Ngai

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1 analysis.

2 MS. NGAI: Thank you, Your Honor.

3 Q Criminalist Torres, did you receive evidence in this case
4 while you were in the police laboratory?

5 A Yes, I did.

6 Q And were you asked to test that evidence?

7 A Yes, I was.

8 Q Approximately when did you receive -- approximately when
9 did you receive this evidence for testing?

10 A January 4, 2019.

11 Q And when did you perform the test?

12 A I believe that same day.

13 MS. NGAI: So permission at this time to hand the
14 witness a physical item that is marked as Government
15 Exhibit 719?

16 THE COURT: Granted.

17 Q Mr. Torres, can you look inside the Redweld but not take
18 it out at this time yet.

19 A Yes.

20 Q Do you recognize the item inside that Redweld?

21 A I do recognize it.

22 Q Okay. And what is it?

23 A I recognize it to be evidence that I worked on in 2019.

24 Q And how do you recognize it?

25 A My initials and signature are on the seals of the

Torres - direct - Ngai

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1 evidence.

2 MS. NGAI: Your Honor, at this time, the government
3 offers Government Exhibit 719 into evidence.

4 MR. GUADAGNINO: No objection.

5 THE COURT: All right. We receive Government
6 Exhibit 719. You may proceed.

7 (Government Exhibit 719 so marked.)

8 Q Can you please take the bag inside the Redweld out and
9 just hold it up so the jury can see what's inside?

10 A (Witness complies.)

11 Q And can you just describe, you know, are there multiple
12 bags inside the big bag?

13 A Yes. So what we're looking at here is the evidence from
14 the case and my final repackaging. We have one of the items
15 up here along with the original packaging along with the solid
16 material that I have separated and other evidence from the
17 case.

18 Q And was everything in this bag submitted to you for
19 testing -- was everything inside this bag submitted to you for
20 testing, were they vouchered under a particular number?

21 A Yes, they were vouchered under a specific invoice for
22 this case.

23 Q Do you see that invoice number on that bag?

24 A Yes, I do.

25 Q Can you please read out that invoice number?

Torres - direct - Ngai

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1 A 3001055378.

2 Q And at this time, I'm actually going to grab the exhibit
3 bag from you and just publish it on the Elmo so that everyone
4 can see what I'm referring to.

5 THE COURT: You might have to zoom out a little bit.

6 Q Before we get to this exhibit though, how did this
7 evidence bag come into your possession?

8 A I received the evidence from the evidence control section
9 of my laboratory.

10 Q And what did you do once it got into your possession?

11 A So the first step is to look over the evidence that I'm
12 going to be picking up and make sure that the numbers on my
13 evidence match the numbers on the invoice. After realizing
14 all my numbers were correct and this evidence was okay to pick
15 up, I bring it back to my work area which I then prepped to
16 begin my case.

17 Q And let's talk about -- and you mentioned that this is
18 your final repackaging, correct?

19 A Correct.

20 Q This is not what it looked like when it first came to
21 you?

22 A No.

23 Q Did the evidence that arrived to you from evidence
24 control, did that include 15 twist bags?

25 A Yes, it did.

Torres - direct - Ngai

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1 Q Do you know what twist bags are?

2 A Yes, I am familiar.

3 Q What are they?

4 A As we've described them in the laboratory, it's often
5 just any sort of plastic, say like maybe a Ziploc bag or
6 something like that but instead, the knot that's tied is just
7 a twist with the top of the plastic tied off.

8 Q And what was inside the 15 twist bags when it arrived and
9 came into your possession?

10 A There was a white solid material.

11 Q What did you do with the twist bags once you got them?

12 A So my first step after opening up my case would be to
13 inventory and make sure that everything that is stated on my
14 invoice is actually present. This was the case so the next
15 step would be to analyze one of the twist bags.

16 Q And how did you analyze the twist bag?

17 A So initially, I start off with a color test which is a
18 presumptive test which kind of guides my scheme of analysis or
19 what steps I'm going to take next. After I perform my color
20 test, I go to gas chromatography mass spectroscopy.

21 THE COURT: Maybe say that a little slower.

22 THE WITNESS: Sorry.

23 A So after the color test, I would then move into my
24 instrumental analysis which is gas chromatography mass
25 spectroscopy and using the data from that, I'll be able to

Torres - direct - Ngai

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1 make my determination or identification on substances within
2 the solid material.

3 Q Are both of those tests that you just described, are they
4 accepted within the scientific community?

5 A Yes, they are.

6 Q So let's just break down the tests that you performed.
7 How did you perform the color test?

8 A The color test is just a -- it will start with one drop
9 of cobalt thiocyanate and then I add my solid material. I
10 wait for a color test or a color reaction. In this case, my
11 solid material turned kind of a blue precipitate. Then add my
12 second solvent which is a stannous chloride and I wait to see
13 if there's, that blue precipitate dissolves or remains. In
14 this case, it remained which is indicative of the possible
15 presence of cocaine. I then move on to my GC/MS, gas
16 chromatography mass spectrometry, to make my final indication
17 or identification.

18 Q And the gas chromatography test, is that commonly
19 referred to as a GC/MS test?

20 A Yes, it is.

21 Q How is it performed?

22 A GC/MS is a two part separation technique that works to
23 separate the components of a mixture. In this case, it would
24 be my solid material and solvent. It works to separate the
25 components of what is in there and gives me an identification

Torres - direct - Ngai

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1 based on retention times.

2 Q And based on the application of those two tests, what did
3 you conclude about the twist bag that you analyzed?

4 A I was able to conclude that my initial unit, the one
5 twist bag I was testing, did indeed contain cocaine.

6 Q Is cocaine a controlled substance?

7 A Yes, it is.

8 Q Did you document the results of your findings anywhere?

9 A Yes, I documented the results on my worksheet and final
10 lab report.

11 Q And in your analysis, how do you refer to each of the 15
12 twist bags that you received?

13 A They each have their own individualizing unit number so
14 my first unit of item 10 was 10.1.

15 Q And the second bag?

16 A 10.2.

17 Q And so on and so forth?

18 A Yes, all the way up until 10.15.

19 Q Now, after you completed your testing of this one unit,
20 the one twist bag, what, if anything, did you do with solid
21 material in the other twist bags?

22 A So as per our standard operating procedure, I would then
23 project to see what the total weight of all of these 15 bags
24 were going to be. That weight that I got indicated to me that
25 I then needed to combine all of the remaining solid material

Torres - direct - Ngai

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1 or the 14 remaining bags. I combined all of those together.
2 I homogenized them, kind of like in a mortar and pestle, and
3 then I submit some of that sample to another analyst to
4 perform more testing.

5 Q The process that you just described, the homogenization,
6 does that change or alter the composition or the nature of the
7 solid material in the bags?

8 A No, not at all.

9 Q You're just mixing them?

10 A Yes.

11 Q After you combined the solid material in the twist bags
12 into one unit -- is that a fair description?

13 A Uh-huh.

14 Q Was there a request to test that unit for cocaine base?

15 A Yes, there was.

16 Q Is cocaine base also a controlled substance?

17 A Yes, it is.

18 Q Do you know of any other names for cocaine base?

19 A You mean street names? Maybe like crack cocaine.

20 Q Did you perform that test?

21 A I did not.

22 Q Who performed it?

23 A Another analyst at the laboratory.

24 Q In preparation for a criminalist, for another criminalist
25 to do that test, did you provide the combined sample to that

1 criminalist?

2 A Yes, I submitted a small portion of my combined sample to
3 the appropriate criminalist so they could do their testing.

4 Q What kind of packaging did you provide that evidence in?

5 A It's a small plastic sleeve which then contains a small
6 glassy envelope of my evidence.

7 Q And just looking at the screen right now, do you see the
8 bag, the sample that you provided to that criminalist?

9 A Yes. 10SS2. That -- yes, right there. That would be
10 the sample.

11 Q And how do you know?

12 A I recognize it to be the initials and also that piece of
13 paper in there is kind of our submission form. It kind of
14 provides the next analyst who's going to receive it just
15 information about the case and what I provided them with.

16 Q And are these your initials here? (Indicating)

17 THE COURT: Say for the record what you're saying as
18 "these."

19 MS. NGAI: Oh, sorry. I am pointing to the bag
20 inside Government Exhibit 719 that is marked or labeled as
21 10SS2.

22 Q 10SS2, who put that, who identified this bag as 10SS2?

23 A I give it that, I give it that designation.

24 Q And up top, on the 10SS2 bag, do you see a set of
25 initials?

Torres - cross - Guadagnino

844

1 A Yes, I do.

2 Q Okay. Whose initials are those?

3 A Those are mine.

4 Q Did you eventually receive 10SS2 back from the
5 criminalist who conducted the additional testing?

6 A Yes. I submit 10SS2 to them and when they are finished
7 with their analysis, I then re-receive 10SS2 back.

8 Q Okay. And what did you do with 10SS2 and the rest of the
9 evidence after you received it?

10 A Once I received it back, I made sure that everything was
11 properly labeled and sealed and I prepared it for my final
12 packaging.

13 MS. NGAI: One moment, please.

14 (Pause.)

15 MS. NGAI: No further questions. Thank you.

16 THE COURT: Do you have any cross?

17 MR. GUADAGNINO: Very briefly.

18 THE COURT: All right.

19 CROSS-EXAMINATION

20 BY MR. GUADAGNINO:

21 Q Good morning, Criminalist Torres?

22 A Good morning.

23 Q I just wanted to ask you some questions about your
24 report. You have an item labeled 11B, do you see, on your
25 report?

Torres - cross - Guadagnino

845

1 THE WITNESS: Your Honor, may I look at my report to
2 refresh my memory?

3 THE COURT: Yes.

4 A Yes, I see 11B here.

5 Q And 11B is two twist bags containing vegetative matter?

6 A Correct.

7 Q And there was no analysis performed on that?

8 A Correct.

9 Q And 10.638 grams, that was --

10 MS. NGAI: Objection. Outside the scope.

11 THE COURT: It does go outside the scope, sir.

12 MR. GUADAGNINO: Okay.

13 Q So there was no analysis done on the vegetative matter?

14 MS. NGAI: Objection. Outside the scope.

15 THE COURT: He can answer this one question but stay
16 within the scope of the direct, please.

17 MR. GUADAGNINO: Okay.

18 A Can you reask the question, please?

19 Q Okay. There was no analysis done on that vegetative
20 matter?

21 A There was analysis done on the vegetative matter in this
22 case, yes.

23 Q Okay. 11B?

24 A 11B was not an analyzed vegetative matter.

25 Q Okay. And is there a reason for that?

Torres - cross - Guadagnino

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1 MS. NGAI: Objection. Outside the scope.

2 THE COURT: Okay. I'm going to let him answer it.

3 Go ahead, sir.

4 A Yes. It just has to do with the weights involved. By
5 analyzing the three bags in 11A, I was able to reach a weight
6 threshold that our standard operating procedure now allows me
7 to no longer analyze the rest of the weights.

8 Q Okay. And 11A you analyzed, right?

9 A Correct.

10 Q And the item number 10 you just testified to, you
11 analyzed all of the 15 bags, correct? 15 twists. I'm sorry.

12 A I analyzed one initial twist to full completion and then
13 submitted all 15.

14 Q Thank you.

15 MR. GUADAGNINO: I have no further questions.

16 THE COURT: Any redirect?

17 MS. NGAI: No, Your Honor.

18 THE COURT: Sir, you're excused. Thank you for your
19 time. Have a good day.

20 THE WITNESS: Thank you very much.

21 (Witness excused.)

22 (Continued on next page.)

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1 THE COURT: Do you have another witness?

2 MS. NGAI: Yes, Your Honor. The government calls
3 Criminalist Konstantinos Ballas.

4 THE COURT: Good morning. Step up to the witness
5 stand, please. Good morning.

6 THE CLERK: Please raise your right hand.

7 (The witness, KONSTANTINOS BALLAS, was duly
8 sworn/affirmed by the clerk.)

9 THE CLERK: Please have a seat and state and spell
10 your full name for the record.

11 THE WITNESS: Yes. My name is Konstantinos Ballas,
12 first name K-O-N-S-T-A-N-T-I-N-O-S, last name Ballas,
13 B-A-L-L-A-S.

14 THE COURT: All right. Thank you, sir.
15 You may proceed.

16 MS. NGAI: Thank you, Your Honor.

17 (Continued on next page.)
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Ballas - direct - Ngai

848

1 DIRECT EXAMINATION

2 BY MS. NGAI:

3 Q Good morning, sir.

4 A Good morning.

5 Q Mr. Ballast, who do you work for?

6 A I work for the New York City Police Department police
7 laboratory.

8 Q What section of the laboratory do you work in currently?

9 A I currently work at the controlled substance analysis
10 section.

11 Q And how long have you worked in that section for?

12 A I have worked at the police laboratory for about
13 15 years.

14 Q Was all 15 years spent in a particular section?

15 A It was across the sections of the police laboratory.

16 Q So focusing on just the controlled substances section or
17 analysis section, how long were you there for?

18 A I was there about 14 years.

19 Q And what is your current title?

20 A I am a criminalist assigned to the controlled substance
21 analysis section.

22 Q What are your duties and responsibilities as a
23 criminalist in this section?

24 A So originally I was assigned as an analyst which I
25 analyze forensic evidence for the possible substance of

Ballas - direct - Ngai

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1 controlled substances. I did that for about a year and a
2 half. Then I was assigned to the instrumental analysis unit.
3 I stayed there about ten years. I was an instrument monitor
4 where I performed maintenances on different type of
5 instruments.

6 I also analyzed samples that are submitted to the
7 instrument analysis unit for qualitative analysis utilizing
8 GCF IDMS, a qualitative analysis utilizing LCD ADMS and
9 qualitative analysis utilizing FTIR.

10 I'm sorry. It's quantitative analysis for GCF IDMS
11 and LCD ADMS, and qualitative analysis for FTIR.

12 THE COURT: Okay. Why don't you slow down.

13 I hope the government will translate all those
14 letters and acronyms for us. Thank you.

15 Q So let's just break that down a little bit,
16 Criminalist Ballas.

17 A Yes.

18 Q The test that -- the acronyms that you just threw out at
19 us, are they all tests?

20 A Are different type of instruments that we utilize for
21 particular tests.

22 Q Okay. You mentioned an FTIR, is that right?

23 A Correct.

24 Q What does that stand for?

25 A That stands for Fourier Transform Infrared Spectroscopy.

Ballas - direct - Ngai

850

1 Q Could you please spell "Fourier" for the court reporter?

2 A Yes. F-0-U-R-E.

3 Q And what do you use that test for or that instrument for?

4 A We use that test to determine a particular form of
5 cocaine, so cocaine HCl or cocaine base. We also can use it
6 to determine MDMA and different other substances.

7 Q Thank you.

8 Is the controlled substances analysis section, is
9 that accredited?

10 A Yes. It is.

11 Q And what does it mean to be accredited?

12 A There's an external organization that ensures that we
13 follow specific type of standards.

14 Q And what is your educational background? If you could
15 just briefly describe it.

16 A Of course. I have a Bachelor of Science degree in
17 biochemistry from Hofstra University.

18 Q Do you know what a controlled substance is?

19 A Yes, it's a substance that is regulated by law.

20 Q Is cocaine base a controlled substance?

21 A Correct, yes.

22 Q What training and experience do you have in the area of
23 testing and analyzing controlled substances?

24 A Sure. Originally, I got trained in approximately seven
25 months of training in the controlled substance analysis

Ballas - direct - Ngai

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1 section consisting of oral examinations, practical
2 examinations and written examinations. Also, lectures. And
3 then within my years at the police laboratory, I had extra
4 training in FTIR analysis and then other instrumentation
5 analysis.

6 Q And do you continue to receive regular training on this
7 subject matter?

8 A I do, yes.

9 Q How many analyses of controlled substances have you
10 performed or participated in during your time at the NYPD?

11 A I have analyzed approximately 1,200 samples and in FTIR,
12 about 88.

13 Q So just to clarify, all that 1,200 analyses, how many
14 involved the use of FTIR technology or instruments?

15 A About 88.

16 Q Have you ever testified in court as an expert in this
17 subject area?

18 A I have.

19 Q Approximately how many times?

20 A Approximately ten times.

21 Q When was the last time you testified?

22 A In 2011.

23 Q When you testified as a criminalist in this subject area,
24 were you qualified as an expert?

25 A Yes, I was.

Ballas - direct - Ngai

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1 Q Have you ever been offered as an expert in this subject
2 area and not been qualified?

3 A Not to my knowledge.

4 MS. NGAI: Your Honor, at this time, the government
5 moves pursuant to Rule 702 to qualify Criminalist Konstantinos
6 Ballas as an expert in the analysis and identification of
7 controlled substances.

8 MR. GUADAGNINO: No objection.

9 THE COURT: We will qualify the witness as an expert
10 in the analysis and identification of controlled substances.
11 Thank you.

12 MS. NGAI: Thank you.

13 Q Criminalist Ballas, did you personally examine and
14 analyze evidence in this case?

15 A I did.

16 Q I'm going to hand you what has been admitted as
17 Government Exhibit 719.

18 A Thank you.

19 (Pause.)

20 THE COURT: I'm sorry. You may continue.

21 MS. NGAI: Thank you.

22 Q Do you see a bag -- first, let me step back.

23 Is this a sealed bag?

24 A Yes.

25 Q Are there multiple things inside that sealed bag?

Ballas - direct - Ngai

853

1 A Correct.

2 Q Do you see a bag with a yellow sticker labeled 10SS2
3 within this larger bag?

4 A I do.

5 Q Do you recognize that?

6 A Yes. This is the submitted sample that I did analysis
7 on.

8 Q And what type of analysis were you asked to perform on
9 this sample?

10 A I performed FTIR analysis for the possible presence of
11 cocaine base.

12 Q Who did you receive 10SS2, that small bag from?

13 A This 10SS2 was put in a lock box in the instrumental
14 analysis unit from Criminalist Ben Torres and I picked up that
15 sample.

16 Q And after you picked up that sample, what did you do?

17 A First, I opened the heat sealed envelope and took
18 inventory of what was inside and then proceeded to my
19 analysis.

20 Q And what was your understanding of what was inside that
21 bag, 10SS2?

22 A It was one glassine envelope that contained a folded
23 weighing paper containing solid material. And that solid
24 material was a representative sample of Item Number 10, a
25 combination of 15 units.

Ballas - direct - Ngai

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1 Q Thank you. Did you document the result of that
2 examination?

3 A I did.

4 Q And where did you document that?

5 A To my laboratory report.

6 Q What kind of test did you perform on this sample?

7 A Sure. I performed originally a representative color test
8 and then FTIR analysis.

9 Q And why did you perform a color test first?

10 A It's part of our minimum criteria and part of our
11 standard operating procedures to perform a representative
12 color test before we proceed to any analysis.

13 Q And how did you perform that color test?

14 A It's a two part color test. We use a reagent call cobalt
15 thiocyanate. You place one drop in a spot well and then you
16 place a small representative sample, amount of sample from
17 your sample, and you observe the color reaction that takes
18 place. At this instance, it was a blue precipitate. Then you
19 proceed to the next step which is adding about three drops of
20 stannous chloride, it's another reagent, and I observed that
21 the blue precipitate remained.

22 Q And what did you conclude about the sample after you
23 performed the color test?

24 A That cocaine may be possibly present.

25 Q What was the next thing that you did?

Ballas - cross - Guadagnino

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1 A Then I proceeded to perform FTIR analysis.

2 Q And you, you've explained what the acronym stands for,
3 but can you describe how you perform this test?

4 A Yes. You place a representative amount of sample on the
5 FTIR stage and based on the interaction of the infrared light
6 and the sample, a FTIR spectrum is produced and then you are
7 able to determine what the sample is.

8 Q And what did you conclude after you finished your test?

9 A That cocaine base was present.

10 Q Is cocaine base a controlled substance?

11 A Yes, that is correct.

12 Q After you completed your testing, what, if anything, did
13 you do with 10SS2 in that bag?

14 A Then I heat seal the plastic envelope and I proceeded to
15 put it back to the drop box, the locked drop box for analyst
16 Ben Torres to come and pick up his sample.

17 MS. NGAI: No further questions.

18 THE COURT: Any cross?

19 MR. GUADAGNINO: Briefly.

20 CROSS-EXAMINATION

21 BY MR. GUADAGNINO:

22 Q Good morning, Criminalist Ballas.

23 A Good morning.

24 Q You referred to your report when you testified, correct?

25 A Can you --

Ballas - cross - Guadagnino

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1 Q Yes. You generated a report in this case?

2 A Correct, yes.

3 Q And before you testified, you reviewed your report --

4 A Correct.

5 Q -- to testify, correct?

6 A Yes.

7 Q Now, you were given 15 twists to test, correct?

8 A No, I was given a combination unit of those 15 twists.

9 Q A combination, you mean?

10 A Yes.

11 Q And the 15 units were not individually tested, correct?

12 A Correct.

13 Q And based on that fact, you couldn't conclude that all
14 15 units contained cocaine base, correct?

15 A Correct. I can conclude only on the combination unit.

16 Q On the combination?

17 A Yes.

18 THE COURT: So can you explain again what you
19 understood to be the combination unit? What is that?

20 THE WITNESS: Yes. So Analyst Ben Torres combines
21 all 15 units and homogenized the sample and then that's, he
22 takes a representative amount from that and submits it for
23 analysis.

24 THE COURT: Okay. So what you're testing is
25 something that was grouped together from all 15?

Ballas - cross - Guadagnino

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1 THE WITNESS: Correct.

2 THE COURT: All right. Thank you.

3 Q So there's no way of knowing if in each of those 15
4 twists there was cocaine?

5 A No, I did analysis on all, on the combination.

6 Q Thank you.

7 MR. GUADAGNINO: I have no further questions.

8 MS. NGAI: No further questions.

9 THE COURT: All right. Sir, you're excused. Thank
10 you very much. You can leave everything there. The
11 government will retrieve it. Have a nice day.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 (Continued on next page.)

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1 THE COURT: Do you have any other witnesses at this
2 time or is the jury ready for, is the jury ready for a break?
3 How are we doing? If you want a break, raise your hand.

4 All right. Let's take ten minutes and we will come
5 and retrieve you when we're ready. Please don't talk about
6 the case. Please leave everything face down on the chairs.
7 Thank you very much.

8 (Jury exits.)

9 THE COURT: Is there anything I need to address at
10 this time?

11 One moment.

12 (Pause.)

13 THE COURT: If there's nothing anybody needs to
14 address, we can take the ten minutes and then proceed until
15 our lunch break.

16 MR. GALEOTTI: This is just a very brief
17 administrative note that hopefully will be well received.

18 Due to the Court's efficiency and the parties being
19 able to limit sidebars, as well as some decisions not to call
20 additional witnesses that the government had previously
21 considered calling, we do anticipate finishing more quickly
22 than previously expected.

23 THE COURT: That's good news for everybody. Thank
24 you. Well, when you say more quickly, do you have a
25 guesstimate?

1 MR. GALEOTTI: We do. Our best guess would be
2 Monday.

3 THE COURT: Okay.

4 MR. GALEOTTI: But it is possible we could even
5 finish Friday afternoon. Of course we would still have to
6 have a charge conference and everything like that.

7 THE COURT: Of course.

8 MR. GALEOTTI: But we did want to alert the Court
9 particularly given the pace, that we do anticipate a change,
10 and, again, some witnesses will not be coming and so we wanted
11 to alert the Court and defense as well.

12 THE COURT: All right. Thank you.

13 Mr. Guadagnino, have you decided whether you will be
14 presenting a case once the government rests?

15 MR. GUADAGNINO: Well, based on the government's
16 predicted time frame, I'm going to use this time efficiently
17 to find that out.

18 THE COURT: All right, sir. Thank you.

19 MR. GUADAGNINO: You're welcome.

20 THE COURT: I'm sure, Mr. Smothers, you've been
21 advised you have the right to testify. You also have the
22 right to remain silent and that's a discussion that you should
23 have with your attorney. He will advise you of the positive
24 and negative effects of any decision you may make on that
25 score and ultimately, sir, that is your decision.

1 THE DEFENDANT: No problem.

2 THE COURT: All right. So let's take ten minutes
3 then and we will proceed with the trial after that point.

4 MR. GALEOTTI: Thank you, Your Honor.

5 MR. SIEGEL: Thank you, Your Honor.

6 THE COURT: All right. Thank you.

7 (Recess taken.)

8 (Continued on next page.)

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1 THE COURT: Are we ready to proceed?

2 MR. GALEOTTI: The government is, Your Honor.

3 THE COURT: If you could let Mr. Guadagnino know
4 that we are ready to resume, please.

5 Thank you so much.

6 All right. Are we ready to bring the jury back? I
7 had like to get started.

8 MR. GALEOTTI: Yes, Your Honor.

9 MS. NGAI: Yes, Your Honor.

10 THE COURT: Thank you.

11 (Jury enters.)

12 THE COURT: All jurors are present.

13 Please have a seat.

14 Does the government have another witness to call?

15 MS. NGAI: Yes, Your Honor. The government calls
16 Sergeant Murria.

17 THE COURT: All right. Thank you.

18 Good morning.

19 THE WITNESS: Good morning.

20 THE COURT: Please have a seat.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: After you take your oath.

23 THE COURTROOM DEPUTY: Please raise your right hand.

24 (Witness sworn/affirmed.)

25 THE COURTROOM DEPUTY: Please have a seat and state

1 and spell your full name, please.

2 THE COURT: You may take your mask down if it is
3 more comfortable.

4 THE WITNESS: Take it off?

5 THE COURT: You may take it off, yes. If you had
6 like to, yes.

7 THE WITNESS: Luis Murria.

8 THE COURT: Spell it, please.

9 THE WITNESS: Luis is L-U-I-S. Murria is
10 M-U-R-R-I-A.

11 THE COURT: Thank you.

12 (Continued on the next page.)

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Murria - Direct - Ngai

863

1 LUIS MURRIA, having been first duly sworn/affirmed, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. NGAI:

5 Q Good morning, sir.

6 A Good morning.

7 Q Where do you work?

8 A New York City Police Department.

9 Q What is your title with the NYPD?

10 A Sergeant.

11 Q How long have you been a sergeant for?

12 A A little bit over two years.

13 Q How long have you been employed with the NYPD in general?

14 A Over 18 years.

15 Q Can you describe for us what positions you have held at
16 the NYPD?

17 A Sure.

18 When I was in the 75th Precinct, I was a -- on
19 patrol, I was the youth officer, the property clerk. And then
20 I went into the Brooklyn North Evidence Collections Team. And
21 then now I'm a patrol supervisor in the 80th Precinct.

22 Q And the Brooklyn North ECT, what is that?

23 A We respond to robberies, burglaries, reckless
24 endangerment, scenes to recover things that were left behind.

25 Q Does ECT, does that stand for Evidence Collection Team?

Murria - Direct - Ngai

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1 A Yes.

2 Q And when were you employed in that capacity?

3 A From 2013 until 2021.

4 Q And just briefly, what does ECT do?

5 A We respond to burglaries, robberies, grand larceny, autos
6 grand larceny, reckless endangerment to recover what was left
7 behind ballistic-wise. We swap for DNA or dust for
8 fingerprints.

9 Q I'm going to direct your attention to June 10, 2018 at
10 approximately 6:40 a.m. in the morning.

11 Were you working that day?

12 A Yes.

13 Q In what capacity?

14 A As a police officer.

15 Q Were you with ECT at that time?

16 A Yes.

17 Q What did you do that morning?

18 A We responded to a crime scene.

19 Q And where was this crime scene?

20 A Bradford Street and Pitkin Avenue.

21 Q Is that in Brooklyn?

22 A Yes.

23 Q And why were you asked to respond to that crime scene?

24 A There was a ballistics and some items left behind.

25 Q Were you notified as to what kind of job it was before

Murria - Direct - Ngai

865

1 you responded?

2 A Yes.

3 Q And what kind of job was that?

4 A Reckless endangerment.

5 Q What does reckless endangerment mean in the context in
6 the NYPD?

7 A There was a shooting but with no injuries.

8 Q Did you -- who did you go with to the crime scene?

9 A Police Officer Carmosin.

10 Q Can you please spell that for the court reporter?

11 A Yes. That's C-A-R-M-O-S-I-N.

12 Q What type of area is Bradford Street and Pitkin Avenue?

13 A Residential.

14 Q And when you arrived, what did you see?

15 A It was a setup crime scene with ballistics in the area of
16 the crime scene.

17 Q What are ballistics?

18 A Either shell casings, a full bullet or fragments that was
19 left behind.

20 Q And what are shell casings?

21 A A shell casing, it's a fired bullet that's ejected from a
22 firearm.

23 Q Was the scene when you arrived, had it been secured?

24 A Yes.

25 Q And what does secured mean?

Murria - Direct - Ngai

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1 A It's -- we have crime scene tape.

2 Q And what did you do after you arrived?

3 A I spoke to the safeguarding officer. They showed me
4 where the ballistics and items that was left. And then I took
5 photos. And then I put them in plastic baggies or a brown
6 bag, and then I vouchered them.

7 Q When you recover or when you take your photos, do you
8 also mark the evidence as you see it?

9 A Yes.

10 Q And how do you mark the evidence?

11 A So for ballistics, it's an orange cone with a number on
12 it. And if it has -- I'm sending it for DNA, it's a blue
13 marker with my full name and a number.

14 Q You mentioned you took photographs of what you saw that
15 day.

16 A Yes.

17 MS. NGAI: Showing the witness, just the witness and
18 defense counsel and the Court, what is marked as Government
19 Exhibit 902.

20 Q Do you see that on your screen?

21 THE COURTROOM DEPUTY: Hold on.

22 THE COURT: One minute.

23 THE COURTROOM DEPUTY: You're using the ELM0?

24 MS. NGAI: Yes.

25 THE COURT: It will come up on your screen.

Murria - Direct - Ngai

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1 Okay.

2 Q Do you see that? Do you see Government Exhibit 902?

3 I can just hand it to you.

4 You see it?

5 A Yes.

6 Q Do you recognize this?

7 A Yes.

8 Q What is it?

9 A It's a CD of the photos that I'd taken.

10 Q And how do you recognize it?

11 A My signature and the date that I had seen them.

12 Q Does this CD contain Government Exhibits 77 to 135?

13 A Yes.

14 THE COURT: Okay. I have a question about this
15 date.

16 The date says January 10, 2023. Was that the date
17 that you went to the area that you just described?

18 THE WITNESS: No, ma'am. That's the date that I
19 spoke to the ADA.

20 Q I believe -- well, the date on the CD, is that the date
21 that you signed the CD?

22 A Yes.

23 Q Okay. And did you sign it after reviewing the contents
24 on the CD?

25 A Yes.

Murria - Direct - Ngai

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1 THE COURT: All right. Thank you.

2 Q And the date -- and just to clarify, the date that you
3 went to Bradford Street and Pitkin Avenue, was that in 2019?

4 A 2018.

5 Q 2018, sorry. Apologies. 2018.

6 THE COURT: Let's just get the date again for the
7 record.

8 MS. NGAI: Sure.

9 Q Was that June 10, 2018, when you arrived at the location?

10 A Yes.

11 Q Turning --

12 THE COURT: Thank you.

13 I just said thank you. Sorry.

14 MS. NGAI: No worries.

15 Q Turning back to the CD that you see before you, do the
16 photos at Government Exhibit 77 to 135, do they fairly and
17 accurately represent the photos that you took that morning on
18 June 10th of 2018?

19 A Yes.

20 MS. NGAI: Your Honor, the government moves to admit
21 Government Exhibits 902 and its contents, Government
22 Exhibit 77 to 135.

23 MR. GAUDAGNINO: No objection, Your Honor.

24 THE COURT: We received Government Exhibit 902 and
25 Exhibits 77 to 135.

Murria - Direct - Ngai

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1 (Government Exhibits 902 and 77 to 135 received in
2 evidence.)

3 MS. NGAI: If we could switch to TrialDirector,
4 Ms. Jackson.

5 Could we please put up Government Exhibit 135?

6 Q Sergeant, what is this a photo of?

7 A It's another photo of the crime scene with the orange
8 cones that I placed.

9 Q And what street are we looking at here?

10 A This would be Bradford Street.

11 Q Kind of going up and down?

12 A Yes.

13 Q And what are the -- do you see orange cones in that
14 photo?

15 A Yes.

16 Q And what are those orange cones?

17 A Those are the markers I had placed behind the ballistics.

18 Q And so each cone represents a separate ballistic piece of
19 evidence?

20 A Yes.

21 MS. NGAI: Ms. Wissel, can you please zoom in on the
22 middle of the photo.

23 Q What is this?

24 A That was a hat that was left behind.

25 Q And do you see the yellow tape in the back of the photo?

Murria - Direct - Ngai

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1 A Yes.

2 Q What is that?

3 A It's crime scene tape where they secure the area for no
4 one to go through.

5 Q Thank you.

6 MS. NGAI: Can we please publish Government
7 Exhibit 128?

8 THE COURT: 128?

9 MS. NGAI: Yes, 128.

10 THE COURT: Thank you.

11 Q What does this photo show?

12 A That's also the cone with the No. 1 and a shell casing.

13 Q Can you please circle on the screen where you see the
14 shell casing?

15 Thank you.

16 MS. NGAI: And let the record reflect that the
17 witness has circled the object right underneath the cone.

18 Q And you mentioned -- you previously testified that a
19 shell casing is what is ejected?

20 A From a firearm, right.

21 Q Yes.

22 MS. NGAI: So, turning to Government Exhibit 125.

23 Q And if you could just clear your screen.

24 THE COURT: I will do it.

25 Q What is this? What is being shown by marker No. 2?

Murria - Direct - Ngai

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1 A A shell casing that was also left behind.

2 Q Government Exhibit 123.

3 And what is being shown by marker No. 3?

4 A A shell casing.

5 Q Without going through every one of these photos, did you
6 take a photo of each of the shell casings that you saw and
7 recovered that morning?

8 A Yes.

9 Q Approximately how many shell casings did you recover?

10 A Sixteen.

11 Q So shell casings are left behind after a bullet is fired;
12 is that right?

13 A Yes.

14 Q Does that mean that a firearm was fired at least
15 16 times?

16 A Yes.

17 THE COURT: Well, does it mean one firearm or more
18 than one firearm, or could you tell, based on the casings?

19 THE WITNESS: So on the casings underneath, they
20 will tell you what kind of caliber it was. On this case,
21 there were two different calibers.

22 THE COURT: Okay. I was just trying to clarify.

23 MS. NGA I: Thank you, Your Honor.

24 Q Let's talk about caliber.

25 Where can you tell the caliber did -- like, what is

Murria - Direct - Ngai

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1 a caliber or what does caliber mean?

2 A It's more of what size the cartridge is with the bullet.

3 Q And can you tell, looking at the shell casing or the
4 bullet, what type caliber it is?

5 A Yes. Underneath the shell casing itself, it'll tell you
6 what the caliber is.

7 Q And do you remember what type of caliber bullets or shell
8 casings you found?

9 A Yes.

10 Q And what type calibers were they?

11 A It was 9-millimeter and a .25 auto.

12 Q What is the significance of that, if any, to you?

13 A One is a smaller round compared to the other.

14 Q The fact that there were two different type caliber shell
15 casings, any significance to you?

16 A Two different firearms fired.

17 MS. NGAI: Publishing Government Exhibit 92.

18 Q What does this photo show?

19 A A marker above what's possibly a bullet hole.

20 Q The marker is on a -- on a car?

21 A On the top of the car, yes.

22 Q Was this car inside the secured crime scene?

23 A Yes.

24 Q And you mentioned that the marker shows a bullet hole?

25 A Yes.

Murria - Direct - Ngai

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1 Q Was there any other observable damage to this car?

2 A Yes.

3 Q Can you please point out for the jury where that damage
4 was?

5 A Sure.

6 Where the other one is.

7 Q Thank you.

8 A Yes.

9 MS. NGAI: Let the record reflect that the witness
10 has circled three separate areas on the vehicle in the photo.

11 Q Why did you document this car like this?

12 A Oh, because there was a fragment where the marker is that
13 I took out of where that bullet hole was.

14 Q So you recovered a fragment from where marker 18 is?

15 A Yes.

16 Q What is a fragment?

17 A So it's a piece of the fired bullet that was left behind.

18 MS. NGAI: Publishing Government Exhibit 90.

19 Q And Sergeant, if you could just clear the red, the red
20 circles on the screen.

21 THE COURT: I got it. Sorry.

22 Q Is that a close-up of marker 18?

23 A Yes.

24 Q And that's where you recovered the fragment, the fired
25 bullet fragment?

1 A Yes.

2 MS. NGAI: Publishing Government Exhibit 80.

3 Q What does this photo show?

4 A This is another vehicle that was inside the crime scene
5 and also a possible bullet hole. And there's also a fired
6 bullet underneath.

7 Q Can you please circle first where you saw what you
8 believe was a bullet hole?

9 MS. NGAI: Let the record reflect that the witness
10 has circled a hole on the side of the driver's -- the driver's
11 side of the car.

12 Q And then where --

13 THE COURT: On the door.

14 MS. NGAI: On the door.

15 Q And where did you find the fired bullet?

16 A Right underneath, right next to the tire.

17 MS. NGAI: And let the record reflect that the
18 witness has circled the object underneath the car by the tire.

19 THE COURT: Left rear.

20 MS. NGAI: The left rear.

21 Publishing Government Exhibit 78.

22 Q What does this photo show?

23 A That's the orange cone marked No. 19 with the fired
24 bullet.

25 Q And can you circle where you see the fired bullet?

Murria - Direct - Ngai

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1 Thank you.

2 MS. NGAI: Let the record reflect that the witness
3 has circled underneath marker No. 19.

4 Publishing Government Exhibit 95.

5 Q Sergeant, what is this? What does marker 16 show?

6 A That's a cartridge.

7 Q And can you just briefly explain, what is a cartridge?

8 A Yes. It's the -- it's a not-fired bullet, so it has the
9 bullet on top and then with the shell casing.

10 Q And can you just quickly -- can you just circle the
11 cartridge in relation to the marker?

12 MS. NGAI: Let the record reflect that the witness
13 has circled the -- the object underneath marker 16.

14 Q Showing you Government Exhibit 84.

15 THE COURT: Sorry. Let me just...

16 Q Is this a close-up of the hat that you were describing in
17 the earlier photo, that you saw on the scene?

18 A Yes.

19 Q And who put the marker there?

20 A I did.

21 MS. NGAI: Showing Government Exhibit 130.

22 Q What is this document? What does this photo show?

23 A It shows the crime scene tape. I was securing the crime
24 scene.

25 Also, two sneakers that was left behind.

Murria - Direct - Ngai

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1 Q Thank you.

2 MS. NGAI: Showing Government Exhibit 88.

3 Q Is this the same crime scene area?

4 A Yes.

5 Q And the orange cones, you testified earlier that they
6 were -- that's where you marked ballistics; is that right?

7 A Yes.

8 Q And in what condition were the cars parked inside this
9 area?

10 A So the first gray car, the rear passenger door window is
11 shattered.

12 Q And can you please circle the car that you're referring
13 to?

14 And then the car behind it, what damage did you see
15 there?

16 A Oh, this one was the one that I recovered the fragment.
17 And then it had the other two possible bullet holes on the
18 front bumper.

19 Q Thank you.

20 MS. NGAI: Publishing Government Exhibit 102.

21 Q What does this photo show?

22 A It's a white foam cup with a plastic bag with possible
23 drugs.

24 Q To be clear, do you know if it's drugs?

25 A No.

Murria - Direct - Ngai

877

1 Q What did you do --

2 MS. NGAI: And we can take down this photo.

3 Q With respect to the ballistics evidence that we just
4 talked about, what did you do after you photographed them?

5 A I placed them in a small clear Ziploc bag, marked them
6 also, and then vouchered it and sent it to the lab.

7 Q Were the ballistics sealed when you sent it to the lab?

8 A Yes.

9 Q And which lab did you send it to?

10 A The Queens lab.

11 Q And what did you do with the hat that we just saw?

12 A Also I placed it in a brown bag, I sealed it, and I also
13 sent it to the lab for DNA analysis.

14 THE COURT: When you say "Queens lab," is that an
15 NYPD lab or some other type of lab?

16 THE WITNESS: It's an NYPD lab.

17 THE COURT: Thank you.

18 Q Are you familiar with the term "invoice number"?

19 A Yes.

20 Q Was the hat that you found, was that assigned an invoice
21 number at the NYPD?

22 A Yes.

23 Q As you sit here today, do you know or do you remember
24 what that invoice number was?

25 A I don't recall.

Murria - Direct - Ngai

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1 Q Was there a time when you did know that invoice number,
2 when it was fresh in your mind?

3 A Yes.

4 Q Did you record them anywhere when you knew that invoice
5 number for the hat?

6 A Yes.

7 MS. NGAI: Showing just the witness and defense
8 counsel and the Court Government Exhibit 3500 LM-1.

9 Oh, apologies. Sorry.

10 Q Do you recognize this document?

11 A Yes.

12 Q Okay. Is this your -- is the invoice number for the hat
13 on this document?

14 A Yes.

15 MS. NGAI: Your Honor, permission for the witness to
16 read the invoice number for the hat as a past recollection
17 recorded?

18 MR. GAUDAGNINO: No objection.

19 THE COURT: All right, sir, you may read in the
20 invoice number for the hat.

21 A So it's 3000977645.

22 MS. NGAI: Thank you.

23 Just a moment.

24 Q Sergeant, did you also assign or did you also voucher the
25 ballistics evidence under a separate invoice number?

Murria - Direct - Ngai

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1 A Yes.

2 Q And is that also a unique number?

3 A Yes.

4 Q As you sit here today, do you remember the invoice number
5 for the ballistics?

6 A I can't recall.

7 Q Did you know it at the time when you vouchered it?

8 A Yes.

9 Q Is that invoice number also documented on either report?

10 A Yes.

11 MS. NGAI: Permission for the witness to read that
12 invoice number as a past recollection recorded?

13 MR. GAUDAGNINO: No objection.

14 THE COURT: Okay. Thank you.

15 And this is, just for the record, 3500 LM-1 that you
16 are --

17 MS. NGAI: Yes, that is correct.

18 THE COURT: Okay. All right. So invoice numbers
19 for the ballistic evidence, you may read it, sir.

20 A It's 3000977643.

21 THE COURT: Thank you.

22 Q Thank you.

23 And Sergeant, are you familiar with an area called
24 the Pitkin housing projects?

25 A Yes.

Murria - Cross - Guadagnino

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1 Q And do you know where that is?

2 A It's in -- the precinct? 75th Precinct. It's in East
3 New York.

4 Q Do you know the cross streets of that area, the housing
5 projects in particular?

6 A That I don't recall.

7 MS. NGAI: No further questions.

8 THE COURT: Mr. Guadagnino?

9 MR. GAUDAGNINO: Briefly, Your Honor. Thank you.

10 CROSS-EXAMINATION

11 BY MR. GUADAGNINO:

12 Q Good morning, Sergeant Murria.

13 A Good morning.

14 Q Sergeant, you testified that you recovered two shell
15 casings that were .25 caliber, Item No. 1, correct? Do you
16 remember?

17 A I remembered I recovered some ballistics, yes.

18 Q So you recovered shell casings of two different caliber
19 weapons, correct?

20 A Yes.

21 Q One of the calibers was a .25 caliber?

22 A Correct.

23 Q And the other caliber was .9mm, 9-millimeter?

24 A Yes.

25 Q And in your experience, those are two different types of

1 guns, correct?

2 A Yes.

3 Q The .25 caliber is a smaller caliber, a smaller bullet
4 than a 9-millimeter, correct?

5 A Correct.

6 Q The 9-millimeter is similar to like a .38, correct?

7 A That I can't testify.

8 Q Okay. Well, you recovered approximately -- was it
9 16 shell casings?

10 A Yes, sir.

11 Q And you recovered a completed cartridge with the bullet
12 and the shell case, correct?

13 A Correct.

14 Q Okay. And you testified that you sent the shell casings
15 to Queens, to the lab?

16 A Correct.

17 Q And in Queens, that's where they have the ballistics
18 section of the NYPD, correct?

19 A Correct.

20 Q That's where they do different types of tests on
21 cartridges and bullets, correct?

22 A Correct.

23 Q And the reason for that is to try to determine what gun a
24 bullet or a cartridge came from, correct?

25 A I think so, yes.

Murria - Cross - Guadagnino

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1 Q Are you familiar with the test called a microscopy?

2 A Not really.

3 Q Okay.

4 Now, you testified that you also recovered a hat,
5 correct?

6 A Correct.

7 Q And you recovered a pair of sneakers?

8 A Correct.

9 Q And you vouchered the hat, right?

10 A Yes.

11 Q And you sent it to the OCME lab?

12 A In Queens, yes.

13 Q Oh, you sent it to the lab -- to the ballistics lab or to
14 the DNA lab?

15 A So the Queens lab has a ballistics section, and also they
16 have a section where they test DNA.

17 Q Okay. And what was your reason to send it to the Queens
18 DNA lab?

19 A For possible DNA.

20 Q Such as hair fibers on the hat, inside of the hat or
21 anything?

22 A I don't know how -- what they test. I just send it out
23 to get tested for DNA.

24 Q Did you -- if you know, did any results come back with
25 respect to that hat, who that hat belonged to?

Murria - Cross - Guadagnino

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1 A Not that I know about, no.

2 Q Did you send the sneakers to get tested for DNA?

3 A Yes.

4 Q Okay. And to your knowledge, as of today, do you know
5 whose sneakers those were?

6 A No, sir.

7 MR. GAUDAGNINO: Thank you. I have no further
8 questions.

9 THE COURT: Any redirect?

10 MS. NGAI: No further questions.

11 THE COURT: All right, sir. You are excused. Thank
12 you. Have a nice day.

13 THE WITNESS: Thank you. You, too.

14 (Witness excused.)

15 MS. NGAI: Your Honor, the government calls
16 Bernadette Bonilla as the next witness.

17 THE COURTROOM DEPUTY: I will give you a mask.

18 THE WITNESS: Thank you.

19 THE COURTROOM DEPUTY: Please raise your right hand.

20 (Witness sworn/affirmed.)

21 THE COURTROOM DEPUTY: Please state and spell your
22 full name, please.

23 THE WITNESS: My name is Bernadette Bonilla.

24 THE COURT: Spell it, please.

25 THE WITNESS: That's B-E-R-N-A-D-E-T-T-E; Bonilla,

1 B-O-N-I-L-L-A.

2 THE COURT: Thank you.

3 MS. NGAI: Your Honor, before I inquire, the
4 government offers Government Exhibit 503 and 504 as certified
5 business records at this time.

6 THE COURT: All right. Thank you.

7 Did you want to state whether you object or not for
8 the record?

9 MR. GAUDAGNINO: No, if there's a foundation.

10 THE COURT: All right. Thank you.

11 We will admit Government Exhibits 503 and 504.

12 (Government Exhibits 503 and 504 received in
13 evidence.)

14 MS. NGAI: Thank you.

15 (Continued on the next page.)
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Bonilla - Direct - Ngai

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1 BERNADETTE BONILLA, having been first duly sworn/affirmed, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. NGAI:

5 Q Ms. Bonilla, where do you work?

6 A I work for Safeguard Self Storage.

7 Q And what is Safeguard Self Storage?

8 A It is a company that rents storage units to customers.

9 Q And how long have you worked for the company?

10 A It will be ten years in May.

11 Q And what is your current position at the company?

12 A I am a district manager.

13 Q And prior to that, what positions did you hold at the
14 company?

15 A I originally was a facility manager, and then -- for
16 about three years.

17 And then I was promoted to an area manager -- I'm
18 sorry, district manager -- district trainer. That's until
19 2019.

20 And then I was promoted to area manager for a year
21 and promoted to district manager. And that's the position I
22 hold now.

23 Q And so how long have you been a district manager for, if
24 you could just provide us --

25 A It'll be three years this year.

Bonilla - Direct - Ngai

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1 Q And what are your responsibilities as a district manager?

2 A Okay. I oversee the operations of nine storage
3 facilities. I'm also responsible for screening and hiring of
4 new managers, as well as performing performance review of each
5 store monthly.

6 Q Thank you.

7 As a result of your employment at Safeguard, are you
8 familiar with records maintained by and created by Safeguard?

9 A I am.

10 Q Does Safeguard have a storage facility location at
11 2941 Atlantic Avenue in Brooklyn?

12 A Yes.

13 MS. NGAI: Ms. Wissel, at this time, can you please
14 pull up Government Exhibit 503, which has now been admitted
15 into evidence.

16 THE COURT: Yes.

17 Q Ms. Bonilla, do you see that document before you?

18 A Yes, I do.

19 MS. NGAI: And we can also publish this.

20 Thank you, Ms. Jackson.

21 Is there a way, Ms. Wissel, can you please blow that
22 up?

23 And can you scroll all the way up to the top first?

24 Thank you.

25 Q Ms. Bonilla, do you see that now?

Bonilla - Direct - Ngai

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1 A Yes, I do.

2 Q Do you recognize this document?

3 A Yes. This is a rental agreement between the renter and
4 Safeguard Self Storage.

5 Q And this is a document that Safeguard creates?

6 A That is true, yes.

7 Q And was the rental agreement for a storage unit at
8 2941 Atlantic Avenue in Brooklyn?

9 A Yes.

10 Q What is the occupant or the renter's -- the name of the
11 renter who rented a unit at that location?

12 A That would be Shawn Brown.

13 Q And can you please -- do you see the part where it says
14 e-mail?

15 A Yes, I do.

16 Q And can you just read out that e-mail address?

17 A That would be tybricksbooking@gmail.com.

18 Q Was that e-mail address provided by the person who rented
19 this particular unit?

20 A That is correct.

21 Q And going down, do you see the unit number?

22 A Yes, I do.

23 Q And what unit was being rented at Safeguard storage?

24 A That would be No. 1704.

25 MS. NGAI: And Ms. Wissel, can you please go down to

1 the bottom of the page?

2 Actually, if you click the very bottom of the page.

3 Yes, thank you.

4 Q Ms. Bonilla, do you see where it says description of the
5 items stored or to be stored?

6 A I do.

7 Q And is there a handwritten notation at the bottom of this
8 page?

9 A Yes.

10 Q What does it say?

11 A It says: Box shoe clothes.

12 Q And who provides that information?

13 A That would be the customer or the renter.

14 Q Thank you.

15 Turning to the last page of this document.

16 What is this?

17 A That is a driver's license of the customer that rented
18 the storage unit.

19 Q And can you read out the name of the individual on this
20 driver's license?

21 A Yes. It's Brown, Shawn T.

22 Q And why does Safeguard have a copy of his driver's
23 license?

24 A This is our way of confirming that the customer that's
25 renting is actually the person that's renting the unit.

Bonilla - Direct - Ngai

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1 Q So fair to say, someone would've provided his driver's
2 license to Safeguard at the time of the rental?

3 A That is correct, yes.

4 Q Was this agreement, this rental agreement, in effect in
5 January of 2019?

6 A Yes.

7 MS. NGAI: So pulling up now Government Exhibit 504.

8 Q What is this document, Ms. Bonilla?

9 A That is -- excuse me.

10 THE COURT: Water? If you want water, it is there.

11 MS. NGAI: Please, take it.

12 A That is a payment receipt.

13 Q And what is a payment receipt?

14 A It is a document that's provided when a customer makes a
15 payment. And we keep a record of it.

16 Q And is this a -- which unit is this payment receipt for?

17 A This is for Unit 1704.

18 Q Do you see the handwritten signature or name on this area
19 of this page?

20 A Yes, I do.

21 Q Why would there be this notation or signature?

22 A All of our customers that are renting will be required to
23 sign a receipt, whether it's a cash payment or a credit card
24 payment.

25 Q Is it fair to say that this was the signature for whoever

1 was paying for this rental agreement?

2 A That is correct.

3 Q Or the rental -- or the storage unit?

4 A Yes.

5 Q And turning to the second page of Government Exhibit 504.

6 MS. NGAI: And if we could just blow up the top
7 part.

8 Thank you.

9 Q What does this part of the payment receipt show? What
10 information does this show?

11 A This is a history of the payments made for this customer,
12 for Shawn Brown.

13 Q And was this also for Unit 1704?

14 A Yes.

15 Q And looking at the first row here, what was the date of
16 the payment?

17 A That would be, the very first one would be 1/5/2019.

18 Q Thank you.

19 And the e-mail source, can you just read that out
20 loud?

21 A That's tybricksbooking@gmail.com.

22 MS. NGAI: Thank you. No further questions.

23 THE COURT: Any cross-examination?

24 MR. GAUDAGNINO: No cross, Your Honor.

25 THE COURT: All right. You are excused. Thank you.

1 Nice to see you. Have a good day.

2 (Witness excused.)

3 THE COURT: Your next witness, please.

4 MS. NGAI: Yes. Your Honor, the government calls
5 Detective Michael Interdonati.

6 THE COURT: Okay.

7 Good morning. Please step up.

8 THE WITNESS: Good morning.

9 Good morning.

10 THE COURTROOM DEPUTY: Please raise your right hand.

11 (Witness sworn/affirmed.)

12 THE COURTROOM DEPUTY: Please have a seat and state
13 and spell your full name, please.

14 THE WITNESS: Thank you.

15 Detective Michael Interdonati; M-I-C-H-A-E-L,
16 I-N-T-E-R-D-O-N-A-T-I.

17 THE COURT: All right. You may proceed, thank you.

18 MS. NGAI: Thank you.

19 (Continued on the next page.)
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1 MICHAEL INTERDONATI, having been first duly sworn/affirmed,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. NGAI:

5 Q Good morning, sir.

6 A Good morning.

7 Q Where do you work?

8 A 75th Precinct, detective squad.

9 Q And are you a detective?

10 A Yes, ma'am.

11 Q How long have you been a detective with -- for the NYPD?

12 A I've been at the detective bureau for over 16 years, and
13 I've been a detective for over 14.

14 Q And what are your duties and responsibilities as a
15 detective?

16 A Part of what we do is, we conduct investigations on
17 several different varieties of crime, including grand
18 larcenies, assaults, specifically violent crimes, shootings,
19 shots-fired incidences, homicide, things of that nature.

20 Q And what areas do you generally respond to?

21 A Generally, anywhere in the confines of the 75th Precinct,
22 but we can go anywhere within the boroughs or certainly
23 New York State or anywhere else.

24 THE COURT: Sir, would you mind just pulling the mic
25 a little closer to you.

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: Thank you.

3 Q I'm going to direct your attention to June 11th of 2018.

4 Were you working that day?

5 A Yes, I was.

6 Q What did you do that day?

7 A In response to an incident that occurred on Bradford and
8 Pitkin Avenues on the day before, on the 10th of that year, I
9 responded out to the -- that location.

10 Q Why did you respond to that location?

11 A Respond to the incident that happened prior, there was a
12 shots-fired incident, so I responded out to that area to
13 survey the scene.

14 Q So to your knowledge -- to your knowledge, when had the
15 shots occurred?

16 A There was a shots-fired incident the day before on
17 June 10, 2018.

18 Q And what did you see when you arrived at that location?

19 A When I arrived at that location, amongst other
20 observations, I saw ballistic damage to the vehicle.

21 Q Was it your understanding that shell casings had been
22 recovered from that crime scene?

23 A Yes, there was.

24 Q Now I'm going to direct you to January 25th of 2019.

25 Were you also working that day?

1 A Yes, I was.

2 Q What did you do that day?

3 A In response to a federal search warrant, I responded to
4 2941 Atlantic Avenue, which is a Safeguard storage facility
5 for the purpose of executing a search warrant.

6 Q And what was the purpose of that search warrant?

7 A The substance of that search warrant was to search a
8 locker from that facility.

9 Q And which particular locker were you authorized to
10 search?

11 A Locker No. 1704.

12 Q What did you find inside this locker?

13 A Most of the items, there were two firearms found, there
14 was money, cash-counting machine, a watch, identification,
15 things of that nature.

16 Q When you say "identification," did -- what type of
17 identification?

18 A State identification.

19 Q Like a driver's license?

20 A Yes.

21 Q Were photos taken of the items that were found inside
22 Unit 1704?

23 A Yes.

24 Q At this time I am going to show you what is marked as
25 Government Exhibit 901.

1 Actually, I'll just hand this to you.

2 A Sure.

3 Q Do you recognize Government Exhibit 901?

4 A Yes, I do.

5 Q What is it?

6 A It is a DVD or a disc containing photos that were taken
7 in response to that search warrant.

8 Q Did you review this CD before you came here today?

9 A Yes, I did.

10 Q Does this CD contain Government Exhibit 189 to 203?

11 A Yes, it does.

12 Q And how do you know -- how do you recognize that
13 particular CD?

14 A I viewed it and my signature is on it, as well as my
15 shield number.

16 Q And are Government Exhibit 189 to 203 fair and accurate
17 photos of what you saw that day?

18 A Yes, they are.

19 MS. NGAI: Your Honor, at this time we move to admit
20 Government Exhibit 901 and its contents, Government
21 Exhibit 189 to 203.

22 MR. GAUDAGNINO: No objection.

23 THE COURT: We received Government Exhibit 901 and
24 189 through 203.

25 (Government Exhibits 901 and 189 to 203 received in

1 evidence.)

2 MS. NGAI: Great.

3 Ms. Wissel, if we could publish Government
4 Exhibit 189.

5 Q Detective, what is this a photo of?

6 A It's a photo of Locker 1704.

7 Q Could you please circle on the screen next to you where
8 1704 is?

9 MS. NGAI: Let the record reflect that the witness
10 has circled the first locker, top row, to the right.

11 THE COURT: All right.

12 Q Showing you Government Exhibit 192.

13 And Detective, you can erase the -- oh, perfect.

14 What does this photo show?

15 A It's a satchel containing money.

16 Q And where was the satchel of money found?

17 A Inside of Locker 1704.

18 MS. NGAI: Turning to Government Exhibit 199.

19 THE COURT: Just for the record, was that U.S.
20 currency or some other currency?

21 THE WITNESS: United States currency, Your Honor.

22 THE COURT: Thank you.

23 Q What does this photo show?

24 A This is the same satchel opened up containing
25 United States currency.

1 Q And what denomination of dollar bills are in this bag?

2 A 20s, 100s and 50s.

3 MS. NGAI: Turning to 195, Government Exhibit 195.

4 And if you could just blow up the photo.

5 Thank you.

6 Q What is this a photo of?

7 A A money counter.

8 Q Was that also found in Unit 1704?

9 A Yes, it was.

10 MS. NGAI: Turning to Government Exhibit 197.

11 Q What is this a photo of?

12 A Blank credit cards, as well as a driver's license
13 identification card.

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15 (Continued on the next page.)

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1 DIRECT EXAMINATION

2 BY MS. NGAI: (Continuing)

3 Q Let's just talk about the black cards on top. How many
4 do you see here?

5 A Seven black cards.

6 Q And then one American Express card?

7 A Yes, one green American express card.

8 Q Are there any personal identifying information on the
9 card?

10 A No.

11 Q What about on the back of the card?

12 THE COURT: I'm sorry. They are all marked American
13 Express.

14 MS. NGAI: I'm sorry, the green American Express.

15 Q Actually, for all of the American Express cards, were
16 there any identifying information?

17 A No, there were not.

18 Q Turning to the bottom card, a driver's license. Do you
19 see that?

20 A Yes.

21 Q Whose name is on this driver's license?

22 A Tyshawn Corbett.

23 MS. NGAI: Your Honor, at this time, permission to
24 hand the witness a physical item marked as Government Exhibit
25 714.

Interdonati - direct - Ngai

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1 THE COURT: Granted.

2 THE WITNESS: Thank you.

3 Q Detective, do you recognize Government Exhibit 714? You
4 can take a look, just don't pull it out at this time.

5 A Yes, I do.

6 Q I'm sorry. Could you repeat that?

7 A Yes. I do recognize the contents in this envelope.

8 Q What is it?

9 A It's a bag, which inside the bag it's a wallet.

10 Q It's a wallet?

11 A Yes.

12 MS. NGAI: One moment.

13 Q Detective, is there anything inside that Redwell that
14 looks like a plastic bag?

15 A Yes, ma'am. Yes.

16 Q Okay. And what's inside that plastic bag?

17 A Credit cards and an identification card.

18 Q Okay. Are those the cards that you saw -- that you found
19 in the storage unit?

20 A Yes.

21 MS. NGAI: Your Honor, at this time we move
22 Government Exhibit 714 into evidence.

23 MR. GUADAGNINO: No objection.

24 THE COURT: All right. We receive Government
25 Exhibit 714.

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1 (Government's Exhibit 714 received in evidence.)

2 MS. NGAI: With your permission, at this time, if we
3 can pass out Government Exhibit 714 to the jury if they would
4 like to see it.

5 THE COURT: You're going to take it out and pass it
6 around?

7 MS. NGAI: Well, the bag, if they wanted to see it.

8 THE COURT: All right. Are you going to do that or
9 is the detective going to do that?

10 Q Detective, could you pull out the plastic bag and just
11 demonstrate.

12 A The inner bag or the paper bag?

13 THE COURT: So, Detective, is what is being passed,
14 is that what is depicted in Government Exhibit 197?

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: Thank you.

17 MR. GALEOTTI: Your Honor, while the jurors are
18 doing that, the Government would like to put back up what's
19 already in evidence as Government Exhibit 803, which is the
20 identification board.

21 THE COURT: All right. I just want to make sure --
22 I have ruled, but I should ask Mr. Guadagnino.

23 MR. GUADAGNINO: No objection.

24 THE COURT: The Government can put up Government 803.

25 Have all of the jurors seen it? We are almost

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1 there.

2 MS. NGAI: Pulling up Government Exhibit 191.

3 Q Detective, what is this a photo of?

4 A It's a photo of a wallet, within the wallet that contains
5 a social security card.

6 Q And was this also found in the storage unit?

7 A Yes.

8 Q Whose name is on this social security card?

9 A Tyshawn Corbett.

10 Q Pulling up Government Exhibit 193, what is this a photo
11 of?

12 A New York City birth certificate.

13 Q Whose name is on this birth certificate?

14 A Specifically, Tyshawn Corbett.

15 Q Turning to Government Exhibit 149 --

16 THE COURT: Was this also recovered from the storage
17 unit?

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: Thank you.

20 Q What is this a photo of?

21 A Money. United States currency.

22 Q Also found in the storage unit?

23 A Yes.

24 Q Is that separate from the satchel of money that we talked
25 about previously?

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1 A Yes, it is.

2 Q And what are those purple bands around the money?

3 A Money straps.

4 Q Turning to Government Exhibit 198. Is this another
5 photograph of the money with the money bands that we just saw?

6 A Yes, it is.

7 Q And what do the purple bands say?

8 A \$2,000.

9 Q And how many bundles do you see here?

10 A There's five total four with the \$2,000 money straps on
11 them.

12 Q Turning to Government Exhibit 196, what is this a photo
13 of?

14 A Three necklaces.

15 Q Was that also found in the storage unit?

16 A Yes.

17 Q Turning to Government Exhibit 203, what is this a photo
18 of?

19 A A watch.

20 Q Can you tell what brand the watch is?

21 A Rolex.

22 Q Turning to Government Exhibit 201. What is this a photo
23 of?

24 A Two firearms.

25 Q Were these firearms found inside the storage unit as

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1 well?

2 A Yes, they were.

3 Q How many firearms are there in this photo?

4 A There's two firearms.

5 Q Apologies, I believe you did say that.

6 Can you tell what kind of firearms they are?

7 A A .9 millimeter and a smaller caliber.

8 Q And what, if anything, were these firearms contained in?

9 A A satchel, black satchel.

10 Q What happened to the firearms after you and other law
11 enforcement recovered them from the storage unit?

12 A They were processed through the New York City Police
13 Department lab.

14 Q Were these firearms taken anywhere to be processed?

15 A Yes, they were vouchered at the 75th Precinct.

16 Q So, I'm going to switch topics here a little bit.

17 MS. NGAI: And we can pull that photo down.

18 Q Showing you what has been admitted as Government Exhibit
19 7, do you recognize this individual in this photo?

20 A Yes, I do.

21 Q Do you know his name?

22 A Kayne Harris.

23 Q Did you see this individual -- did there come a time when
24 you saw this individual?

25 A Yes.

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1 Q In person?

2 A Yes.

3 Q Do you remember when that was?

4 A Most recently, September 17, 2018 -- 2019. Excuse me.

5 Q So September 2019?

6 A Yes. I'm sorry.

7 Q I just wanted to clarify that.

8 A September 2019.

9 Q Where did you see this individual?

10 A He was in a rehab facility on Roosevelt Island.

11 Q Do you know what kind of rehab center?

12 A Specifically, I'm not aware of what kind of patient or
13 the extent of the rehabilitation that they do there.

14 Q What was the individual's condition like when you saw
15 him?

16 A He was in a mechanical wheelchair. He appeared immobile.
17 His legs weren't moving and he had minimal hand movements.

18 MS. NGAI: Just a moment.

19 (Pause.)

20 MS. NGAI: Thank you, Detective. No further
21 questions no further questions.

22 THE COURT: Mr. Guadagnino, do you have
23 cross-examination of this witness?

24 MR. GUADAGNINO: Briefly.

25 THE COURT: All right.

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1 CROSS-EXAMINATION

2 BY MR. GUADAGNINO:

3 Q Good afternoon, Detective Interdonati.

4 A Good afternoon, counselor.

5 Q I just have a few questions for you regarding your
6 testimony.

7 Now, you testified that you went to the storage
8 facility on January 28, 2019; correct?

9 A I believe the date, counsel, was January 25th.

10 Q January 25th?

11 A Yes, Counselor.

12 Q Okay. On January 28th, you requested a direct
13 comparison?

14 A Yes. I believe that date is correct if you are reading
15 it from the report.

16 Q Right. And what was that a comparison of?

17 A So I requested the .9 millimeter firearm be compared to
18 the .9 millimeter shell casings that were recovered from the
19 shots-fired incident from the June 10, 2018 incident.

20 Q That would be through a microscopy?

21 A Yes.

22 Q And that would be done at the Queens police ballistics
23 laboratory?

24 A Yes.

25 Q Can you tell the members of the jury, if you know, what a

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1 microscopy examination is?

2 A So, my limited knowledge of the expertise is the shell
3 casings that were recovered from the crime scene are compared
4 to test-fired shell casings from the recovered firearm.

5 They're compared to under microscope and the
6 criminalist makes a determination through their methods,
7 whatever qualifications qualify them to match, whether it's a
8 match or not.

9 Q So the two guns that were recovered in the locker, the
10 shells from those -- fired out of those two guns can be
11 compared with the shells that were recovered at that shooting
12 scene; right?

13 A Basically. The .9 millimeter obviously would make more
14 sense because .9 millimeters were recovered of which from that
15 location.

16 Q Right. And to your knowledge, was there any comparison
17 done like that in this case, for these two firearms?

18 A Well, I requested the .9 millimeter pistol that was
19 recovered to be compared to the shell casings that were
20 recovered on Pitkin Avenue and Bradford Avenue from the June
21 incident.

22 Q Okay. So the .9 millimeter that you recovered from the
23 locker, did you get any results as to whether the shell
24 casings from that .9 millimeter that you recovered in the
25 locker compared to the shell casings of the 9-millimeter

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1 shells that were recovered at the scene?

2 A Yes, counsel.

3 Q Did you get a comparison?

4 A Yes.

5 Q Was there a match?

6 A Yes, there was.

7 Q Okay. Then, at that point, you said that you also sent

8 -- withdrawn.

9 I have another question. You recovered all of these
10 items from the locker based on having a federal search
11 warrant; correct?

12 A Yes, Counselor.

13 Q Okay. There was another question that the U.S. Assistant
14 Attorney asked you about the photograph that was in evidence,
15 I believe that was a photograph of Fresh?

16 A Yes. Yes, sir.

17 Q Okay.

18 THE COURT: Just for the record, is that the person
19 he identified as -- did he give him a legal name?

20 MR. GUADAGNINO: Yes.

21 Q Do you remember who -- what his legal name was?

22 A Yes, Kayne Harris.

23 Q Kayne?

24 A Kayne Harris.

25 Q Right. Kayne Harris.

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1 And you testified that you went to go see him at a
2 rehab; correct?

3 A Yes, Counselor.

4 Q And before you went to see him at a rehab you had a
5 photograph of him from Facebook?

6 A That's accurate. I have a Facebook photo of him.

7 Q Right, and you got that -- how did you get that?

8 A Through the course of working in my tenure at the 75th
9 Precinct, I come to learn what we believe to be his Facebook
10 page.

11 Q Right. Thank you.

12 MR. GUADAGNINO: I have no further questions.

13 THE COURT: Anything else from the Government?

14 MS. NGAI: No further questions.

15 THE COURT: All right. Sir, you are excused. Thank
16 you. You may step down.

17 THE WITNESS: Thank you, Your Honor.

18 Should I leave the materials here?

19 MS. NGAI: I will come and retrieve them.

20 THE COURT: Thank you, sir, have a nice day.

21 THE WITNESS: Thank you, Your Honor.

22 (Witness excused.)

23 MS. NGAI: Your Honor, sorry, we are figuring out
24 which witness to call next.

25 THE COURT: All right. Thank you.

1 MS. NGAI: Your Honor, we are going to call
2 Detective Entenmann.

3 Before we do that, we would like to play Government
4 Exhibit 401, please, which we are going to admit pursuant to a
5 business record certification.

6 THE COURT: What number is it, I'm sorry?

7 MR. GALEOTTI: 401.

8 THE COURT: 401. All right. Mr. Guadagnino, do you
9 want to be heard for the record whether you object or not?

10 MR. GUADAGNINO: No, I don't have an objection.

11 THE COURT: All right. We will admit Government
12 Exhibit 401.

13 (Government's Exhibit 401 received in evidence.)

14 MR. GALEOTTI: And, Your Honor, if we may pass out
15 demonstrative binders, not for admission into evidence, but we
16 have Government Exhibit 401T, which is a demonstrative
17 transcript of the audio recording.

18 THE COURT: Once again, members of the jury, you are
19 being given a Government-prepared transcript of what they
20 believe is heard audible on the recordings. Again, it is you
21 as the jury who decides what you hear on the recordings and
22 whether to accept the transcript prepared by the Government.

23 This is provided to you as an aid to assist any
24 understanding of what is being played on the recordings.

25 MR. GALEOTTI: And, Your Honor, this is pursuant to

1 business record certification for an NYPD 911 call dated April
2 30, 2011.

3 THE COURT: Thank you.

4 Which tab was it again, sir?

5 MR. GALEOTTI: We're going to play 401, so this is
6 going to be 401T. That's going to be at tab one in the binder.

7 THE COURT: Thank you.

8 (Audio playing.) (Audio stopped.)

9 MR. GALEOTTI: Thank you, Your Honor.

10 Your Honor, the Government is prepared to call
11 Detective John Entenmann to the stand.

12 THE COURT: All right. Thank you.

13 Good afternoon. Please step up to the stand.

14 THE WITNESS: Good afternoon.

15 THE COURTROOM DEPUTY: Please raise your right hand.

16 (Witness sworn.)

17 THE COURTROOM DEPUTY: Please have a seat and please
18 state and spell your name, please.

19 THE WITNESS: Detective John Entenmann, spelled
20 E-N-T-E-N-M-A-N-N, NYPD Forensics Investigation Division.

21 THE COURT: Sir, if it's more comfortable, you may
22 remove your mask.

23 THE WITNESS: Okay.

24 **JOHN ENTENMANN,**

25 called as a witness, having been first duly

1 sworn/affirmed, was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. GALEOTTI:

4 Q Good afternoon, sir.

5 A Good afternoon.

6 Q Where do you work?

7 A I'm at the forensic investigation division.

8 Q Of the NYPD?

9 A The NYPD.

10 Q How long have you been with the NYPD?

11 A A little over 29 years.

12 Q Can you describe various roles and responsibilities
13 you've had over those years?

14 A I was originally assigned to the 103 on patrol, the
15 precinct in Queens. I was then assigned to the Queens South
16 Evidence Collection Team.

17 After that, I was assigned to the NYPD Crime Scene
18 Unit, and then the last four years of my career I assigned to
19 the NYPD forensic investigations division, DNA liaison unit.

20 Q Now, sir, I want to focus on your time at CSU. Is that
21 also known as Crime Scene Unit crime?

22 A Yes.

23 Q What does CSU do?

24 A The Crime Scene Unit assists the investigative body of
25 the City of New York and other agencies.

1 We respond to crime scenes or any scenes where we
2 have to collect forensic evidence.

3 Q Did you testify that you also previously worked in ECT or
4 the Evidence Collection Team?

5 A Yes.

6 Q Can you please describe the difference between ECT and
7 CSU?

8 A So the evidence collections teams are what we refer to as
9 a crime scene junior. They respond to burglaries, recovered
10 autos. They respond to shootings where the person is not
11 likely to die. So they still conduct forensic investigations,
12 but it's on a lower scale and they don't handle any type of
13 what we call jobs or scenes that are high priority.

14 So the Crime Scene Unit only handles more high
15 priority types of jobs or scenes.

16 Q Such as?

17 A Homicide, rapes, bombings.

18 THE COURT: That's CSU that does that?

19 THE WITNESS: Yes.

20 Q In April of 2011, what unit were you working in?

21 A I was in the NYPD Crime Scene Unit.

22 Q CSU?

23 A CSU.

24 Q Specifically, were you working on April 30, 2011?

25 A Yes.

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1 Q Did there come a time on April 30, 2011 that you were
2 assigned to report to a crime scene?

3 A Yes.

4 Q Where was it located?

5 A That was at 275 Ashford Street in Brooklyn, crime scene
6 run number 2011/349.

7 Q Were you with anyone when you reported to the scene?

8 A I was working with my partner, Detective Marvin Miller.

9 Q Did you work with him frequently?

10 A I not only worked with him steady, I trained him.

11 Q Is he still with the NYPD?

12 A He is retired.

13 Q Did you, in fact, report to Ashford Street on April 30,
14 2011?

15 A Yes.

16 Q What did you do when you arrived?

17 A When we first got to the scene, there was officers
18 safeguarding the entire scene and upward to the other corners
19 of the block.

20 The first thing we did is conduct a canvass of the
21 area for any type of potential evidence.

22 We spoke to detectives that were handling this
23 investigation in regards, and we ultimately photographed the
24 scene, identified specific pieces of evidence with markers,
25 and then ultimately processed the scene as far as it goes with

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1 conducting forensics investigations with dusting for latent
2 prints and other identifying bullet impact mark, as well as
3 sketching the scene, and then ultimately securing that
4 evidence, forwarding the evidence to be vouchered.

5 Q Did you say sketching the scene?

6 A Yes.

7 MR. GALEOTTI: If we could please show just to the
8 witness what has been marked for identification, as well as
9 the Court and counsel, Government Exhibit 3500-JE-5.

10 Q Now, sir, do you recognize what's depicted on the screen
11 as Government Exhibit 3500-JE-5?

12 A Yes.

13 Q How do you recognize?

14 A That's the hand-drawn sketch of the area and the crime
15 scene located at 279 Ashford Street.

16 Q Did you personally take that sketch?

17 A I assisted with that sketch, but Detective Miller drew
18 that sketch.

19 Q And how did you assist with it?

20 A I assist with conducting the measurement markers of the
21 locations of where the building lines, the sidewalk, the
22 street.

23 We use measuring wheel to measure out those areas,
24 as well as identifying pieces of evidence and that particular
25 piece of evidence as well.

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1 Q Based on your work that day on April 30, 2011, is what is
2 represented in Government Exhibit 3500-JE-5 a true and
3 accurate representation of the crime screen?

4 A Yes.

5 MR. GALEOTTI: Your Honor, the Government offers
6 Government Exhibit 3500-JE-5.

7 MR. GUADAGNINO: No objection.

8 THE COURT: We receive Government Exhibit 3500-JE-5.
9 You may publish.

10 (Government's Exhibit 3500-JE-5 received in
11 evidence.)

12 Q Sir, when you are recording a sketch for a crime scene,
13 what types of things do you include on the sketch?

14 A The most important is the actual address that we respond
15 to, which is located in the middle of this sketch as 279
16 Ashford.

17 Within that area of where evidence was recovered
18 there was an adjacent property where we recovered evidence as
19 well, which is 281 Ashford Street.

20 So, what compassed that entire crime scene was the
21 front of 279 and 281 Ashford Street, Brooklyn.

22 Q After a sketch is taken, do you do anything additional
23 with the physical drawing of the -- of the sketch of the crime
24 scene?

25 A Yes.

1 Q What do you do?

2 A So it's our procedure and guideline within the NYPD CSU
3 is to convert the sketch into an architectural sketch using
4 the crime-zone software. So this is a computer-aided sketch
5 of the scene.

6 So all the measurements and reference points within
7 the hand-drawn sketch is converted to a computer-aided sketch
8 using the crime zone software.

9 MR. GALEOTTI: If I could please show to the
10 witness, court, and counsel Government Exhibit 3500-JE-6.

11 Q Sir, do you recognize what is depicted in Government
12 Exhibit 3500-JE-6?

13 A Yes.

14 Q How so?

15 A So that is the computer-drawn sketch using the crime-zone
16 software of the scene of 279 Ashford Street, Brooklyn, New
17 York.

18 Q Does it fairly and accurately represent the dimensions
19 and crime scene as you personally saw it on April 30, 2011?

20 A Yes.

21 MR. GALEOTTI: Your Honor, the Government offers
22 Government Exhibit 3500-JE-6 into evidence.

23 MR. GUADAGNINO: No objection.

24 THE COURT: We receive Government Exhibit 3500-JE-6.

25 (Government's Exhibit 3500-JE-6 received in

1 evidence.)

2 Q Now, sir, if you could please, using this map printout in
3 3500-JE-6 as a reference point, can you please indicate what
4 you did as far as documenting the crime scene?

5 A So within this sketch, on the right-hand side of the
6 sketch, there is a navigation marker to depict north, south,
7 east, and west.

8 On the left side of the sketch, there's the address
9 of where the crime scene was, where we responded to was 279
10 Ashford.

11 Now, directing you to the center of the sketch is
12 where 279 and 281 is. That's towards the lower part of this
13 drawing.

14 Up on top is the reference point which is Liberty
15 Avenue.

16 Q Sir, if you can --

17 MR. GALEOTTI: Just to allow it to be more visible,
18 Ms. Wissel, can we focus on the right-hand side of the screen
19 where 279 and 281 are located, 279 and 281 Ashford. I'm
20 sorry, can you zoom out there? The lower half of the screen.
21 Yes.

22 Q Sir, what does this depict in the bottom right-hand
23 corner of the screen where it is printed 279 and 281 on
24 Government Exhibit 3500-JE-6?

25 A This is a blown-up version of the east side of the street

1 located at 279 and 281.

2 Within this sketch, there is some round circular
3 identifiers. We call those bubble labels. Those labels are
4 identifying particular pieces of evidence that were recovered
5 at that crime scene and depicted.

6 So, in the front of 279, there is an identifier
7 which is above a label which indicates a bullet impact mark.
8 There is an area that's crosshatched right in front of 279,
9 which is the blood that was on the pavement at the location.

10 Now, on the other side, at 281, there's additional
11 bubble labels.

12 Now, indicating on the bottom half of the legend --
13 I'm sorry, on the bottom half of the sketch, there's a legend
14 which tells you exactly what type of evidence was recovered.

15 It's itemized as E-1, E-2, E-3, E-4, and BIM number
16 one is for bullet impact mark.

17 Within these bubble labels, the bullet impact mark
18 is recovered right in the driveway line of 279 Ashford Street.

19 Now, that was not recovered. That was tested for
20 possible lead because a bullet impacted with the ground. That
21 test was a sodium rhodizonate test that came back positive for
22 lead.

23 Q What does that mean in plain terms? What does that mean?

24 A So, a sodium rhodizonate test is a test for possible
25 lead. So when we arrived at the scene, we saw a bullet impact

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1 mark within the scope of our training, which is indicative of
2 a bullet contacting the sidewalk, and then that bullet deforms
3 and/or fragmentates out.

4 So, we would do is we would take this chemical
5 called sodium rhodizonate. We put it on a piece of paper. We
6 would press it on to the surface. And if it turned purple,
7 that means there was lead, which is a composition of a
8 bullet -- one of the compositions of a bullet, which impacted
9 that area, and that came back positive.

10 Q What else did you recover on the scene, if anything?

11 A So next to 279, adjacent to it is 281.

12 Within the sketch and indicating to the center of
13 the sketch, there's three bubble labels and there's a front
14 stoop. Just in front -- to the side of that front stoop,
15 facing towards 279, there is three bubble labels indicating
16 E-1, E-2, and E-3.

17 So E-1, which was a deformed bullet fragment. That
18 was a bullet that impacted with something and fragmented into
19 pieces. So that was a deformed fragment with a copper jacket,
20 which the copper jacket is the casing to the bullet and inside
21 the bullet is the lead.

22 E-2 is a deformed copper jacket fragment.

23 E 3 was a deformed bullet. And this bullet was
24 mostly intact and there was lead within that bullet.

25 Also, indicating -- going down that is the -- the

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1 E-4 was a Samsung phone of which we processed at the scene,
2 did not lift prints, that was covered in blood and also the
3 bullet impact mark, which I indicated earlier is on the side
4 -- driveway side of 279 and there's a -- where it says camera
5 and there's an arrow pointing towards the camera, you could
6 see where the bubble label is pointing to where the bullet
7 impact mark on the pavement was located.

8 Q Sir, in addition to making the sketch, did you and your
9 partner take photographs?

10 A Yes.

11 MR. GALEOTTI: Your Honor, I'd like to show the
12 witness only what has been marked as Government Exhibits 50
13 through 76. And for efficiency if it's all right with Your
14 Honor I'll just hand him the folder of all of those --

15 THE COURT: That's fine.

16 MR. GALEOTTI: Thank you.

17 Q Sir, if I could ask you to please look at these and then
18 I will ask you a few questions about them.

19 MR. GALEOTTI: And, Your Honor, while that's
20 happening, I will note for the record that within Government
21 Exhibits 50 through 76, four photographs have already been
22 admitted into evidence. So I won't offer those again when I
23 offer the remainder momentarily.

24 Those that are already in evidence are Government
25 Exhibits 50, 54, 59 and 60.

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1 THE COURT: Thank you.

2 A Okay.

3 Q Have you had a chance to review them, sir?

4 A Yes.

5 Q You can hang on to them. Do you recognize those
6 photographs?

7 A Yes.

8 Q What are they?

9 A Those are photographs of the scene located at 279 Ashford
10 Street, Brooklyn, of which Detective Miller and I took that
11 day.

12 Q Based on your personal observation from April 30, 2011,
13 are those photographs fair and accurate representations of the
14 scene that day?

15 A Yes.

16 MR. GALEOTTI: Your Honor, the Government offers
17 Government Exhibits 50 through 76, with the exception of those
18 that are already in evidence, the Government offers those into
19 evidence.

20 MR. GUADAGNINO: No objection.

21 THE COURT: We receive Government Exhibits 50
22 through 76, including those that were already admitted.

23 (Government's Exhibits 50 through 76 received in
24 evidence.)

25 MR. GALEOTTI: Ms. Wissel, if you could please start

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1 at Government Exhibit 50, please.

2 Q Sir, I'm going to take that folder back from you. If you
3 can look at the screen.

4 Let me ask you, sir, what is depicted here in
5 Government Exhibit 50?

6 A This is the overview of Ashford Street from Liberty
7 Avenue, facing towards the crime scene of 279 and 281.

8 Q Let me pause here. Well, let's go to 51, please.

9 What is depicted in Government Exhibit 51?

10 A Okay. So this is an overview of the east sidewalk.

11 On the right-hand side, there's a gray building,
12 which is 281. And on the right-hand side just past that is a
13 brown brick-faced building, which is 279.

14 MR. GALEOTTI: Pull up Government Exhibit 52, please.

15 Q What is depicted here, sir?

16 A This is an overview of the west sidewalk of Ashford
17 Street. This is adjacent to 279.

18 On the right-hand side of this photograph, there is
19 a mechanics garage, which is adjacent to 279, which is on the
20 right-hand side of this photograph.

21 Q How about Government Exhibit 54?

22 A So this is an overview photograph from Liberty facing
23 Ashford Street.

24 Q Government Exhibit 55, please.

25 A This is an additional photograph. This is on Liberty,

1 Liberty Avenue. This is facing down Ashford Street as I
2 indicated earlier. On the left-hand side of the photograph is
3 where 279 and 281 Ashford Street is located.

4 (Continued on next page.)

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1 MR. GALEOTTI: Okay. Let's skip ahead to Government
2 Exhibit 59, please.

3 BY MR. GALEOTTI: (Continuing)

4 Q What's depicted here, sir, in Government Exhibit 59?

5 A This is an overview photograph of the front of 279 and
6 281 Ashford Street. Within this photograph, the tall brick
7 building which is 279, the tan brick building in the front,
8 you can see that there's blood in the front of that building.

9 MR. GALEOTTI: Ms. Wissel, can we focus in on the
10 front of 279 Ashford as described by the defendant.

11 Q So what are we looking at here now focusing in on the
12 front of 279 Ashford in Government Exhibit 59?

13 A This is the front of 279. This is adjacent to the front
14 entrance door to 279 Ashford Street and on the ground is a
15 substantial amount of blood.

16 MR. GALEOTTI: And if we can zoom back out, please.

17 Q Government Exhibit 60. What is this, sir?

18 A This is an additional overview photograph of the front of
19 279 and 281 Ashford Street.

20 Q Government Exhibit 62, please. Sir, what's depicted in
21 Government Exhibit 62?

22 A This is an overview photograph of the driveway of
23 279 Ashford Street. This photograph was taken from the
24 sidewalk in front of that building. Within this photograph,
25 there's a substantial amount of blood to the left-hand side of

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1 the photograph and towards the center of the photograph, there
2 is a coffee cup with a rock on top of it.

3 THE COURT: Was that there when you arrived there?

4 THE WITNESS: That was all there when we
5 arrove (sic) at the scene.

6 Q Sir, you testified earlier that you recovered some
7 ballistics from the scene. Is that right?

8 A Correct.

9 Q Could you -- is this the right photograph or I can show
10 you a different one, but can you identify what you recovered
11 from this photograph?

12 A If there's another photograph with the identifying
13 markers which is the "1," "2," "3" that we put down there.

14 Q Yes, sir.

15 MR. GALEOTTI: Let's show the witness Government
16 Exhibit 69.

17 Q What do you see here, sir, in Government Exhibit 69?

18 A So this is an overview or a mid-view photograph of, this
19 is the stoop as I testified to earlier at 281 Ashford Street.
20 This is located on that property adjacent to the front stoop.
21 This is what we call evidence markers and it's evidence marker
22 number 1, 2 and 3, and as I described earlier with the sketch,
23 that's where ballistic evidence or deformed bullets were
24 recovered.

25 MR. GALEOTTI: For context, Ms. Wissel, can you put

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1 up Government Exhibit 68 and 69 at the same time.

2 Q Now, sir, looking at Government Exhibits 68 and 69, where
3 were the markers you just referred to in Government Exhibit 69
4 with respect to the blood stains?

5 A So the markers are just south of where the blood stains
6 are. This photograph is taken from exactly at the front
7 entrance door to 279 facing south.

8 Within this photograph, there's the blood stains,
9 there's the Samsung phone that's recovered to the left side,
10 the bullet impact mark is where that cup was, that has been
11 removed, and an evidence mark has been placed down adjacent to
12 281 Ashford Street.

13 Q Based on your work that day in CSU, did you reach an
14 opinion about why the ballistics were recovered where they
15 were?

16 A Yes.

17 Q What's that?

18 A So identifying the bullet impact mark as I described to
19 you earlier and the bullet impact mark gives you
20 directionality of where the bullet, how the bullet was
21 traveling. So with additional photographs that were taken
22 that day, it shows close ups with how the bullet impacted with
23 the concrete and then once you have a directionality of where
24 the bullet now starts to fragment out, it leaves a certain
25 type of design or certain type of pattern. Then that would

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1 show that the bullet was traveling towards that front stoop at
2 281 Ashford Street and that's where the fragments were
3 recovered where the evidence markers are identified as 1, 2
4 and 3.

5 MR. GALEOTTI: And if we can please show the witness
6 simultaneously, if possible, Government Exhibits 70 and 71:

7 Q Sir, starting with Government Exhibit 70, what do you see
8 depicted there?

9 A So within this photograph is what we call a close-up
10 photograph with scale. The scale is those blue markers that
11 are there and that gives you a scale of what the size of the
12 evidence is. It's a measurement when you go to blow up the
13 photograph and that has a six inch scale within there. Within
14 that scale, it gives you an identifier as to what the piece of
15 evidence is.

16 So on that blue scale indicated as MM1, CSU-1 number
17 11/349, the date and the precinct, itemized as evidence marker
18 number 1 is that bullet fragment that has lead in a copper
19 jacket. Within this photograph is also evidence marker
20 number 2. Within that photograph is an identifier scale with
21 MM2 and that identifies another piece of bullet fragmentation
22 which is a copper jacket.

23 Continue?

24 Q Yes, please. What do you see in Government Exhibit 71?

25 A So in Exhibit 71 is the same identifier as number three

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1 with the scale, the scale identifying this particular piece of
2 evidence as MM3. Within this photograph is an intact deformed
3 bullet, it has a copper jacket and has lead in it as well.

4 MR. GALEOTTI: And Ms. Wissel, please put up 50, 54,
5 59 and 60.

6 Q While you're doing that, Detective Entenmann, let me ask
7 you a general question. After CSU conducts their
8 investigation of a crime scene, do they remain involved in a
9 particular case?

10 A No.

11 Q Now, specifically with respect to your work on April 30,
12 2011, after you conducted your analysis, did you do anything
13 further on that case?

14 A We're just instructed to create, finish the case, we have
15 to enter the case into the computer system and we have to
16 complete the sketch as I described earlier, the rough sketch
17 to the computer aid sketch using the crime zone software.

18 Q Do you ever follow up to try to find out what happened
19 with a case?

20 A No. Once we're done with the case, we have no further
21 contact with it for integrity purposes.

22 Q Do you know of anyone who's testifying in this case that
23 we're here for today?

24 A No.

25 Q Do you know what the charges are in this case?

1 A No.

2 Q Thank you, sir.

3 MR. GALEOTTI: No further questions.

4 THE COURT: Any cross?

5 MR. GUADAGNINO: May I have a moment? I'm sorry,

6 Your Honor.

7 THE COURT: Yes.

8 (Pause.)

9 MR. GUADAGNINO: No questions, Your Honor.

10 THE COURT: All right. Sir. You're excused. Thank
11 you for your time.

12 THE WITNESS: Thank you.

13 THE COURT: Have a nice day.

14 (Witness excused.)

15 (Continued on next page.)

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1 MS. NGAI: Your Honor, at this time, I don't know if
2 it makes sense to break for lunch and then resume after lunch.

3 THE COURT: All right. Are the jurors ready for a
4 lunch break? Would you like an hour?

5 THE JUROR: Yes, please.

6 THE COURT: Yes? We will ask you to come back to
7 the jury room at 10 of 2. Please don't talk about the case.
8 Leave your notebooks face down. Also, the binders. Thank you
9 for your service.

10 (Jury exits.)

11 THE COURT: All right. Is there anything I should
12 address at this time?

13 MR. GALEOTTI: Not from the government, Your Honor.

14 MR. GUADAGNINO: Not from the defense.

15 THE COURT: All right. So we'll take our lunch
16 break.

17 If the Marshals would kindly bring Mr. Smothers back
18 in one hour, that would be great. Thank you.

19 (Luncheon recess.)

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1 AFTERNOON SESSION

2 (In open court; jury present.)

3 THE COURT: All jurors are present. Please have a
4 seat.

5 Is the government ready to proceed?

6 MR. GALEOTTI: We are, Your Honor.

7 THE COURT: All right.

8 MR. GALEOTTI: The first thing we'd like to do is
9 play Government Exhibit 400 pursuant to a business record
10 certification. We'd like to offer Government Exhibit 400 and
11 we'd also ask if it's all right with Your Honor for
12 demonstrative purposes to use what's been identified as
13 Government Exhibit 400-T which is in the binders provided to
14 the Court and the jury.

15 THE COURT: Mr. Guadagnino, no objection?

16 MR. GUADAGNINO: No objection as long as the
17 certification of the business records is proven.

18 THE COURT: Have they provided the certifications to
19 you?

20 MR. GUADAGNINO: Yes. Yes.

21 THE COURT: All right. So no objection?

22 MR. GUADAGNINO: No objection.

23 THE COURT: Again, members of the jury, you are
24 going to be directed to look at a tab in your binder. This is
25 a transcript prepared by the government and it is up to you to

1 decide what you hear and whether it is accurate and conforms
2 with what you hear on the tape that will be played.

3 What tab, sir?

4 MR. GALEOTTI: 400, Your Honor. That would be the
5 first thing in the book.

6 THE COURT: Okay. It doesn't have a tab. It's the
7 first one. Thank you.

8 MR. GALEOTTI: And, Your Honor, for the record, this
9 is Government Exhibit 400. This is an April 30, 2011 call to
10 the NYPD 911, again, pursuant to a business record
11 certification.

12 THE COURT: All right. Thank you.

13 (Audio played.) (Audio stopped.)

14 MR. GALEOTTI: Thank you, Your Honor.

15 The government is ready to call its next witness.

16 THE COURT: All right.

17 MR. GALEOTTI: The government calls Damian Bullock,
18 also known as Hex.

19 THE COURT: Please raise your right hand and take an
20 oath to tell the truth.

21 (The witness, DAMIAN BULLOCK, was duly
22 sworn/affirmed by the clerk.)

23 THE COURT: All right. Please state and spell your
24 full name for the record.

25 THE WITNESS: Damian, D-A-M-I-A-N, B-U-L-L-O-C-K.

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1 THE COURT: All right. Thank you.

2 MR. GALEOTTI: Your Honor, at this point, the
3 government would ask for the previously discussed sidebar.

4 THE COURT: All right. Members of the jury, I will
5 be excusing you for a moment. We need to address some issues
6 so please don't talk about the case. Leave everything on your
7 chairs and we will come and bring you back as soon as we can.
8 Thank you.

9 (Jury exits.)

10 THE COURT: All right. Please be seated.

11 MR. GALEOTTI: We're waiting for his attorney.

12 THE COURT: Mr. Palma, you may come up.

13 MR. PALMA: Thank you very much, Your Honor.

14 THE COURT: All right. We note the presence of
15 Mr. Palma who represents Mr. Bullock. You may proceed.

16 MR. GALEOTTI: Thank you, Your Honor.

17 EXAMINATION

18 BY MR. GALEOTTI:

19 Q Good afternoon, Mr. Bullock.

20 A Good afternoon.

21 Q And you're welcome to take down your mask if it makes it
22 easier for you.

23 A Good afternoon.

24 Q Sir, were you a member of a gang called E.A.M.?

25 A I take the Fifth.

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1 THE COURT: All right. Mr. Bullock, I have been
2 given a motion by the government and a proposed order pursuant
3 to 18 U.S. Code, Section 6001 regarding your testimony at this
4 trial as a witness.

5 I want you to know that I am satisfied that the
6 government has made an appropriate showing that you are likely
7 to refuse to testify or provide any other information on the
8 basis of your privilege against self-incrimination. You have
9 just invoked your Fifth Amendment privilege, as is your right,
10 and in the judgment of the U.S. Attorney or it is the position
11 of the U.S. Attorney, and as I witnessed just now, sir, your
12 testimony or other information is necessary, based on the
13 government's motion, to the public interest and to the
14 proceedings in this case. I have approved the government's
15 request to issue an order that you testify in this trial.

16 I order, therefore, sir, that you provide
17 information and testimony under oath that you would otherwise
18 refuse to provide based on your privilege against
19 self-incrimination as to all matters about which the
20 government will be questioning you and any other proceeding
21 that may be ancillary to this one.

22 I order that no testimony or other information you
23 are compelled to give under this order or any information that
24 directly or indirectly is derived from testimony that you give
25 may be used against you in any criminal case except it may be

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1 used against you if you do not tell the truth and you were
2 prosecuted for perjury, that is, if you give false statements
3 under oath or if you obstruct justice or if you fail to comply
4 with the order that you testify.

5 Sir, if I issued this order, do you plan to comply
6 with it?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: And have you consulted with your lawyer
9 about the order?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: And Mr. Palma, are you satisfied that
12 your client understands that he is being granted immunity for
13 his testimony during this proceeding?

14 MR. PALMA: Yes, he does, he understands that,
15 Your Honor.

16 THE COURT: All right. Then, sir, I will allow the
17 proceedings to continue. If the government is satisfied and
18 Mr. Palma is satisfied, we will bring the jury back into the
19 courtroom.

20 MR. GALEOTTI: Your Honor, we are and we so move
21 according to what Your Honor read earlier.

22 THE COURT: I beg your pardon?

23 MR. GALEOTTI: I'm sorry. We are satisfied and we
24 so move according to the order, the motion that Your Honor
25 read earlier.

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1 THE COURT: All right. The order is granted. I
2 will issue it and Mr. Bullock will be testifying at this
3 trial. So we will at this time bring the jury back into the
4 courtroom.

5 Thank you, Mr. Palma.

6 MR. PALMA: Thank you, Your Honor.

7 THE COURT: I'm going to give the jury an
8 instruction if that's appropriate as was done in another case
9 in this court.

10 MR. GALEOTTI: Yes, Your Honor.

11 THE COURT: All right.

12 (Jury enters.)

13 THE COURT: All jurors are present. Please have a
14 seat.

15 Members of the jury, thank you for your indulgence.

16 You will now hear testimony from a witness who will
17 testify under a grant of immunity from this court after
18 invoking his constitutional right against self-incrimination.

19 What this means is the testimony of the witness may
20 not be used against him in any criminal case except in a
21 prosecution for perjury, making a false statement, or
22 obstructing justice or otherwise failing to comply with the
23 immunity order.

24 Under the law, Congress has authorized the
25 Department of Justice to request that a witness be prepared to

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1 testify after exercising his constitutional right against
2 self-incrimination. I issued an order compelling Mr. Bullock
3 to testify and granting him immunity from prosecution at the
4 request of the Department of Justice.

5 With that, you may proceed.

6 MR. GALEOTTI: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. GALEOTTI:

9 Q Good afternoon, Mr. Bullock.

10 A Good afternoon.

11 Q Mr. Bullock, do you want to be here in court testifying
12 today?

13 A Yeah.

14 Q Why is that?

15 A Because I just want to get the truth out, you know.
16 That's about it. So, yeah.

17 THE COURT: Try to keep the mic close to your mouth,
18 sir. And if you want to stand, let us know. We can put a
19 stand there.

20 THE WITNESS: All right.

21 THE COURT: Thank you.

22 Q Sir, taking off Government Exhibit 803, which is this
23 board, I'm showing you what's previously --

24 MR. GALEOTTI: Your Honor, may I approach?

25 THE COURT: Yes.

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1 Q I'm showing you what's previously been admitted as
2 Government Exhibit 14. Is this you, sir?

3 A Uh-huh, yes, sir.

4 Q And this nameplate under it, it says "Hex." Who's that?

5 A That's me.

6 Q Thank you, sir.

7 A Yeah.

8 Q How long have you gone by the nickname Hex?

9 A Ever since the NYPD gave it to me. So since I moved to
10 East New York probably like -- I can't remember. So ...

11 Q Before 2011?

12 A Way before, yes. Way before that, yeah.

13 Q Sir, did someone shoot you on April 30, 2011?

14 A Yes, sir.

15 Q Who did?

16 A Who shot? Like, so I gotta go -- all I know is not the
17 person that's in here now that y'all say it is.

18 MR. GALEOTTI: Your Honor, the government moves,
19 pursuant to 801(d)(1)(A) and 909(2) to admit portions from
20 Mr. Bullock's prior State grand jury testimony.

21 THE COURT: Mr. Guadagnino?

22 MR. GUADAGNINO: At this time, no objection.

23 THE COURT: All right. You may admit portions of
24 Mr. Bullock's State grand jury testimony.

25 (Government Exhibit 3500-DB-4 so marked.)

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1 MR. GALEOTTI: And if we can please pull up page one
2 of Government Exhibit 3500-DB-4.

3 Q Sir, you previously testified in the grand jury in
4 Brooklyn on August 26, 2011, is that right?

5 A Yes, sir.

6 Q And on August 26, 2011, you testified under oath, is that
7 right?

8 A Yes. I was forced though.

9 Q On April 30, 2011, did you travel from your house on
10 Ashford, did you travel from your house to Ashford between
11 Pitkin and Glenmore?

12 A When? Can you repeat that, please?

13 Q On April 30, 2011, did you travel from your house to
14 Ashford between Pitkin and Glenmore?

15 A No, I was at my girlfriend house.

16 MR. GALEOTTI: Your Honor, the government moves to
17 put into evidence from Government Exhibit 3500-DB-4, pages 1
18 through 4.

19 THE COURT: All right. Granted.

20 MR. GALEOTTI: And then, in particular, with respect
21 to the particular question, we'd like to move in page 5, lines
22 6, line -- sorry -- starting at line 6.

23 THE COURT: Page 5, line 6?

24 MR. GALEOTTI: Yes. Line 6 through line 12, please.

25 THE COURT: All right. So we've admitted pages 1

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1 through -- well, the whole transcript is admitted but you're
2 focusing the jury on pages 1 through 5, lines 6 through 12.

3 MR. GALEOTTI: Yes, Your Honor.

4 Q In what county is Ashford between Pitkin and Glenmore?

5 A Say that over?

6 Q In what county?

7 A Brooklyn.

8 Q Did you go to the location, Ashford between Pitkin and
9 Glenmore?

10 A Yes, sir.

11 Q On April 30, 2011?

12 A Yes, sir.

13 Q Have you known Quandel Smothers since about 2001?

14 A Yes, that's my best friend. We did time together. So,
15 yeah.

16 Q Do you know any other name that Quandel Smothers goes by?

17 A What? Chucky. That's about it.

18 Q When the defendant called you on April 30, 2011, did he
19 tell you to go to his house?

20 A When he called me? Yeah, but, yeah, yes, sir.

21 Q Did he say he didn't want to talk over the phone?

22 A No.

23 MR. GALEOTTI: Your Honor, the government moves to
24 admit page 6, line 7 through 14, pursuant to 801(d)(1)(A) and
25 909(2).

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1 THE COURT: No objection, Mr. Guadagnino?

2 MR. GUADAGNINO: At this point, the defense objects,
3 Your Honor.

4 THE COURT: What?

5 MR. GUADAGNINO: The defense will object at this
6 time.

7 THE COURT: All right. Well, I find that pursuant
8 to the rules of evidence, and given that the witness is being
9 confronted with a prior sworn statement, I respectfully
10 overrule the objection.

11 Are you going to read it?

12 MR. GALEOTTI: Yes, Your Honor.

13 Q Sir, you said you testified in the state grand jury,
14 right?

15 A Yes. Can I say something though?

16 Q If I can just ask you to answer the questions. I'm going
17 to read in your testimony now.

18 Now, when he called you, what did the defendant say
19 to you? All right --

20 THE COURT: No, sir. You say "Question" and then
21 read the question. Then you say "Answer" and read the answer.

22 MR. GALEOTTI: That's fine. Thank you, Your Honor.

23 THE COURT: Starting on line?

24 MR. GALEOTTI: Starting on line 7, page 6.

25 Question: Now, when he called you, what did the

1 defendant say to you?

2 Answer: All right. He called me -- he called me on
3 my cell phone. He told me -- he told me to come to his house.
4 I asked him for what. He said he didn't want to talk over the
5 phone. Just come to Ashford and Pitkin, and between Glenmore.

6 Q Did you, in fact, go to Ashford between Pitkin and
7 Glenmore?

8 A Yeah, I was -- yeah, but everything that you said was
9 false.

10 Q When you arrived, sir, at Ashford, did the defendant tell
11 you that he needed you by his side because dudes he was having
12 problems with were coming to the block?

13 A No, not that I -- no.

14 Q Okay.

15 MR. GALEOTTI: Your Honor, if we can please,
16 Your Honor, move in page 6, lines 18 through 23, pursuant to
17 801(d)(1)(A) and 909(2).

18 MR. GUADAGNINO: Defense objects, Your Honor.

19 THE COURT: All right. Respectfully, I overrule the
20 objection and admit the evidence pursuant to 801(d)(1)(A) and
21 909(2).

22 MR. GALEOTTI: This is from page 6, starting at
23 line 18.

24 Question: What did he say to you at this location?

25 Answer: All right. He said to me -- he just told

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1 me -- he just told me to come through because the dudes he had
2 problems with was coming on the block. He called me so -- you
3 know, to be by his side.

4 Q Mr. Bullock, the defendant Quandel Smothers was mad at
5 you because he thought you were hanging out with people he had
6 a beef with, right?

7 A No.

8 Q You were confused why he was asking you and accusing you
9 of that because you had grown up together?

10 A No.

11 MR. GALEOTTI: Your Honor, the government moves to
12 admit page 7, lines 1 through 11, pursuant to 801(d)(1)(A) and
13 909(2).

14 MR. GUADAGNINO: Objection.

15 THE COURT: All right. Respectfully --

16 THE WITNESS: Excuse me. Can I -- I can't say
17 nothing?

18 THE COURT: I respectfully overrule the objection.
19 Page 7, lines 1 through 11, are admitted and may be read to
20 the jury pursuant to Federal Rule of Evidence 801(d)(1)(A) and
21 909(2).

22 MR. GALEOTTI: Starting at line 1 on page 7.

23 Question: Could you just go through briefly what he
24 said and what you said in the argument?

25 Answer: We said in the argument -- we just like

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1 arguing. He thought -- he thought the people that -- that,
2 that he had beef with, I was with them, because at the same
3 time that I came, I came to. So right there I said, right
4 there, "What's up? Like why were you moving funny? Why you
5 moving like that?" And right there, it started a whole
6 argument because like I don't know, when he said that to me,
7 because we grew up together.

8 Q When you were talking with Quandel Smothers that day,
9 there was someone there with him, right?

10 A When I was talking to him? Like, he wasn't -- the whole
11 situation, like he called, he wasn't even there. It was
12 somebody else. It was Sheldon that was there, a whole
13 different person. He wasn't even there.

14 Q Somebody you didn't know was with Quandel Smothers, sir?

15 A He was not there.

16 Q You were paying attention to a guy you didn't know?

17 A Well, can you, can you say that all over again, please?

18 Q Were you speaking with Quandel Smothers, sir?

19 A No, I spoke to him over the phone. I did not speak to
20 him over the, in person.

21 Q You argued with Quandel Smothers that day?

22 A No, I didn't.

23 Q At some point, people Quandel Smothers was beefing with
24 came through on Ashford?

25 A I guess.

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1 Q Quandel Smothers asked you if you were associating with
2 people he was beefing with?

3 A No. No. No.

4 MR. GALEOTTI: Your Honor, the government offers
5 page 7, line 25, through the end of page 7 -- sorry -- page 7,
6 line 25, and then page 8, through lines 23.

7 MR. GUADAGNINO: Objection, Your Honor.

8 THE COURT: So noted. Overruled for the same
9 reasons. Under the Federal Rules of Evidence, this is
10 admissible.

11 MR. GALEOTTI: Thank you, Your Honor.

12 Q Mr. Bullock, the defendant shot you seven times, is that
13 right?

14 A What defendant?

15 Q Quandel Smothers shot you seven times?

16 A No, sir.

17 Q You called 911?

18 A Yes, sir.

19 Q Okay. Sir --

20 A Yes.

21 Q -- you're under oath.

22 A Yes, I'm under oath but --

23 Q The defendant shot you?

24 A But what's under oath. The same police that was there,
25 he in -- I guess he ain't there right now. Why I got shot,

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1 the reason this happened, I had a gun on me. So it's like it
2 was either me lie and me go to jail and do a violation. You
3 understand what I'm saying? I got caught with a bullet under
4 me but it's like -- so when I got caught with a bullet, I was
5 on a violation. I went to the hospital. So all this was
6 false. It was like false. I wouldn't know what a gun, I got
7 co caught and when I got shot, obviously it's not here.

8 MR. GALEOTTI: Your Honor, the government plans to
9 read in the pages that Your Honor has already admitted
10 pursuant to the rule.

11 THE WITNESS: It's false.

12 THE COURT: Mr. Bullock, this is a courtroom, sir.
13 The government has received authority under the Federal Rules
14 of Evidence to read in portions of your prior sworn testimony
15 before the grand jury.

16 THE WITNESS: Because if they got all this, they
17 should have the gun that I was on the floor with.

18 THE COURT: Wait. Sir? Excuse me. The government
19 is going to read this, this testimony at this time.

20 MR. GALEOTTI: Answer: He was like -- he was
21 just -- I was looking at him the whole time, just looking up
22 but I wasn't paying attention to him. I was paying attention
23 to the boy that he was with. I never seen him before so I am
24 paying attention to him so at the same time you were arguing
25 back and forth. He was saying -- I'm like, "What are you

1 talking about? You're bugging out. Now they coming through
2 the block. They coming through the block past him and all
3 that. You fucking with him?" I'm like, "Nah, I'm not fucking
4 with him. I just came from my crib." "You just came from
5 your house? Word. All right. So what made you say something
6 like that?" He is, like, "I'm just saying a lot of people
7 acting funny. Like it's hard out here. People beefing back
8 and forth." To make a long story short, you made him pull the
9 gun out. I went to reach for my cell phone. He got the gun
10 out and he shot me seven times.

11 Q He took a gun out and shot you seven times, sir, Quandel
12 Smothers?

13 A No, sir.

14 MR. GALEOTTI: Your Honor, the government moves to
15 admit page 9, lines 3 through 4, pursuant to 801(d)(1)(A) and
16 909(2).

17 MR. GUADAGNINO: Objection.

18 THE COURT: All right. Respectfully overruled.

19 MR. GALEOTTI: Question: Now, how many times --
20 sorry. Page 9, line 3.

21 Now how many times did you say that he shot you?

22 Answer: Seven.

23 Q You saw him pull the gun out of his waste, sir, the
24 defendant, Quandel Smothers?

25 A Huh? You said something?

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1 Q You saw the defendant Quandel Smothers pull a gun out of
2 his waistband?

3 A No.

4 MR. GALEOTTI: Your Honor, the government moves to
5 admit page 9, lines -- well, let me ask a few more questions,
6 Your Honor, before we move.

7 Q The defendant Quandel Smothers shot you in your arms?

8 A I know who shot me. He ain't shoot me.

9 Q He shot you in your shoulder?

10 A No. No.

11 Q Shot you in your leg?

12 A No.

13 Q Shot you in your groin?

14 A No.

15 Q He shot you with a black revolver?

16 A No. I don't -- like, no.

17 MR. GALEOTTI: Your Honor, the government moves to
18 offer page 9 starting at line 1 --

19 A Only y'all would know what gun he shot me with. I
20 wouldn't even know that.

21 MR. GALEOTTI: -- through line 13.

22 THE COURT: Lines what through 13?

23 MR. GALEOTTI: The last line on page 8 and then on
24 page 9, lines 1 through 13.

25 THE COURT: You may read it, sir.

1 MR. GALEOTTI: Page 8, line 25:

2 Question: Now, when you said he pulled a gun out,
3 did you actually see the defendant pull a gun out?

4 Answer: Yes, I seen him from his waist.

5 Question: Now how many times did you say that he
6 shot you?

7 Seven.

8 What part -- Question: What part of your body did
9 you get shot at?

10 Answer: My arm, my arm, my shoulder, my leg, both
11 of my legs and my groin.

12 Question: Okay. With regards to this gun, did you
13 actually get to see this gun that he shot you with?

14 Answer: It was all black.

15 Question: Can you tell what kind of gun it was?

16 Answer: A revolver.

17 Q You went to the hospital after you were shot?

18 A Yeah, of course. I got shot.

19 Q You were injured badly?

20 A Yeah.

21 Q You were picked up in an ambulance?

22 A Yeah, about, like, an hour later.

23 Q In the ambulance, you identified the defendant Quandel
24 Smothers as the person who shot you?

25 A No.

Bullock - direct - Galeotti

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1 Q Later in the hospital, you identified the defendant
2 Quandel Smothers as the person who shot you?

3 A I -- I was in a coma. I swore I ain't gonna make it to
4 the hospital.

5 Q After you testified in the grand jury, Quandel Smothers
6 intimidated you, right?

7 A No. No.

8 Q You saw him and Tyshawn Corbett in the neighborhood?

9 A No. Not -- no.

10 Q You went back and testified again in Kings County in the
11 grand jury on April 13, 2012, right?

12 A Look, this, all this is what the 75th made up.

13 Q Sir, are you scared of Quandel Smothers?

14 A No. That's my brother. Why would I be scared? His
15 cousin is my best friend.

16 Q Aren't you scared of him because he shot you seven times?

17 A Hell no. No. No.

18 Q You hate the police, sir?

19 A Yes, I do. I got a lawsuit against the 75th, three of
20 them, three.

21 When I first came home from my federal charge, they
22 rushed my house questioning these people and I just came home
23 talking about these people. I got a lawsuit against them.
24 You can look it up, three lawsuits against the 75th.

25 Q Thank you, sir.

Bullock - direct - Galeotti

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1 A I been harassed since before this. It's, like -- it's
2 crazy. So ...

3 Q You do know Quandel Smothers, right, sir?

4 A Yes, he's like my brother.

5 Q Is he in the courtroom today?

6 A Yes.

7 Q Where is he?

8 A Right there.

9 Q When you testified in the grand jury in Kings County, was
10 he in the room with you?

11 A In Kings County? What you mean?

12 Q When you testified in the grand jury in Kings County in
13 2011, was Quandel Smothers in the room with you?

14 A I don't know. I don't know. You talking about when the
15 police took me there?

16 Q Sir, were you in the grand jury in 2011?

17 A Probably. Yeah, probably.

18 Q Was Quandel Smothers in the room with you? Was he
19 looking at you when you were testifying?

20 A It wasn't no --

21 MR. GALEOTTI: No further questions, Your Honor.

22 THE COURT: All right.

23 Do you have some questions, Mr. Guadagnino?

24 MR. GUADAGNINO: Very few, Your Honor.

25

Bullock - cross - Guadagnino

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1 CROSS-EXAMINATION

2 BY MR. GUADAGNINO:

3 Q Mr. Bullock, you got shot on April 30, 2011?

4 A Yes, sir.

5 Q And Mr. Smothers did not shoot you?

6 A Yes, sir.

7 Q So the day you got shot, were you on drugs?

8 A Was I -- yes. Yeah.

9 Q What kind of drugs?

10 A I was on liquor. I was on E pill.

11 Q What's E pill?

12 A Molly.

13 Q What's molly?

14 A It's, like, it's, like, a drug make you stay up.

15 Q Before you got shot, you said you were talking to

16 Mr. Smothers on the phone?

17 A Yes, sir.

18 Q So you remember speaking to him on the phone?

19 A Yeah.

20 Q And then when you got shot, did you say anything about

21 Smothers shooting you?

22 A No, sir.

23 Q Do you remember what you said or what you did after you

24 got shot?

25 A What I remember I said there, I said that, I said, Fuck

Bullock - cross - Guadagnino

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1 them, I got shot. I said, I said, Damn, where my bro at.

2 Like, I need somebody. Like, Damn, call my bro, call my bro.

3 It's all, it's all.

4 Q And when you said, "Call my brother," you said Quandel
5 Smothers?

6 A Yes, sir.

7 Q Did you mean Quandel Smothers shot you?

8 A No. Hell, no. No. That's what the police, that's what
9 the police made it seem like because the black guy got shot on
10 his block where he, we all normally be at. You get what I'm
11 saying? So of course he -- like, you know we all talk of this
12 so it's like who else to blame and that's, that's where he
13 from, you know.

14 Q I just want to ask you a question. You got shot on
15 April 30, 2011, right?

16 A Yes, sir.

17 Q And then you didn't testify in a grand jury until
18 August 2011.

19 A Yes, sir.

20 Q Why so long?

21 A Because I was peer pressured by the police because I got
22 caught with a gun, I got -- during the situation when I got
23 shot, I got caught with a gun and I was on probation. I just
24 came home, I just came home from 90 days. I got locked up
25 for, like, attempted murder. So, yeah, I got locked up for

Bullock - cross - Guadagnino

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1 attempted murder. Then probation let it slide and then this
2 happened, I got caught with a gun, and the police told me if I
3 do this and that, I'll be all right. So I said, I didn't did
4 it but I ain't followed through at all.

5 Q Well, if you testified in the grand jury and mentioned
6 Quandel Smothers' name as the person who shot you, were you
7 lying in the grand jury?

8 A Yes, sir.

9 Q So you committed perjury in the grand jury?

10 A Yes, sir, just to save myself.

11 Q Do you know that is an offense?

12 A Yeah, I know, just to save myself so I won't do time.

13 Q But you know that's a crime.

14 A Yeah, but everything is, everything.

15 Q But why would you say Quandel Smothers in the grand jury
16 four months later?

17 A Four months later because I knew, I knew it was -- I
18 knew, like, you know, time, like they was lying anyway because
19 I knew who shot me. It's all a gimmick. Like, you know, they
20 still was going to -- like I was forced even, like, you know,
21 that situation. Then I was outside. I was by myself. You
22 know, so it was, like, I knew he was going to come home
23 because he ain't do it. So that's why I did it, to save
24 myself. He came home and I came home. We was good. Two
25 years later, the same police put a gun on me and I wind up

Bullock - cross - Guadagnino

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1 going to the feds doing two years and he told me why he put a
2 gun on me, because I ain't followed through, so I did two
3 years.

4 Q Who put a gun on you?

5 MR. GALEOTTI: Objection.

6 A Bullethead from the 75th Precinct.

7 Q Who is Bullethead?

8 A Some DT.

9 MR. GALEOTTI: Objection.

10 A Like he been getting, like he all over the news, always
11 over the news, he a DT, gun squad.

12 MR. GALEOTTI: Objection, Your Honor.

13 THE COURT: What?

14 MR. GALEOTTI: Objection.

15 THE COURT: All right. Sustained.

16 Sir?

17 THE WITNESS: Yeah.

18 Q So I guess my question is your testimony today is that
19 you were pressured by the 75th Precinct to lie?

20 A Yes, sir.

21 Even, like, I got stopped the other day. Like, you
22 know, I moved from the area I'm in. My family sold the house.
23 I live -- I'm obviously not going to say where I live at. I
24 get pulled over because, you know, I'm doing DoorDash and, you
25 know, DoorDash I had an order in Queens so I went all the way

Bullock - cross - Guadagnino

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1 to East New York. So I wanted to get stopped but the DTs,
2 they all know me, you know.

3 MR. GALEOTTI: Objection.

4 THE COURT: Sustained. Sustained.

5 A One of the officers here in the back, he knows me.

6 Q Did you understand --

7 THE COURT: Excuse me.

8 Q The Judge said no.

9 THE COURT: Mr. Guadagnino, you need to focus the
10 witness --

11 MR. GUADAGNINO: Yes.

12 THE COURT: -- on questions that relate to the
13 direct.

14 MR. GUADAGNINO: Yes.

15 THE COURT: Okay.

16 Q Now, again, I'm asking you you said you were forced to
17 lie in the grand jury, is that your testimony?

18 A Yes, sir.

19 Q Who forced you?

20 A One of the detective, I think his name is -- it's, like,
21 a Spanish name.

22 Q From where?

23 A From the 75th.

24 Q How did they force you?

25 A How did they force me? He said he's going to put the gun

Bullock - cross - Guadagnino

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1 on me and I was going to go on a violation.

2 Q What gun was that again?

3 A It was a four-fifth.

4 Q And when did you have that gun?

5 A I had that gun when I got shot.

6 Q So the day that you got shot, were you shooting a gun?

7 A No, I just had it on me.

8 Q And you been in jail before?

9 A Yeah.

10 Q How many times?

11 A I been in jail probably, like -- well, counting it now my
12 whole life? About, like, four times.

13 Q How many years have you served in jail?

14 A How many years all together?

15 Q Well, if you remember your cases on each case.

16 A Not that much. Probably, like, seven years all together
17 on this side of my life, seven, eight years.

18 Q And today, you got brought in, is that right?

19 A Yeah. I got -- they showed up at my house with guns and
20 everything pointed at my face.

21 MR. GALEOTTI: Objection.

22 THE COURT: Sustained.

23 Q Well, you -- somebody brought you here today.

24 A Yes, somebody, yeah.

25 Q Right?

1 A Yeah.

2 Q You didn't come on your own.

3 A Yeah. They got me.

4 Q When did you find out that you were coming here?

5 A I never found out. I found out today when he came to my
6 house.

7 Q Who came to your house?

8 A FBI.

9 MR. GUADAGNINO: Thank you. I have no further
10 questions.

11 THE COURT: Any redirect?

12 MR. GALEOTTI: Yes, Your Honor.

13 (Continued on next page.)
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1 REDIRECT EXAMINATION

2 BY MR. GALEOTTI:

3 Q Sir, Ashford Street, did you testify was Chucky's block?

4 A Yes, sir.

5 Q You sold drugs there?

6 A I don't know.

7 Q Did you sell drugs?

8 A No.

9 Q Were you a member of E.A.M.?

10 A Mm-mm. Um, no.

11 Q Was he a member of E.A.M.?

12 A I don't know.

13 Q When you testified in 2011, you were happy that Chucky
14 went home after he testified, right?

15 A What you mean?

16 Q Well, you testified on cross that after -- you said you'd
17 say whatever, and Chucky went home and you went home and you
18 were happy.

19 A Yeah, we saved each other. Yeah.

20 Q So you wanted Chucky to go home?

21 A We saved each other --

22 Q Right now, do you want Chucky to go home?

23 A Huh?

24 Q Right --

25 A Listen, I don't care what's going on. I'm just clearing

1 my name. I don't care about -- I'm just clearing my name.

2 Q And sir, you testified in the Grand Jury in Kings County
3 twice, right, in 2011?

4 A In Kings County?

5 Q In Brooklyn.

6 A Yes.

7 Q And the second time was for witness intimidation, right?

8 A Sorry, can you tell me, like, where -- where, like, where
9 it took place? Like, where? In the courthouse? You're
10 talking about the courthouse, that I testified twice in the
11 courthouse? What?

12 Q Did you testify in court more than once in 2011?

13 A Like, I can't recall.

14 THE COURT: Did you testify in the courthouse in
15 Brooklyn in 2011, sir?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: And did you do that more than once, sir?

18 THE WITNESS: I don't know, probably once. Probably
19 once, probably twice. That's it.

20 Q How about 2012, sir? Did you testify in 2012?

21 A 2012? I don't know, that's, like, so long, you know.

22 Q When you testified in 2012 and you testified that the
23 defendant intimidated you, did someone put you up to that?

24 A What?

25 Q You testified in 2012 in the Grand Jury in Brooklyn that

1 the defendant intimidated you, right?

2 A Oh, I don't know.

3 Q Did anyone put you up to that?

4 A I can't remember. I don't know.

5 Q Sir, I've never met you before today, have I?

6 A Um, I don't -- I really don't know because, like, you
7 know, a lot of people be coming to my house. I'm scared of --

8 Q Do you think you've met me before?

9 A I don't know. No, I don't know.

10 Q Did you call the defense counsel last night?

11 A No.

12 Q Did you call Mr. Smothers' lawyer last night?

13 A Did I call his lawyer last night? Um, I don't know.

14 MR. GALEOTTI: Sidebar, Your Honor, please?

15 A No.

16 THE COURT: We will have to ask the jury to step out
17 then, please.

18 Do not talk about the case, please.

19 (Jury exits.)

20 THE COURT: Shall we --

21 MR. GALEOTTI: The witness shouldn't be here for it.

22 THE COURT: Can you please have the witness leave?

23 Thank you.

24 You can take the -- leave the microphone here and we
25 will give it back. Thank you, sir.

1 THE COURTROOM DEPUTY: Just leave it on there.

2 That's fine.

3 (Witness exits.)

4 (Continued on the next page.)

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1 (Sidebar conference held on the record in the presence of the
2 Court and counsel, out of the hearing of the jury.)

3 THE COURT: Is there a reason that anyone else in
4 this courtroom cannot hear us?

5 MR. GALEOTTI: No, Your Honor.

6 THE COURT: Okay. Mr. Smothers, as you know, wanted
7 to be at sidebar.

8 Yes, what would you like to say, sir?

9 MR. GALEOTTI: Yes. Your Honor, as an initial
10 matter, we'd like to take -- the Court to take judicial notice
11 that it was already disclosed on the record in court today
12 that the witness called Defense Counsel last night.

13 In addition, the witness has perjured himself
14 repeatedly under oath today. With respect to the last piece
15 regarding whether or not he called the defense counsel last
16 night, the government would request, so as not to turn Counsel
17 into a witness, either a stipulation that the witness did, in
18 fact, call Counsel last night or a read-back of the testimony
19 from -- a read-back of the record from earlier today.

20 THE COURT: Do you want to be heard, Mr. Guadagnino?

21 MR. GAUDAGNINO: Your Honor, I'll stipulate that he
22 called me last night.

23 THE COURT: You know it was Mr. Bullock?

24 MR. GAUDAGNINO: Someone represented their name as
25 Damian Bullock calling me, yes.

1 THE COURT: All right. So he has stipulated that
2 this occurred.

3 Do you want an instruction on that?

4 MR. GALEOTTI: Yes, Your Honor. Our request would
5 be that you instruct the jury that it has been stipulated
6 between the parties that Mr. Damian Bullock, also known as
7 Hex, called Defense Counsel last night. And I don't think we
8 should get into anything beyond that so as not to turn
9 Mr. Guadagnino into a witness.

10 THE COURT: All right. And if he does not want to
11 stipulate to it, we will read the statement back.

12 How do you want to proceed, Mr. Gaudagnino?

13 MR. GAUDAGNINO: Well, no, I'll stipulate that
14 someone called me representing to be Damian Bullock last
15 night, that's true. That's what I represented. I never met
16 Mr. Bullock in my life, but someone called me representing to
17 be Damian Bullock.

18 THE COURT: All right. Did the voice sound familiar
19 to you? Can't tell?

20 MR. GAUDAGNINO: Honest, Judge, I can't tell you
21 that it sounded familiar.

22 THE COURT: All right. We can let the jurors know
23 that the parties have stipulated that somebody identifying
24 himself as Mr. Damian Bullock called Defense Counsel last
25 night.

1 MR. GALEOTTI: And if we're saying someone
2 identifying himself, then I would ask Your Honor that the
3 substance of what was said also be included. I was trying to
4 do less, but if there's a suggestion that it was somebody
5 else -- I mean, a false suggestion, frankly, that it was
6 somebody else purporting to be Mr. Bullock, then I would ask
7 for the read-back where Counsel said --

8 THE COURT: We are going to do the read-back.
9 All right? Just because we could be here all day with --

10 MR. GAUDAGNINO: I think that's better.

11 THE COURT: -- the stipulation.

12 I will ask the court reporter to find that portion
13 of the statement and read it back.

14 Does anybody have a recollection as to approximately
15 when it was, because we had multiple court reporters here?

16 MR. GAUDAGNINO: That was this morning before we
17 started the day.

18 THE COURT: Before we even started?

19 MR. GAUDAGNINO: Yes.

20 MR. GALEOTTI: That sounds right, Your Honor.

21 THE COURT: So we can ask the court reporter,
22 Ms. Jackson, to pull that part of it and we will read it to
23 the jury.

24 Is there anything else we need to address?

25 Is counsel for Mr. Bullock in the courtroom?

1 MR. PALMA: Yes, I am, Your Honor.

2 THE COURT: I am concerned that he is possibly
3 putting himself in a position to be prosecuted for perjury.

4 MR. PALMA: No, I understand that, Your Honor.

5 THE COURT: So would the government object if
6 Mr. Palma spoke to him about that concern?

7 MR. GALEOTTI: No, Your Honor, we do not object.

8 THE COURT: All right.

9 MR. PALMA: Can I have a minute, Your Honor?

10 THE COURT: Sure. Take some time.

11 Did somebody contact the court reporter?

12 THE COURTROOM DEPUTY: Yes, I'm going to.

13 THE COURT: Would you like the court reporter to
14 read it back, Counsel?

15 MS. NGAI: Yes, Your Honor.

16 THE COURT: Would you like the court reporter to
17 read it back? She is coming up.

18 MS. NGAI: Yes, Your Honor.

19 MR. GAUDAGNINO: Judge, just as a practical matter,
20 don't I get some cross?

21 THE COURT: Cross of who?

22 MR. GAUDAGNINO: Of Mr. Bullock.

23 THE COURT: He is not finished.

24 MR. GAUDAGNINO: Oh. I thought you were finished.

25 THE COURT: No. We are just taking a recess.

1 Does anyone object: The transcript, when the court
2 reporter gets here and reads back, will be taken by the court
3 reporter who is here. And as the morning court reporter reads
4 back the statement by Mr. Guadagnino, it will be part of the
5 transcript at this point as well so we have a record as to
6 what was read back.

7 MR. GAUDAGNINO: Yes.

8 MR. GALEOTTI: It was a little noisy, but I think
9 Your Honor said it's going to appear as it originally did and
10 now again during the read-back; is that right?

11 THE COURT: Yes. And it will be designated as a
12 read-back by the court reporter who took the minutes this
13 morning.

14 MR. GALEOTTI: Yes. Thank you, Your Honor.

15 (Pause in proceedings.)

16 THE COURT: Do you want to be on the record,
17 Mr. Palma?

18 MR. PALMA: I just want to say I -- I spoke to
19 Mr. Bullock. Okay?

20 THE COURT: All right. Thank you.

21 MR. PALMA: All right.

22 THE COURT: So when Mr. Smothers returns to the
23 courtroom and the court reporter is here to read back the
24 statements, we will have the jury come in and hear the
25 read-back.

1 Is that what you contemplated?

2 MR. GALEOTTI: Yes, Your Honor.

3 THE COURT: All right.

4 MR. PALMA: Could I have one moment with the
5 government, Your Honor?

6 THE COURT: Yes.

7 Just waiting for Michelle.

8 Can we proceed now with anything else or do you want
9 to wait for the court reporter?

10 Either way. I just --

11 MR. GALEOTTI: Unfortunately, I do think we have to
12 wait, Your Honor.

13 THE COURT: Okay.

14 (Court Reporter Lucchese enters.)

15 THE COURT: Thank you.

16 The court reporter is here.

17 So what we are going to do is ask you to read the
18 portion of the transcript.

19 Mr. Guadagnino and Mr. Galeotti, the court reporter
20 has given us the portion. You can both look at it.

21 MR. GAUDAGNINO: Go ahead, Matt.

22 That's it.

23 MR. GALEOTTI: Yes, Your Honor.

24 THE COURT: All right. So we will bring the jury
25 back in and Mr. Smothers to the courtroom. I will advise the

1 jury that the court reporter from this morning is going to
2 read a portion of the transcript which occurred when they were
3 not in the courtroom. And then you can resume your exam, the
4 cross-examination.

5 MR. GALEOTTI: Thank you, Your Honor.

6 THE COURT: Do you want to bring the witness back
7 in?

8 MR. GALEOTTI: That's fine, if it saves time,
9 Your Honor, yes, let's do that.

10 (Sidebar ends.)

11 (Continued on the next page.)

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1 (Jury enters.)

2 THE COURT: All jurors are present. Please have a
3 seat.

4 Members of the jury, at this time we are going to
5 ask the court reporter who was here this morning to read a
6 portion of the transcript of what preceded this morning before
7 you were brought into the courtroom.

8 (The Morning Court Reporter read the following):

9 MR. GUADAGNINO: Your Honor, and I disclosed to the
10 government, I received a phone call last night from a
11 potential government witness, Mr. Damian Bullock. He said
12 that he got information that he was supposed to testify in
13 this case, what should he do.

14 I said I'm not allowed to consult with him about
15 that, he needs to have an independent lawyer consult with him.

16 And I left it at that and I hung up.

17 THE COURT: Thank you for informing the Court,
18 Mr. Guadagnino.

19 You're welcome.

20 (End of read-back from the Morning Court reporter.)

21 THE COURT: All right. So with that, Mr. Galeotti,
22 did you want to resume your -- was it direct?

23 MR. GALEOTTI: We're still on the direct,
24 Your Honor.

25 THE COURT: All right.

1 REDIRECT EXAMINATION

2 BY MR. GALEOTTI: (Continuing)

3 Q Sir, you said you sued the NYPD three times, right?

4 A Yeah.

5 Q You never sued them for supposedly forcing you to testify
6 in the Grand Jury in 2011, right?

7 A If I could, I would.

8 Q When you testified in 2012, you never sued them for
9 making you do that, right?

10 A No.

11 Q You never sued them for supposedly making up a fake
12 witness intimidation claim that you lodged against the
13 defendant, Quandel Smothers, did you?

14 A Yeah.

15 THE COURT: Yes or no, did you sue them for that?

16 THE WITNESS: No, no. No, ma'am.

17 THE COURT: Okay. Sir, I also want to remind you,
18 you are still under oath.

19 THE WITNESS: Yeah, nah, because I be getting --

20 THE COURT: You are still under oath, sir.

21 THE WITNESS: I know, ma'am, but I don't hear him.

22 THE COURT: If you cannot hear the lawyer, just tell
23 them you cannot hear and ask him to speak up and repeat the
24 question.

25 THE WITNESS: Yes, ma'am.

1 MR. GALEOTTI: Can you please put, just for the
2 witness, Court and counsel, Government Exhibit 3500-DB-6.

3 Here you go. I'll show the witness a piece of
4 paper, Your Honor.

5 Q Now, Mr. Bullock, for the record, I'm going to show you
6 Government Exhibit 3500-DB-6, which is your Grand Jury
7 testimony on April 13, 2012 in Brooklyn.

8 THE COURT: What page are you showing him?

9 MR. GALEOTTI: I'm showing the witness page 5.

10 THE WITNESS: Am I supposed to read it?

11 THE COURT: Yes. Take it and read it silently to
12 yourself.

13 When you are finished, just let us know.

14 Q Have you finished, sir?

15 A Yeah.

16 Q Thank you.

17 Now, sir, is this a Grand Jury transcript?

18 A Um, yeah, I think so. Yeah.

19 Q And this is from when you testified in 2012, right?

20 A Yes, sir.

21 Q And this is because the defendant intimidated you for
22 testifying the first time in 2011, right?

23 A Um, no, sir.

24 Q Sir, you tried to coordinate your testimony today with
25 Mr. Quandel Smothers, the defendant?

1 A Could you explain that? Because you're using big words,
2 so, like, you know, I --

3 Q Sir, did you try to speak with Mr. Quandel Smothers so
4 you knew what to say here today in court?

5 A No.

6 MR. GALEOTTI: Thank you, Your Honor. No further
7 questions.

8 MR. GAUDAGNINO: May I, Your Honor?

9 THE COURT: Yes.

10 Was Government Exhibit 3500-DB-6 in evidence?

11 MR. GALEOTTI: Your Honor, we were moving to do that
12 on redirect, but we'll do it now.

13 The government moves to admit Government
14 Exhibit 3500-DB-6 into evidence.

15 THE COURT: The entire transcript?

16 MR. GALEOTTI: Yes, Your Honor.

17 MR. GAUDAGNINO: Objection.

18 THE COURT: All right. Pursuant to the Federal
19 Rules of Evidence, I find that the objection should be
20 overruled.

21 We have received Government Exhibit's 3500-DB-6 in
22 evidence.

23 (Government Exhibit 3500-DB-6 received in evidence.)

24 THE COURT: Go ahead, Mr. Guadagnino. You may
25 cross.

1 CROSS-EXAMINATION

2 BY MR. GUADAGNINO:

3 Q Mr. Bullock, you saw the Grand Jury minutes from 2012
4 that have just been put into evidence, right?

5 A Yes, sir.

6 Q And you testified just now that you read the Grand Jury
7 minutes?

8 A Mm-hm.

9 Q The government's asking you about whether or not this was
10 a case where you testified in the Grand Jury that you were
11 intimidated. Do you remember that?

12 A Yeah, probably.

13 Q By Mr. Smothers, correct?

14 A Yeah.

15 Q You know that that case got dismissed by a Brooklyn Grand
16 Jury?

17 A Yeah.

18 Q You know that, right?

19 A Yeah.

20 What?

21 Q That case got dismissed by a Brooklyn Grand Jury.

22 MR. GALEOTTI: Objection, Your Honor.

23 THE COURT: Hang on just a second.

24 I am trying to understand why that is relevant, the
25 outcome, and so I will strike that, the answer and question.

1 The jury should disregard it.

2 Q Do you know --

3 THE COURT: The outcome of the case is not relevant
4 to this case.

5 MR. GAUDAGNINO: Okay.

6 Q You testified in a Grand Jury a year after you got shot?

7 A Yeah.

8 Q In 2012? If you remember.

9 A Yeah, I think so.

10 Q Did you go to the Grand Jury on your own or did someone
11 take you?

12 A Everybody took me, like, you know.

13 Q Who's "everybody"?

14 A Like the police, of course they made sure I got there.

15 Q All right. Did you want to go to the Grand Jury?

16 A No. I was forced. I was forced by the police.

17 And then my family said they going to kick me out
18 the house and things like that and, you know.

19 Q Did you know a Detective Scrappy from the 75th Precinct?

20 A Yeah, he in the back right now.

21 Q Do you know a Detective Officer Bullethead?

22 A Yes, sir. That's the one that locked me up and put the
23 fake gun on me.

24 MR. GALEOTTI: Objection.

25 THE COURT: I am going to sustain that objection.

1 The jury should disregard that last question and the
2 last answer of the witness.

3 You know, if you want to make a proffer, I will hear
4 from you, sir, but I am not quite sure where this is going.

5 Q So I just want to ask you this question: Are you
6 testifying here that you've been pressured by the 75th
7 Precinct?

8 A Um, no. Like, a little bit. Like, I'm not -- I'm going
9 to keep it -- I'm going to keep it honest, keep it honest.
10 Like, it's -- like, it's crazy. It's like...

11 THE COURT: Can you answer the question that he
12 asked you, sir, which was whether you are testifying here
13 today because you were pressured by the 75th Precinct to do
14 so.

15 A Nah, nah, not really. But it's like me getting stopped
16 to this day for no reason --

17 MR. GALEOTTI: Objection.

18 A -- and they thinking I got a gun and they think I'm
19 involved in this case. Like, it's like they trying to --
20 like, they -- they -- they -- they -- they trying to lock me
21 up so I could be -- so they could force me again, you know.

22 MR. GALEOTTI: Objection.

23 A So it's like --

24 THE COURT: Sustained. Sustained.

25 The jury should disregard that last statement.

1 Q Do you feel like you're being forced to be here today?

2 A Yeah.

3 Q By whom?

4 A By -- by -- by -- by the 75th Precinct. Like, just being
5 forced. And, like, I just want to get the truth out, you
6 know, so it's -- so I want to get the truth out. So I'm here
7 because I want to tell the truth.

8 Q So you're telling the truth today; is that your
9 testimony?

10 A Yes.

11 Q Did you tell the truth in the Grand Jury back in 2012?

12 A No, because I got caught with a gun. And I knew if I do
13 that, I would be okay and he would be okay, like, you know.

14 Q Did you tell the truth in the Grand Jury in 2011?

15 A No.

16 Q Had you ever met me before?

17 A I don't know. I don't know.

18 MR. GAUDAGNINO: I have no further questions.

19 THE COURT: All right. Anything else?

20 MR. GALEOTTI: Not from the government, Your Honor.
21 Thank you.

22 THE COURT: All right. Sir, you are excused. Have
23 a nice day.

24 MR. GALEOTTI: Your Honor, the government will move
25 to release Mr. Bullock and he's free to go wherever he

1 pleases.

2 THE COURT: All right. The order of detention is
3 vacated. You are released, sir. Have a nice day.

4 (Witness excused.)

5 THE COURT: Do you have another witness?

6 MR. GALEOTTI: Yes, Your Honor, but first, we'd like
7 to read in Government Exhibit 3500-DB-6 into the record.

8 THE COURT: All right. Are you reading the entire
9 transcript?

10 MR. GALEOTTI: Yes, Your Honor.

11 THE COURT: It is fine. All right.

12 Are you going to do the Q&A with a colleague or just
13 you will just read it, both parts?

14 MR. GALEOTTI: I'll just read both.

15 THE COURT: All right. Starting at page 5.

16 Was the witness sworn?

17 MR. GALEOTTI: Yes. Let's go back to 1, please.

18 So let's show the caption.

19 THE COURT: Show them page 1, please, so we know
20 what it is.

21 Government Exhibit 3500-DB-6, dated April 13, 2012.

22 And this is a State Court proceeding in a case
23 entitled: The People of the State of New York against
24 Quandel Smothers, Tyshawn Corbett, Defendants.

25 MR. GALEOTTI: This is from April 13, 2012.

1 Page 2, please, Ms. Wissel.

2 And page 3.

3 Your Honor, it states the following, and this is not
4 from the witness, this is in the record:

5 You will now hear testimony from Damian Bullock.

6 (Whereupon, the Assistant District Attorney exited
7 the Grand Jury room.)

8 (Whereupon, the Assistant District Attorney returned
9 to the Grand Jury room.)

10 (Whereupon, the witness entered the Grand Jury room)

11 Starting on page 4.

12 FOREPERSON: Please raise your right hand.

13 Do you solemnly swear that the testimony you are
14 about to give to this Grand Jury shall be the truth, the whole
15 truth and nothing but the truth so help you God?

16 THE WITNESS: Yeah.

17 MS. ROSENFELD: Mr. Foreperson, has the witness been
18 sworn?

19 FOREPERSON: Yes.

20 MS. ROSENFELD: Let the record so reflect.

21 Starting on page 5, this is the testimony of
22 Damian Bullock:

23 Question -- and, Your Honor, there appears to be a
24 typo in the transcript, so I'm going to read it as
25 Quandel Smothers, Q-U-A-N-D-E-L.

1 THE COURT: All right. Thank you.

2 MR. GALEOTTI: Line 3:

3 Question: Good afternoon, sir.

4 Answer: Good afternoon.

5 Question: Can you please state your name for the
6 record?

7 Answer: Damian Bullock.

8 Question: Do you know two people by the names
9 Tyshawn Corbett and Quandel Smothers?

10 Answer: Yeah, I know Tyshawn from Quandel Smothers.

11 How?

12 Family members.

13 That was the answer.

14 Starting on line 12:

15 Question: Do you know how they are related?

16 Answer: Cousins.

17 Question: How do you know Quandel Smothers?

18 Answer: I know Quandel from me getting shot, I know
19 Quandel Smothers.

20 Question: I'm sorry. The jury couldn't hear you.

21 Answer: I know Quandel Smothers from me -- he shot
22 me, that's how I know him.

23 Question: Directing your attention to
24 April 11, 2012 at approximately 12:20 a.m., where were you?

25 Answer: I was on Fountain and Liberty.

1 Question: What county is that in?

2 Answer: Brooklyn.

3 Directing your attention to that time and the
4 location, did you see Tyshawn Corbett and Quandel Smothers?

5 Answer: I seen Tyshawn Corbett first, he walked
6 past me.

7 Question, line 5: What happened after you saw
8 Tyshawn Corbett walk past you?

9 Answer: He said, What up? I said, What up? And he
10 left. I didn't see him after that.

11 Question: Prior to this incident, have you had any
12 conversations with Tyshawn Corbett?

13 Answer: I had conversations with him like two weeks
14 ago later calling me about his cousin, Quandel Smothers.

15 Question: What was that phone call about?

16 Answer: Not testifying on him, I should keep it in
17 the streets instead of testifying against him.

18 Question: And what did that mean to you when you
19 got that phone call?

20 Answer: It really mean to me like that he don't
21 want me to testify, he just wants me to like me and him not
22 beef --

23 Excuse me. Let me read that again.

24 Line 18:

25 Answer: It really mean to me like that he don't

1 want me to testify, he just wants me to like me and him beef,
2 not get police involved with it, just to keep it between me
3 and him.

4 And this phone call happened prior to seeing him on
5 the street --

6 THE COURT: Question. Question.

7 MR. GALEOTTI: Yes, Your Honor. Apologies.

8 Question, line 22: And this phone call happened
9 prior to seeing him on the street on April 11, 2012?

10 Answer: Say that again.

11 Question: This phone call, it happened sometime
12 before you saw him on the street on April 11, 2012?

13 Answer: Yes.

14 We're now on page 7, starting on line 3.

15 Question: So, what happened when you saw
16 Tyshawn Corbett in the street that night?

17 Answer: I seen him walk past. He said, What up? I
18 said, What up? I wasn't thinking nothing of it. Ten,
19 fifteen minutes later I see Quandel Smothers walking down the
20 block. The way he was walking, I couldn't see him, my back
21 was turned. He was looking at me, grilling me, looking at me,
22 but my girlfriend told me to turn around, but I did not turn
23 around.

24 Question: What happened once you saw Quandel
25 Smothers on the street?

1 Answer: After I seen him, he was on the corner. He
2 was on the corner -- he was on the corner basically waiting
3 for me to finish talking to my girl so I could go by my way
4 walk down the block to my house.

5 What did you think was going to happen --

6 THE COURT: Question.

7 MR. GALEOTTI: Apologies, Your Honor.

8 Question: What did you think was going to happen
9 when you saw Quandel Smothers on the corner?

10 Answer: I thought he was going -- either he going
11 to shoot me or I was just thinking about a whole lot of
12 things, like me be shot again or him coming, talking to me or
13 like trying to convince me, anything. I was thinking about
14 anything, he could've kidnapped, anything. That's what I was
15 thinking about.

16 Page 8, please.

17 Line 1:

18 Question: After you saw -- how did that all make
19 you feel?

20 Answer: How did that make me feel?

21 Question: Yes.

22 Answer: Made me feel scared.

23 Question: Did there come a time where you saw
24 Quandel Smothers with Tyshawn Corbett that night?

25 Answer: Yeah, I seen them together. When I seen

1 them, my girlfriend told me to walk behind her just in case if
2 that was him. But when I was walking, he was on the left side
3 of me between cars but he was with another person with a
4 hoodie on. But when I walked past him, I act like I didn't
5 see him, but my sister was coming down the block, my sister
6 seen him. My sister, the one that like -- he -- when I took a
7 glance, I wasn't too sure because I ain't want to look at him
8 for him to think something and then react again. So, my
9 sister seen him. So when my sister seen him, he still looking
10 at me, but I am not looking at him. I am trying to go to my
11 destination, I am trying to go to my crib. So my sister
12 looking at him, so Tyshawn Corbett grabbing him, telling him,
13 Come on, come on, we gotta leave. His sister seen us, we
14 gotta leave. He was just sitting there looking mad, like he
15 really wanted to do something to me, but at the time it wasn't
16 the right place at that time.

17 Page 9.

18 Question: Now, you testified earlier that
19 Quandel Smothers shot you, was he arrested for that?

20 Answer: Yeah, he was arrested.

21 Question: Is there currently a pending case
22 relating to that shooting?

23 Answer: Yes.

24 Question: And is the indictment number related to
25 that incident 7318 of 2011?

1 Answer: Yes.

2 Question: And was there an Order of Protection
3 issued in that case in your favor?

4 Answer: Yes.

5 Line 13, page 9:

6 Was the Order of Protection still in effect on
7 April 11, 2012 when you were approached by the defendants?

8 Answer: Yes.

9 All right. Thank you. I am just going to ask that
10 you step outside momentarily.

11 And, Your Honor, that's -- the government's pleased
12 to stop there with the read-back.

13 THE COURT: All right. Thank you. Is there
14 anything you want to read Mr. Guadagnino, from this
15 transcript?

16 MR. GAUDAGNINO: May I have a moment, Your Honor?

17 THE COURT: Yes.

18 (Pause in proceedings.)

19 MR. GALEOTTI: Your Honor, and by agreement with
20 counsel, for now we will only offer the pages that we read
21 into evidence and the parties will discuss further if
22 additional pages should be offered.

23 So for purposes of the record for now, we'll offer
24 what was read in starting with the cover page through page 9,
25 line 19 of Damian Bullock's Grand Jury testimony on

1 April 13th, 2012.

2 THE COURT: All right. Thank you.

3 Is there any other witness you want to present right
4 now, sir?

5 MS. NGAI: Yes, Your Honor. The government calls
6 Detective Glanville.

7 THE COURT: All right. Thank you.

8 Hello, sir. Please come up to the stand.

9 THE WITNESS: Hello.

10 THE COURTROOM DEPUTY: Good afternoon. Please raise
11 your right hand.

12 (Witness sworn/affirmed.)

13 THE COURTROOM DEPUTY: Please have a seat and state
14 and spell your name, please.

15 THE COURT: Pull the microphone towards you, sir.
16 Thank you.

17 THE WITNESS: Detective Jeronnie Glanville;
18 J-E-R-O-N-N-I-E, G-L-A-N-V-I-L-L-E.

19 (Continued on the next page.)
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1 **JERONNIE GLANVILLE** , having been first duly sworn/affirmed,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. NGAI:

5 Q Good afternoon, sir.

6 A Good afternoon.

7 Q Who are you employed by?

8 A New York City Police Department.

9 Q And how long have you been with the NYPD?

10 A Sixteen and a half years.

11 Q And what is your current title?

12 A Detective/task force officer.

13 Q And what task force are you currently a part of?

14 A The Joint Terrorism Task Force.

15 Q And briefly, can you describe what does that task force
16 do?

17 A It's a multiagency task force combining federal, state,
18 local law enforcement that's partnered with the FBI to
19 investigate terror-related crimes.

20 Q Is that task force also known as JTTF?

21 A Yes.

22 Q How long have you been with JTTF?

23 A A little bit over a year.

24 Q Prior to being on JTTF, what did you do at the NYPD?

25 A Prior to JTTF, I was part of the Gun Violence Suppression

1 Division.

2 Q And what did you do as part of that unit?

3 A We investigated gun-related crimes.

4 Q And what areas did this department serve?

5 A Brooklyn and Queens.

6 Q I'm going to direct your attention to January 2nd, 2019
7 at approximately 8:00 p.m.

8 Were you working that day?

9 A Yes, I was.

10 Q And where were you working?

11 A In my office, in the Gun Violence Suppression Division
12 office in Canarsie, Brooklyn.

13 Q And what, if anything, happened?

14 A I was notified of an arrest, and I responded to Brooklyn
15 Central Booking.

16 Q Where is Brooklyn Central Booking, specifically?

17 A I believe it's Schermerhorn Street, Downtown Brooklyn.

18 Q And what is Brooklyn Central Booking?

19 A It's where everybody who's arrested is taken to and
20 processed before they see the judge for arraignment.

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22 (Continued on the next page.)

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1 DIRECT EXAMINATION

2 BY MS. NGAI: (Continuing)

3 Q And who had been arrested that day?

4 Who had been arrested? Do you know the name of the
5 individual that had been arrested?

6 A If I saw the name, I would remember the name.

7 MS. NGAI: Showing just the witness 3500-JG-2.

8 Q Detective, just reading this to yourself, please let me
9 know if this refreshes your memory.

10 A It does.

11 MS. NGAI: Can we please take that off the screen,
12 Ms. Wissel.

13 Q Do you remember the name of the individual who had been
14 arrested?

15 A Yes, I do.

16 Q What is that person's name?

17 A Tyshawn Corbett.

18 Q Did you know Tyshawn Corbett before that date?

19 A No.

20 Q Why were you going to Brooklyn central booking?

21 A I was going to Brooklyn central booking to try to obtain
22 an abandonment sample.

23 Q What is an abandonment sample?

24 A An abandonment sample is thrown away by a person where we
25 trying to get DNA from it.

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1 Q In this case, did you get an abandonment sample from
2 Tyshawn Corbett?

3 A Yes, I did.

4 Q What kind of sample did you get?

5 A It was a water bottle.

6 Q Who gave him that water bottle?

7 A I did.

8 Q What condition was that water bottle?

9 A It was new and unopened.

10 Q What did you do with that abandonment sample?

11 A After I retrieved the abandonment sample, I vouchered it.

12 Q Was there an invoice number assigned that voucher?

13 A Yes, there was.

14 Q And is it a unique number?

15 A Yes, it is.

16 Q At the time that you vouchered the water bottle, did you
17 know the number?

18 A Yes, I did.

19 Q Did you accurately record it in any paperwork?

20 A Yes, I did.

21 Q What paperwork did you record it?

22 A It would be on top of a voucher that I vouchered.

23 MS. NGAI: Permission to have the witness read the
24 voucher number.

25 THE COURT: Yes.

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1 MS. NGAI: Showing just the witness again 3500-JG-2.

2 Q Detective, do you see the voucher number?

3 A Yes, I do.

4 Q Can you please read the invoice number?

5 A It's 3001055731.

6 MS. NGAI: Thank you. No further questions.

7 THE COURT: Mr. Guadagnino, any cross?

8 MR. GUADAGNINO: No, Judge. Thank you.

9 THE COURT: All right. Sir, thank you.

10 You may step down. Have a good day.

11 MS. NGAI: Your Honor, we can call another witness
12 or we can take a break.

13 THE COURT: Why don't we give the jurors a break.
14 They have been here in their seats for quite a while.

15 Please don't talk about the case. Turn your
16 notebooks face down and we will come and retrieve you.

17 (Jury exits the courtroom.)

18 THE COURT: All right. We will take ten minutes,
19 unless there is something that I have to address.

20 MR. GALEOTTI: Not from the Government, Your Honor.

21 THE COURT: Thank you.

22 (Recess taken.)

23 THE COURT: Mr. Smothers can be brought out. We
24 will get started.

25 (Defendant present.)

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1 MR. SIEGEL: I have something before the jury comes
2 in.

3 THE COURT: Yes, Mr. Siegel.

4 MR. SIEGEL: Your Honor, I think we all saw Mr.
5 Bullock and his testimony and understood the dishonesty of it.
6 One thing I did want to note for the record his accusations
7 against Detective Nicoletta, who he referred to as Detective
8 Scrappy, that Detective Nicoletta had in some way pressured
9 him in any of the prior cases or forever is just something I
10 want to be very clear on the record is not true and we
11 categorically reject.

12 THE COURT: All right. I did order some of the
13 meandering of nonresponsive testimony elicited on cross be
14 stricken, even on direct. It just wasn't responsive.

15 We will get the transcript tonight and figure out if
16 some correction has to be made.

17 MR. SIEGEL: Thank you, Your Honor.

18 THE COURT: But I understand your point.

19 MR. SIEGEL: Thank you, Your Honor.

20 THE COURT: Are we ready to bring the jury in now?

21 MR. GALEOTTI: We are.

22 THE COURT: Yes, Mr. Smothers.

23 MR. GUADAGNINO: Your Honor, Mr. Smothers is very
24 concerned and upset as to why the Court allowed the
25 Government's exhibit of the grand jury minutes to be entered

Glanville - direct - Ngai

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1 into evidence when this case was dismissed by Brooklyn grand
2 jury and why Your Honor had stricken from the record my
3 question regarding whether or not the case was -- if he knew
4 -- the witness -- the case was dismissed, and that's his
5 objection.

6 THE COURT: All right. So noted. Thank you.

7 MR. GUADAGNINO: Thank you.

8 We are going to bring the jury in. We're going to
9 get started.

10 (The jury enters the courtroom.)

11 THE COURT: All jurors are present. Have a seat.

12 You may resume. Do you have another witness to
13 call?

14 MS. NGAI: Yes, Your Honor, the Government calls
15 Officer Carrieri.

16 THE COURT: Thank you.

17 Sir, come on up.

18 THE COURTROOM DEPUTY: Good afternoon.

19 THE WITNESS: Good afternoon.

20 THE COURTROOM DEPUTY: Please raise your right hand.

21 (Witness sworn.)

22 THE COURTROOM DEPUTY: Please have a seat.

23 THE WITNESS: Thank you.

24 THE COURTROOM DEPUTY: State and spell your full
25 name, please.

1 THE COURT: If you want to take your mask down while
2 you testify, you may do so.

3 THE WITNESS: Thank you.

4 My name is Police Officer Edgardo, EDGARDO, the last
5 name is Edgardo Carrieri, C-A-R-R-I-E-R-I.

6 THE COURT: C-A-R-R-I-E-R-I.

7 THE WITNESS: C-A-R-R-I-E-R-I.

8 THE COURT: Thank you.

9 (Continued on next page.)

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1 **EDGARDO CARRIERI,**

2 called as a witness, having been first duly

3 sworn/affirmed, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. NGAI:

6 Q Good afternoon, sir.

7 A Good afternoon.

8 Q Where do you currently work?

9 A With the New York City Police Department.

10 Q And how long have you been with the New York City Police
11 Department?

12 A Over five years.

13 Q And what is your current title at the NYPD?

14 A Police officer.

15 Q And are you assigned to any particular unit, squad or
16 precinct?

17 A I'm assigned to the evidence collection unit.

18 Q Is that, again, is there a precinct or a unit or --

19 A The Brooklyn North Evidence Collection Unit.

20 Q Thank you. And how long have you been with Brooklyn
21 North ECT?

22 A For about over five years now.

23 Q What are your duties and responsibilities in that
24 section?

25 A We respond to crime scenes. We try to collect DNA

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1 evidence or potentially DNA evidence, fingerprints. We
2 document. We take pictures. We recover evidence and we send
3 it to the appropriate lab. We package it and send it to the
4 lab or OCME or the latent prints unit.

5 Q And OCME, what is that?

6 A The Office of the Medical Chief Examiner.

7 Q Thank you, sir.

8 Directing your attention to January 25th of 2019,
9 were you working that day?

10 A Yes.

11 Q And what did you do that day?

12 A I worked from 3:15 in the afternoon to late at night. My
13 tour was from 3:15 to 11:50.

14 I worked as an evidence collections officer.

15 Q Did you receive any calls or jobs that required you to go
16 out into the field?

17 A Yes, I did.

18 Q What job were you asked to go to?

19 A We were asked to respond to the 75th Precinct.

20 Q And to do what?

21 A To process two guns.

22 Q Did you go to the 75th Precinct?

23 A I did.

24 Q Did you go with anyone?

25 A Officer Yeaman.

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1 Q Can you please spell that for the court reporter?

2 A Sure. Y-E-A-M-E-N.

3 Q What happened when your partner and you arrived at the
4 precinct?

5 A There were two firearms.

6 Q What kind of firearms were they?

7 A They were two semi-automatic weapons.

8 Q Do you remember the make and model?

9 A One was a Glock and one was a Sundance Industries.

10 THE COURT: Sundance?

11 THE WITNESS: Can I look at my paperwork.

12 THE COURT: Like the film festival, Sundance.

13 THE WITNESS: Yes, I'm pretty sure that's how you
14 spell it.

15 Q Officer, I don't think you will need the notes. You can
16 put those away.

17 A Okay.

18 Q Were you involved in the recovery of those firearms?

19 A No, I was not.

20 Q Were you present for the recovery of the firearms?

21 A No, ma'am.

22 Q You were not present? That's correct.

23 You were not present for the recovery.

24 Did you witness -- withdrawn.

25 What was your understanding of where the firearms

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1 were recovered?

2 A They were recovered from a storage unit.

3 Q And any idea where that storage unit was?

4 A The address was 2941 Atlantic Avenue in Brooklyn.

5 Q And when you and your partner got to the precinct, what
6 were you doing there?

7 A We were processing -- they called us to process both
8 firearms.

9 Q And who was the one processing the firearms?

10 A Officer Yeamen.

11 Q Were you there to witness the processing of the firearms?

12 A Yes.

13 Q What did Officer Yeamen do?

14 A He processed both firearms for DNA and a latent print.

15 Q Did he take any photographs?

16 A Yes, he did.

17 Q Were you there when he took the photographs?

18 A Yes.

19 MS. NGAI: Showing just the witness what has been
20 marked as Government Exhibit 903.

21 And may I approach, Your Honor?

22 THE COURT: Yes.

23 Q Do you recognize Government Exhibit 903?

24 A Yes.

25 Q What is it?

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1 A It's a DVD.

2 Q Did you review this DVD before trial?

3 A Yes.

4 Q And how do you recognize this particular DVD?

5 A I signed it and I put my last name, tax, and date it.

6 Q Thank you. Do this DVD contain photographs marked as
7 Government Exhibit 204 to 212?

8 A They should.

9 Q Well, you reviewed the DVD?

10 A Yes. When I reviewed them, yes.

11 Q Thank you.

12 And is Government Exhibit 204 to 212 fair and
13 accurate representations of the firearms that you saw at the
14 75th Precinct that day?

15 A Yes.

16 MS. NGAI: Your Honor, move to admit Government
17 Exhibit 903 and its contents Government Exhibit 204 through
18 212.

19 MR. GUADAGNINO: No objection.

20 THE COURT: We receive in evidence Government
21 Exhibits 903 and Government Exhibit 204 through 212.

22 (Government's Exhibits 903 and Government Exhibit
23 204 through 212 received in evidence.)

24 MS. NGAI: Ms. Wissel, please pull up Government
25 Exhibit 204.

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1 Q Officer, what is this a photo of?

2 A A black Play Station case.

3 Q Where was this case again when you saw it?

4 A At the 75th Precinct Detective Squad.

5 Q What was inside this case?

6 A There were two firearms.

7 MS. NGAI: Pulling up Government Exhibit 205.

8 Q What is this a photo of?

9 A You have a Glock 17 and a Sundance Industries Model a.25
10 caliber.

11 Q Can you please circle on the screen the two firearms that
12 you see and indicate which firearm is which? You can use your
13 finger.

14 A Okay.

15 Q The one on the left, is that the Sundance or the Glock?

16 A The one on the left is the Glock.

17 Q And?

18 A The one on the right is the Sundance.

19 Q Thank you. And the items above the Glock, what is that?

20 A You have a magazine at the top of the picture and you
21 have a magazine to the right of the picture.

22 MS. NGAI: Can we please pull up Government Exhibit
23 206, and you can clear the circle that you drew.

24 THE COURT: I will take care of it. Government
25 Exhibit 206.

Carrieri - direct - Ngai

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1 MS. NGAI: Thank you.

2 Q What does this photo show?

3 A The Glock.

4 Q Do you see the clear bags in the photo?

5 A Yes.

6 Q What are in the clear bags?

7 A The cartridges from the Glock 17.

8 Q And why are there two separate cartridges in separate
9 bags?

10 A One was recovered from the chamber of the Glock 17 and
11 the three other ones were recovered from the magazine.

12 Q Pulling up Government Exhibit 209D. What is this a photo
13 of?

14 A The serial number of the Glock.

15 THE COURT: What is it?

16 THE WITNESS: The serial number of the Glock, the
17 Glock 17.

18 THE COURT: Thank you.

19 Q Does each firearm have a unique serial number?

20 A They should.

21 Q And why do firearm have serial numbers?

22 A Just to ID them.

23 Q Can you please read out the serial number for this
24 particular firearm?

25 A It's KT648US.

Carrieri - direct - Ngai

1002

1 Q Thank you.

2 MS. NGAI: At this time, permission to hand the
3 witness Government Exhibit 726.

4 Q Officer, I'm going to hand you two exhibits, Government
5 Exhibit 726 and Government Exhibit 730 together and we will go
6 through each one?

7 A Okay.

8 Q Officer, can you just look inside the bag and tell me if
9 you recognize the items in the bag?

10 A There are two firearms and some ballistics.

11 Q Okay. Do you recognize these items? And you can take
12 them out of the bag to yourself before publishing?

13 So looking at the one that's marked Government
14 Exhibit 726, do you see that?

15 A The Glock? What number is that?

16 Q 726.

17 A 726.

18 Q Do you see that?

19 A I see it now.

20 Q Is that the same firearm that is shown in Government
21 Exhibit 209?

22 A Yes, it is.

23 Q And how do you know?

24 A It's got the same serial number.

25 MS. NGAI: Your Honor, at this time move to admit

Carrieri - direct - Ngai

1003

1 Government Exhibit 726.

2 MR. GUADAGNINO: No objection.

3 THE COURT: We receive Government Exhibit 726.

4 (Government's Exhibit 726 received in evidence.)

5 Q Pulling up Government Exhibit 210, what is this a photo
6 of?

7 A The picture of the Sundance Industries.

8 Q Sundance Industries, is that the manufacturer?

9 A Yes.

10 Q And was that the second firearm that was found in the bag
11 that we had seen in the first photo?

12 A Yes.

13 Q And the object below the firearm in this photo, what is
14 that?

15 A Magazine to that firearm.

16 Q Pulling up Government Exhibit 212. What is this a photo
17 of?

18 A The picture of the Sundance and the picture of the serial
19 number on the back.

20 Q Can you please read out the serial number?

21 A 010309.

22 Q And taking a look at the items, the physical items in
23 front of you, an item with a stamp Government Exhibit 730?

24 A Yes.

25 Q Do you recognize this item?

Carrieri - direct - Ngai

1004

1 A Yes.

2 Q And what is it?

3 A It's the same firearm that we were talking about.

4 Q How do you know that?

5 A It's got the same serial number.

6 MS. NGAI: At this time move to admit Government
7 Exhibit 730.

8 MR. GUADAGNINO: No objection.

9 THE COURT: We admit Government Exhibit 730.

10 (Government's Exhibit 730 received in evidence.)

11 Q Officer, could you just hold up Government Exhibit 730
12 and 726 for the jury?

13 Thank you.

14 Officer, what, if anything, did you or your partner
15 do with the firearms after they were photographed and
16 processed?

17 A They were vouchered.

18 Q What happened after they were vouchered?

19 A After they were vouchered, we -- Officer Yeamen packaged
20 the items the vouchers for DNA and send them to the lab for
21 examination.

22 MS. NGAI: Thank you.

23 No further questions.

24 THE COURT: Mr. Guadagnino?

25 MR. GUADAGNINO: No questions, Your Honor.

Carrieri - direct - Ngai

1005

1 THE COURT: All right. Sir, you are excused. Thank
2 you. Have a nice day.

3 THE WITNESS: Thank you.

4 THE COURT: Do you want to come get your firearms?

5 MS. NGAI: Yes.

6 THE COURT: Do you have another witness for us.

7 MR. GALEOTTI: The Government calls Detective Joseph
8 Nicosia.

9 THE COURTROOM DEPUTY: You may step up. Please
10 raise your right hand.

11 (Witness sworn.)

12 THE COURTROOM DEPUTY: Please have a seat. State
13 and spell your full name please.

14 THE WITNESS: First name Joseph, J-O-S-E-P-H. Last
15 name, Nicosia, N-I-C-O-S-I-A.

16 THE COURT: Thank you.

17 THE WITNESS: Detective.

18 (Continued on next page.)
19
20
21
22
23
24
25

Nicosia - direct - Galeotti

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1 **JOSEPH NICOSIA,**

2 called as a witness, having been first duly

3 sworn/affirmed, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. GALEOTTI:

6 Q Good afternoon, Detective Nicosia.

7 A Good afternoon.

8 Q Where do you work?

9 A Criminal Enterprise Investigation Section.

10 Q Of what?

11 A NYPD.

12 Q Is that the New York City Police Department?

13 A Yes.

14 Q How long have you worked for the NYPD?

15 A Approximately 12 and a half years.

16 Q What are the various roles you've had at the NYPD?

17 A I started off in the 75th Precinct as a foot patrol
18 officer, then went to the Street Narcotics Investigation Unit
19 within the 75th Precinct, and then I went to the Field
20 Intelligence Office within the 75th Precinct and then to the
21 Criminal Enterprise Investigation Section Safe Streets Task
22 Force.

23 Q What section were you working in 2011?

24 A The foot patrol in the 75th Precinct.

25 Q What area were you on patrol?

Nicosia - direct - Galeotti

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1 A East New York, Brooklyn.

2 Q Were you working on April 30, 2011?

3 A Yes.

4 Q Where were you working?

5 A 75th Precinct, East New York, Brooklyn.

6 Q Did there come a time where you reported to a crime scene
7 on April 30, 2011?

8 A Yes.

9 Q What happened?

10 A I responded to an individual that was shot multiple times
11 in front of 279 Ashford Street.

12 Q Did you report to that scene?

13 A Yes.

14 Q What did you see when you arrived?

15 A An individual that was shot multiple times in front of
16 that location.

17 Q Were other officers there?

18 A Yes.

19 Q Was an ambulance there?

20 A I believe it arrived shortly after we did, yes.

21 Q What was the victim's condition at the time you saw him?

22 A Bleeding, shot multiple times throughout his body.

23 Q What did you do -- what, if anything, did you do after
24 you saw the victim at the crime scene?

25 A The victim was placed into an ambulance and brought to

Nicosia - direct - Galeotti

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1 Brookdale Hospital.

2 Q Did you accompany him?

3 A I did.

4 Q Sir, do you know the name Damian Bullock?

5 A Yes.

6 Q On April 30, 2011, did you know the name Damian Bullock?

7 A No.

8 Q Had you ever met Damian Bullock prior to April 30, 2011?

9 A No.

10 Q When you were in the ambulance with Damian Bullock, did
11 he make any statements to you?

12 A Yes.

13 Q What did he say?

14 A He said that he was shot by Chucky.

15 THE COURT: By who?

16 THE WITNESS: Chucky.

17 THE COURT: Chucky. Okay.

18 Q At that time, did you know who Chucky was?

19 A I did not.

20 Q Did you ride the entire way in the ambulance with Damian
21 Bullock?

22 A Yes.

23 Q Where did you go?

24 A Brookdale Hospital.

25 Q Did you proceed into the hospital?

Nicosia - direct - Galeotti

1009

1 A Yes.

2 Q Where did Mr. Bullock go?

3 A He went to have surgery, emergency surgery.

4 Q Where did you go at that time?

5 A Waited outside the emergency room for him to be done and
6 seen by the doctors.

7 Q Did there come a time where you met with Mr. Bullock
8 again that day?

9 A Yes.

10 Q When was that?

11 A Within the hospital, right after the doctors were done
12 with him, I was asked to step in, that he wanted to speak.

13 THE COURT: How long between the time you arrived
14 and the time the doctors told you he wanted to speak?

15 THE WITNESS: I'm not sure of the exact timeframe.
16 It would probably be better off if I looked back into my memo
17 book or something to refresh my memory.

18 MR. GALEOTTI: Your Honor, we will actually offer
19 the memo book pursuant to 801(d)(1)(B)(i).

20 THE COURT: All right. Do you object, Mr.
21 Guadagnino?

22 MR. GUADAGNINO: Yes, Your Honor.

23 THE COURT: All right. What are your grounds, sir?

24 MR. GUADAGNINO: Hearsay.

25 THE COURT: Respectfully, the hearsay objection is

Nicosia - direct - Galeotti

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1 overruled. The memo book may be admitted if the detective can
2 authenticate it.

3 MR. GALEOTTI: I will show it to him first.

4 THE COURT: Okay.

5 MR. GALEOTTI: May I approach, Your Honor?

6 THE COURT: Yes.

7 MR. GALEOTTI: Actually, we can put it on the
8 screen. This is 3500-JN-3 please. Let's show Detective
9 Nicosia all the pages, please. Back to the front.

10 Q Sir, do you recognize what is depicted in 3500-JN-3?

11 A Yes, that's my memo book.

12 Q How do you recognize it it?

13 A My handwriting and my name's on it.

14 MR. GALEOTTI: Your Honor, the Government offers
15 3500-JN-3 now having been authenticated eight ear 1D one
16 capital B small Roman one.

17 THE COURT: The memo book 3500-JN-3 is admitted.

18 (Government's Exhibit 3500-JN-3 received in
19 evidence.)

20 Q Detective Nicosia, what is depicted here on the first
21 page of 3500-JN-3?

22 A That's the cover the memo book.

23 MR. GALEOTTI: If we can please turn to page 2.

24 Q What is this, sir?

25 A It's called the fly page of the memo book, which is the

Nicosia - direct - Galeotti

1011

1 top portion not lined in the memo book.

2 Q If I could focus your attention -- withdrawn.

3 Let me ask you this: What's the purpose of the memo
4 book?

5 A It's to document our day as it goes along during patrol.

6 Q You take contemporaneous or realtime, as close to
7 realtime notes as you can?

8 A As close to as possible, yes.

9 Q What's the purpose of that?

10 A Just so we could remember and having everything
11 documented as our day goes on.

12 Q Now, this page, what is this particular page that we are
13 looking at?

14 A That's the fly page or the top page of the memo book.

15 Q What's the difference -- let's flip page 3 for a second.
16 What's the difference between the fly page and then what we're
17 seeing on Government Exhibit January-3, page 3?

18 A That's the lined portion. That's where I would be
19 documenting the time and exactly what happened at that point
20 in time.

21 MR. GALEOTTI: Please flip back to 3500-JN-2. If we
22 would please blow up the center of the page in between --
23 thank you.

24 Q Sir, directing your attention to what's been blown up
25 here on 3500-JN-2, page 2, in the top left corner, there is a

Nicosia - direct - Galeotti

1012

1 notation. Did you make that notation?

2 A Top left corner.

3 Q Yes.

4 A Yes. I made all of it, yes. I was trying to see exactly
5 where you were talking about.

6 Q The notation in top left corner, can you tell us
7 physically what is written there?

8 A F/O 279 Ash.

9 Q What did you mean when you wrote F/O 279 Ash?

10 A Front of 279 Ashford.

11 Q And next to it, what did you write?

12 A Damian Bullock, in tox.

13 Q I-N, T-O-X?

14 A Correct.

15 Q What does that mean?

16 A That's an individual's name and that was the victim and I
17 put in tox next to it. Maybe he was intoxicated at that time.

18 Q Sir, how did you spell Damian Bullock here?

19 A D-A-Y-M-E-O-N.

20 Q Did you know how to spell his true name, Damian Bullock's
21 true name?

22 A Not at that time.

23 Q Had you met him before?

24 A No.

25 Q Had you seen records related to him before at that time?

Nicosia - direct - Galeotti

1013

1 A No.

2 Q Now, if I could direct your attention --

3 MR. GALEOTTI: Zoom out a little bit, and the bottom
4 right-hand side, starting there, if we can make a square,
5 please.

6 Q Sir, focusing your attention to the top left corner, did
7 you write 1605?

8 A I did.

9 Q What does that mean?

10 A It was a time, 4:05 p.m.

11 Q Next to that, what did you write?

12 A Quandel Smothers lives Bradford, Pitkin and Belmont. And
13 underneath Quandel I wrote, "states" with an arrow.

14 Q What does "states" mean in that respect?

15 A That I was told that that's where he is and that's who --
16 I was given a name and a location at that time.

17 Q Again, what year did you join the New York City Police
18 Department?

19 A The year was 2010.

20 THE COURT: Who told you that the name Quandel
21 Smothers and the street?

22 THE WITNESS: Damian Bullock.

23 THE COURT: All right. Thank you.

24 Q The victim?

25 A The victim, I'm sorry. Yes.

Nicosia - direct - Galeotti

1014

1 Q When he told you Quandel Smothers shot me, did you know
2 who Quandel Smothers was?

3 A No.

4 Q What's depicted in the right-hand corner of the screen?
5 I believe it says 1615.

6 A Correct. 1615 with a down arrow, Bradford, Pit to
7 Belmont.

8 Q What does that mean?

9 A Pitkin Avenue to Belmont.

10 Q And there is a notation, it appears to say Bobby Bullock
11 right?

12 A Correct.

13 Q Who is that?

14 A I believe that's Damian's father.

15 MR. GALEOTTI: You can zoom out, please. Going
16 further down the page, towards the bottom, if we can blow up
17 the bottom still at page two.

18 Q Here, sir, directing your attention three rows from the
19 bottom in your memo book, Government Exhibit 3500-JN-3, page
20 2, what does that say?

21 A 1520, 279 Ashford, male shot, male shots underneath.

22 Q What was that in reference to?

23 A The job of Damian Bullock, the victim being shot at 279
24 Ashford.

25 MR. GALEOTTI: Zoom out, please, and go to page 3.

Nicosia - direct - Galeotti

1015

1 Focusing in the middle of the page, starting from 1520 and
2 going down until where it says past 2400. That's fine. Thank
3 you very much, Ms. Wisse1.

4 Q Sir, focusing your attention at 1605 in Government
5 Exhibit 3500-JN-3 at page 3, starting on the line that appears
6 to say by Dr. N-I-C-E, what does that say?

7 A Underneath it, you're saying?

8 Q Does it say by Dr. Nice?

9 A Yes.

10 Q What does that mean?

11 A That was the doctor that treated Damian Bullock at
12 Brookdale.

13 Q Underneath that?

14 A Perp states Qundel Smothers shot him.

15 Q What time --

16 A At 1605.

17 Q Is there another indication at 1615?

18 A Correct. There is. 1615, he gave an approximate address
19 of Bradford, Pitkin to Belmont.

20 Q Okay. When you wrote Quandel Smothers here, how did you
21 spell it?

22 A Q-U-N-D-E-L. S-M-O-T-H-E-R-S.

23 Q Okay. And?

24 MR. GALEOTTI: If we could scroll back to page 2 for
25 a moment.

Nicosia - direct - Galeotti

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1 Q Up top, near where it says, Nice, is that the same
2 doctor?

3 A Yes.

4 Q Where it says 1605, what did you write?

5 A Qundels Smothers.

6 Q How did you spell it there, sir?

7 A Q-U-N-D-E-L-S. S-M-O-T-H-E-R.

8 Q How did you come up with that spelling?

9 A Just went with what I was told.

10 Q Phonetic?

11 A Yes.

12 THE COURT: So was it is Dr. Nice or someone else
13 who gave you this information?

14 THE WITNESS: Sorry, say that again.

15 THE COURT: Did Dr. Nice give you the name Quandel
16 Smothers and the street or was it someone else.

17 THE WITNESS: Someone else.

18 Damian Bullock was the one who told me the name and
19 address.

20 Dr. Nice was the one who informed me that he wanted
21 to talk.

22 THE COURT: I see.

23 Q Sir, please, I think, you were taking us through -- were
24 you in a hospital waiting room at some point?

25 A Yeah. Well, in front of the emergency room where they

Nicosia - direct - Galeotti

1017

1 were operating, yes.

2 Q Did there come a time where you went in to visit Mr.
3 Bullock?

4 A Yes.

5 Q How did that come to be?

6 A I was told by Dr. Nice that he wanted to talk at that
7 time.

8 Q Did you enter the room to meet with Mr. Bullock?

9 A I did.

10 Q What happened?

11 A He told me that Quandel Smothers shot him and that --
12 where he lived, approximately.

13 Q Where did he live, approximately?

14 A Bradford, Pitkin to Belmont.

15 Q Are you referring to somewhere in your memo book?

16 A Yes.

17 Q Where is that?

18 A Both the top page without the lines and also the one with
19 the lines.

20 But if I'm talking right now, it's on the top page,
21 on the right-hand side where it says 1605, Quandel Smothers
22 lives 1615 Bradford, Pitkin Belmont.

23 MR. GALEOTTI: Let the record reflect the witness is
24 indicating 3500-JN-2, page 2. And if we could scroll down to
25 the next page. If we could scroll down to the next page,

Nicosia - direct - Galeotti

1018

1 again to the next page. That's fine.

2 Q Sir, did you know Damian Bullock in 2011?

3 A No.

4 Q Did you know Damian Bullock in 2012 or -- withdrawn.

5 Did you see Damian Bullock again in 2012?

6 A Not that I can recall, no.

7 Q In 2013?

8 A Not that I can recall, no.

9 Q In 2014?

10 A Not that I can recall.

11 Q Did Damian Bullock ever sue you for any incident relating
12 to him being shot?

13 A No, not relating to him being shot.

14 Q Did he sue you for any incident relating to witness
15 intimidation?

16 A No.

17 Q At some point later, did Damian Bullock sue you?

18 A Yes.

19 Q When was that?

20 A I'm not sure of the exact date. I believe it was from
21 either 2017 to 2019.

22 Q And in connection with what did he sue you?

23 A It was a parole at his house. They did like a home visit
24 on. (Continued on next page.)

25

Nicosia - direct - Galeotti

1019

1 BY MR. GALEOTTI: (Continuing)

2 Q What happened?

3 A He was arrested.

4 Q Do you know what the allegations were?

5 A Not exactly, no.

6 Q So in between -- to the best of your recollection, in
7 between 2011 when you took your memo book notes down, when is
8 the next time you saw Damian Bullock?

9 A From 2011 to when he sued me?

10 Q Sometime in between there, did you see him sometime in
11 between 2011 and when he sued you?

12 A Yes.

13 Q Was it before 2015?

14 A No.

15 Q Do you know exactly when it was?

16 A Anywhere from '17 to '19. I'm not exactly sure.

17 MR. GALEOTTI: One moment, Your Honor.

18 (Pause.)

19 Q Sir, the arrest for which Damian Bullock sued you, did
20 that have to do with an arrest of him?

21 A Yes, it was, yes.

22 Q Did it have anything to do with Quandel Smothers?

23 THE COURT: He didn't answer out loud.

24 A No. No. Sorry about that.

25 Q Sir, pull the microphone a little closer to you.

Nicosia - cross - Guadagnino

1020

1 After this incident on April 30, 2011 which you
2 documented in your memo book, did you continue to work on an
3 investigation of Quandel Smothers?

4 A No.

5 Q Do you know all of the charges against Quandel Smothers
6 here today?

7 A No.

8 Q Did you ever work on this federal investigation with
9 respect to Quandel Smothers?

10 A No.

11 MR. GALEOTTI: No further questions.

12 THE COURT: Mr. Guadagnino?

13 MR. GUADAGNINO: Very briefly, Judge. Thank you.

14 CROSS-EXAMINATION

15 BY MR. GUADAGNINO:

16 Q Good afternoon, Officer Nicosia.

17 A Good afternoon.

18 Q So the government asked you questions about the incident
19 on April 30, 2011. Do you remember that?

20 A Yes.

21 MR. GUADAGNINO: Okay. If I could get again on the
22 screen what's in evidence now as the officer's memo book. Can
23 I get please the first page? Not the cover page but the
24 second page. I'm sorry. Thank you.

25 Q I want to show you what's in evidence. Do you see down

Nicosia - cross - Guadagnino

1021

1 where it says, "F0 279 Ash," off to the left of that page,
2 underneath the blacked-out block?

3 A Okay. I'm sorry. Yes, I got you.

4 Q And you said that you had, you phonetically spelled
5 Damian Bullock's name, is that right?

6 A Yes.

7 Q Later on in the hospital --

8 MR. GUADAGNINO: If we can get the second page
9 please.

10 Q Under 1605, you stated that you got Quandel Smothers'
11 name. Correct? Quandel. It's there on line 1605.

12 A Yes.

13 Q And who gave you that spelling?

14 A Spelling?

15 Q Yes.

16 A I did it to the best of my ability.

17 Q To the best of your ability. Did you ever ask Damian
18 Bullock the way he really spells his name or not?

19 A No, sir.

20 Q You never did.

21 MR. GUADAGNINO: And if we can get back to the
22 second page of the memo book on the top, please. Right there.
23 Thank you.

24 Q Do you see where it says, "F0 279 Ash" again, "Damian
25 Bullock"?

Nicosia - cross - Guadagnino

1022

1 A Yes, sir.

2 Q And next to that, you put "Intox"?

3 A Yes, sir.

4 Q Why did you do that?

5 A I don't recall exactly at this time why I put it but he
6 must have been at that time, you know, possibly intox'ed.

7 Q You observed that?

8 A Yes, sir, that's why I put it there, yes.

9 Q You observed that. That's why you wrote that.

10 A Yes, sir.

11 Q Right? Now, up until that time, how long had you been an
12 NYPD police officer?

13 A Approximately a year.

14 Q Okay. And in that one year time, have you pulled over
15 people for drunk driving, DDs?

16 A I don't recall.

17 Q Were you working patrol?

18 A Foot patrol, sir.

19 Q All right. So at the police academy, you're trained how
20 to observe people who are intoxicated?

21 A Sir, yes.

22 Q Red watery eyes?

23 A Yes, sir.

24 Q Slurred speech?

25 A Yes, sir.

Nicosia - cross - Guadagnino

1023

1 Q Unsteady gait?

2 A Yes, sir.

3 Q Right? You also observed people that are strung out on
4 drugs, right?

5 A In the academy?

6 Q No, on the street.

7 A Yes, sir.

8 Q And you wrote "Intox" next to his name, correct?

9 A Yes, sir.

10 Q And he appeared as though something was wrong with him,
11 as he was intoxicated, correct?

12 A I don't have a recollection of how he appeared at that
13 date except for what's in my notebook. I couldn't tell you
14 more than that, sir.

15 Q Okay. So you don't recall why you wrote "Intox" right?

16 A Correct.

17 Q But if you wrote "Intox," it's because you observed
18 something about him that was off, like he was intoxicated.

19 A Sure. Yes.

20 Q As soon as you got there.

21 A Yes.

22 Q And you arrived there at approximately what time?

23 A I'd have to see the other page for the approximate time
24 frame.

25 MR. GUADAGNINO: Can we get the other page, please.

Nicosia - cross - Guadagnino

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1 Q What time did you get there?

2 A Approximately 1520 which would be 3:20 p.m.

3 Q 3:20 p.m. And at 3:20 p.m., you observed him
4 intoxicated?

5 A Approximately.

6 Q That's why you wrote "Intox" in your memo book?

7 A Yes.

8 Q And then at 1530, approximately ten minutes later, he was
9 transported to Brookdale Hospital?

10 A Yes.

11 Q And he was still observed as intox'ed?

12 A I don't have anything else documenting my notebook in
13 regards to that, yes.

14 Q But it was only ten minutes after you made the "intox"
15 observation?

16 A Yes.

17 Q And then if we go down at 1605, approximately 45 minutes
18 later, again, you wrote, "Perp state Quandel's mother shot
19 him," correct?

20 A Yes.

21 Q That's only 45 minutes after you observed, your
22 observation of "Intox," is that right?

23 A Yes.

24 Q And what time did you finish on this case?

25 A Finished the day, sir?

Nicosia - cross - Guadagnino

1025

1 Q Yes.

2 A It looks like -- I mean, it's cut off a little bit, the
3 edge of the page at the bottom, to see my exact end of tour
4 but it looks like 035. I don't know what the first digit is
5 but it looks like 035.

6 Q So would that be 3:05 in the morning, military time?

7 A No, it wouldn't. It says "035." So something-35. I'm
8 not sure the exact time frame.

9 Q Could it be midnight the following day?

10 A It could be.

11 Q But you're not sure?

12 A I'm not sure. It's cut off.

13 Q But from 1605 to 1650, you had an address, right?

14 A I'm sorry.

15 Q You had an address? At 1615, you got an address?

16 A Yes, sir.

17 Q 1615 is 4:15 p.m. military time, right?

18 A Yes, sir.

19 Q And the address was Bradford and Pitkin, right?

20 A Approximate, yes.

21 Q How much conversation did you have with Mr. Bullock?

22 A I don't recall exactly how long the conversation was.

23 Q You only wrote two lines of something he told you on your
24 memo book, is that right?

25 A That is correct.

Nicosia - cross - Guadagnino

1026

1 Q Do you remember anything else that he said --

2 A No.

3 Q -- besides these two things?

4 A No independent recollection.

5 Q None whatsoever?

6 A No, sir.

7 Q And you would agree that this is approximately less than
8 an hour from 1615 backwards to 1520, less than an hour that
9 you observed him "Intox"?

10 A From 1530 you said? From 1520?

11 Q So if you go down to the bottom at 1615, where you said
12 he gave you an address?

13 A Yes.

14 Q After 1615, you wrote nothing else in your memo book.

15 A Correct.

16 Q Right? So your interaction with him, is it fair to say,
17 was about 55 minutes?

18 A Okay.

19 Q Right?

20 A Yes.

21 Q Is that fair to say?

22 A Yes.

23 Q From 1520 to 1615.

24 A Well, that's what's documented here, yes.

25 Q Right? After you -- so 1520, you observed him "Intox"

Nicosia - cross - Guadagnino

1027

1 and your last conversation with him was 55 minutes later.

2 A Yes, that's what it says.

3 Q But you have no independent recollection of how you
4 observed him "Intox"?

5 A Correct, I don't.

6 Q But it's in your notebook?

7 A Yes.

8 THE COURT: Do you recall when you got to the scene
9 at 279 Ashford, do you know if Mr. Bullock was on the ground,
10 in a chair, walking around? Do you recall anything about his
11 condition?

12 THE WITNESS: Nothing more than he was shot multiple
13 times and bleeding. That's all I remember.

14 THE COURT: Thank you.

15 Q Did you recover a gun by where he was at?

16 A No.

17 Q You don't, you didn't -- were you the first officer or
18 were you one of the few officers that arrived?

19 A There was a few of us on scene. I don't remember what my
20 lineup was upon arrival.

21 Q So were there officers there before you got there?

22 A I don't recall my lineup on arrival.

23 Q So you don't recall if you were the first officer
24 arriving?

25 A That's correct.

Nicosia - redirect - Galeotti

1028

1 Q Okay. Thank you.

2 MR. GUADAGNINO: I have no further questions.

3 THE COURT: Any redirect?

4 MR. GALEOTTI: It's very brief, Your Honor.

5 THE COURT: Okay.

6 REDIRECT EXAMINATION

7 BY MR. GALEOTTI:

8 Q Sir, when you arrived on scene, there were other NYPD
9 officers, is that right?

10 A There were other officers there, yes.

11 Q Were there also other civilians in the vicinity of where
12 the victim was?

13 A I don't recall.

14 Q You testified that you recall the defendant having been
15 shot, is that right?

16 A That is, yes.

17 Q Multiple times?

18 A Multiple times.

19 Q Was the defendant in severe pain?

20 A Yes.

21 Q Thank you.

22 MR. GALEOTTI: No further questions.

23 THE COURT: You said "defendant." Did you mean
24 Mr. Bullock?

25 MR. GALEOTTI: I apologize. Thank you, Your Honor.

Nicosia - recross - Guadagnino

1029

1 Q Was the victim -- sir, the victim you later learned was
2 Damian Bullock, is that right, sir?

3 A Yes.

4 Q Was the victim Damian Bullock in severe pain?

5 A Yes.

6 THE COURT: Anything else, Mr. Guadagnino?

7 MR. GUADAGNINO: Yes, Judge, just one question.

8 THE COURT: Okay.

9 RECROSS-EXAMINATION

10 BY MR. GUADAGNINO:

11 Q You testified that -- just now, the AUSA asked you if you
12 observed Mr. Bullock in pain. Correct?

13 A Yes.

14 Q You agree that looking at someone in pain from being shot
15 from a gun is different than "intox"?

16 A Yes.

17 Q So when you wrote "Intox" in your memo book, was that
18 because of how you observed him in pain from the gunshot wound
19 or an independent way of somebody who's intoxicated?

20 A No, sir. I know the difference between intoxicated and
21 shot and in pain.

22 Q And I think you testified something about a statement he
23 made in an ambulance, Mr. Bullock?

24 A Yes, sir.

25 Q Were you in the ambulance with him?

Nicosia - redirect - Galeotti

1030

1 A I was.

2 Q And this was what time?

3 A I'm not sure. I'd have to look back to see what time
4 approximately the ambulance arrived and we left.

5 Q Please do.

6 A 1530, it says transported to Brookdale.

7 Q You didn't write anything about what he told you in the
8 ambulance.

9 A Not on there, sir, no.

10 Q Don't you think that was pretty important to write that
11 down?

12 A Yes.

13 MR. GUADAGNINO: No further questions.

14 MR. GALEOTTI: Now we do have another redirect,
15 Your Honor.

16 THE COURT: All right.

17 REDIRECT EXAMINATION

18 BY MR. GALEOTTI:

19 Q Sir, you testified that in the ambulance, the victim
20 Damian Bullock told you that Chucky had shot him?

21 A Yes, sir.

22 Q Do you know who Chucky is?

23 A At that --

24 Q At that time, did you know who Chucky was?

25 A No, sir, not at that time.

Nicosia - recross - Guadagnino

1031

1 Q When he told you Quandel Smothers shot him, what was the
2 difference?

3 A That was the individual's name.

4 Q Did he provide an address to you?

5 A An approximately location, approximate.

6 Q Thank you, sir?

7 THE COURT: Anything else?

8 MR. GUADAGNINO: One question.

9 THE COURT: Okay.

10 RECROSS-EXAMINATION

11 BY MR. GUADAGNINO:

12 Q You testified that in an ambulance, he said Chucky shot
13 him, correct?

14 A Yes, sir.

15 Q And at the hospital, Quandel Smothers, right?

16 A Yes, sir.

17 Q If you got a statement regardless of what the name is
18 that someone had shot him, that's important, correct?

19 A Yes, sir.

20 Q It doesn't matter if it's a street name. It doesn't
21 matter if it's a formal name. Is that right?

22 A Yes, sir.

23 Q It's a form of identification of someone who shot someone
24 else, correct?

25 A Yes, sir.

Nicosia - recross - Guadagnino

1032

1 Q And, again, you didn't write that in your memo book?

2 A No, sir.

3 Q Thank you.

4 MR. GUADAGNINO: No further questions.

5 MR. GALEOTTI: No further questions, Your Honor.

6 THE COURT: All right, sir. You're excused. Thank
7 you.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 (Continued on next page.)

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1 THE COURT: Do you have another witness?

2 MR. GALEOTTI: We do, Your Honor. It's a lengthy
3 one. In light of that and the faster pace than normal, we're
4 happy to start now or tomorrow morning, whatever Your Honor
5 and the jury prefer.

6 THE COURT: Well, how is the jury feeling? Would
7 you like to keep going or would you like to be excused for the
8 evening? It's a little bit earlier than usual.

9 I'll have a show of hands. Who wants to sit further
10 and who wants to go home? Let's see hands up for going home
11 this evening? How about staying? All right. I think there's
12 majority of jurors who would like to stay so let's bring the
13 next witness on.

14 I will be adjourning at 5:15 this evening so
15 everybody knows. Thank you.

16 MS. NGAI: The government calls Andrew Campbell.

17 THE CLERK: Raise your right hand.

18 (The witness, ANDREW WAYNE CAMPBELL, JR., was duly
19 sworn/affirmed by the clerk.)

20 THE WITNESS: Andrew Wayne Campbell, Jr.

21 THE COURT: Would you spell it, please?

22 THE WITNESS: A-N-D-R-E-W, W-A-Y-N-E,
23 C-A-M-P-B-E-L-L, Junior, J-R.

24 THE COURT: Thank you.

25

Campbell - direct - Ngai

1034

1 DIRECT EXAMINATION

2 BY MS. NGAI:

3 Q Good afternoon, sir.

4 THE WITNESS: How are you doing?

5 THE COURT: Good afternoon.

6 Q At me. Mr. Campbell?

7 A Oh, I'm sorry.

8 THE COURT: That's the prosecutor.

9 Q Mr. Campbell?

10 A Yes.

11 THE COURT: Thank you, sir.

12 Q Were you a member of a gang?

13 A Yes.

14 Q What gang?

15 A Elite Assassins Millas.

16 Q Is that also known as E.A.M.?

17 A Yes.

18 Q How long were you in E.A.M. for?

19 A Officially about from 2013 to 2020.

20 Q So approximately --

21 A I would say, like --

22 Q For how long?

23 A Like seven, eight years.

24 Q At some point, did you stop becoming a member of the
25 gang?

Campbell - direct - Ngai

1035

1 A Yeah.

2 Q When?

3 A When I indicted.

4 Q After you were indicted, were you arrested?

5 A Huh?

6 Q Were you arrested in this case?

7 A Yes, I was arrested, yes.

8 Q After you were arrested, did there come a time when you
9 started cooperating with the government?

10 A Yes.

11 Q Did you enter into a cooperation agreement with the
12 government?

13 A Yes, ma'am.

14 Q And are you testifying here today pursuant to that
15 agreement?

16 A Yes, ma'am.

17 Q What is the penalty in E.A.M. for doing what you're doing
18 here today?

19 A I could die.

20 Q When you were in E.A.M., who was the leader of the gang?

21 A Chucky.

22 Q Do you see Chucky here today in this courtroom?

23 A Yeah.

24 Q Where is he?

25 A The gentleman over there, the far left.

Campbell - direct - Ngai

1036

1 Q Can you please identify him by a piece of clothing?

2 A White button down, long hair.

3 MR. GALEOTTI: Your Honor, for the record, the
4 witness has identified the defendant.

5 THE COURT: So noted.

6 Q Mr. Campbell, how long have you known Chucky for?

7 A Not really long, about from '18 to '20. Like 2018, 2020.
8 Like, two years.

9 Q Before you were arrested, did you know Chucky by any
10 other name?

11 A Quandl.

12 Q Thank you. Let me take a step back.

13 How old are you now?

14 A Twenty-seven.

15 Q Where did you grow up?

16 A I grew up in Bushwick.

17 Q Is that Brooklyn?

18 A Yes, ma'am.

19 Q Did you always live in Brooklyn?

20 A No.

21 Q Where did you live?

22 A I lived in Paris.

23 Q What were you doing in Paris?

24 A I went to school over there.

25 Q About how old were you when you went to Paris?

Campbell - direct - Ngai

1037

1 A I would say about 15 years old.

2 Q How far did you go in school?

3 A Eleventh grade.

4 Q Is that high school?

5 A Yes, ma'am.

6 Q And what high school did you go to?

7 A George Washington House.

8 Q Say that again?

9 A George Washington house.

10 Q Do you go by a nickname?

11 A Yeah.

12 Q And what is your nickname?

13 A Phaze.

14 Q Why do you go by Phaze?

15 A When I was younger, my teacher in sixth grade -- I grew
16 up in, when I was here, I went through special ed. So I had
17 issues in school and she, I used go through a lot of phases,
18 in her eyes, so she called me "Phaze" and I just stuck with
19 it.

20 Q Did you ever work?

21 A Yeah.

22 Q What did you do?

23 A I was a manager at the Duane Reade and I was a custodian
24 at a Catholic school.

25 Q And how long did you work in those jobs for?

Campbell - direct - Ngai

1038

1 A I worked Duane Reade for about a good month and then I
2 worked at the Catholic school for about six months.

3 Q Were those -- were those two the only jobs you had?

4 A Yes, ma'am.

5 Q When you were growing up, when you were around 12 or
6 13 years old, who did you hang out with?

7 A Regular -- I grew up in Bushwick. Around that time, I
8 just hung out. I hung out with, like, gang members but it
9 wasn't, it was on and off.

10 Q What gangs were they affiliated with?

11 A I don't know. Elm Street Power and Latin Kings.

12 Q Did any of these members become part of E.A.M.?

13 A Only one.

14 Q And who was that?

15 A Corrupt.

16 Q Is Corrupt -- Corrupt is still part of E.A.M.?

17 A I don't know.

18 Q Was he E.A.M. at the time before you got arrested?

19 A Before I got arrested? Yes.

20 Q Now, Corrupt, did he initially call himself E.A.M. or by
21 some other name?

22 A He was -- when he was Latin King, he was called King
23 Corrupt, and then I took him under the wing, he was Corrupt
24 Maserati.

25 THE COURT: I'm sorry. What did you say, sir?

Campbell - direct - Ngai

1039

1 THE WITNESS: I said when he was a Latin King
2 member, he was known as King Corrupt, but when I took him
3 under the wing, he became Corrupt Maserati.

4 THE COURT: So he was -- you said you took him under
5 your wing?

6 THE WITNESS: Yeah.

7 THE COURT: Thank you.

8 Q Mr. Campbell, did there come a time when you joined
9 E.A.M.?

10 A Yes.

11 Q And remind us, when was that?

12 A I would say officially around 2012.

13 Q How old were you when you joined, approximately?

14 A Probably, like, about 14, 15, around that.

15 Q Were you still in school?

16 A I was in and out. I wasn't -- like, I was cutting school
17 a lot. I didn't really show up for school a lot. At that,
18 time, I started gang banging. I started leaving school.

19 Q What do you mean by gang banging?

20 A Just running around the streets and identifying myself as
21 a Blood member.

22 Q Is E.A.M. Blood?

23 A Yes.

24 Q I'll come back to that.

25 How did you join E.A.M.?

Campbell - direct - Ngai

1040

1 A Well, officially -- normally, you're supposed to get
2 squared in. Me, I didn't square in.

3 Q Let me pause you right there, Mr. Campbell.

4 Did you say "squaring in"?

5 A Yeah.

6 Q What does that mean?

7 A You have to fight to be Blood.

8 Q Why do you have to fight to be Blood?

9 A Prove you can defend yourself.

10 Q Is it a form of a test?

11 A It's more like a situation where you be tested just to
12 see if, you know, it come down into a situation where you did
13 have to fight one or numerous amounts of people, you would
14 stand your ground.

15 Q And when people join E.A.M. and they have to fight, who
16 are they fighting with?

17 A Other E.A.M. members.

18 Q Did you have to fight to join E.A.M.?

19 A No.

20 Q What did you have to do?

21 A Took somebody flag off they head.

22 Q What's a flag?

23 A A bandana.

24 Q Whose flag did you take?

25 A It was a dude on my block. A situation -- there was a

Campbell - direct - Ngai

1041

1 situation with another E.A.M. member and when I was 15 --
2 well, when I was 13, I always looked up to certain E.A.M.
3 members from my side of town. So as I grew up, they told me
4 to go to school and stuff. He was one of the individuals that
5 had an issue with somebody that came on the block wearing a
6 blue bandana. He didn't want to do it so he told me to do it
7 so I did.

8 Q Is there any significance to the fact that it's a blue
9 bandana?

10 A Yeah. At the time, around that time, I guess, he -- I
11 was young so I didn't know how serious the beef was but,
12 obviously, he was a Crip. He felt he was disrespecting my
13 block by wearing it on our block. So ...

14 Q Let me pause you there, Mr. Campbell.

15 The person he said who was disrespecting the people
16 on your block, was he the Crip that you took the blue flag off
17 of?

18 A He actually -- well, he wasn't identified as a Crip but
19 he was wearing a blue flag. So he said, you know, take it
20 off, the individual told him to take it off. He said no and
21 he was willing to fight the individual that told him to take
22 it off and I was right next to him and being that I'm young
23 and at the time, I wanted to, you know, prove myself, I say,
24 he said, You afraid to take that off his head, I'm going to
25 give you some paperwork, and I did so.

Campbell - direct - Ngai

1042

1 Q And which block, what block was this? Where was this?

2 A Linden and Knickerbocker.

3 Q Is that in Bushwick?

4 A Yes. Yeah.

5 Q You also mentioned just now that there were E.A.M.

6 individuals that you looked up to. Who are they?

7 A At the time when I was young?

8 Q At the time, yes.

9 A Oh, well, it was -- they're not E.A.M. anymore but
10 there's a dude named Amir. Another dude named H, you know
11 what I'm saying, and Will, Rico.

12 Q And these were people in Bushwick who were part of E.A.M.
13 who you looked up to?

14 A Yeah, at that time.

15 Q And you just testified that when you took the bandana off
16 of that guy, you got paperwork. What is paperwork?

17 A Paperwork is writings that basically explain, breakdowns
18 with the gang, lingo. You know, hoods, basically
19 neighborhoods or, like, like, areas of the gang and nicknames
20 and things of that nature.

21 Q You had to get paperwork first before you can become an
22 official member of E.A.M., is that right?

23 A Yes, ma'am.

24 Q And this paperwork, is it just for E.A.M.?

25 A This paperwork that you're giving? Yes.

Campbell - direct - Ngai

1043

1 Q Yes. And so you mentioned it had the regimes, right? Is
2 it an actual document with like what neighborhoods or --

3 A I mean the paperwork I got at the time was just lingo.
4 It was just like -- and lingo, what I mean by that is just
5 responses. You know, I say something, you say something back
6 and a lingo is just so people that are not associated with the
7 gang do not understand.

8 Q Give me an example of an E.A.M. lingo that you just
9 described?

10 A Like, it would be, like -- I can say, like, just, A to
11 the K. The response would be, like, 50 shot shooters. It
12 would be, like, if that was a girl, like, that would be the
13 response just to let you know I'm pregnant.

14 Q So E.A.M. members used that kind of call and response to
15 identify each others when they're out?

16 A Yes, ma'am.

17 Q What about an oath, were you given an oath?

18 A Yeah, a while back, yes.

19 Q Are you expected to -- what are you expected to do with
20 this oath?

21 A I mean, when you -- well, you're Blood, period. You
22 know, you're expected to know you oath which is your history
23 and recite your oath in certain situations.

24 Q Do you remember that oath as you sit here today?

25 A I don't really remember everything but I remember, like,

Campbell - direct - Ngai

1044

1 probably the ending.

2 Q What's the ending?

3 A Towards the end is: Left over the right is how it be
4 when I raise my --

5 THE COURT: Go slow, please.

6 A Left over the right is how it be when I raise my right
7 hand. Death to all my enemies.

8 Q Do you have to swear that oath before you join?

9 A I wouldn't say you have to swear but you would, that's an
10 oath -- when you're reciting the oath, and I don't really
11 remember the whole thing, but when you're reciting it, you're
12 taking it. You know, a Blood oath is you already sworn in
13 when you said it, so.

14 Q Mr. Campbell, why did you join E.A.M.?

15 A I was young. I was, I was always the outcast. I was
16 tall, skinny. I got beat up a lot when I was younger. I got
17 jumped a lot because I was bigger than everybody. So I went
18 to a school that wasn't -- I identified as black and Bushwick,
19 I'm from the African-American side. There's a select part of
20 Bushwick where it's strictly Spanish individuals. So I went
21 to school over there and I would get jumped frequently, every
22 other day, by Latin King members. And I don't have big
23 brothers. You know what I'm saying? So ...

24 Q Are you an only child?

25 A No.

Campbell - direct - Ngai

1045

1 Q You have siblings?

2 A Yes, sisters. And the only people I could, you know,
3 rely on at the time was people from my block which is my
4 sister and her friends which were E.A.M. members from back in
5 the day.

6 Q So your sister and her friends were E.A.M.?

7 A My sister was never E.A.M.

8 Q Her friends were?

9 A Yeah.

10 Q How did you -- so it sounds like, it sounds like you
11 joined E.A.M. because you wanted protection. Is that fair to
12 say?

13 A Yes, ma'am.

14 Q How did you think the gang was going to protect you?

15 A I mean, you only think at the time you see the -- it
16 was -- it was a situation that I got into when I was younger.
17 I got badly jumped by a group of Spanish individuals and I got
18 tired of it. I went back to my block and I let my cousin know
19 I had a issue and she -- you know, the next day, when I went
20 to school, after school, it was about 30 or 40 individuals
21 outside of my school and they were waiting for me just to walk
22 me home and once I got that, once I got a feel of that, it
23 was, like, everything was history. Like, I realized, like,
24 I'm not being jumped no more.

25 Q What was E.A.M. known for at the time that you joined?

Campbell - direct - Ngai

1046

1 A It was -- there really wasn't -- at that time when I was
2 younger, there really wasn't, I looked at it, like, you know,
3 teamwork, family, when I was younger. Like, just ...

4 Q Mr. Campbell, was it, was it -- did you know if E.A.M.
5 was a violent gang at the time you joined?

6 A At that time, I was young. I really wasn't in that part.
7 I really wasn't knee deep in at that time. So I wasn't
8 really -- at that time, no, I wouldn't say it was violent at
9 that time because I wasn't, I wasn't into it like that.

10 Q Did there come a time when you learned that it was
11 violent?

12 A Yeah.

13 Q When was that?

14 A As I started associating. Like I'm from Bushwick so when
15 I started stepping, when I started stepping around in East New
16 York was, I started realizing I'm kind of way in over my head,
17 I guess you would say.

18 Q East New York, why did you mention East New York?

19 A Because at the time -- where I'm from in Bushwick, when I
20 was coming up, not a lot of people identified as E.A.M.
21 anymore. So it was more of a situation where growing up, I
22 would go to East New York and then I started getting familiar
23 with other individuals in East New York and then I was brought
24 around a lot. I realized that that was home base.

25 Q And approximately when was that? When did you start

Campbell - direct - Ngai

1047

1 learning about East New York and about the violence of the
2 gang?

3 A When I started, like, just being around individuals,
4 like, from East New York. Like, I was around an individual
5 that I took under the wing named Kellz. I was around people
6 my age. You know what I'm saying? People that's in my age
7 bracket. And then just hearing they stories and my little man
8 getting shot, you know what I'm saying? It was, like, I
9 didn't -- my part in Bushwick wasn't really, wasn't really on
10 that level as far as E.A.M. at the time. So I started
11 realizing. Like when I went to East New York, they was --
12 that's where home is at. Like, it's, like, that's where we
13 were. That's our, where we would be the most, like, where
14 E.A.M. members would be a lot.

15 Q Was it the center of operations for E.A.M.?

16 A I would say that's where most of it's populated.

17 Q Where was Chucky?

18 A Again, I didn't, I didn't run into Chucky until 2018. I
19 started running around he East New York from like 16, 17. So
20 I wouldn't be able to exactly say where he was at the time
21 before when I first step into East New York. I didn't even
22 know who he was when I first step into East New York.

23 Q What about when you -- what about 2018, 2019?

24 A 2018, I met Chucky on his block.

25 Q I'll come back to that, but I wanted to ask you one thing

Campbell - direct - Ngai

1048

1 that you had said earlier, that at the beginning you didn't
2 know as much about E.A.M. and the violence as you, as you
3 learned later on.

4 Once you learned about the violence of the gang, did
5 you stop becoming a member of the gang?

6 A No, not at all.

7 Q Did you -- you continued to participate?

8 A Yeah. Yes.

9 Q And once you learned about the violence of the gang, can
10 you describe for us how were they violent, like, how was the
11 gang violent?

12 A I mean just the way things was, like, just stories you
13 would hear. I wouldn't -- I had drops from the East, from the
14 East that ended up falling under me. So just stories you hear
15 that they tell me the situations they been in don't compare
16 to, you know, the certain stories that, when I was growing up,
17 like what they went through. So I started realizing, like --
18 and then getting closer to Chucky and all the older bros, it
19 was more, like, that's when I started, like -- it was just,
20 like, they on a different side of town like than I am.

21 Q You mentioned drops. What are drops?

22 A Drops are individuals that are Blood but, like I said,
23 for example, I had a drop, they would just fall under me,
24 like, they're under my wing. They necessarily would take
25 orders from me, whether it be good or bad.

Campbell - direct - Ngai

1049

1 Q Mr. Campbell, did you commit crimes while were you part
2 of E.A.M.?

3 A Yes.

4 Q Can you briefly tell us what kind of crimes you
5 committed?

6 A Robberies, brandishing firearms, fighting, jumping.

7 Q What do you mean by jumping?

8 A Like assaults.

9 Q Anything else?

10 A As far as brandishing firearms, robberies, oh, yes,
11 selling pills, things of that nature.

12 Q Did you ever agree to kill someone?

13 A Yeah.

14 Q Who did you agree to kill or who did you conspire to
15 kill?

16 A An individual named Fresh.

17 Q Do you know who Fresh is?

18 A I don't know him.

19 Q And who did you conspire with to kill Fresh?

20 A Smilez.

21 Q And who's Smilez?

22 A He was one of my big bros.

23 Q You mean that not as an in an actual brother?

24 A No. He was a big homie.

25 Q He was a big homie. Was he E.A.M.?

Campbell - direct - Ngai

1050

1 A Yes.

2 Q What does "big homie" mean?

3 A Big homie means basically somebody of influence, just top
4 dog, one of the top dogs.

5 Q Did he have status?

6 A Yes.

7 Q What does it mean to have status?

8 A To have status in a gang is, like, ranking, just
9 influence over individuals, being able to, you know, you
10 can't -- there are certain things, like, don't go over they
11 word. You might say something but it might be when somebody
12 is a big homie or big homies, that's their, the final word.

13 Q Mr. Campbell, are there also individuals who are called
14 associates in E.A.M. or associates of E.A.M.?

15 A Yes, ma'am.

16 Q And what are associates?

17 A Associates are people that associated with E.A.M. They
18 have the benefits of, you know, running with us, but they not
19 identified as a E.A.M. member. Like, they could be around me,
20 they get the protection for being around me, but when it all
21 comes down to it, you're not E.A.M., you're not in the
22 meetings, you're not a part, you're not at the round table,
23 things of that nature.

24 Q Do you know if other E.A.M. members or associates also
25 committed crimes?

Campbell - direct - Ngai

1051

1 A Yes.

2 Q And what kind of crimes do you know of?

3 A Home invasions, robberies. That's about it. Assaults.

4 Q What about selling drugs?

5 A Yeah.

6 Q What kind of drugs?

7 A Crack, weed, pills.

8 Q What about scamming?

9 A Yeah.

10 Q Do you know what scamming is?

11 A Yes, ma'am.

12 Q What is it?

13 A Scam something, a form of, like, credit card fraud,
14 insurance fraud, any type of way to get over, through the
15 internet. You know, any type of scam artist type of thing.

16 Q Did you -- so you know that other members and associates
17 committed crimes. Did you also commit crimes with them while
18 you were in E.A.M.?

19 A Yes, ma'am.

20 Q Did you know at the time that you joined E.A.M. that you
21 would commit crimes?

22 A Yes, ma'am.

23 Q And you still joined?

24 A Yes.

25 Q Is being in E.A.M. like a job where you can kind of clock

1 in and clock out?

2 A Not really.

3 Q What is it then?

4 A It's a lifestyle. It's just -- it's not a job. I mean,
5 it's a lifestyle. Either, you know, it's not, you know, one
6 day I'm going to be -- that's what I realized. It was
7 weighing over my head because that was my problem. You can't
8 just be Blood and one foot in and one foot out. You a Blood
9 or not. And it's just -- it's two different, no, yeah.

10 Q Were you eventually arrested for the crimes that you
11 committed while were you in E.A.M.?

12 A Yes, ma'am.

13 Q Are you in jail right now?

14 A Yes, ma'am.

15 Q And how long have you been in jail for?

16 A Thirty-two months.

17 (Continued on next page.)

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1 MS. NGAI: Your Honor, this might a good stopping
2 point.

3 THE COURT: All right. I'm sure the jurors won't be
4 disappointed.

5 Thank you for your attention, members of the jury.
6 Please get home safely. Don't talk or think about the case.
7 Leave everything on your chair and have a safe trip home.

8 Thank you.

9 (Jury exits.)

10 THE COURT: You can step down if you like.

11 (Witness steps down.)

12 THE COURT: All right. Is there anything I need to
13 address before we adjourn for the day?

14 MR. GALEOTTI: Not from the government. Thank you,
15 Your Honor.

16 MR. GUADAGNINO: Not from the defense, Your Honor.

17 THE COURT: All right. Thank you very much.

18 Mr. Smothers, did you get your meal last night?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. Great. That should happen every
21 night.

22 THE DEFENDANT: They didn't let me sign the paper
23 though.

24 THE COURT: That's all right. As long as I'm
25 hearing it from you, that's what's important. Thank you.

1 All right. Have a good night everybody. See you
2 tomorrow.

3 MR. GALEOTTI: Your Honor, may we go on the record?

4 THE COURT: Sure.

5 MR. GALEOTTI: I did just want to correct something.

6 There was at least one time if not more when I
7 misspoke when I offered grand jury testimony citing, in
8 addition to the rule which allows prior inconsistent
9 statements which, frankly, governs it, I think I misstated at
10 one point the public records, the rule number as 909(2). It's
11 in fact 902(4).

12 So to the extent I did that, we offer additionally
13 or under 902(4) as well as 802(b)(1)(A).

14 THE COURT: All right. I think you also -- well you
15 also cited to a subsection of the rule about rehabilitating a
16 witness when there has been some accusation or impression that
17 the witness needs to be rehabilitated. That's the 801(d)(1).

18 MR. GALEOTTI: That is what I cited for Detective
19 Nicosia.

20 THE COURT: Yes.

21 MR. GALEOTTI: Thank you.

22 THE COURT: Thank you.

23 (Matter adjourned to January 27, 2023 at 9:00 a.m.)
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