

63913-7

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NO 63913-7-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION I

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

OMAR NORMAN APPELLANT

Pro Se Supplemental Brief pursuant to RAP 10.10

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A. ASSIGNMENTS OF ERROR

1. Trial court deprived appellant of his constitutional right to a fair trial.

2. Prosecutor Misconduct deprived the appellant of his constitutional right to a faor trial.

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1.(a). Was appellant denied his 6th amend.constitutional right to a fair trial when the trial court failed to conduct the ER 404(b) analysis prior to evidentiary ruling?

(b). Was appellant denied his 6th amend.constitutional right to a fair trial when the trial court admitted statements made by a witness who failed to testify violating Crawford v. Washington?

(c). Was appellant denied hid 6th amend.constitutional right to a fair trial when the trial court failed to give a limiting instruction to the jury on gang evidence?

2.(a). Was appellant denied his 6th amend.constitutional right to a fair trial when the Prosecutor failed to prove essential elements of the crime(s) charged?

(b). Did Posecutor Misconduct deprived the appellant of his 6th amend.constitution right to a fair trial when the prosecutor elicited perjured and false testimony by the states chief witness violating Napue v. Illinois?

(c). Did Prosecutor Misconduct deprive the appellant of his 6th amend. constitutional right to a fair trial when the prosecutor made improper remarks to the jury during closing arguments?

B. STATEMENT OF THE CASE

PROCEDURAL FACTS.

Omar Norman is submitting this Statemnet Of Additional Grounds for review addressing grounds that were not argued in Norman's opening brief prepared by court appointed counsel Christopher H. Gibson of Nielsen Broman & Kock P.L.L.C. challenging his First Degree Murder, First Degree Assult and two Firearm convictions. CP, 157-59,206,208,210-11,214,216.

Appellant understands this court will review this pro se supplemental brief (SAG) (10.10) when direct appeal is considered on the merits.

NOTE:

For purpose of sufficiently identifying the alleged error the appellant is using CP's RP's and limited legal authority to support the errors found herein.

SUBSTANTIVE FACTS

At trial during the 3.5 hearing the state sought to introduce evidence of gang activity and gang affiliation. RP 422, 5-20-

09 pursuant to ER 404(b). The prosecutor in his explanation to the court surmised the gang evidence would show motive, opportunity and preperation, and why the evidence would be relevant. RP 5-20-09 pg 422.

In the same instance the prosecutor explained to the court that the gang evidence was not relevant to the motivation for the killing and could not prove the element of res gestae under ER 404(b) RP 5-20-09 pg. 426.

The prosecutor claimed he would not be saying anything about gangs in his opening statement, RP 5-20-09 pg 425, but backtrack-ed what he said when the court addressed its concern about the prosecutor being confused about the gang evidence he wanted the court to admit. RP 5-20-09 pg's 426-27.

When the court found the state could not prove an element of res gestae the court should have conducted a complete ER 404(b) analysis, instead the court allowed the gang evidence cautioning the prosecutor about his intentions on making inferences that one is involved in a gang. RP 5-20-09 pg'd 430-31.

During the testimony phase of the states chief witness Detective Takemoto, the prosecutor recklessly elicited gang evidence [SIC]"Q. Did you know Mr. Milam prior to your investigation of this case based on your paperwork as a police officer"? "A. I had heard of Mr. Milam as a gang member, Duece 8 gang member back in the days in which I worked the gang unit yes" [SIC]. The prosecutor could have instructed the detective to answer a simple "yes" or "no". However the prosecutor violated the courts order and did the very thing he was instructed not to do, inferring that one is

a gang member. RP 5-20-09 pg's 430-31, RP 6-309 pg 1495.

2. At trial the court had a sidebar discussion on a potential defense witness Charless Justice. The prosecutor offered that he was offering statements made by Justice, not for the truth of the matter asserted, through the testimony of states chief witness Detective Takemoto. RP 6-3-09 pg 1503.

Charles Justice invoked his fifth amendment right to not testify and did not testify. However the court allowed the prosecutor to elicit improperly admitted hearsay testimony from Detective Takemoto who initially had taken the statement from Justice. RP 6-8-09 pg's 1710-16.

3. At trial the state's chief witness Mark Anderson testified that no deal was made for his offer to testify against Norman. RP 6-9-09 pg's 1310-12. However in an out of court statement or interview with Norman's counsel Don Minor, Mark Anderson stated the prosecutor and detective Cobane made him a deal to testify. CP 5-7-09 pg's 7,8,84,86, *1.

Further, detective Cobane testified that he did not make any deals with Mark Anderson and that his only role in the matter was to refer Anderson to the trial prosecutor (Caselton). RP 6-9-09 pg's 1879-80, 1885-90. Moreover defense counsel was prohibited from cross examining Anderson on the charges he was originally arrested for before the prosecutor and detective offered him the deal. RP 6-9-09 pg's 1907-08.

4. At trial when state's witness testified that LP (Low Profile), the alleged gang the prosecutor tried to associate to Norman with was nothing more than a musical group. RP 5-28-09 pg's 1032-33 and where the state failed to prove at that point Norman *1. See interview attached as Exhibit A.

belonged to a gang the court did not give a limiting instruction on gang evidence.

5. At trial the prosecutor sought to prove Norman committed the murder against Milam by showing gang relevance in accord to ER 404(b) res gestae. The prosecutor admitted he could not prove one of the elements to satisfy res gestae, (motive). Absent proof of motive the gang evidence should not have been allowed. RP 5-20-09 pg's 430-31.

6. During closing arguments the prosecutor appealed to the juror's passion by commenting heavy on gang evidence and insinuating that Norman was a gang member, (a fact that was not in evidence). Making Norman seem more guilty than innocent. RP 6-18-09 pg's 2384-85.

Essentially telling the juror's to believe Mark Anderson's testimony even though the prosecutor knew his sole witness had committed perjury and falsified certain events while testifying (Anderson & Cobane), disregarding the truth of the matter to then find Norman guilty based on irrelevant gang evidence. RP 5-20-09 pg 426 lines 6-7.

C. ARGUMENT

The following grounds will be in accordance to the issues pertaining to assignments of error.

INTRODUCTION

1. The trial court denied Norman of his Sixth Amendment Rig-

ht to a Fair Trial when it Failed to conduct the requisite ER 404
(b) Analysis Prior to Admitting Gang Evidence.

(a). Gang evidence is highly prejudicial any probative value associated with the evidence regarding gangs was far outweighed by the prejudice caused to the defendant by introduction of such evidence.

The danger of unfair prejudice exists when evidence is likely to stimulate an emotional response rather than a rational response. State v. Powell, 126 Wn.2d 264, 893 P.2d 615. Evidence that defendant is a member of a group considered disreputable by the public has virtually no probative value and carries a high potential for prejudice because it allows the jury to infer guilt by association. United States v. Roark, 924 F.2d 1426 (8th Cir 1991).

Here the trial court warned the prosecutor about inferring Norman to be a gang member. RP 5-20-09 pg's 430-31. However the prosecutor failed to pay heed to the court order when he elicited the highly inflammatory and prejudicial evidence through his witness on direct examination. [sic] "Q. Did you know of Mr. Milam prior to your investigation in this case based on your paper work as a police officer?" "A. I had heard of Mr. Milam as a gang member back in the day in which I worked the gang unit".

A simple "yes" or "no" would have sufficed, but in his zeal to introduce this inadmissible evidence the prosecutor went beyond the pale undermining the Court of Appeals decision in, State v. Campbell, 78 Wn.App 813, 901 P.2d 1050, review denied 128 Wn.2d 1004, 907 P.2d 296 (1995). Evidence of gang membership is inadmissible when it proves no more than a defendant's abstract belief's

2.BOA at 28

Dawson v. Deleware³, 503 U.S. 159, 165, 112 S.Ct 1093, 117 L.Ed.2d 309(1992). Gang membership is inadmissible to prove abstract belief because it is protected by Constitutional Rights of Freedom of association and Freedom of Speech. Campbell, 78 Wn.App at 822 901 P.2d 1050.

In the prosecutors (state) trial memorandum the state argued gang affiliation evidence was critical to demonstrate the biases of several of its witnesses and the potential bias of defense witness. The state believed that several of its own witnesses would provide the testimony that was inconsistent or different than the information that they initially provided to the police. As noted in appellant opening brief at 17(BOA) state's witnesses Melton and Givens both self admitted gang members originally provided police with information tending to inculcate Norman in Milam's murder. Should both witnesses attempt to recant their statements, at trial the state argued it should be allowed to explore the recantations and their relation to them being members of the same gang as Norman.*4

During 3.5 motions the prosecutor moved the court to admit the gang evidence, while normally barred by ER 404(b) was admissible to prove opportunity and bias. The court accepted the prosecutors argument and granted the motion. RP 5-20-09 pg, 430-31.

Decision as to the admissibility of evidence are within the discretion of the court. State v. Powell, 126 Wn.2d 244 supra, see State v. Smith, 115 Wn.2d 434, 444, 798 P.2d 1146(1990). Discretion is abused if it is manifestly unreasonable or exercised on untenable grounds or for untenable reasons. State v. Alexander, 125 Wn.2d

3. BOA at 7, 26

4. St's memo at 16

717,732,888 P.2d 1169(1995). State v. Herzog,69 wnApp 521,524-25, 849 P.2d 1235 review.denied 122 wn.2d 1021,863 P.2d 1353(1993). State v. Wade,138 wn.2d 460,464,979 P.2d 850(1999).

Under er 404(b) Evidence of other crimes wrongs or acts is presumptively inadmissible to prove character and show action in conformity there with. Powell,126 wn.2d at 258 supra, ER 404(b) such evidence is admissible however for other purposes "such as proof of motive, opportunity, intent, preperation, plan and knowledg. identitiy or absent of mistake or accident" ER 404(b) the list of other purposes for which evidence of a defendant's prior misconduct may be introduced is not exclusive. see State v. Lane, 125 wn.2d 825,831,889 P.2d 929(1995).

To admit evidence of prior bad acts a trial must find that the evidence passes two test (1) The evidence must have have special relevance to an issue in the case such as intent or knowledge and must not include bad character or propensity as a necessary link in the inferences chain, and (2) Evidence that is specially relevant may still be excluded if it's probative value is substantially out weighed by thr unfair prejudice. Fed.Rules.Evid. rules 403(b) 28 U.S.C.A.

A trial court must balance the probative value verse, prejudicial value of the evidence on the record. State v. Acosta,123 wn.App 424,433,98 P.3d 503(2004).

The trial court's on the record analysis of the probative verse, prejudicial aspects of the gang evidence was clearly unreasonable. The court completely failed to indicate the purpose for which the gang related evidence was admissible, the court failed to en-

gage in the mandatory on the record comparability analysis. The court failed to determine whether the evidence was admissible, relevant to prove an element of a crime charged, and the court failed to find by preponderance of the evidence that the misconduct occurred.

ER 404(b) prohibition encompasses not only prior bad acts and unpopular behavior but any evidence offered to show the character of a person to prove the person acted in conformity with that character at the time of a crime.

Here the prosecutor failed to prove that Norman acted within or conformed to the gang member character, during the time of Milam's murder or any other time.

State v. Foxhaven, 161 Wn.2d 168, 174-75, 163 P.3d 786 (2007) (alterations in original) quoting State v. Everybodytalksabout, 145 Wn.2d 456, 466, 39 P.3d 294 (2002). But a trial court may admit such evidence for other purposes "such as proof of motive, plan or identity, Foxhaven, 161 Wn.2d at 175 supra. Before admitting evidence under an exception to ER 404(b) the trial court must (1) find by a preponderance of the evidence that the misconduct occurred (2) identify the purpose for which the evidence is sought to be introduced (3) determine whether the evidence is relevant to prove an element of the crime charged and (4) weigh the probative value of the evidence against its prejudicial effect. State v. Pirtle, 127 Wn.2d 628, 648-49, 904 P.2d 245 (1995), "Preponderance of the evidence means that considering all the evidence the proposition asserted must be more probable than not. State v. Ginn, 128 Wn.2d 872, 878, 117 P.3d 1155 (2005). The trial court must conduct the above analysis on the record. Foxhaven, 161 Wn.2d at 175 supra

But if the record shows that the trial court adopted one of the parties express arguments as to the purpose of the evidence and that parties weighing of probative and prejudicial value then the courts failure to conduct it's full analysis on the record is reversible error. State v. Pirtle, 127 wn.2d 628 at 650-51 supra. As noted, the trial court did not conduct a complete ER 404(b) analysis on the record. Moreover the record does show that the trial court did adopt the state's argument. For these reasons this court should reverse and remand for a new trial.

(b). THE TRIAL COURT DENIED NORMAN OF HIS SIXTH AMENDMENT RIGHT TO A FAIR TRIAL WHEN THE COURT ADMITTED INADMISSIBLE STATEMENTS MADE BY A WITNESS WHO FAILED TO TESTIFY.

Washington State Constitution art. 1§22 and the United States Constitution 6th amend. guarantee's a criminal defendant the right to confront adverse witness at trial. State v. Tyler, 138 wn.App 120,127,155 P.3d 1002(2007).

Based on this Constitutional guarantee's any statement that is testimonial in nature is inadmissible in court unless the maker is available for cross-examination at trial. Crawford v. Washington, 541 u.s. 36,68,158 L.Ed.2d 177,124 S.Ct 1354(2004).

In it's trial memorandum the state indicated among other things that an individual named Charles Justice was believed by the prosecution to be directly involved in Mr. Milam's murder, essentially claiming Justice to be a co-defendant, RP 6-8-09 pg's 1710-16.

Prior to Justice being a potential witness for the defense he had made statement's to the detectives's involved with investigating this case. After Justice made the statement's he invoked his fifth amendment right and refuse to testify. RP 6-8-09 1710-16.

The prosecutor relied on the trial court's lack of knowledge of understanding about the use of out of court hearsay testimony. citing, State v. Delgado, at 105 wn.App 839(2001), to prove it's point while Delgado, addresses the 5th amendment privilege the prosecutors point should have fell way below the mark. RP 6-8-09 pg 1716 Delgado, could not control the argument due more recent case law superseding the Delgado, court. such as U.S. v. Rashid, 383 F.3d 769,775-76(8th cir 2004). U.S v. Arnold,410 F.3d 895,903 (6th cir 205).

Statement taken by officers in the course of interrogations are almost always testimonial. Davis v. Washington,547 u.s. 813, 821022,126 S.Ct 2266 165 L.Ed.2d 224(2006). So are statements th- at are the product of police initiated contact. State v. Mason, 127 wn.App 554,562-63,126 P.3d 34(2005).

The statement or confession of a co-defendant who exercise his or her fifth amendment right to not testify is not admissible against the defendant because the defendant had no opportunity to cross-examine the co-defendant. In Bruton v. United States,391 u.s. 137,88 S.Ct 1620 28-29(1968). The SupremeCourt held that the admission of a co-defendant's confession at a joint trial violat- es the defendant's right to confrontation if the confession also incriminates the defendant unless the co-defendant testifies.

The purpose here, was to allow the prosecutor to secure the connection or nexus, or the crime to Norman. Because it was believed by the state that Justice's car was used in the transportation of the body of Milam, and that Norman was believed to be in the car at the time of the murder, it was important to show the link to the jury through the testimony of the detective. RP 6-3-09 pg 1498-1500.

The Bruton rule also applies to testimony by a witness concerning a co-defendant's out of court statements, see e.g. Monacelli v. Warden, 884 F.2d 749, 753 (3rd cir 1989). Confrontation Clause violated because witness testified to statements made by non-testifying co-defendant's implicating defendant.

Further (Hearsay is defined by Fed.R.Evid.801(c) as a "statement other than one made by the declarant [the person testifying] while at the trial or hearing offered in evidence to prove the truth of the matter asserted"). However the trial court allowed portion's of Justice's statement to be heard by the jury that wasn't for the truth of the matter asserted. This judicial tactic. RP 6-3-09 pg 1503, was discussed in Ohio v. Roberts, 448 U.S. 56, 100 S.Ct 2531, 65 L.Ed.2d 597. The Roberts test departs from historical principles because it admits statements consisting of ex parte, testimony. The confrontation clause commands that reliability whether a statement is deemed reliable depends on which factors a judge considers and how much weight he accords each of them. However the unpardonable vice of the Roberts, test is if it's demonstrated capacity to admit core testimonial statements that the confrontation clause plainly meant to exclude. Crawford v. W-

Washington, 541 u.s. 37 supra.

Where the prosecutor attempted to link Norman to Milam's murder by way of hearsay evidence and gang affiliation through Mark Anderson's testimony (BOA) at 11-15, 26-31, it was prejudicial error of constitutional magnitude to allow statements made by Charles Justice, Norman's uncharged co-defendant. RP 6-8-09 pg's 1710-16, to be heard by the jury. State v. Perrett, 86 wn.App 312, 320,936 P.2d 426. ("Introduction of other acts of misconduct inevitably shift's the jury's attention to the defendant's general propensity for criminality, the forbidden inference.") quoting State v. Bowen, 48 wn.App 187,196,738 P.2d 316(1987). review denied 133 wn.2d 1019(1987). Evidence that the defendant is a member of a group considered disreputable by the public has virtually no probative value and carries a high potential for prejudice because it allows the jury to infer guilt by association. United States v. Roark, 924 F.2d 1426(8th cir 1991) emphasis added, see Fiswick v. UNITED STATES, 336 u.s. 440,69 S.Ct 716,93 L.Ed. 790, hearsay statement inculcating petitioner was clearly inadmissible against him under Traditional Rules Of Evidence, U.S. v. Schmick, 128 F.3d 1398,1402-03(10th cir 1997). Confrontation Clause Violated when co-defendant's post arrest statement introduced through officers testimony because statement's incriminate defendant.

Although the rule of Bruton v. United States, supra, is a narrow one when evidence has been admitted in violation of the rule as in this case the defendant's right of Confrontation has been violated, see Crawford v. Washington, supra unless this court can conclude beyond a reasonable doubt that the constitutional error was harmless, Chapman v. Californial, 386 u.s. 18,24,87 S.Ct

824,17 L.Ed.2d 705(1967), United States v. Hill,901 F.2d 880,884 (10th cir 1990), reversal required.

(bb). CONFRONTATION RIGHT WITNESS CREDIBILITY THE TRIAL COURT'S RULING PREJUDICED NORMAN AND DEPRIVED HIM OF HIS CONSTITUTIONAL RIGHT TO A FAIR TRIAL AND DUE PROCESS, Pointer v. Texas,380 u.s. 400(1965).

Jurors were kept in the dark about Mark Anderson's true nature of testifying which allowed the prosecutor to suggest facts not in evidence, RP 6-9-09 pg's 1907-08, and the court to rule inadmissible cross-examination concerning aspects of Anderson's testimony.

The Sixth Amendment right of a criminal defendant to be confronted with the witness against him includes the right to impeach credibility through cross-examination, Davis v. Alaska,415 u.s 308. Because a witness bias is "always relevant as discrediting the witness and affecting the weight of his testimony" the Supreme Court has recognized that the exposure of a witness motivation in testifying is a proper and important function of the constitutionality protected right of cross-examination. Criminal Law 662.7 U.S.C.A.6.

Where ER 608.4 clearly permits a defense to challenge a witness reputation for truthfulness, requiring the reputation testimony to meet the foundation bar. U.S. v. Thomas,676 F.2d 531(11th cir 1982). The court's ruling permitted Anderson to be viewed in a lesser culpability context. It deprived the defendant of the WPIC 6.01 rule evaluating evidence by weighing the credibility of the states witness. In fact this false image amounted to a comme-

nt on the evidence which prevented the jury from hearing that the twenty three months the prosecutor offered Anderson to testify was a significant downward departure from the three hundred or so months he was facing for multiple charges of drug possessions, drive by shooting, discharging a firearm, assault in the second degree. Amounting to Anderson having an interest in the outcome of the trial. **State v. Dietrich**, 75 Wn.2d 823, 199 P.2d 559 (1997).

WPIIC 6.01 is establishing state law. The court's decision to ignore it prejudiced the defendant, not issuing the instruction alerting the jury of Anderson's 277 month reduction of potential prison time amounted to the court's silent approval comment on Anderson's credibility.

The defense had a right to prove Anderson's reason for testifying. **State v. Tyler**, 138 Wn.App 120, 127, 155 P.3d 1002 (2007). Washington State Constitution and United States Constitution guarantee the right to confront adverse witness at trial "any statement that is testimonial in nature is admissible for cross-examination. **Crawford**, 541 U.S. at 68, supra.

"A defendant's right to confront a witness takes precedence over any consideration" ER 608.19. Anderson's police interrogation at trial was testimonial. **State v. Shafer**, 158 Wn.2d 387, 388, 128 P.3d 87 cert.denied 127 S.Ct 533 (2006). Anderson's statements that were a by product of police initiated contact's were fair game. **State v. Mason**, 127 Wn.App 554, 562-63, 126 P.3d 34 (2005). Because his police statements for establishing his past events found it's way into trial, they become testimonial. **Davis**, 547 U.S. at 821-24 supra.

Anderson's motive for testifying against Norman reflected the interest he had in the outcome of the trial and the court should have provided an instruction for the jury to consider. Dietrich, 75 Wn.2d at 676 supra, to that effect. State v. Termam, 32 Wn.2d 815(1949), not doing so is to misinterpret the evidentiary rule. Interpretation of an evidentiary rule is a question of law which a reviewing court reviews de novo Foxhaven, 161 Wn.2d 168 supra. State v. Devicentis, 150 Wn.2d 11, 17, 74 P.3d 119(2003). Failure to adhere to the requirements of an evidentiary rule can be considered an abuse of discretion, State v. Neal, 144 Wn.2d 600, 609, 30 P.3d 1255(2001), citing State v. Rivers, 129 Wn.2d 697, 706, 921 P.2d 495(1996).

Moreover the trial court committed reversible error when it continued to prohibit cross-examination of Anderson, despite the witness repeated door opening testimony, State v. H. Tech Erectors, 143 Wn.App 373, 177 P.3d 769(2008).

When Anderson admitted to Norman's defense attorney Don Minor that he was caught with a recently used (warm) gun at a shooting and in exchange for helping the state he would not face the pending charges, CP 5-7-09 pg 7. Anderson's full criminal liability that he faced if he didn't testify favorably for the prosecution became admissible, especially when asked at trial if he was concerned about being charged with more serious crimes other than the gun possession, he answered in the affirmative, confirming his entire statement to Norman's defense counsel Don Minor. Which he in fact denied under oath in open court committing perjury and false testimony. CP 5-7-09 pg's 7,8,84-86, RP 6-2-09 pg's 1312-1317.

While the court had broad discretion in balancing the probative value of evidence against the potential harmful consequences it could've exposed Anderson to, in accord to ER 103.14 103.15, open door rules, the following questions remains, (1). At what point does a trial courts action become manifestly unreasonable? (2). Is a trial discretion to include ignoring evidence rules..... Though the abuse of discretion standard for review of admissibility of evidence, (3). Is a judges discretion to ignore ER 103.14, 103.15 concerning a witness who has clearly opened the door on himself? (4). What prevailing factors exempts a prosecutors witness from suffering the circumstances of his own admissions? (5). At what point does the courts abnegatory ruling against clear concise evidentiary rules become untenable? Oliver v. Fowler, 161 wn.2d 655,663,168 P.3d 348(2007) see State v. Smith, State v. Alexander supra.

Once a party has raised a material issue the opposing party is permitted to explain, clarify or contradict the evidence. This is the long recognized rule that when a party opens up a subject of inquiry that "contemplates that the rule will permit cross-examination or redirect-examination. Within the scope of examination in which the subject matter was first introduced" otherwise to close the door after receiving only a part of the evidence not only leaves the matter suspended in the air at a point markedly advantageous to the party who opened the door, but might well limit the proof to half truths. State v. Price, 126 wn.App 617,109 P.3d 27 review.denied 155 wn.2d 1018(2005), State v. Gefeller, 76 wn.2d 449,455,458 P.2d 17(1969).

(c) THE TRIAL COURT DENIED NORMAN OF HIS SIXTH AMENDMENT RIGHT TO A FAIR TRIAL WHEN IT FAILED TO GIVE A LIMITING INSTRUCTION TO THE JURY ON GANG EVIDENCE.

In it's argument during 3.5 the state presented gang evidence to the court as an element to prove Norman had committed the crime(s) charged, THE TRIAL COURT GRANTED THER STATES MOTION AND, TRUSTED THE PROSECUTOR, (1). Elicit the desire effect of gang intimidation to account for witness recantation, (2). Provide or establish the necessary nexus between the alleged gang behavior and the crime(s) charged, (3) provide proof of motive, opportunity intent, preperation, plan, knowledge, identity or absent of mistake or accident in accord to ER 404(b), and (4). Establish by a perponderance of the evidence that a street gang identified as "Low Profile" existed and that Norman belonged to such gang, see Powell, Lane, supra. However the courts trust came at the price of Norman's defense. For the prosecutor failed to prove his gang theory.

The gang evidence probative intent was exceeded and should've been excluded as too prejudicial. White v. Ollisen, 592 F.Supp .2d1227(9th cir 2008). Since the gang evidence did not prove motive, intent, premeditation and deliberation the possibility or degree of it's prejudicial was not diminished by any limiting instruction, disretion was abused. Instruction not given, State v. Lough, 125 wn.2d 847,864,889 P.2d 487(1995).

In White v. Ollisen supra, gang testimony was admitted, except at the end of trial before deliberations the court ruled that the evidence like in Norman's case at bar did not rise to the re-

asonable doubt standard.

Washington State Supreme Court found that the concept of reasonableness was so fundamental that it requires the lower courts to adhere to clear and simple uniform construction. State v. Bennett, 161 wn.2d at 317. Without the required limiting instruction to the jury Lough, 125 wn.2d at 864, or an abiding belief traditional instruction, admission of gang association evidence, absent sufficient evidence that "Low Profile" was more than a musical consortium, the gang testimony was prejudicial. * State v. Bourgeois, 133 wn.2d 389, 403, 945 P.2d 1120(1997).

If the trial court admits such evidence it must provide the jury with a limiting instruction specifying the purpose of the evidence, other than the limiting instruction related to gang propensity stating since one is a gang member or associates with gang members he is not to be found guilty. Foxhaven, 161 wn.2d at 175 supra.

2. THE PROSECUTOR DEPRIVED NORMAN OF HIS SIXTH AMENDMENT RIGHT TO A FAIR TRIAL WHEN HE FAILED TO PROVE ESSENTIAL ELEMENTS OF THE CRIME(S) CHARGED.

In the courts ruling on the states memorandum for trial in support of gang evidence and Norman's response to the states motion in support of gang opportunity, bias and res gestae the trial court analysis of why the gang evidence was admissible and more probative than prejudicial was inconsistent with current and past case law, see Powell, White v. Ollisen, Sullivan v. Louisiana, etc, supra.

The prosecutor's gang hype didn't deliver the promised element's of the crime. RP 5-20-09 pg's 423-24. The trial courts on the record analysis for determining whether the evidence was relevant to prove an element of the crime charged was naive RP 5-20-09 pg 430, and did not comport with ER 404(b). Especially since the prosecutor argued that he could not prove the essential element's of res gestae, (motive). RP 5-20-09 pg 426. Before granting the inadmissible evidence the court must determine by a preponderance of the evidence that the gang element actually existed, Powell,126 wn.2d at 258 supra.

The prosecutors gang disclaimers were enough for the court to resist prosecutors insufficient evidentiary requirements for res gestae RP 5-20-09 pg 422. The prosecutor had the burden to establish the existence of the gang element it explained wasn't present, State v. Norlin,134 wn.2d 570,577-78,951 P.2d 1131(1998).

Trial courts duty under ER 404(b) to determine by a preponderance of the evidence that gang dynamics were apparent did not pass ER 401 rule of relevancy, under ER 401 evidence is not considered relevant unless (1). It has a tendency to prove or disprove a fact and (2). The fact is of some consequence in context of the other facts and the applicable substantive law. These two characteristics are referred to as probative value and materiality, State v. Sargent,40 wn.App 360,698 P.2d(1985).

Because the gang element admitted by the prosecutor was not clearly apparent, and no proof existed of Norman's intent at the time of the crime. The trial court erred by admitting the gang evidence, State v. Green,94 wn.2d 216.

Gang evidence was not intergal to the commision of the crime (motive). ER 404(b) standareds of proof to admit it e.g. motive, intent still had to be proven beyond a reasonable doubt requiring Washington Pattern Jury Instruction (herein after WPIC) to be used as states burden. State v. Bennett, 161 wn.2d 303, 165 P.3d 1241 (2007). Washington Supreme Court dictum in it's inherent supervisory authority guides Superior Courts to use WPIC 4.01 in every case. Including gang evidence for any reason, and requires the court to prove element's of it's purpose beyond a reasonable doubt.

Reasonable DOubt Standard not met! because there was no sufficient evidence on the record to establish that a criminal gang called "Low Profile" actually existed. The state failed to establish a sufficient nexus between the defendant's alleged gang affiliation and the crime charged, State v. Campbell, 78 wn.App 813 supra, see State v. Asaeli, 150 wn.App 543, 208 P.3d 1136 review.d-enied 167 wn.2d 1001(2009).

"Although motive is not an element of murder it is often necessary when only circumstantial evidence is available" State v. Athan, wn.2d ___ 158 P.3d 27, 41(2007). A number of cases dealing with admissibility if evidence of prior assults and quarrels have found that evidence of previous quarrels and ill feeling is admissible to show motive or malice. However such evidence must also be of cosequence to the action to justify it's admission" State v. Powell, supra (emphasis added). In this case motive could not be proven, the prosecutor admitted to not having no gang evidence connecting a nexus or motive to the crime(s) charged. RP 5-20-09 pg 426.

At no time did the prosecutor present any evidence to prove his 3.5 motion to admit gang evidence or his street justice, gang propensity theory in his closing argument. RP 6-18-09. At no point did any of the states witnesses describe the "Low Profile" group as engaging in criminal activity. *(In narcotics prosecution government attempted to tie the defendant's guilt to his membership in Hell's Angel motor cycle club, reversed) People v. Perez, 114 Cal.App 3d 470,477,170 C.R 619(Cal. App 1987) see State v. Stone, 802 P.2d 688 (Ore 1990). (Error to allow evidence of likely gang affiliation for unlawful use of car where it was not relevant to the issue of knowledge that car was stolen.

(b) PROSECUTOR MISCONDUCT DEPRIVED NORMAN OF HIS RIGHT TO A FAIR TRIAL WHEN THE PROSECUTOR ELICITED PERJURED AND FALSE TESTIMONY FROM THE STATE'S CHIEF WITNESSES.

It is established that a conviction obtained through the use of false evidence, known to be such by representatives of the state must fall under the Fourteenth Amendment. Mooney v. Holohan, 294 u.s 103,55 S.Ct 340,79 L.Ed 791.

Prior to trial, during a deposition with Mark Anderson and Don Minor defense counsel, Anderson stated that the prosecutor involved in prosecuting the case at bar, and lead detective Cobane offered him a deal to testify against Norman. CP 5-7-09 pg's 7-8, 84-86.

Anderson was very firm about what had taken place at the police interrogation, confirming that during the interview with the statement. RP 5-7-09 pg 84, and further stating during the po-

lice interview Cobane was on the with the trial prosecutor Case- lton, RP 5-7-09 pg 85 to seal the deal and get a statement on the record.

However during direct examination and cross-examination Cob- ane denied having making the deal with Anderson, and Anderson de- nied ever making the statement.

TESTIMONY FROM ANDERSON ON CROSS EXAMINATION. RP 6-2-09 pg's 1310-1312. [sic]"Q. And when you told detective Cobane that it w- as Norman there any conversation about what you would be charged with, with detective Cobane?" "A. No." "Q. So you had no convers- ation with detective Cobane about what charge you were going to be charged with based on your arrest on that date?" "A. Not re- ally at that point, nothing was for sure nothing was sealed," pg 1311 line 11-25. "Q. In that discussion on May 31st of 08 was th- ere any conversation with detectives Takemoto or detective Cobane about any deals or what you would be charged with based on your May 30th, 08 arrest?" "A. No for sure deals, no nothing what i w- as going to be charged with but he did tell me that he was going. to get a hold of the prosecutor and then the prosecutor was going to have to come down and talk to me to make a deal because they couldn't make a deal with me because they're not the prosecutor, but that they'll refer this information to the prosecutor," "Q. Wasn't a deal made that you would only be charged with gun posse- sion?, Didn't the detectives make a deal with you on the gun po- ssession?" "A. No, they didn't make a deal. That's what they did though, they only charged me with a gun possession." pg 1312 line 1.

TESTIMONY FROM COBANE ON DIRECT-EXAMINATION. RP 6-9-09 pg

1879 line 20-24 [SIC] "Q. And when he told you this information had you made him any promises about what would be done with the current matters he was arrested on?" "A. No I simply placed him in contact with the detectives with those cases."

TESTIMONY FROM COBANE ON CROSS-EXAMINATION. RP 6-9-09 pg

1885 line 5-9 [sic] "Q. In your conversation with Mr. Anderson on May 30th of 08 prior to your contacting either detective Takemoto or detective Mooney, was there any discussion between you and Mr. Anderson about what he would be charged with in relationship to the matter that you were now the head detective on.?" "A. No."

In the deposition on pages 85-85 Anderson talks about being only charged with the gun possession, the deal that was made with the prosecutor prior to Anderson giving Cobane the written and recorded statement. CP 5-7-09 pg 83 line 8-21[sic] "Q. DM. Before any deals, any offers of help were made?" "A. MA. Yeah before that, that was never discussed until after, afterwards, I, I decided to make that and tell them and then statements got, you know, they wanted to do statements and tape recorders and I kind of was like thinking do I really want to take it this far and then you know I said I already told them, already told them about, about, about, about, about, why Omar shot me, I already told them about Omar shot me, nothing come up for the deal yet. Then they wanted me to write statements and they wanted me to do a voice recorded statement and it's not gonna be, pretty much I didn't want to do it for free, you know. I was just like, you know if I do, do this I'm gonna get something out of it, a nice chunk of change taken off and I can leave the state and get the hell outta here. So th-

en I brought it up of you know, hey, how can this help me."

It is clear that a deal was made and the prosecutor knew about the deal and it's quite possible the prosecutor orchestrated the deal. Detective Cobane committed perjury by denying his involvement in the first instance, and Anderson gave false testimony, denying ever making a deal with Cobane.

Anderson made it very clear that a deal had to be made before he gave the statement to the police. Because the above deposition was part of trial discovery, the prosecutor had to know about what Anderson had told defense counsel Don Minor prior or to the trial.

CONSTITUTIONAL LAW 257.

Conviction obtained through use of false testimony known to be such by representatives of the state is a denial of due process, when the state though not soliciting false evidence allows it to go uncorrected, when it appears, Napue v. Illinois, 360 U.S. 264, 269, 79 S.Ct 1173, 3 L.Ed.2d 1217.

Here the prosecutor should have corrected Anderson's testimony or at least addressed the statement he made to defense counsel Don Minor.

ER 608.1 provides impeachment of a witness by evidence of poor reputation or a specific incidents in the witness past, which wasn't a stretch for Anderson. (applicable to all witnesses). U.S. v Lollar, 606 F.2d 587(5th cir 1979), because the court knew the prosecutors witness Anderson was testifying for profit, gun charges, drug possession, drive-by shooting and other crimes. Yet

it ruled these crime(s) were not admissible. RP 6-2-09 pg 1317-18.

While unfairly permitted gang evidence this imbalance alone affected the jury's perception against Norman, and affected the outcome of the trial, State v. Neal, 144 Wn.2d at 600 supra. But the court couldn't permit a reputation for truthfulness instruction on witnesses, because ER 608.4 required witnesses testimony meet foundation clause, U.S. v. Thomas, 676 F.2d 531 (11th Cir 1982) which would've required Anderson's doctored criminal activities he was charged with to be introduced in the trial.

ER 608.19 required Anderson's criminality, unfairly and conveniently obfuscated by the trial court be brought to the light of day, for jurors to derive informed inference from his bought testimony. Not doing so deprived Norman of his Sixth Amendment Right to Confrontation to confront Anderson about his prior and current legal status. By not allowing the above evidence rules the trial court permitted the state to solicit false testimony.

The principles that a state may not knowingly use false evidence including false testimony to obtain a tainted conviction implicit in any concept of ordered liberty does not cease to apply merely because the false testimony goes only to the credibility of the witness. The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence and it is upon subtle factors of the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend as stated by the New York Court of Appeals in a case very similar to this one. People v. Savvides, 17 N.Y.2d 554, 557, 154 N.Y.S.2d 885, 887, 136 N.E.2d 853, 854-55.

"It is of no consequence that the falsehood bore upon the witness credibility rather than directly upon defendant's guilt. A lie is a lie no matter what it's subject and if it is in anyway relevant to the case the district attorney has the responsibility and duty to correct what he knows to be false and elicit the truth. That the district attorney's silence was not the result of guilt or a desire to prejudice matter little for it's impact was the same, preventing as it did a trial that could in any real sense be termed fair.

CRIMINAL LAW 919(1)

A new trial is required if perjured testimony could in any reasonable likelihood have affected the judgment of the jury. Here reversal is required.

(c). PROSECUTOR MISCONDUCT DEPRIVED NORMAN OF HIS SIXTH AMENDMENT RIGHT TO A FAIR TRIAL WHEN THE PROSECUTOR MADE IMPROPER REMARKS TO THE JURY DURING CLOSING ARGUMENTS.

It is a prosecuting attorney's duty as a member of the court to do nothing that contributes to violating a criminal defendant's right to a fair trial. State v. Charlton, 90 wn.2d 657, 664-65, 585 P.2d 142(1978), State v. Rose, 62 wn.2d 309, 312, 382 P.2d 513(1963), State v. Reeder, 46 wn.2d 888, 892, 285 P.2d 884(1955). In the interest of justice a prosecutor must act impartially for seeking a verdict free of prejudice which also includes the appearance of fairne-

ss and result based on reason. State v. Charlton supra, State v. Huson, 73 Wn.2d 660, 663, 440 P.2d 192 (1968), cert. denied 393 U.S. 1096 (1969). Yet it is not totally unheard of that a prosecutor in his/her zeal to convict push the envelope of pudency beyond acceptable limits.

Although prosecutors have wide latitude in closing argument to draw inferences about witness credibility it is flagrant misconduct to shift the burden of proof to the defendant, State v. Miles, 139 Wn.App 879, 162 1169 (2007). A prosecutor commits misconduct by arguing to the jury that it must choose between believing the state's witnesses or believing the defendant's witnesses effectively telling the jury that in order to acquit the defendant it must find that the state's witnesses were lying.

Here in this case the prosecutor expressed to the jury. RP 6-18-09 pg 2403 [sic] "Mark Anderson told you it was the defendant. Mark Anderson told you about the discussion in the car and what they were drinking. The DNA points the finger at the defendant as being on those shot gun shell casing. Anderson was accurate in his description about what happened or he should really play the lottery because this guy is lucky."

RP 6-18-09 pg 2456 [sic] "Ladies and gentleman Mr. Anderson's testimony has the ring of truth to it, you don't have to like him you don't have to like the fact that he only made that deal to save himself, and he was very upfront about that with you, ladies and gentleman."

Vouching for it's witness truthfulness the prosecutor prejudices the defendant especially, where Norman have shown in the issues a-

bove Anderson was not truthful about why he was testifying, and gave false testimony in front of the jury. The disingenuous comment reiterating the scope of Anderson's testimony have the undeniable prestige of the prosecutors office. see Stste v.Susan,152 wn.365,278 P.174(1929). Which in itself amounts to a considerable exercise of wide prosecutorial discretion. see State v. Korum,157 wn.2d 614,141 P.3d 13(2006).

Even though the prosecutor used witness testimony to draw inferences in his closing arguments. Instructing the jury to believe, the prosecutors witnesses was highly inflammatory and prejudicial. State v. Miles, supra.

RP 6-18-09 pg 2384 line 26 to pg 2385 line 1-13. Shows the prosecutors deliberate appeal to the jury's passion and could not have been neutralized even had there been an objection or request for a curative instruction.State v. Belgarde,110 wn.2d 504,507-08 510,755 P.2d 174(1988).

[sic] Ladies and gentlrman at the beginning of this trial. I mentioned to you that this was a case about street justice, not the type of justice being sought here today in this courtroom, not the type of justice you may here about on the news. Vigilante justice where somebody does something wrong and then there's retribution sought in the community at that person. This is a different type of justice ladies and gentleman this is street jusitce this is the type of justice that goes on in the streets with people who are mwmbers of gangs, and who handel these matters on thair own without seeking help from the police without seeking help from the court system but they do it themselves.

The danger of unfair prejudice exists when evidence is likely to stimulate an emotional response rather than a rational response. State v. Powell, 126 Wn.2d 264 supra.

Under Evidence Rule 608.13 counsel are permitted latitude to argue the facts in evidence and reasonable inferences in their closing arguments. State v. Smith, 104 Wn.2d 497, 510, 70 P.2d 1306 (1985)/ They may not however make prejudicial statements nor state their personal beliefs about the defendant guilt or innocence or the credibility of the witness. State v. Reed, 103 Wn.2d 140, 145, 684 P.2d 699 (1984). see State v. Rivers, 96 Wn.App 672, 981 P.2d 16 (1999). quoting State v. Fleming, 83 Wn.App 209, 214-16, 921 P.2d 1076 (1996), improperly shifting the burden of proof to the defense.

Given the undisputed fact that no objection was made the issue becomes whether any curative instruction would have effectively erased the prejudice. Appellate review is not precluded if the prosecution misconduct is so flagrant and ill intentioned that no curative instruction could have obviated the prejudice engendered by the misconduct. State v. Dunaway, 109 Wn.2d 297, 221, 743 P.2d 1237 (1987), State v. Charlton, 90 Wn.2d 657, 661, 585 P.2d 142 (1978) see, State v. Case 49 Wn.2d 66, 74-75, 298 P.2d 500 (1956). These inflammatory comments were a deliberate appeal to the jury's passion and prejudiced and encouraged it to render a verdict based on Norman's association with gangs rather than properly admitted evidence. The remarks were flagrant highly prejudicial and introduced "facts" not in evidence. With the gang stigma labeled over the defendant State v. Coe, 101 Wn.2d 772, 789, 684 P.2d 668 (1984). State v. Badda, 63 Wn.2d 176, 183, 385 P.2d 859 (1963). Instructional

errors and prosecutors remarks during closing arguments required reversal

In Belgarde the prosecutor made argument that Belgarde was associated with AIM American Indian Movement and that AIM is a deadly group of madman.

THUS REVERSAL IS REQUIRED HERE.

D. CONCLUSION

(PRAYER FOR RELIEF)

Based on the errors found herein this court should reverse Norman's convictions and remand back to King County for New Trial.

RESPECTFULLY SUBMITTED.

OMAR NORMAN. PRO SE

Signed and dated this 29th day of December 2010



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EXHIBIT

A

STATE OF WASHINGTON v. OMAR ALI NORMAN
King County Cause No. 07-1-07014-8 SEA

DEFENSE INTERVIEW OF MARK ANDERSON
May 7, 2009

Present:

MA Mark Anderson
DM Donald Minor, Counsel for Omar Norman
WE Wes Ewart, Defense Investigator
JC John Castleton, Deputy Prosecuting Attorney
PT Detective Paul Takemoto

- 1 DM This is Don Minor. Today's date is May 7th, 2009 in the matter of State of
2 Washington versus Omar Norman in the offices of the King County
3 Prosecuting Attorney to conduct an interview with Mark Anderson. It is
4 now approximately 2:30 p.m. Present in the room in addition to Mark
5 Anderson is Seattle police detective Paul Takemoto, senior prosecuting
6 attorney John Castleton, and defense investigator Wes Ewart. Before this
7 recording began, I asked Mr. Anderson or noted that he had previously
8 agreed to have this recorded, or this conversation recorded. Is that correct,
9 Mr. Anderson?
- 10 MA Yes.
- 11 DM And you're aware that this is being recorded?
- 12 MA I'm aware.
- 13 DM Let me begin, Mr. Anderson, by asking you your full name.
- 14 MA Mark Wesley Anderson. Date of birth 3/6/86.

1 DM And where were you born?

2 MA Swedish hospital, Seattle, Washington.

3 DM And have you lived anywhere other than Seattle, Washington?

4 MA Nope. I mean, I've like lived other places, like there in the county, but

5 pretty much in Seattle, like no Burien or stuff like that for a minute, but

6 just pretty much Seattle.

7 DM You've lived in the state of Washington all your life?

8 MA My whole life, yes.

9 DM Have you ever gone by any name other than Mark Anderson?

10 MA Yes, I have.

11 DM And what other name or names have you used?

12 MA Little Moskrell (phonetic).

13 DM And is there a spelling for that?

14 MA L-I-L slash M-O slash S-K-R-I-L-L.

15 DM And what is that name for? What does it represent?

16 MA Money. Mo skril is money. Skril means money in street terms.

17 DM Okay. And where did you get that name?

18 MA Picked it up as a handle of having money in the streets.

19 DM So in terms of people who know you on the street, do they usually refer to

20 you by that name?

21 MA Yes. All of them do.

22 DM Any other names you've used?

1 MA No.

2 DM Any other, any situation where you've been contacted by police and used
3 some name other than your true name?

4 MA Yes.

5 DM And what other names have you used other than your true name?

6 MA To get out of a warrant, I used my brother Wesley Anderson, Wesley J.
7 Edward Anderson, 2/26/90. That was if I had a warrant and I wanted to
8 get away from it, I'd use his name.

9 DM You know how many different occasions you've done that?

10 MA Many. Successful ones.

11 DM I'm sorry?

12 MA Successful ones too?

13 DM Successful ones?

14 MA Yeah. Getting out of my warrant.

15 DM Have you ever been charged with obstructing because of using someone
16 else's name?

17 MA No.

18 DM I'll come back to that in a moment. You have other family here?

19 MA All my family, yes.

20 DM And in terms of where you've lived in Seattle, has it been in the CD mostly
21 or?

22 MA Pretty much my whole life, yes. Central.

1 DM Bulk of your family in the CD as well?

2 MA Yeah, all my family's in the Central.

3 DM How far did you go in school?

4 MA I got my GED when I was 16 and I quit from there.

5 DM You say you got your GED. Did you drop out of high school or?

6 MA No. I spent my time in Green Hill school. I did some time up there and I
7 got my GED up there and then dropped out of school.

8 DM So do you have any problems reading or writing?

9 MA No, I have no problem reading, writing. I can read and write pretty good
10 actually.

11 DM Ever had any kind of learning disability that you're aware of?

12 MA No.

13 DM How about mental illness?

14 MA No.

15 DM On any kind of medication presently?

16 MA No.

17 DM Ever had any, to your knowledge, any medication that was prescribed?

18 MA Yes. When I was 14, I was on Serasone. It was to help me sleep from
19 nightmares I was having because I seen somebody get killed when I was
20 younger. And I had nightmares about it and so I got on Serasone when I
21 was about 14.

22 DM But that was the only time?

1 MA Yeah, that was the only time I ever been on--

2 DM Was that when you were at Green Hill?

3 MA No. I got it when I was at Echo Glen when I was 13 and then I got out when

4 I was 14 and kept taking it pretty much for night tremors.

5 DM Do you suffer from any of that now?

6 MA Yes, I do. Just had one last night matter of fact.

7 DM But you don't take any medication for it?

8 MA No, I don't. I've called a psychiatrist and they're supposed to come talk to

9 me actually about it, but they haven't.

10 DM What about employment history? Have you held any jobs?

11 MA Yes.

12 DM What kind of jobs have you held?

13 MA I worked at McDonald's in Totem Lake when I was in a group home for five

14 months in '04. I worked at a place called Goodwin Pumps in Sumner just

15 recently when I was out. Worked at a place called--I was only there for a

16 few weeks, like temp jobs they were giving me for like a month, every two

17 months, working at a Nintendo place on Kent, it's like on a Kent place, I

18 worked there. I worked at Gordy's in Tukwila, steak and barbeque. It was

19 on a golf course off the Interurban. Worked there before. That's pretty

20 much it.

21 DM Your last job was what?

22 MA My last job was Goodwin Pumps in Sumner just recently. I was actually

1 working there when I got token in for my warrant for not showing up to
2 court.

3 DM As far as your criminal history, it's all in this state?

4 MA Yes. Everything's in the state.

5 DM Do you know what your criminal history is? Are you pretty much aware of
6 your criminal history?

7 MA Yeah, I'm aware of it.

8 DM In terms of your adult history, what convictions are you aware of?

9 MA Convictions I'm aware of my adult history are, are obstruction of justice for
10 running from the gang unit one time. Another one is attempted theft in the
11 first degree. Another one is drug possession in March 1st, 2005. No, no,
12 no, no, it wasn't March 1st, 2005. It was, caught it in March something. I
13 can't remember when I caught it. But I caught it--I don't remember what
14 year. I caught a drug possession or whatever. I also got a--well, this isn't a
15 conviction yet, so. That's it. A drug, a drug possession, attempted theft in
16 the first degree and that, that's it for my adult history, that I, that I, that I
17 can recall at least.

18 DM Now in terms of your agreement to testify in this case, it's my
19 understanding that you were charged or you have a pending charge--

20 MA Pending.

21 DM --of unlawful possession of a firearm.

22 MA Yes.

1 DM Do you know how many points you've had or what your offender score
2 would be if you were convicted of that?

3 MA Six or 7 points, 6 something, 6, 6 points.

4 DM Do you know what your sentence range for that would be?

5 MA Yes. It was 63 to 83 months, 63 to 83.

6 DM Insofar as the agreement to testify, were any charges to your knowledge
7 dropped or supposed to be dropped as part of that agreement?

8 MA When I came in--I mean, I honestly speak--when I came in, it was a
9 investigation of a shooting, but nothing got, no drive-by shooting or no
10 shooting or anything, no discharging a firearm because I wasn't the person
11 who shot the gun; I just got caught with the gun that got fired off. And so
12 they didn't charge anything that had to do with me--no assaults, no
13 shooting, no nothing. Just booked me in with just the possession of a
14 firearm in the first degree. Then--are you asking me about what the deal
15 from there was or?

16 DM Your understanding of the deal, yes.

17 MA Well, the first one was that nothing else, no assault charges, no--pretty
18 much no shooting or nothing was gonna be taken place because I didn't, I
19 wasn't the one that did it anyway. So then the, then once I talked to
20 Castleton, then we cut a, then we made a deal for attempted possession of a
21 firearm, I believe in the second degree. That's what I believe.

22 DM Okay. Is it your understanding that's what you would plead guilty to?

1 MA Yeah. Plead guilty to 23 months.

2 DM What about any associated drug charges? Was there any discussion about-

3 MA Oh yeah, yeah, there was. I also had a drug possession when I came in.

4 Yeah, I had a drug possession when I came in. That was also not being

5 filed. Possession with intent I think was what it was, or possession. I'm

6 not sure.

7 DM I want to kind of track to the extent you can remember times that you were

8 in and out of custody since 2005. Not that you need to know exact dates,

9 but I'm just, to the best of your recollection, if you know. It's my

10 understanding that you were in custody at some point in 2005, particularly

11 October 17th when Terrell Milam was killed.

12 MA I was in custody, yes, I was in custody then.

13 DM Do you remember when you went into custody, approximately when you

14 went into custody?

15 MA I don't remember what that, when I went in custody, but I do remember

16 that I was in custody. I do. And I was, I was on my way to work release.

17 And I got out of work release the day before Thanksgiving. I believe it was

18 the 23rd. I believe in that year, Thanksgiving was the 24th. I remember

19 believing that it was the 23rd. It was the day before Thanksgiving of '05 is

20 when I got released.

21 DM But before October 17th, even though you may not remember the exact

22 date, do you know what month you went into custody?

1 MA I'm gonna try to recount because I did, I did four months out of six, so--
2 November. October, September--probably about July.

3 DM July '05?

4 MA Yeah. Probably about July is when I, is when I went in, I think. That's
5 what I'm guessing.

6 DM All right. And when you got out around Thanksgiving--well, when you got
7 out at Thanksgiving, were you aware that Terrell Milam had been killed?

8 MA I was aware of it the next day it happened. All over the news. Everyone
9 was talking about it. I was aware of it.

10 DM Was there talk or did you have any belief as to who had killed him at that
11 point when you first heard about it?

12 MA Nobody knew. It went from--first thing I heard was of course what
13 anybody would expect to killing somebody from the Central as a--

14 DM Anybody what now?

15 MA Anybody that would expect somebody dead from the Central. If somebody
16 from the Central popped up dead and they didn't know who it was,
17 automatically, they automatically blame the Crips from the south end.
18 Automatically that's just--

19 DM So was that the talk, that it was Crips from the south end?

20 MA That was the talk of what people believed, not that that's what happened.

21 DM Right.

22 MA Yeah.

1 DM So was there any talk about Deuce 8 being responsible?

2 MA Then after a minute, it--

3 DM Or LP. I'm sorry.

4 MA LP.

5 DM Being responsible.

6 MA Yes. Then afterwards it came to his homeys, his own homeys killed him,
7 which LP were, there were some members from Deuce 8, 'cause LP's a
8 clique within Deuce 8. Like they're people from Valley Hood Piru from LP.
9 There's even a cat from Hoover from LP. There's people from Deuce 8
10 from LP, from Dearborn from LP. It's like a, it's a clique within friends
11 that are all from different hoods but they're all from the Central pretty
12 much. And so I, I, there was, there was talk that the homeys did it pretty
13 much, that, you know, that were from the Central.

14 DM Were you aware of any difficulty between LP and Deuce 8 before Terrell
15 Milam was killed?

16 MA Yes, there was no difficulty at all. None. Matter of fact, a lot of the people
17 from LP were trying to actually get put on Deuce 8 if someone already on
18 there.

19 DM So when there was talk about LP somehow being responsible, was there
20 any talk about any specific names?

21 MA At, at this point--at this point, when I, when I first heard the homeys did it,
22 there was no talk that said who it was about, it was LP. I didn't, the, the,

1 the LP part didn't come into it until after I was released and I heard. So
2 like when, first, first it was blamed on Crips they thought--no one said they
3 knew or they seen. And then after I was released, then, then I heard it was
4 LP. But during that time too when I was in jail, I just heard the homeys.
5 No one actually knew. They just said he hopped in the car with some of the
6 homeys. No one said any names at this point. No one said anything. Just
7 I think some people were actually keeping it a secret at that point. But I
8 knew that there was some people that knew that some of the homeys pretty
9 much killed him.

10 DM When you use the term homeys, you're referring to?

11 MA Other people from the Central, from Deuce 8 pretty much, or from LP, just
12 in the Central.

13 DM Okay. So you get out and do you talk to anybody who claims to have any
14 more information about what had happened?

15 MA I talked to Omar.

16 DM And do you know when it is that you spoke to Omar?

17 MA I'm, I'm guessing, I'm guessing December, January I'm guessing
18 somewhere around that time.

19 DM What I have here is a calendar. The calendar months from October
20 through March--well, October '05 through March of '06. And I don't know
21 if it will aid you at all in looking through those months in terms of trying to
22 estimate when it was you had contact with him or not.

1 MA I know, I know this. After I had the conversation with him, it wasn't right
2 away after I got shot. It was pretty much about, it was a few months,
3 'cause I went in and did a couple DOC violations. I got roomed there with
4 his cousin, his cousin DA. His name is Deshaw. And we had a
5 conversation about it and he was like you know, what's up, you know,
6 Omar was saying that you said this too and some stuff. So it was a, it was a
7 few months. It had to be at least a few months from when I talked to him
8 so I'm trying to esti--and I know I got shot in March, so. That's why--

9 DM Okay. Let's do this. You say you got out you think a day before
10 Thanksgiving?

11 MA No, I know I got out a day before Thanksgiving.

12 DM So you got out the day before Thanksgiving of '05?

13 MA Uh hm.

14 DM Do you know if the conversation you had with Omar was before Christmas
15 or after Christmas?

16 MA I couldn't tell you that. I really don't remember. I mean, this was years ago.

17 DM I understand. What about does New Year's, the first of the year, can you
18 say if it was before or after?

19 MA Can't. I can't. But I think it had to be right before New Year's or maybe
20 right after New Year's. There's--because it was at least a two, three month
21 period of, before that I was, that I was pretty much not in it before I got
22 shot. By not in it, I mean not, not having got shot yet. Once I got shot, that

1 put me in it which means my life was in jeopardy then and--

2 DM All right. Before I get into the details of that conversation, let me ask you

3 this. How long had you known Omar?

4 MA Known Omar probably since I was about 10 years old maybe; 10, 11 I can

5 say.

6 DM And between the time you first knew him and up until you talked, had this

7 conversation with him about Terrell Milam, what was the nature of your

8 relationship with him?

9 MA Oh, it was a pretty good relationship. When, when he got shot, I went to

10 visit him in the hospital. When he stayed in the Bryant Manors on, on 19th

11 and Yesler, I kicked it on 20th and Yesler, 19th and Yesler all my years

12 pretty much, back and forth from there and 20th and Jackson. He was

13 from Deuce 8. We was from the same hood. We kicked it, smoked weed,

14 drunk together. Did what friends do pretty much.

15 DM You said Omar was from Deuce 8?

16 MA Yeah, Omar's from Deuce 8.

17 DM And how about yourself?

18 MA I used to be from Deuce 8.

19 DM So when would you say you first knew Omar to be from Deuce 8, about

20 when?

21 MA Omar started off kind of late. He, he started off late. He was a football

22 player at first. He was actually supposed to be going to Arizona. I didn't

1 see Omar really start to get gang active until maybe he, maybe 'til I, maybe
2 'til I was about 15, 16. And before that, I mean, like, you know, most of us
3 start off like 11 to 12, 10. He kind of started a little late, you know.

4 DM But from the first knowledge you had of him being in a gang, it was Deuce
5 8?

6 MA Oh no. He was from LP before Deuce 8. He was, he was from LP actually
7 for a long time. But LP wasn't a, wasn't a gang like that. It was a group of,
8 of friends that just kicked it together. Wasn't, it wasn't like they were going
9 out doing shootings and murders and gangbanging. They were pretty
10 much just a group of friends that kicked it at the Givens' house or did
11 music together. They had a studio and stuff, did music. Used to do stuff
12 like that, you know.

13 DM All right. So when to your knowledge did he become Deuce 8?

14 MA Probably about 15, 16 of my age. About, that's when I started noticing that
15 he was from Deuce 8. Especially when his cousin got out of the
16 penitentiary, he was from Deuce 8.

17 DM And do you know what Omar had to do to become Deuce 8?

18 MA He, he didn't have to do much because he got, he got family. His whole
19 family is from Deuce, he got family from Deuce 8. He got a couple people in
20 his family. He been around. He's from the hood, so it's not like he's from
21 somewhere else trying to be from somewhere. He was, he was from Deuce
22 8. He grew up in the Bryant Manors on 19th and 20th, and that's like an

1 ally from Deuce 8, so.

2 DM All right . So--

3 MA He really didn't have to do nothing but pretty much, I guess put the tattoo
4 on him.

5 DM What's that?

6 MA I say he didn't have to do really too much but just put the tattoo on him or
7 whatever, just--

8 DM Does he have a Deuce 8 tattoo?

9 MA He does have a Deuce 8 tattoo.

10 DM Do you know where?

11 MA On his arm somewhere.

12 DM Do you know what it says?

13 MA Deuce 8 in letters. I'm pretty sure. I've seen it. He got a whole bunch of
14 tattoos on his arm, but I, I do remember seeing a Deuce 8 tattoo I think on
15 his right arm somewhere right here.

16 DM On his forearm?

17 MA Yeah, yeah. He has LP and some other stuff, a group of names on him right
18 here.

19 DM When a person is Deuce 8, do they normally have some kind of Deuce 8
20 tattoo?

21 MA Some do and some don't. I don't got no Deuce 8 tattoos on me. I got
22 Central District on my arm, but I don't have any Deuce 8 tattoos on me.

1 Most, most do. Some do, some don't. Just depends.

2 DM So as of the conversation you had with Omar about Terrell Milam, about
3 Terrell Milam's death, what was your understanding of Omar's
4 association?

5 MA What he had to do with it?

6 DM No, no, no. What was your understanding he was at that time? Omar was
7 at the time you talked to him about Terrell Milam. Was he Deuce 8 or
8 something else?

9 MA Omar always, always showed his LP side more than anything. You know,
10 he, it's like if he was talking, he'd be like oh, on LP, on LP. Rarely was he
11 like on Deuce 8, on Deuce 8. Probably only when he was around a lot of
12 Deuce 8s. But usually he was more, he was more into LP. That's the
13 problem sometimes with being from two different things that, you know,
14 you can't serve--like, like it says in the Bible, you can't serve two gods. You
15 like one more than the other. That's just how it was, something, you know--
16 -even though they're from LP or Deuce 8 or LP and the Valley, whatever,
17 some people cherish one more than the other. I think he cherished his
18 friendship with his circle of LP more than he cherished his friendship with
19 Deuce 8, 'cause he was more closer with people from LP. It was more of a--
20 that was a, like a friendship thing, a circle thing. Family and stuff, you
21 know.

22 DM Okay. How long have you been Deuce 8?

1 MA Me?

2 DM Yes.

3 MA Since '98.

4 DM And when you had this conversation with him about Terrell Milam, were
5 you Deuce 8 then?

6 MA Yes, I was.

7 DM When did you stop being Deuce 8?

8 MA When I stopped doing Deuce 8? The day I wrote this statement.

9 DM Well, which--you mean concerning this case?

10 MA Yeah. But pretty much May 30th last year was the day I stopped.

11 DM I mean, is that a decision you made or someone else made?

12 MA That's a decision that I made and other--at that time, I knew that once I do
13 this, there ain't no more that. And it was more of a relief at the same time.
14 But it was a way for me to get out too, a way for me to leave all this stuff
15 behind me. And I made that decision then. And within, prior for me
16 getting released here and stuff, to the streets, you know, people are saying
17 don't come back up here, you're not from Deuce 8, which is perfectly fine
18 with me 'cause they ain't done nothing for me anyway. They ain't taking
19 care of my kids.

20 DM All right. So this conversation you had with Omar takes place where?

21 MA Takes place across the street from the boys, the boys and girls club on
22 Rotary on 19th and Spruce across the street from the Barquet's house on

1 the right side, on the right side of the street. It's a very dark street. You
2 want me to continue or you want to ask more—

3 DM I'll ask questions.

4 MA Okay.

5 DM After you had gotten out of jail the day before Thanksgiving, was this the
6 first time you had seen or spoken to Omar since you had gotten out of jail?

7 MA No.

8 DM Where had you seen him or talked to him before then?

9 MA He was, Omar was around. He was around. He was, seen him on 19th and
10 Spruce, 20th and Yesler. Omar was still around.

11 DM And had you all talked bout Terrell Milam before this time in front of the
12 Barquet place or--

13 MA Naw.

14 DM --was this first time?

15 MA This was the first and last time we talked about it.

16 DM But you knew that Terrell was dead--

17 MA Yeah.

18 DM --when you saw Omar after you got out of jail?

19 MA Yes.

20 DM Okay. But Terrell never came up during those prior conversations?

21 MA Nope. I, I know that he didn't come up. And, I mean, why is a perfectly
22 good reason, you know. A lot of people just don't go out just saying hey,

1 you know, whatever.

2 DM What was Terrell Milam? Where was he from?

3 MA Terrell Milam was from Deuce 8.

4 DM And once he was killed, I mean, was there much talk about the fact he had
5 been killed?

6 MA Yeah, there was a lot of talk. There was a lot of talk, a lot of stuff. There
7 was so many stories going around about it. I mean, it's harder to tell which
8 one's what, you know.

9 DM But was it, was he considered, Terrell Milam, was he considered one of the
10 original Deuce 8s?

11 MA Oh yeah, very, very original.

12 DM I hear this term, but you tell me if it applies. Was he considered an OG?

13 MA Yes. Very much so.

14 DM Original gangster?

15 MA Yes.

16 DM So he had, his name was known to people?

17 MA Very known. The most known name from Deuce 8.

18 DM To your knowledge had there ever been any kind of conflict between him
19 and Omar?

20 MA No, there's not been, it wasn't conflict between him and Omar to my
21 knowledge, but there was conflict between him and the younger Gangster
22 Disciples, and Gangster Disciples is what Deuce 8s are, BGDs.



1 DM Do you know why there was this conflict?

2 MA Terrell, you know, I, you know, I hate to say it but, you know, but, 'cause,
3 you know, I don't like talking about dead people, I respect them, I respect
4 everything he did, but Terrell pushed his weight around a lot, you know.
5 And when he got out, he pushed his weight around, it was, you know, he
6 was getting into the mix with a lot of the younger, younger cats from the
7 hood. And there was, there was fights going on and robberies going on,
8 you know. Pretty much he, he got out of prison, kind of thought that the
9 younger generation was gonna respect him I guess. But, you know, like I
10 said, a lot of people don't know him like that because he did a major stretch
11 in prison, so it's like the stuff he did was in like '91 and '92, '93, '94. It's
12 like we was babies then, so we don't have no recollection of that. So it was
13 like, most likely we, some people didn't care pretty much of what somebody
14 did in early 90s. It's 2000 and something now, so, you know, depend on
15 what's happening now. And at that point, the little cats is running the
16 streets. That's how it is, you know, the new, the new generation.

17 DM So how would you describe your relationship with Terrell?

18 MA Me and Terrell, Terrell used to talk to my sister when I was little, before he,
19 before he went into prison. He used to come to my grandma's house and
20 stuff and talk to my sister Saron when I was a kid, real little. And then he
21 got out of prison. I spoke to him a few times, kicked it with him, stuff like
22 that. We had some alcohol drinks together 'cause, you know, I was cool

1 with Terrell. I actually respected for what, for what, for what he did, you
2 know, for the things he did for Deuce 8.

3 DM How close would you say you and Terrell were?

4 MA Not super close. Just close enough to be from the same hood. If he seen
5 me, he'd be hey, what's up. Would I hop in his car or whatever? Not if he
6 was driving with his girl. He ran around with this girl in this red car, hop
7 in, you know, smoke some--well, he didn't smoke weed actually but
8 drinkin' and stuff like that, all that, so.

9 DM So when you see or have this conversation with Omar, how did that
10 meeting come about or how did that occasion come about where you were
11 with Omar?

12 MA Well, at this point, me and--me, Omar and Elijah Crane--Elijah went to
13 53rd and Henderson from the south end, but he's a Gangster Disciple too.
14 And we all did time in Green Hill. We all did time in Green Hill. We
15 mostly all got out in 2004, I think. About 2004 we did about, I think
16 about a year, year and a half together all in the same unit, so we was all
17 cool. Elijah used to stay on 21st and Spruce a long, long time ago and he
18 used to, him and Omar and Omar's cousin Decrip, they was cool. They
19 used to always be together. Elijah played for the COY, so he was like
20 actually from the Central, but then he moved to the south end and kind of,
21 and he got put on the south end hood. But he was, his roots were in the
22 Central, so he was still cool with a lot of people from the Central area. And

1 me and Elijah were together. We kicked it every day for about a, I think
2 about a, about a year, year and a half, you know, about. We kicked it a lot.
3 And me and Elijah were in his girlfriend's car at first--
4 DM Elijah's girlfriend?
5 MA Yeah, girlfriend's car. We was in his girlfriend's black Mitsubishi and, you
6 know, we used to just go up there. I used to be hey, let's go to the, I'd be
7 like dude, drop me off on Yesler. We'll see Omar, kick it with him, smoke,
8 drink, you know. You know, he'll bring me to the south end, I'll kick it with
9 his partners because I knew all his partners from out there, stuff like that.
10 So at this point, me and Elijah came up to 19th and Spruce. We bought
11 some weed, stuff like that. We seen Omar. Omar was out there. He was in
12 a silver Lexus. It was, it was dark time I know for a fact. I don't know what
13 time it was.
14 DM It was--
15 MA Dark, dark, dark, yeah, very, very dark. And we, we hopped out of, we
16 hopped out of Ozone's car, which is Elijah Crane, which they call him, and
17 we went into Omar's silver Lexus that he, that he drives around, like you'll
18 see him in it every now and then. I heard rumor that it was his mom's car.
19 That's just what I heard.
20 DM It was his mom's car?
21 MA That's the rumor I heard. I don't know that.
22 DM Okay. But you had seen him drive it before?

1 MA I seen him drive it before, yes.

2 DM And anything else you can tell us about this Lexus other than it being
3 silver?

4 MA Not nothing else, you know what I mean. Silver Lexus.

5 DM So you see Omar and you get out of Elijah's car and you get into Omar's
6 car?

7 MA Uh hm.

8 DM So is Omar just sitting around or what, what's--

9 MA Omar's standing outside. We hopped out, talked to him, you know, 'cause
10 he was already up there when we came up there, you know. 19th and
11 Spruce at that point--well, they shut it down now, but it was a busy little
12 back street. Any time you can catch within 15 gang members sitting there
13 selling drugs, smoking weed, chillin', so. It was a spot you go to, you know,
14 chill, smoke some weed or whatever. So we went there to go buy some
15 weed. Seen Omar, started talking to Omar. And Omar had some liquor in
16 his car and a, and a bag of Mickeys. And we were drinking the--well, do
17 you want me to keep on going?

18 DM Yeah.

19 MA Okay. We hopped in his car at this point. Omar's in the driver's seat of
20 course. Elijah's in the front seat and I was in the back. Now this is kind of
21 funny. Even though me and Omar are from the same hood and we known
22 each other, I've always felt that him and Elijah's relationship was more

1 tighter, more closer, because Elijah used to kick it with Omar tight, tight,
2 like a long time ago. So him and Elijah actually had a better relationship
3 than me and Omar. You see what I'm saying?

4 DM All right.

5 MA Want me to continue?

6 DM Right.

7 MA And so we, so we sit in the car. Me and Elijah just popped some Ecstasy
8 pills. I'm not sure if Omar popped any Ecstasy pills. I say that 'cause I
9 never knew him too much of being somebody that pops Ecstasy pills. But I
10 know we had some E pills and we popped some Ecstasy pills. We're
11 drinkin', smoking weed, listening to a little music. Matter of fact, Omar
12 was like putting in new CDs, telling us check this out, you know, we're
13 listening and stuff and admiring the music. And then now during this
14 time—I actually forgot to put in--not forgot—I just, well, yeah, I did forgot.
15 I was texting my girlfriend. We were having a disagreement about
16 something. I can't remember. Maybe not even a disagreement. I just
17 remember texting her. I remember sitting in the back seat texting her and
18 catching onto the conversation. At this point in time, me and Omar
19 weren't talking. I mean we were talking but it wasn't like we're talking
20 about Terrell. Terrell came up, the issue with Terrell came up. I don't know
21 who started it, the topic. I mean, you know, you're sitting there smoking,
22 you're talking, then T Kid's murder came up. And so now it's more of a

1 conversation with Elijah and Omar, but of course he's aware that I'm in the
2 car, you know what I mean. I pretty much kept my mouth shut and
3 listened.

4 DM Before you go further—before you get into the meat of the conversation, as
5 far as what you had had, the alcohol, the Ecstasy and the weed, how did
6 that affect you, if at all?

7 MA I just popped my Ecstasy pill, so it would take about an hour, hour and a
8 half to really to, sometimes two hours to really fully kick in. And even
9 then--

10 DM When it kicks in, what does it do for you?

11 MA When it kicks in, it opens you up, makes you talk about stuff. Some people
12 get emotional off of it.

13 DM What does it do to you?

14 MA What does it do to me?

15 DM Yeah.

16 MA It gets me high. It makes me feel, it makes me feel good. Makes you feel
17 good. Makes you feel real good inside. Sometimes you grind your teeth,
18 like you know what I mean. Sometimes you grind your teeth. It's a good
19 feeling. It's ecstasy. You know what ecstasy means is love, feeling good,
20 passion. That's what you feel like. You can have \$2 in your pocket and it
21 makes you feel like you got a million. It just makes you feel good.

22 DM How about the alcohol and weed? What does that do?

1 MA It boosts your E pill up. It boosts, the alcohol and weed though, when you
2 do alcohol and weed, I mean, it just--when I smoke weed, it makes me
3 laugh, makes me giggle, makes me tell jokes. When I drink alcohol, it
4 makes, that makes you talk. The alcohol, you know, you get to talking shit,
5 talking about whatever, you know.

6 DM As far as your appreciation for what's going on around you, do you feel
7 that it's affected at all about when you are you using those substances, the
8 alcohol, weed, the Ecstasy? Do you think you truly understand and
9 appreciate what's going on around you, what's being said, what's being
10 done?

11 MA Oh yes, you know what's going on. It's not like you're just--it's not a drug
12 where you don't know what's happening where you're like oh my god, I
13 don't know what's going on. You know what's going on, you know what's
14 being said. You know what you're going to say. Sometimes you might feel
15 stupid about something that you did say. Afterwards you might think like
16 damn, why'd I say that last night, or something like that, you know. Like
17 you with a girl and pop an Ecstasy pill and be drunk and tell her you love
18 her and then next day, she wake up, she's calling your phone 10 times.
19 What did I tell her? I told her I loved her, that's why she's calling my
20 phone. So it's kind of just something that makes you talk. But you're fully
21 aware though.

22 DM So you were overhearing Omar and Elijah. And what do you hear?

1 MA It starts off with, the first thing I hear, oh, yeah, man, I knew what
2 happened about that or whatever.

3 DM Okay. Who's talking?

4 MA Omar. This is Omar talking. He said I knew what happened about that.
5 You gonna have to give me some time, because just like I said, it was a, it
6 was a second, so.

7 DM Okay.

8 MA He basically was like--well, not basically, he said yeah, he was oh yeah, I
9 know all about that. He was like, he was like that's a trip. He was like, you
10 know, he got up in the car with the homeys, he got up in the car with the
11 homeys. He just got done beating up the Seahawk player downtown in
12 Pioneer Square and he beat up Kenny Hamlin real bad, beat him up real
13 bad and snatched a chain up off him. The chain thing came up where he
14 took a chain off of Kenny and like it was a very, very expensive chain.

15 DM Okay. Now I'm asking you at this point to recall what was being said by
16 Omar, not incorporating other information you may have heard from other
17 sources. I'm just interested right now in what you heard Omar saying.

18 MA This is what I'm telling you right now. And kinda like I said, I had to
19 remember what Omar says from the stuff that I did hear from the streets.
20 And so I'm not, that's why I got to take my time of what I'm saying. They
21 said they came up with T Kid. T Kid getting into it with the Kenny Hamlin
22 player, knocked him out. Takes the chain, hops in the car with some of the

1 homeys. He was like they drove him off. Now when he said they drove him
2 off, that's just what he said, they drove him off. What he meant by that, the
3 homeys drove him off, they, as meaning him. He said, you know, they
4 drove off. He got in the car pretty much as a getaway. I mean, he was on
5 federal work release. I mean, he didn't say this, but I mean, just now this is
6 what I'm, I mean he's on federal work release, he got in a fight downtown,
7 drunk at a bar, just escaped from work release pretty much. Of course he
8 needs to get away. So now back to the conversation of what Omar said. He
9 said he got, he got in the car. The homeys drove, the homeys drove him off.
10 The homeys drove him off. They were driving. He was like an argument
11 took place and, like an argument took place. T Kid pretty much was, was
12 talking, talking shit. He was talking shit, arguing. There's arguing going in
13 the car. T Kid got to talking shit, then he was like this, then he was like so
14 you know niggas put him in a headlock. He said so, you know, niggas put
15 him in a headlock and shit. And then he was like, then, you know, came
16 over--this is what he said, exactly what he said. He said niggas put him in a
17 headlock and shit and, you know, niggas came over and topped him off,
18 you know, came over and got him pretty much. Put him in a headlock,
19 then came over, topped him off, shot him in the, shot him in the, into his
20 head somewhere.

21 DM Are you using Omar's words now or your words when you say hit him in
22 the head, topped him off?

1 MA Hit him in the head was my words; topped him off was his words.

2 DM Okay.

3 MA Came over and topped him off.

4 DM You also used the term shot him in the head.

5 MA Shot him--well, that's just what happened.

6 DM I know. I'm saying but were those words used by Omar, shot him in the

7 head?

8 MA Okay, here. You know what, let me start from the beginning. I'm gonna

9 use Omar's words and none of, none of my words.

10 DM Okay.

11 MA Terrell Milam got in a fight with Kenny Hamlin and beat his ass. Snatched

12 his chain off him. Hopped in a car with some of the homeys. They drove

13 him. They drove off, drove around pretty much somewhere. I don't know.

14 Well no, he didn't say pretty much somewhere. Okay. They drove him,

15 they drove him around and an argument took place in the car. They just

16 came over and, you know, put him in a headlock and then, then, you know,

17 walked over and--not walked over but reached over and thumped him.

18 And now while he's talking, he's like, the body language he's using is like,

19 you know, grab him in headlock and he's like (makes sound) walked over

20 and (cough) you know what I mean. I'm like, like that and I'm like--so now

21 I'm like oh, for real, I'm like is that it, you know? And he's like yeah, that's

22 how it went down like, you know. Gives me his look like--and it's a look

1 that you would only know from the streets of pretty much I know what
2 happened, I was up in that goddamn car, I did that. It was, there was no,
3 there's no misunderstanding to that. Even Elijah's face was kind of like
4 damn, you know, Elijah and me even talked about it afterwards, I mean, he
5 was like I walked over, topped--

6 DM Say that last part again?

7 MA Reached over. Not walked. You can't walk over in a car, so. Of course you
8 can't, so, if you want to get technical. But reached over, topped him off.
9 He's like (makes sound), he was like (makes sound), you know, topped him
10 off. He was like, you know, like he was talking shit. He was talking shit
11 and I handled it pretty much.

12 DM Okay. What I'm wanting to understand is did he ever actually say I did
13 this, I did that?

14 MA He didn't. He didn't. He didn't. No, he didn't. He didn't. I, I'm, I can't
15 fully say that he said that I walked and I went and. It was just like you,
16 then (makes sound). Went over. And when he went (makes sound), like—
17 it's a look man, that you can only, it, it's street talk. No one's gonna come
18 over and tell you oh yeah, that he hopped in the car with me and we da, da,
19 da, da, da and then what's his name put him in a headlock or I put him in a
20 headlock, then I went and shot him in the top of the middle of his head,
21 discharge from the gunpowder went on--no one's gonna say it like that.

22 That's just not how street people talk, you know, it's a street talk that only

1 street people can understand. And that's why I had trouble with that
2 testimony that I gave is trying to explain to the police of the street talk and
3 using my words. See what I'm saying, of what, of what he was meaning or
4 how I took it of what, of what he, what he was meaning to tell me. And he,
5 and he pretty much, and then he, then he said, then he said now, this is
6 what--now in my testimony I read, I seen that it said they burnt the clothes
7 at Tyree's house. And that's not what he said. They said they went to the
8 spot and burnt up the clothes. Now from my, from everyone's knowledge,
9 to my knowledge, the spot is Tyree's house. That's what we call it, the spot.
10 When you say we're going to the spot or go to the spot, it's Tyree Lee's
11 house. That's what it was called, the spot. So that's what they mean by
12 burning it by, by the spot. So in my testimony, I put, I put, you know, they
13 went to the spot. Then I said, I said that, I said which is Tyree's house.
14 And no, he didn't say Tyree's house, but he said the spot. It's street talk.
15 You would only have to--I know you're saying--I see you smirking at me
16 right now like, like maybe I'm bullshitting with you or something, but it's
17 just something that you would only know unless you were in the streets. I
18 mean, you're not in the streets so you, you know, you just don't know. You
19 weren't there either and so it's just like, you know, you can't tell. You just, I
20 don't know.

21 DM So right now, I'm just interested in any and everything that you recall
22 Omar saying about Tyree's death. Is that the extent of what you recall

1 Omar saying?

2 MA Not Tyree's death, Tyrell's death.

3 DM Tyrell. I'm sorry. Tyrell's death.

4 MA Oh no. Yeah, he said, yeah, they went to the spot, burned the clothes up
5 and that's pretty much, that's pretty much, that's pretty much all he said.
6 Was like man, you know, then he just started talking like in--, like more
7 inconsistent, like man, you know, he's talking that shit and got handled
8 pretty much.

9 DM Say that again.

10 MA Like he was talk--, he was talking that shit and got handled. T Kid, T Kid
11 got handled, got killed, see. Now if I would have said he was talking that
12 shit and got killed, that's what he was meaning when he said he was talking
13 that shit and got handled.

14 DM And what did you understand talking that shit to refer to?

15 MA Talking that shit meaning having a verbal disagreement into the back seat
16 of the car. And got handled means got killed.

17 DM And did he say anything about who else was involved?

18 MA Never said anybody else was involved, but there was other people in that
19 car though, because of just how he was narrating the story, there was
20 people in the car. I mean, one person can't drive and put him in a headlock
21 in the back seat and shoot him. That's not a one person crime of what
22 happened to Terrell. That's obvious to see that there was more people in

1 that car, but Omar was in that car. And when he's, and every part of that
2 story that, you know, of what he told, the only part that he made eye
3 contact, you know what I mean, like (makes sound), you know, like, like if
4 he's just sitting, he's talking, like he's right there, like man, you know,
5 (makes sound) is, was when he was talking about, is when he was talking
6 about shooting Terrell into the middle of the head. Not in them words, but
7 when he was like man, then (makes sound), then walked over and (makes
8 sound), you know. Like that. That's what he said. And that's the only part.
9 He didn't say anything about (makes sound) man, you know, that I (makes
10 sound) drove off or (makes sound), you know, I told him to get in. Only
11 time he did that was when he was gesturing when he, when somebody shot
12 Terrell in the head. It's not like he, that was the only, that was the only
13 part. Even when he said put him in a headlock, he was like niggas put him
14 in a headlock and he like, you know, walked over and came, came, came
15 over and did it. It was a, he basically was telling--basically what he was
16 doing was telling what role he played in the murder. That's all, that's all he
17 was doing. That was, that was, that was all it was. He didn't say any, make
18 any funny eye con--that's, it's actually a normal way to do stuff onto the
19 streets, of that little lingo. I know it's funny to you. It may sound weird or
20 something, but that's just, that's just how it is.

21 DM But I just want to be clear. In terms of words he actually used about
22 anyone doing anything, did he use the term niggas in saying what was done

1 by anyone? Did he say niggas did this, niggas did that or did he use some
2 other term?

3 MA He said, he said--yeah, he said he hopped in the car, hopped in the car.

4 DM He meaning Terrell?

5 MA Yeah. Terrell hopped in the car. And he was like, he was like, you know,
6 they drove him off. When he said they drove him off, I can't tell you
7 whether he was, that he means they as inputting himself in there. So that
8 they part, I do want to clarify that. I, I don't know about that part of what
9 he meant by, you know, then they drove him. When he said they, pretty
10 much he's talking about the killers--him, whoever. I don't know; I can't tell
11 you. He said, then he said, then he said yeah, niggas put him in the
12 headlock. He did say that. Niggas put him in a headlock. And what he
13 mean by niggas putting him in a headlock, I see there's an S and it's plural.
14 I don't know how two people can put someone in a headlock. I don't know
15 if there was fighting with two or three people in the back seat. I don't
16 know. I don't know. Just telling you how, what he told me and trying to
17 remember correctly. What I'm not doing is giving no false testimony.
18 That's what I'm not doing. Can't live with myself and I would not send
19 anybody away for, for, for no, for no false statement. Honestly, if I would
20 have just--

21 DM Hold on.

22 MA Honestly, if it's a topic of I'm doing this and I'm lying just to get some time

1 off, I could have just, just plain simply told about him shooting me and got
2 this deal. So, you know, I'm telling the truth about everything. I'm not, I'm
3 not, I'm not skipping one part. I'm just telling you what I heard and I'm
4 trying to explain it to you the best that I can as being in the car and hearing
5 this, so you got to bear with me. It's troubling, but it's not no false
6 testimony.

7 DM Well, let me just ask you, I'm trying to understand in terms of describing
8 what Omar actually--

9 MA Said.

10 DM --the words he actually used.

11 MA Yes.

12 DM Did he say, in saying what happened, refer to a thing done by niggas? Is
13 that the word he was using in describing--

14 MA Oh, no, nuh uh. When he, when he said the, when he talked about the shot
15 into the, that topped him off, he didn't say, he didn't say them niggas, he
16 said then, you know, went over and, he said, you know, then went over and
17 topped him off.

18 DM Okay. He didn't, he didn't refer to anybody?

19 MA He didn't refer to anybody, but the eye contact, the body language with
20 (makes sound), he went over and (makes sound), topped him off.

21 DM Now as far as your reaction to what he was telling you, you said you were
22 kind of taken aback, if I understand you correctly. You were kind of

1 shocked by what he was saying you said?

2 MA Yeah. Because he, 100 percent clearly what he was doing was implicating
3 himself into it. And I was shocked that he had something to do with it. I
4 was shocked about him telling me just like that, I mean--

5 DM First of all, why were you shocked that he had something to do with it?

6 MA It's the homeys, man. I don't, it's, I just, I'd never heard his--at this point, I
7 never heard his name implicated in it, you know. Pretty much it was some
8 people--other people have heard his name into it, but it wasn't revealed to
9 me, you know, because after I told somebody about it, then they were like
10 that's crazy because everybody was saying that O had something to do with
11 that. And O means Omar. O means whatever you want to call him.
12 Something to do with it, and we already kind of suspected him. But at this
13 point, no one from my neighborhood revealed that to me. It was more, it
14 was a big secret thing and I'd been, I'd been, Omar was running around
15 pretty much--pretty much what he was doing, he was running around
16 bragging. He's running around bragging without actually just saying I did
17 it. But he was running around bragging. He was taking, he was trying to
18 take credit for, for pretty much killing T Kid.

19 DM Okay. Other than the conversation he had with you or in your presence,
20 were you aware of him going around telling other people?

21 MA I've heard other, I've heard other people come to me and say that, that they
22 had conversations with O and he did that.

1 DM Okay. So you're saying since the conversation you had with him--

2 MA Uh hm. Afterwards.

3 DM --you heard other people say--

4 MA Other people. A handful of people. A handful of people.

5 DM --saying that Omar had told them as well?

6 MA Yeah. Have told them as well. And I don't know what the conversation

7 was. I don't know if he explained the conversation like me. And their

8 conversation never got explained to me by the other people. They just told

9 me I talked with O about that, O did that pretty much.

10 DM Based on what he was telling them?

11 MA Based on what O was saying, based on his attitude towards it, based on the

12 body language. It was clear, it was clear as day, it was clear as day that,

13 that, that O did that. By the time people knew for a fact that there was,

14 there was, there was no other thing after being ran up on and him just

15 pretty much saying fuck T Kid, I don't care about that nigga, da da, and all

16 these, there was a whole bunch of different conversations with different

17 gang members from my hood. The shooting started happening on a daily

18 basis down there in the Central, it was a gang war. It was, it was, it was

19 scary. And like I said, O wasn't explaining hisself and wasn't trying to.

20 When I say O, I mean Omar.

21 DM Okay. But let, let me understand. After your conversation with Omar

22 where he said or indicated to you he was responsible or was involved, you

1 were hearing other people saying he was saying the same thing?

2 MA After. After. A handful of people.

3 DM Okay. But you got the impression that he was bragging about being

4 involved?

5 MA Yes. Got a very good impression of it actually.

6 DM Did you have a conversation with anybody where you told them what Omar

7 had said to you?

8 MA Yes, I did.

9 DM Who was that?

10 MA Walter. Walter. I don't know his last name, but I seen from my paper that

11 it's Hayden.

12 DM Why did you have a conversation with him about what Omar had said?

13 MA 'Cause me and Walt is closer than me and Omar. And me and our family

14 got babies together. We always rode together. Walt Nut is T Kid's best,

15 best friend and he was sick to his stomach about the situation. I actually

16 didn't even say it. I was actually contemplating about it, whether I wanted

17 to even bring it up, because I knew that once I say this and it's pretty much

18 the side that I chose. That's, you know, that I was in it. I knew that once I

19 opened my mouth about this, that, that, that the side pretty much got chose

20 from there, and so--

21 DM Okay. Choosing between what?

22 MA Choosing between the murderers of Terrell Milam and Deuce 8 pretty

1 much. But I also figured if I'd of kept my mouth shut, then I might as well
2 go ride with Omar and be a, and, you know what I mean, and pretty much
3 be in, pretty much--I can't explain it.

4 DM But the people that you say were coming to you were telling you that Omar
5 was telling them about his involvement, were these Deuce 8 people?

6 MA LP and Deuce 8. We even had, man, we had E Dewey, E Dewey Hellraiser.
7 Them guys were, I mean that's all old, man, that's all old, man, he did that
8 and something something and, and E Dewey talked to Walt and was like
9 into a certain occasion they both came into county, county together. And
10 Walt told me they had a conversation and Dewey was like--

11 DM Okay. Walt and who had a conversation?

12 MA Walt and E Dewey. E Dewey, Givens. I don't know his first name. I think
13 it's either Emanuel or Elmer. Do you know, Castleton, what is it?

14 JC It's Emanuel.

15 MA Emanuel, yeah. They, Walter and Emanuel crossed paths and, you know,
16 Emanuel was pretty much like, you know, I talked to him about that and
17 yeah, he's guilty. But pretty much trying to save hisself at that point, like,
18 like that's not me 'cause you know his house was, Emanuel's house was
19 getting shot up on a weekly basis.

20 DM For what?

21 MA For just being Omar's friend and being from LP, you know. So he was, his
22 life got on the line for that. And a lot of people from LP pretty much took,

1 took, took the rap for, for Omar's bragging. While Omar's locked up safe,
2 his friends are running around getting shot, getting killed because of
3 something he did.

4 DM So you talked to Walt Nut?

5 MA Um.

6 DM Do you know approximately when that was?

7 MA It was about, it was about a couple weeks. It's about a couple weeks I
8 think.

9 DM After what?

10 MA After me and Omar's conversation. It was about, it was about a, it was
11 about a couple weeks less than a month. I, I, I actually didn't see, I actually
12 at first didn't go straight to Walt and say something. My cousin Keira got a
13 baby by, by my partner Michael, who was Walt Nut's nephew. Like I told
14 you, our family got babies with each other and stuff like that, so we, we
15 consider each other family. I told Keira, I said man, my cousin Keira, I told
16 her about it. I said you know, I heard that Omar, you know, me and Omar
17 had a conversation and he said this and this and that. She went and told
18 Walt and Walt came and called me and was like hey, what's up, man, I
19 heard about the, you know, what did, what did O say. I was at that point
20 still kind of even not wanting to even just tell Walt like that or just tell
21 people because I knew that it was, it was a major, it was a major thing. And
22 so we had a conver-, he came over to my house at 32nd and Union, we

1 talked about it. And then when I talked about it, he was like more shocked.
2 He was like, he was oh. He was like, he was like, he was like
3 (unintelligible) he was like because of the details and of what--I guess Walt
4 knew details before I even knew 'em and just didn't tell me. And a lot of
5 people did. He was like well, that goes to show where the bullet hole--he's
6 like 'cause he, 'cause he got shot on the top of his head and he had
7 scratches on his neck. He's was like that's the truth and he was like Skrill,
8 referring to me, like, he's like that's the truth, Skrill, you're not lying about
9 that. I was like I know I'm not lying, I'm just telling you what the
10 conversation that me and Omar had. That's the conversation that we had.
11 No, he never said I and he didn't, and he wouldn't. No one would do that
12 unless they're just retarded.

13 DM All right. So what, if anything did Walter, Walt said he was going to do?

14 MA Huh?

15 DM Did Walt say anything about anything he was going to do?

16 MA No, he never said he was going to kill Omar or nothing. He just said we'll
17 handle it. And what he did was he ran up on Omar and asked him. He
18 didn't run up on him with no gun. He ran up on Omar and asked him, he
19 said man, what's up, da, da, da, da, I'm hearing that you, you know, this
20 and this and that. I don't know what was said because that's why, that's
21 why I'm saying what's up this and this and that. And he pretty much asked
22 him about Terrell Milam's death. Omar, his, what Walt told me Omar said

1 was, was nigga, fuck you, I don't give a fuck about T Kid. Even if I knew
2 who did, I wouldn't tell you anyway, nigger. Run up on me if you want,
3 pretty much. And then he was like--so then Walt came back and was like
4 this nigga pretty much, he, he, he, he gone kill you pretty much. Like I did
5 that, you know what I mean. He didn't, Omar didn't show no oh no, I
6 didn't do it, I didn't do it. He never been that way, never. When people ask
7 him about it, he, fuck T Kid, something, something, something. I don't
8 care about that nigger. They think I did it, they run up on me. And just,
9 you know, that's his, that's just his attitude. He just didn't care.

10 DM Okay. So you're saying that after your conversation with Walt Nut, Walt
11 Nut came back to you at some point and said he had talked to Omar?

12 MA Yes.

13 DM And the extent to which Walt Nut told you about that conversation, you
14 basically indicated that Omar said he didn't care about T Kid, who did it,
15 but he never actually came out and admitted it, but--

16 MA He never said I killed Terrell Milam, I killed T Kid. Nobody would do that.
17 I mean, that's just--

18 DM But Walt Nut's understanding based on his contact with Omar was to say
19 Omar had done it?

20 MA Yeah.

21 DM Whatever Omar said, he took that to mean Omar was admitting to doing it?

22 MA Yeah, yeah. Yeah, that and like I said, his friends were calling Walt Nut's

1 phone from LP, look man, just leave us out of it pretty much. That's on O,
2 man, and you know, we did talk to him and O's guilty pretty much. We
3 even had to change Flames James, which is Elmer's older brother, want,
4 want, wanting, wanting to pay Walt Nut and them guys to pretty much
5 leave him alone, wanting to pay money. And was like that's on Omar, man,
6 and something something. Even his own, even his friends now I see them
7 shake his hand, act like everything's cool and all that, but behind his back,
8 they was leaking this information too. He don't—I hope you don't think he
9 gots no friends, 'cause he really doesn't. All them people on his arm flaked
10 on him and running around putting his name out on, on, onto the streets,
11 so he might as well just, just get that tattoo covered. Everyone on his arm
12 flaked on him.

13 DM So Walt Nut, was he OG as well?

14 MA Yes.

15 DM And why do you think OG didn't take some action against, against Omar if
16 he actually believed Omar actually killed T Kid?

17 MA Well, you want to know the truth? I think Walt was scared to get back in
18 the mix. He was too old. He probably done so much dirt and got away
19 with it, he just, Walt got kids. He was already, he's laying (unintelligible).
20 He was already telling me that he about to go to church, start doing music.
21 Walt, Walt didn't, Walt didn't want to do, Walt didn't want to put hisself
22 out there. He woulda, he didn't want to put no, he didn't want to put

1 hisself out there. Now other people he may have put out there, but, and I
2 don't know anything about that. I don't know if he did. But I'm just saying
3 the other people he may have put out there and have them do something, I
4 don't know. But Walt hisself was not gonna go and shoot no gun and risk
5 getting caught. He might, he might ride around with one just in case
6 someone tried to do something to him. But as far as going out of his way to
7 do something, I think Walt was pretty much just scared of the
8 consequences. He was, you know, when you do so much stuff and you
9 make it to be that old as a gangster, you pretty, you don't want to risk
10 yourself like that no more. You got other people to do that for you,
11 youngsters that don't care.

12 DM So do you know when this conversation between Walt Nut and Givens took
13 place?

14 MA I don't, but it was, if you guys can check the county records is whenever
15 they were both in the same unit, some time within, within this time, from
16 the murder to now, they were both in the same unit. Givens is like you
17 know, I, my partner, my partner Michael even seen him and kinda ran up
18 on him like boy what's up. I already talked to Walt, I already talked to
19 Walt. He was like, you know, and kinda explaining hisself. Nobody want
20 to take the rap. Their whole, their whole, they didn't want to take
21 something for just what something that he did. I don't even think that it
22 was too much more LP people in there. I think it was--I mean. I don't

1 know. I don't know who else was in there. I'm not gonna tell who I think,
2 but that's just, that's just what happened. I can only tell you what
3 happened and what I heard and what I heard of Omar's mouth and. I'm
4 trying to remember 'cause it was a long time ago. But everything I do say
5 did happen and they did say it.

6 DM So Walt Nut approaches Omar, Omar says whatever he says and comes
7 back to you and says he's had this conversation with Omar.

8 MA Yes.

9 DM And then what happens?

10 MA Is there, is there any way we can, I, I, I, I, I have to go pee real bad.

11 DM Okay. We'll take a break. It's approximately 3:35.

12 -000-

13 DM Okay. We are resuming the interview with Mark Anderson. Today's date
14 May the 7th, 2009. It's now approximately 2:38.

15 ? 3:38.

16 DM 3:38. Okay. I think I was asking you about leading up to what happened
17 after you are told by Walt Nut that he had approached or confronted Omar.
18 What, if anything happened?

19 MA You said what now?

20 DM What, if anything, happened after Walt Nut tells you he had talked to, to
21 Omar?

22 MA What do you mean what, if anything happened?

1 DM Were you shot?

2 MA Oh, was I shot?

3 DM Yeah.

4 MA Oh yeah.

5 DM That came after--

6 MA Yeah, that came after Walt and another, me and Walt had a conversation.

7 Walt accidentally served me on a platter.

8 DM Say that again.

9 MA Walt accidentally served me on a platter. That's the phrase I like to use.

10 DM Why do you say that?

11 MA Because he was having a conversa--at this point, no one knew, nobody

12 knew like who was cool to Omar and who wasn't. People were saying

13 pretty much forget Omar but then hanging with him. It was, it was a cold

14 mix. I mean, if you got a group of friends, one person kills one friend.

15 Some people take sides with Omar, some people take both sides of the

16 fence, people say I'm not in this, people take this side, so it was a very

17 confusing thing, very dangerous. And that's why it got very dangerous. Lot

18 of people got set up. Most all the shootings were set ups from other friends

19 playing both sides of the fence pretty much. And Walt called another

20 friend. I don't want to bring him into this, but I mean, if you must know, I

21 will tell you, but Walt called another friend of ours and was in the, who was

22 in the car with Omar was in. He's like man, you know, we heard about--

1 DM You mean at the time of the phone call was--

2 MA Yeah, a phone call, yeah, this dude's--I'm not sure if he told Omar that hey,

3 Skrill told me this. I don't think he did at that time, but I think when he,

4 there was two other people that he did totally told. He told somebody

5 called Og. We call him Og. I don't know his real name. And he talked to

6 me about it, said, you know, Walt told me about that. He was like, you

7 know, I'm cool with Omar, I got Omar's--let's back up 'cause that when I

8 got shot. So he called a friend into the car that was with Omar at the time

9 and was like man, you know, something, something, something, this dude's

10 playing both sides of the fence He's like oh, oh, yeah, listen, who told you

11 that about all the stuff I said. Oh, Skrill told me that and he's on speaker

12 phone the whole time Omar is sitting in the car. Now, now was Marvin

13 Marshall, the person that I'm pretty sure that you guys are gonna call is

14 'cause I seen it, was in the car and he's my, Marvin's my cousin, my blood

15 cousin. Just so you know that. And he talked to me and said if you really

16 want to know, Walt's the one that got you shot 'cause he, 'cause he called

17 on the phone and the other person that was in the car, which wasn't

18 Marvin the one he was talking to but somebody else, was on the phone, had

19 on speaker phone and Walt was like yeah, you know, I heard this and this

20 and that and that, and that goes to show about this and this and that. Who

21 told you this and, you know. And then he said a few names. But one of the

22 names was, was, was, was, was Skrill told me this and what's his name told

1 me this and then, and so Omar's hearing all this in the car. And everyone's
2 name he said pretty much in that car got either shot at or shot honestly.

3 And he--

4 DM Okay. Let me slow you down and back you up. This phone call you're
5 saying that was made by Walt to someone in Omar's car while Omar was
6 present?

7 MA In a car while Omar was present 'cause I don't know if it was in Omar's.

8 DM Okay. In a car. Where are you getting that information that this phone call
9 took place?

10 MA From Walt hisself. He told, he told me that he found out what, he told me
11 he found out what happened. After Marv told me--Marv first, Marv first
12 told me what happened, I confronted Marv. He was like I know exactly
13 what he's talking about. He was like it was when I called what's his name
14 what's his name and we put it, we pretty much put it all together, you know
15 what I mean.

16 DM Okay. All right.

17 MA Really, what does it have to even do with, with, with, with the murder or
18 with me getting shot, I mean? It had something to do with me getting shot
19 actually but I mean, I just don't see--

20 DM Okay. I'm trying to understand what happened. As far as Walt telling you
21 that he had called somebody who was with Omar--

22 MA First Marvin Marshall called me and we're having, me and Marvin's

1 cousins. We kick it together all the time. We were sitting there, we're
2 talking about the situation and he was like man, you know, I would say, you
3 know, it's because you got my permission to kill him and da, da, da, da.

4 DM Wait a minute. Marvin said what now?

5 MA You got, he's friends with--you know, he's my cousin. He's still close
6 friends with Omar which I don't, that makes no sense. I don't know how
7 that makes sense but me and, me and Marvin don't, we're not really too
8 cool right now because of that. And he was still hanging out with Omar
9 after I got shot, after he know that Omar shot me. Everyone knew Omar
10 shot me. There was no doubt about it. But it just a point that he told me,
11 man, we're talking about, I'm like, you know, something, something,
12 something, something. I'm pretty much just telling him, I'm venting anger,
13 you know, 'cause I know that anything I say is gonna go back to Omar. I
14 know that, so I'm like yeah, to know something, something, tell him da, da,
15 da and this and this and that. He said really. He said Walt's the one that
16 served you on a platter.

17 DM Wait a minute. I want to get to the point before you were shot. I mean I'm
18 just, I'm not talking about after you were shot.

19 MA This is before I got shot. Oh no, no, no, no, no, no, no, it's after, this is
20 after, this is after, this is after. You're right, it's after.

21 DM I just want to talk now before you got shot.

22 MA Okay.

1 DM Are you saying your conversation with Marshall was before or after you got
2 shot?

3 MA Conversation with Marshall was after, was after. You're right, okay. I'm
4 sorry about that.

5 DM That's all right. But you had a conversation with Walt before you were shot
6 that he had talked to Omar?

7 MA Yeah, yeah. That was before I got shot, yeah.

8 DM Now this phone call you're saying that was made by Walt to someone in a
9 car with, with Omar?

10 MA Yeah. That happened before I got shot.

11 DM Okay. And how did you learn about this phone call?

12 MA After I got shot, Marvin Marshall told me that this phone call took place
13 when he was in the car at that, at that point, and Walt was talking to
14 somebody in the car who had him on speaker phone who Omar was right
15 there hearing the whole thing. And dude's playing—oh yeah, for real, what
16 else he say, oh yeah? That's crazy, that's crazy. Omar's sitting there the
17 whole time pretty much okay.

18 DM So before you get shot, you don't know anything about a phone
19 conversation?

20 MA Before, no, no, no.

21 DM But you do know that Walt has talked to--

22 MA A few people about it and, and put my name in it. You know, instead of

1 just saying I heard, he said oh, well, Skrill told me this. Skrill is me. Skrill
2 told me that.

3 DM Okay. You know that Walt has talked to Omar before you were shot?

4 MA Yeah, but I don't know if he put my name in there. At that point, I don't
5 know.

6 DM Okay. But you know, you say that Walt had talked to a few people other
7 than Omar.

8 MA Yeah. Yeah, that he thought were all the way Deuce 8. What I mean all the
9 way Deuce 8, I mean not slash LP, not straddling the fence, not trying to be
10 cool with Omar but still from Deuce 8. Pretty much he talked to some
11 people that thought, that would keep it a secret and that it would remain
12 into our circle.

13 DM But you learned this from Walt that he had talked to these other people?

14 MA No, I learned it from the people running up on me, telling me what Walt
15 told them. Walt didn't say hey, I told him, I told him. I learned this from
16 being in the streets and someone go hey man, Walt told me that da, da, da,
17 da, you know, and, you know, I talked to O or damn, you talked to O, what
18 do you mean, and he's like well, he's hot about it, or O found out about this
19 or that. Pretty much he was, Walt was putting me out there.

20 DM So you're saying that before you were shot, you were aware from other
21 Deuce 8 people that what you supposedly had told Walt had gotten back to
22 Omar?

1 MA Yeah. Yes. Yes. Say that one more time.

2 DM Okay. The people who were coming to you who were Deuce 8 were coming
3 to you and telling you that they were hearing that you had had a
4 conversation with Omar?

5 MA No, with Walt. Oh, yeah, yeah, yeah, with Omar and told Walt.

6 DM And told Walt.

7 MA And Walt told them.

8 DM And that Walt told them.

9 MA Yeah.

10 DM But you also went on to say something about—are you saying that these
11 same people are telling you that what they had heard had gotten back to
12 Omar?

13 MA Yes. What they had heard had gotten back to Omar. All you gotta do is tell
14 one person and it's gone, and it's gonna go from there.

15 DM Follow me on this. Not what you're assuming happened based on what
16 normally happens.

17 MA But what they told me.

18 DM They're telling you that what they were hearing had gotten back to Omar?

19 MA Omar. And Omar's looking for me.

20 DM And Omar's looking for you?

21 MA Yes.

22 DM And this is approximately how long after you had talked to Walt?

1 MA Took about, I mean, within a month. Within a month. Within, within,
2 within. I say during that time I think I did about one or two DOC
3 violations for 10 days here, 15 days here, 'cause me and Omar's cousin was,
4 was in there, at Snohomish County at one point in time. And this is before,
5 this is like maybe I think about a month before I got shot. I think we did
6 some time in February together or something.

7 DM Who's Omar's cousin?

8 MA His name's Deshaw.

9 DM And so you were aware before you got shot that Omar's looking for you?

10 MA Yeah, yeah, I was aware, very aware.

11 DM Okay. So did that cause you to do anything differently, go different places?

12 MA This is gonna sound, this is gonna sound pretty stupid and unintelligible,
13 but I didn't take Omar seriously, man. I mean, like I said, I been in the
14 streets, you know, I was gangbangin' on a way harder level than he was at
15 that point. I didn't, I looked at him like, even when I thought that he did
16 do that to Terrell, I looked at him like an accidental murder. I didn't, I
17 didn't even give him to much credit about it, you know. I didn't really
18 change up like that, no, I didn't. I was, I was more aware and more
19 watching. I didn't change up. I felt at the point I'm not gonna let nobody
20 run me up out my neighborhood or stop standing on my corner because
21 he's looking for me. I feel that he should be the one running around and
22 not standing on his corner, you know what I mean, not me, so.

1 DM When you hear that he's looking for you, at least what did you interpret
2 that to mean, that he intended to do?

3 MA Oh, he's about, he's about, he's gonna try to kill me. When someone's
4 looking for you, they're trying to kill you. And they're not gonna try to
5 come have a conversation with you and go have breakfast at Denny's with
6 you, you know what I mean, they're gonna come try to kill you.

7 DM So did you do anything in terms of trying to protect yourself?

8 MA I don't know what you mean by that.

9 DM Carry any kind of weapon?

10 MA No. I mean, I can't, I can't speak on that. I don't know. I don't remember
11 like that. I mean, are you trying to say was I carrying a gun at this time?

12 DM Right. Were you carrying—

13 MA At the time I got shot, no, I didn't have a gun on me.

14 DM So you didn't feel the need to protect yourself?

15 MA I had access to 'em, but I didn't walk around with 'em like I should've
16 really. I didn't take the, I don't know why I didn't take the matter as
17 serious. I just didn't. I didn't take Omar that serious. Even thinking that
18 he did it, it just, that didn't get to me.

19 DM So the night you were shot, where were you headed?

20 MA I was headed--actually, I was headed to go get my gun. I was on Yesler. I
21 had to go through Cherry and go to Union to go get my pistol because I
22 heard, 'cause a dude named Og and Alfred Barquet were standing on the

1 corner. And we're on 20th and Yesler at this time. And we're standing on
2 the corner and they're asking me other questions. Walt said this or that, he
3 was like, he was like why you tell Walt that, something, something. I was
4 like that's the conversation that me and O had. And he was like, they were
5 acting weird about it like well, I got O's number right now and he's not
6 happy. I'm like oh yeah? Now in my mind I'm like okay, he about to call
7 Omar to come get me. I get out of there.

8 DM Okay. So this conversation is with you say Barquet?

9 MA And Og.

10 DM Og. Do you know Og's full name?

11 MA I don't.

12 DM But so you all, you just, it just, it wasn't just a situation where you just went
13 past them, you actually stood and talked with them?

14 MA Yeah. Yeah, we stood and talked about it. He asked me--he even asked me
15 what did O say. And I said, you know, really, I'm not going to get into that.
16 I said you already know because Walt told you, so what's the difference.

17 He said yeah. He was like, you know--well, he told me that Walt talked to
18 him. I said well, you already know I'm not gonna get all into it again, Walt
19 told you whatever. He's like Walt shouldn't be running around just putting
20 you out there like that really. I was like that's very, very true. I said that's
21 very true. Like I got O's number right now. He was like, you know, I don't
22 know. He said that, that instantly my mind went to survival tactics, like

1 okay, it's going down right now. There's no way, I'm on foot. I got no gun.
2 I'm not gonna make it from 20th and Yesler to 32nd and Union without
3 getting shot. I knew that. Once I, once I left 20th and Yesler, I knew it
4 was, I knew pretty much that I was gonna get shot in the meantime from
5 there, but I was still heading towards it, to go get some kind of pro, pro,
6 protection.

7 DM Okay. I guess I'm not following you in terms of why did you think what
8 they told you meant that something was going to happen that immediately?

9 MA Man, why wouldn't it? Well, this dude been around telling everybody he's
10 gonna get me. Then some dude tells me he's acting defensively on Omar's
11 behalf. He's not even, it's not like he's telling me I'm right, I'm right. He's
12 like well, you know, he was like, our conversation was pretty much telling
13 us that he was on Omar's side. You see what I'm saying? And so, and then
14 he goes, 'cause I got Omar's number right now. And I was like oh, for real?
15 He's like yeah, I can call him up. And I was like oh, okay, well, yeah, you
16 know, just whatever, something, something, and I just kind of diverted the
17 conversation. I'm like I'm out of here, I'm going toward Cherry. I don't
18 even know why I even told him that. I'm stupid for that again. I said I'm
19 going towards Cherry. I told him that. And I walk and hit the back streets,
20 but I told him, I said maybe I'll hit just hit the back streets all the way to
21 Union. But when I (unintelligible) down on Jefferson, that's when
22 everything happened. We can get into that whenever you want to ask

1 about that.

2 DM Okay. Well,—so do you have an estimate how long you stood with him

3 talking?

4 MA Real quick. Real quick. Probably about a, about a, we had about a four

5 minute conversation maybe and I got out of there ‘cause I knew it, I sensed

6 it in my heart, felt it. I knew it. I knew it. There’s no misunderstanding of

7 what was gonna happen. I knew for a fact. Even in the back ‘cause I said a

8 prayer and I, and I, and I prayed to god and said that I know I’m about to

9 get shot, I just hope I survive.

10 DM You said even in the what?

11 MA In the back streets. Back streets, you know, not the main road. Before I hit

12 Jefferson, I stopped and said a prayer and I prayed to god and asked him to

13 at least let me survive. I knew I was gonna get shot. That’s how bad I knew

14 I was gonna get shot, that I prayed and said I know I’m gonna get shot, just

15 let me survive this.

16 DM Describe what happened as you were walking off.

17 MA Well, I walked down 19th, took a right on 19th and Spruce, took a left on

18 20th and Spruce, came out on 20th and Jefferson, took a right going

19 towards Ezell’s, going towards 23rd and the main intersection. And I got

20 about one block and I’m crossing the street ‘cause I’m about to hit this back

21 street, that 22nd and Jefferson back street, ‘cause now, ‘cause I know I

22 can’t walk 23rd, ‘cause when you walk 23rd, that’s not a good street to walk

1 when you got problems. And so I was actually crossing the street coming
2 towards where he was at. So I was looking at the back streets all the way to
3 Union. And so I was actually crossing the street coming towards where he
4 was at. At this point, I didn't see him until I got maybe three steps off of
5 the curb. And I looked and there's bushes right in front of this baby blue
6 apartment. There's a baby blue apartment across the street from Quincy
7 Jones', where he grew up, that old house, the entertainer. And there's
8 bushes right there. I kinda, I see something move, something, something,
9 you could tell there was something behind that bush. And then the
10 camouflage didn't work pretty much because it was a green bush and his
11 camouflage was black, gray and white, a shirt that I've seen Omar wear a
12 thousand times. He always wore this. And then I'm walking, so I see it, I
13 kinda stop, go what the fuck, what the hell is that. And I look and then
14 Omar comes out the bush, Omar comes behind the bush and he has a long,
15 a long barreled shotgun. And he had on a gray hoody with black, gray and
16 white camouflage shirt over the hoody, so the hoody, you know what I
17 mean? Put the hoody on, then you put the t-shirt on over the hoody. And
18 he had, and I seen the shotgun. And it was Omar clear as day, Omar's face.
19 He didn't, he didn't even have the hoody over his head. He didn't have it
20 tied up. He had his hoody down. It was Omar. Omar had a shotgun in his
21 hand, aimed it at me. At this point, I start to run back towards 22nd back
22 street the other way, going south now. And that's when I heard the shots.

1 He shot at me at least, at least two or three times with the shotgun. The
2 police, they got his, I read yesterday that they, that it was three shotgun
3 shells found. I just remember it was at least two or three times that
4 something got fired. At least two for a fact 'cause I got shot in both my legs.

5 DM So when you say this person comes out of the bushes--

6 MA Omar comes out the bushes, not this person. When Omar comes out the
7 bushes--

8 DM Let me ask the question please. You say this person comes out the bushes
9 and points gun at you, how, what distance are you from this person?

10 MA From about that pole to Castleton.

11 DM So anybody want to give an estimate of distance?

12 JC Well, you don't know the dimensions of this room?

13 MA Huh?

14 JC I don't know.

15 ? What was your description again, distance?

16 MA From that pole to Castleton. That's about, that's exactly as far as it was.

17 ? Say about 17 feet?

18 DM Okay. That sounds about right.

19 MA Yeah, that's a, that's about right, the pole to Castleton sitting right there.

20 DM And you recognized it to be Omar at that point?

21 MA Oh, yeah, it was Omar. No guarantee, no, yeah, it was Omar.

22 DM And the gun was already pointing at you?

1 MA Yeah. Well, he said what's up now, you bitch ass nigga before he shot the
2 gun off.

3 DM Okay. But I'm saying was the gun already pointed at you before anything
4 else was said?

5 MA Oh, no. When I first seen him come out the bush, it was, it was, he was, I
6 think he had it down like this. Then he raised it. When he raised it was
7 when I took off. When I first seen it, I was like oh, shit. And then, then it
8 got raised. And then I caught that last glimpse, that's when I, that's when I
9 took off. And in the process of that, two or three rounds got fired at me.
10 And I got hit in both of my legs.

11 DM Did you see any of the shots fired at you?

12 MA Did I see?

13 DM Yes. Were you looking at him at any points the shots were being fired or
14 was your back turned?

15 MA It was, the first shot was a peripheral vision view of it. The next one or two
16 shots were not. Next one or two shots was me back turned fully not seeing.
17 And I seen the first shot, I caught a glimpse of the muzzle going off the
18 first, at the first shot, the first shot.

19 DM Do you know where the muzzle was pointing on the first shot?

20 MA Pointing right to me! Like you mean like what part of my body it was
21 pointing?

22 DM Yes.

1 MA Just chest, just this level. Just straight like this. Wasn't, wasn't up like
2 this. Wasn't down either. It was straight. It was plain straight, just
3 straight up.

4 DM And when that shot went off were you hit from the first shot?

5 MA Yes. I was, I was hit from the first shot.

6 DM Where were you hit?

7 MA I was hit in my left, in my left part of my leg first. My, from my ankle all
8 the way up to my thigh. And then--

9 DM You're indicating your side. Is that what you're describing?

10 MA Yeah. Yes, yes. My left side. My left side of my leg to up to my hip.

11 DM And you were running. Did you ever go to the ground?

12 MA Yes, but I didn't fall and drop to the ground. It was more of a, I felt the
13 impact. I felt the shit come through and get me and like more of a push
14 and I kind of like, you know what I mean, kept myself up with my hands. It
15 wasn't like it just blew me away, like where I just, you know what I mean.
16 It was, it was, it was buckshots. I had a little impact that kinda, you know,
17 hit me, but I, but I caught myself onto the ground at one point in time and I
18 was ducking. I, I, I've learned from being shot--I've been shot at a few
19 times actually and I know that the best, it's hard to hit a moving target, that
20 if you move a lot and if you duck and you do a maneuver, you can get out of
21 a lot of, a lot of shootings that I've done before.

22 DM So you're ducking and dodging at this point?

1 MA Yeah, ducking and dodging.

2 DM After the first shot?

3 MA After the, after the first shot, yes.

4 DM And you hear two more shots you say?

5 MA At least, yeah, yeah. There was, I believe there was three shots fired. I
6 know for a fact two, but I believe there was three. I believe there was three
7 shots fired though.

8 DM Were you hit by any other shots?

9 MA Yes. I was hit by another round in my right side of my leg.

10 DM When you say right side--

11 MA Right side of my inside, not the outside. So it's like if I'm like this and he's
12 toward this way, bling, keep running, bling, like right here and right here,
13 all of it from outside, and my inside. I didn't have no bullet holes in the
14 outside here, just inside, just outside of my left leg and inside of my right
15 leg.

16 DM But you get hit on the inside of your right leg as you're running pretty much
17 to the side of where the gun is pointed or is the gun at your back at this
18 point?

19 MA I didn't see the second and the third shots. The first shot I seen, glimpsed
20 the muzzle, I felt it hit me. Then I, then I kind of fell. Not really fell to the
21 ground, just kind of like leaned over but, you know, and kind of maneuver,
22 start ducking. I thought I was twisting. I was like, I was going in zigzags.

1 Looks funny but it will keep you alive.

2 DM And when you're hit by the second time on the inside of your right leg,
3 what happens?

4 MA I felt a sting but my adrenalin rushing was so, was so, my survival tied with
5 my adrenalin, it was, I had to just keep going. I couldn't afford to fall on
6 the ground, so I just kept running.

7 DM How far did you run?

8 MA I run, I ran about to the half of the block of the next street. Probably not
9 even half, like a little less than half of the block, and I ran to somebody's
10 house in the back yard and then I knocked on the door. I was like let me in,
11 I just got shot, I just got shot and she's like get away from my door, I'm
12 gonna call the police. Then my mind got fear at that. What if he follows
13 me in the back of this house, and the back of this house was like there was a
14 fence. There was no other way to really go. Now I'm spooked. I'm like
15 what if he comes around here and just finishes me off pretty much. So I
16 start to panic. I don't what the hell I was gonna do. I knew I couldn't hop
17 that fence 'cause my leg was just aching. It was, it was stinkin'. I just, I
18 pretty much just sat in the back door for a minute and then I heard police,
19 then I heard police kind of coming and I ran out there. I waved down and
20 shit, they pulled their guns out on me, slapped me on the ground,
21 handcuffed me like I'm the one that was shooting. That was very
22 disrespectful honestly.

1 DM Let me ask you this. I'm going to show you a street map and ask you on
2 this street map if you see the location where you say you had contact that
3 night.

4 MA Okay. I was in front of the Magic Wheels. You know where the Magic
5 Wheels is at, the all black biker gang. It's a, it's a, the only all black biker
6 gang in Seattle probably, the Magic Wheels. It's a small office.

7 DM No, I don't know where that is.

8 MA Okay. I'm trying to think of where it's at. It would be on, it would be on, I
9 was on the corner across the street from the park, not--so right here. Let's
10 see, which way is going towards--that's the one for Jefferson, so. Hold on,
11 let me--

12 DM This is 23rd here. This is Garfield playfield.

13 MA Yeah.

14 DM Pratt Park, Yesler--

15 MA I was across the street from Pratt Park, yeah. I was across the street from
16 Pratt Park, so I was going, I was right, let me see. Yeah, right here. This is
17 where I was at. I was going right here.

18 DM And you're pointing to Yesler and what's this?

19 MA It's 19th.

20 DM 19th.

21 MA 19th. Yesler and 19th, right there. That's exactly where I was at, that
22 corner right there. Magic Wheels is right there, so they were right here at

1 that corner.

2 DM Okay. So if I put a spot at that intersection somewhere in that area, you

3 ran into Barquet?

4 MA Yeah. Yeah.

5 DM And from there, can you trace with this marker the route you would have

6 taken to the spot where you were shot?

7 MA Yeah. This is where I got shot at, right here.

8 DM Okay. You're indicating 22nd and Jefferson?

9 MA Is where I got shot. He was hiding in the bush right here, so came out.

10 Before I mark it, let me make sure I--

11 DM Okay.

12 MA Where's Spruce at? I don't see Spruce. That's what I'm saying. I don't see

13 Spruce Street. This is Spruce right here? So I came--oh, East Spruce, okay,

14 yeah. So I went like this and then I came, yeah, so I went this to East

15 Spruce. I hit a, where's Jefferson? Where does Jefferson come across?

16 DM You've got your finger on Jefferson.

17 MA This is Jefferson right here?

18 DM No, no, no. Right here.

19 MA That's Jefferson, okay. It's more like this then. This is exactly what I did.

20 So I went like this and then came like--no, fuck. I think I fucked up, man.

21 No, I came like this. Hold on, hold on. Yeah, not this. I came right here.

22 This is, this is, this is what I did. This is exactly what I did right here.

1 Bling, that. So this right here is not, that this line right here is not where I
2 went; I went like this.

3 DM Okay.

4 MA Bling, bling.

5 DM All right. And you--

6 MA Got, yeah, I got shot right here.

7 DM All right. The route you were taking would have taken you where? You
8 said you were going home?

9 MA Yeah, I was going home. I was going, now I was gonna hit, I was gonna hit
10 22nd right here and Union. And if I'd a hit 22nd all the way down, Union
11 would have been over here. I don't see Union on here, but Union, Union
12 Street would have been over here. And then I was gonna come up to 32nd,
13 which is gonna be up here. I was gonna hit this back street instead of going
14 like this and then walking 23rd all the way to Union and then walking
15 down, that's hot, you can't even do it like that, so.

16 DM So the route you took were what you call back streets. Is that right?

17 MA Yes.

18 DM And did anybody appear to be following you that you could see?

19 MA No, I didn't see no one following. Honestly, someone drove past me that I
20 always kind of suspected, but I'm just not gonna get into that. Like I can't
21 tell, but they're from Dearborn and they drove by. He's my cou--, he's like
22 half related to my family. I don't think he set me up, but he did like pass

1 me. But he didn't even look at me when he drove past me, so I don't think
2 he could see me, so no, I don't think no one was following me.

3 DM Where you say Omar was set up in the bushes--

4 MA Yeah, he was set up. He was already in the bushes.

5 DM He's already in the bushes?

6 MA Was already in there, yeah.

7 DM So did you see anything that would have let him know what route you were
8 taking to get to your house?

9 MA Well, for one, Barquet knows my route that I take to get to my house. We
10 walked it, we walked that route for years. It may sound strange to you, but
11 it's just a route that you take from Yesler. You never walk down 19th and
12 then come down 19th. You always hit Spruce, hit that corner. And why?
13 Because for really, it's a drug route. It's when you're selling drugs, you
14 know which streets and which corners to hit that are most active streets.
15 Once you get past 19th and Spruce, you keep going down Jefferson. You're
16 not, you're not gonna make no money going down there. At that time, no, I
17 wasn't trying to make no money, but I'm so used to taking that route to
18 make money. You come down 19th on the back streets right there, all dope
19 sales, you take a right on 19th and Spruce. All dope sales, you take a left on
20 20th and Spruce and the back streets, you can always catch dope sales.
21 Then you take a right. Then, then, then you take a right on Jefferson. You
22 can hit 22nd and 23rd and make dope sales. Now I took 22nd 'cause I

1 wanted to be more safer. So it was just a route that I always took that
2 Barquet even knows this route 'cause it's a route that me and him walked
3 for years, for years. It's just a route that everyone takes when you're
4 walking and you're selling drugs because, 'cause you're gonna make money
5 along the way. You want to make sure wherever you're going, you're gonna
6 hit spots. I'm trying to go to the liquor store, every block I hit's gonna be a
7 drug block 'cause I don't have time to, 'cause you're trying to make money.

8 DM Did you see any vehicle nearby where you say Omar came out of the
9 bushes?

10 MA No. But someone that seen the shooting told me that, told me the car that
11 they got away in though.

12 DM And what car was that?

13 MA It was Lionel Givens' white Caprice.

14 DM Lionel Givens?

15 MA Lionel. Lionel. El Nino.

16 DM Who gave you that information?

17 MA My partner Murder and my partner Stee.

18 DM Wait a minute.

19 MA My partner Murder. I don't know his real name. And my partner Stee,
20 they came to the hospital when I, when I got shot, they came up there and
21 was like we seen them get away in Lionel's car, whatever night.

22 DM And they told you they actually saw the shooting?

1 MA Oh yeah, they seen everything. Yeah, they told me that they seen it, yeah.
2 They were actually, they were coming down from Garfield. Actually, three
3 people seen the shooting. Robert Isabelle, Stee and Murder. Rob was the
4 one that called the police. It's kinda funny 'cause he said white man down,
5 white man. He said that because the police would come faster he said.
6 They got there pretty fast too, faster than I ever seen them jump.

7 DM You said Robert Isabelle?

8 MA Yeah. He's, he's the one that made the, made the phone call.

9 DM But he's a friend of yours?

10 MA He's a friend of both of ours.

11 DM Who's both?

12 MA Me and Omar's.

13 DM And then--

14 MA He's not, he's not my friend no more, but.

15 DM Did Robert Isabelle tell you he saw what happened?

16 MA No, he didn't. Robert Isabelle didn't, didn't, didn't say so. Stee and
17 Murder did. Robert just said he, he seen, he seen me get shot and he said
18 he called the police. He was actually at Garfield. At this point, Garfield
19 wasn't reconstructed and everyonewas still hanging out on top of the
20 pyramid and hanging out in that parking lot. And he was walking, crossing
21 the street up 23rd and seen me actually, and seen me actually get shot. I
22 don't know if he recognized the person. He, he knows who did it though of

1 course, but I don't know if he recognized him as Omar at that point or what
2 but he seen, he seen, he seen the action pretty much from like a block or
3 two distance. So did Stee and Murder. They were coming out of Ezell's
4 and they hit the corner. He said they seen everything.

5 DM Do you know where they are now, Stee and Murder?

6 MA Stee, Murder. In the streets.

7 DM Had you ever given their names to anyone before about being witnesses to
8 what happened?

9 MA No. Don't like implicating everybody in your shit, you know what I mean.
10 I don't police to go round up five, six people on my behalf. It just makes
11 me look even worsen.

12 DM Did they tell you they recognized it was Omar?

13 MA No, they didn't. They said they seen them hop in Lionel's car. I'm not
14 gonna lie and say that they said oh, I seen Omar. They said they seen him
15 hop in Lionel's car. They recognized Lionel's car, Caprice, a white Caprice.

16 DM Do you remember being asked about who shot you before you got to the
17 hospital, being contacted by police and asked who shot you?

18 MA I remember being asked? Yeah, I remember being asked.

19 DM What did you say?

20 MA Yeah, I said I don't know.

21 DM Do you also remember being asked while at the hospital?

22 MA Yeah.

1 DM What did you say?

2 MA I don't know.

3 DM And why did you say I don't know both of those occasions?

4 MA Because, honestly, I can only tell you the truth, honestly, for one reason, I
5 wanted to kill Omar after he shot me and I was looking for Omar after he
6 shot me. And if I would have seen Omar, I would have killed Omar, just to
7 let you know that. And I didn't want to tell--and I, and I, and I didn't want
8 to, I didn't want to tell. I didn't want to put all my street credibility down
9 the drain. I wanted revenge. That's really the reason why. The, they said
10 about being scared of the retaliation on my other segments, that wasn't
11 really even a fact. I wasn't scared of retaliation. I wasn't scared at all. If I
12 was scared at that point, I would've told on Omar so he can be in jail and I
13 can be safe. I was not scared. I wanted revenge on Omar.

14 DM So you wanted to handle it yourself?

15 MA Yes, exactly. I wanted to handle it myself without the police being
16 involved.

17 DM And how long were you in the hospital?

18 MA I checked out in about three and a half, four hours. They wanted to do
19 surgery. They wanted to peel my skin back like a potato, take out all the
20 buckshots and then put this fake skin on me. And I asked them to show me
21 what it looked like. They showed me a picture of another surgery that been
22 done like that and I told them no.

1 DM When you left the hospital--

2 MA They gave me crutches.

3 DM You were on crutches?

4 MA Yeah.

5 DM For how long?

6 MA On crutches for--consistently I was on crutches for at least two weeks. My
7 legs was swollen up, looked bad, looked real bad. I had little pellets stuck
8 all in my skin, it was swollen. I was getting infections. Then I caught a
9 minor leg infection and I went to the hospital to get leg infections pills for
10 them. I couldn't walk pretty--it took me altogether two months to walk
11 without a limp. Maybe even more. As of right now, I can't run upstairs, I
12 can't--

13 DM In terms of getting around, how long did it take before you could get up
14 and get out?

15 MA Took about a, took me about a month maybe to really--I was, I was, I
16 stayed in the house for about a month recuperating, getting, getting healed
17 up pretty much. My partners was telling me just lay, just stay there pretty
18 much. They was like pretty much I got it, we got it. They was like you just
19 sit there, you're hurt right now, you're injured, lay down, don't come out
20 here and play right now pretty much, just lay down. I went, went to my
21 girlfriend's mom's house way out in Kent suburbs and laid low.

22 DM You say your partners told you they got it. What did that mean?

1 MA I don't know. They, that pretty much means I guess something might
2 happen to them or his friends or something.

3 DM To Omar you mean?

4 MA Yeah. Omar or Lionel.

5 DM What I'm getting at is were they telling you that they would take care of
6 Omar for you or what, what were they telling you?

7 MA Just they were, they were just telling me to lay low and don't come out and
8 play right now. That's what they were saying.

9 DM So once you are able to get up and about did you make any attempts to
10 locate Omar?

11 MA Shit. Guess I'm telling the truth here. Yeah.

12 DM What did you do?

13 MA Did what I can do. Rode by his grandma's house on Dearborn every chance
14 I got hoping to catch him in front of his house, hoping to see him
15 somewhere. I just, pretty much just terrorized Dearborn. Not, I mean
16 terrorize, not actually doing anything just, you know, just riding around
17 where I know he be at trying, trying, trying, trying, trying to find him.

18 DM And you did this by yourself or with other people?

19 MA By myself, with other people. This something happened many a time, not
20 just once, not just twice. Pretty much on a daily basis. My whole plan was
21 to get Omar. I even stopped selling crack just so I could get Omar.

22 DM How long did you look for Omar?

1 MA Until Omar got caught up in a drive-by shooting in downtown and went to
2 the penitentiary.

3 DM So once he got arrested, that's when you stopped looking for Omar?

4 MA When I stopped looking for him.

5 DM Do you have any idea why you couldn't find him?

6 MA Yeah. He was hiding. He was, he was, he was hiding real good wherever he
7 was at. He was nowhere to be found. No one was seeing him. Only time,
8 only time anyone seen Omar was when he was popping up shooting at
9 people. Other than that, it wasn't just catch him at AM/PM or you see him
10 driving down the street. It was never that. It was always if they seen him, it
11 was 'cause he was coming to do something.

12 DM When you, did you have the word out that you were looking for him?

13 MA Everyone knew. I mean, there doesn't even need to be a word out. People
14 knew my status. They knew, they, they, they knew what I was gonna do if
15 Omar shot me. They knew what was gonna happen. It wasn't enough to go
16 around and tell Omar I'm looking for him, tell Omar I'm looking for him
17 like Omar did, you know, how he went and told everybody I'm looking for
18 him. I didn't tell no one I was looking for him. I just went and looked for
19 him. No reason to go broadcast it to everybody that I'm looking for him so
20 if I do get, if I did get wrapped up, I had 10, 20 people coming to my trial
21 like Omar.

22 DM But what I'm getting at is whether you told him or not did people generally

1 know that you were looking for Omar?

2 MA Everyone know I'm looking for Omar. I went riding around, was looking
3 for him.

4 DM So would people call you and tell you they had seen him or not?

5 MA No. No one was seeing him. Only time they was seeing Omar is when
6 Omar was doing a shooting. He was creeping on the homeys, poppin' up
7 on them, getting them. So that's the only, that's the only times. He did
8 numerous shootings. This one and that murder was a small part of it.

9 DM And you're basing that on what, that he was involved in these other
10 shootings?

11 MA Yeah, I'm not, we don't have to really get into that if you don't want. I'm
12 not really here to talk about that, but he--

13 DM No, I'm just trying to, I'm just trying to--

14 MA Just trying to--yeah, just--

15 DM Is this things people were telling you or you witnessed yourself?

16 MA Oh, it's things people were telling me. I mean, people know who shoots at
17 them. It's not like people are running around wearing ski masks or
18 nothing. People don't do that really, not in my neighborhood. They bare
19 faced, you know. No need to hide and wear bandannas over your face.
20 People want to let you know that they're coming for you and they did that.

21 DM So Omar gets picked up or gets arrested for the shooting and goes to jail.
22 So did you get over what he had done to you at that point?

1 MA I'll never get over it. I'll never get over it. Never. 'Cause my legs are faulty.
2 And he may not see my pain, but I feel it every morning when I wake up
3 when I climb upstairs, when I try to run and play with my goddamn kids,
4 when I try to do stuff like that, that's when, that's when I get mad.
5 Sometimes my leg just shakes, trembles in my bed or I have pains.
6 Sometimes I wake up, my leg's green and blue. I mean, I will never get
7 over it honestly, you know. I would've rather handled it the other way than
8 this, but. Just handle it. I can handle it like this, so.

9 DM So you talked about learning after the shooting that, about this phone call
10 that was made to somebody in Omar's car while Omar was in the car. Who
11 was in the car?

12 MA Marvin Marshall, Michael Justice.

13 DM When you say Michael Justice, is he related to Charles Justice?

14 MA Yes.

15 DM How?

16 MA He's Charles' brother.

17 DM Charles is Michael's brother?

18 MA Uh hm.

19 DM Is that a yes?

20 MA Yep.

21 DM And is Michael Justice the person on the phone with Omar? I mean, I'm
22 sorry, with--

1 MA Walt Nut.

2 DM Walt Nut.

3 MA Playing it off, frontin' but then coming to me. He probably be my cousin,
4 you know what I mean, they frontin', frontin' me off, oh man, how you
5 doing man, are you (unintelligible), frontin' me off--

6 DM Who's supposed to be your cousin?

7 MA Michael. Them guys is, them guys is the close family--they're not blood
8 related but my, my, my mom used to baby sit them when they were kids.
9 His mom, his mom, she (unintelligible) his daddy's babysitting. I'm talkin'
10 about kids, kids and five, four, six, seven, you know what I mean, so it kind
11 of hurt me to know that they were playing both sides of the fence on me for
12 this little chump that they don't, that they just started messin' with, you
13 know what I mean, so.

14 DM But Marshall tells you about this conversation?

15 MA Yeah. My other cousin, yeah. My blood cousin at that.

16 JC Can I just clarify that?

17 DM Sure. Sure.

18 JC Is Walt on the phone with Omar?

19 MA Walt's on the phone with Michael Justice.

20 JC Michael, okay. Thanks.

21 DM Omar's in the car?

22 MA Omar's in the car. And I talked to Michael Justice about it on Christmas.

1 Like, like I said, we're, my family's close. His momma, I mean, you know, I
2 went over there to Christmas Skyway at his aunty's house. Me, him,
3 Bernard. Chuck was in jail at this time. Roldolph. We was all over there. I
4 asked him about it. I said you know why you, why you, why you front me
5 off like that? And he said he didn't know he was gonna say my name. He
6 said when he started talking about it, he put the speaker phone on so O
7 could hear it. Then he said, when he said, when Walt said it was Skrill that
8 told me, he was like, he was like fuck, I shouldn't a did that, because he
9 didn't know that I was, he just said guess what Skrill told me, then he said
10 oh, what. He told the story first and then Mike said well, who told you that,
11 so he could give O the info so O knows who told him that, then he go oh,
12 Skrill told him. And then Mike told me that he was like he fucked up. He
13 said, he said he admits he fucked up. Still, that's not no excuse for him to—
14 he's still riding around with him, so.

15 DM So once Omar goes to prison or while he's still facing charges--

16 MA When? Last time or this time?

17 DM No. I'm talking about the shooting you say he was arrested for in June, I
18 think it was in June '06 after you were shot. While you were looking for
19 him. When he goes to prison on that occasion, do you do anything to try to
20 get at him while he's in jail?

21 MA No. No way. I never shot no gun ever in my life. I didn't try to go shoot
22 nobody. Is that what you're implicating, that I'm trying to--

1 DM No, no. I'm asking did you try to contact anybody who was in jail to do
2 anything to Omar while in jail?

3 MA No, I didn't. I didn't want no one else to do it. I'd rather handle my
4 business myself. I don't need a group of people with me.

5 DM Now you were arrested at the end of May 2008, May I think 29th or 30th,
6 on a gun possession charge. How did the subject of Omar's shooting come
7 up during that arrest?

8 MA How did the subject?

9 DM Yeah.

10 MA Well, the reason why--well, prior to that, two days before that, I got shot at,
11 multiple rounds, but the police found so many rounds, it was ridiculous. I
12 got shot at in the back street two days before the, the shooting happened on
13 19th and Jefferson at Emanuel's house when I got caught with the, with the
14 pistol. They asked me more about that first and, and they pretty much,
15 they were trying to, they were trying to take care of me for Omar when I got
16 shot at. That's the only thing that there is about it. I don't know, maybe he
17 was scared about something like this happening in the future 'cause he
18 knew he coming to trial soon or maybe--I don't know. But I know that his
19 friends tried to kill me because of the beef me and Omar had.

20 DM Let me ask you a question. You say Omar's friends tried to kill you?

21 MA Yes.

22 DM Do you know the names of the people who tried to kill you?

1 MA Yes.

2 DM What are the names?

3 MA I'm not gonna get into that 'cause we're, we're past that. I'm not getting
4 into that.

5 DM Okay.

6 MA We're not on that case and I'm not bringing that case up and I'm not
7 testifying in that case so it doesn't matter.

8 DM Did you see these people at that time?

9 MA Yeah, I seen them. I know exactly who did it.

10 DM Have you identified those people to anybody?

11 MA I talked about it with the detectives. I also talked about not going to court
12 on them. But yeah, the names came up.

13 DM And how do you know they were there on Omar's behalf?

14 MA 'Cause they're Omar's people.

15 DM When you say Omar's--

16 MA I wasn't beefin' with Omar's people; I was beefin' with Omar. So to say, it's
17 not like I was running around shooting at anyone from LP or they were
18 running around shooting at me. No one ever shot at me but Omar. I never
19 shot at anybody in my life really and I didn't shoot at anybody from LP.

20 DM So what I'm simply trying to understand is you were assuming that they
21 were there on Omar's behalf?

22 MA Say what?

1 DM You are assuming because they were Omar's people as you call them, that
2 they were there--

3 MA Yeah, on his behalf.

4 DM --on his behalf?

5 MA Yeah.

6 DM Okay. Not because of something they said?

7 MA Oh no, no. It was just plain as day though, you know what I mean. I mean,
8 there's no other reason, reason for that to happen.

9 DM Okay. So on May 29th or 30th when you were arrested, what does that
10 incident have to do with the fact that you were arrested and talked about
11 Omar shooting you?

12 MA Oh, 'cause--well, because the conversation came up, like I said, about that
13 old shooting. They asked me why do you think that shooting take place. I
14 said because it was, it was somebody that shot me before their people tried
15 to come and finish the job. And then they came and said well, who did it
16 and who, you know, and I kind of didn't say nothing at first. And like, you
17 know, then he started talking and then I, then I, then I, then I talked, said
18 it, before a deal, before even a deal got discussed. It's not like they said
19 well, if you tell us, then a deal--I just said it. Then later on we talked about
20 negotiating something. But at first they asked me and I kind of sat there
21 for a minute, they were like and who did it, man, something, something,
22 something, you know. I was just like forget it, I'm tired of ducking and

1 dodging and being in stuff and all that. You know, I just looked at my life.
2 I just decided to make a decision to help me out basically, you know, so.
3 DM So you're saying that it was the police who first brought up Omar's,
4 questioned you about Omar shooting you, you didn't volunteer that
5 information?
6 MA No. No, I volunteered that information first. They, they didn't know
7 Omar shot me. They, they didn't--matter of fact, they thought someone
8 else shot me.
9 DM Okay. That's not what I'm asking. My question is you were talking to the
10 police and they were asking you about the incident where you got shot at--
11 MA Shot at two days prior to this shooting.
12 DM But how did that even come up? You were arrested on a gun possession
13 charge.
14 MA Yeah, but it was a shooting scene. Someone shot at somebody in front of
15 Emanuel's. I got caught with the gun that they shot at Emanuel with about
16 40 seconds later, so of course they thought that I'm the one that did the
17 shooting. And I didn't.
18 DM So they're asking you about who did the other shooting two days before?
19 MA Two days--yeah, to me. 'Cause they was like well, it's pretty much giving
20 me logic of them saying well, of course you shot at the house because two
21 days prior to that, someone just shot at you. And, and, we know it was an
22 LP cat's pretty much. And then two days later, I get caught at a shooting

1 scene with a gun that someone shot at somebody with, from someone from
2 LP. And the police, the gang unit knew that I was in the conflict with LP,
3 'cause I told them that it was an LP cat's when I first got shot. I didn't say
4 who though. I said, I did say, I said it was some cat's from LP but I'm not,
5 but I'm not gonna say I said. I did say that though.

6 DM And so you at that point made the decision to say it was Omar?

7 MA Yeah. I made a decision to say that.

8 DM Before any deals, any offers of help were made?

9 MA Yeah, before that. That was never even discussed until after, afterwards. I,
10 I decided to make that and tell them and then statements got, you know,
11 they wanted to do statements and tape recorders and I kind of was like
12 thinking do I really want to take it this far and then, you know, then, then I
13 asked, you know, how can this help me, you know, I said I already told
14 them, already told them about, about, about, about, about why Omar shot
15 me. I already told them about Omar shot me. Nothing come up for the
16 deal yet. Then they wanted me to write statements and they wanted me to
17 do a voice recorded statement and it's not gonna be, pretty much I didn't
18 want to do it for free, you know, I was just like, you know, if I do do this,
19 I'm gonna risk my life doing this, I'm gonna get something out of it, a nice
20 chunk of change tooken off and I can leave the state and get the hell outta
21 here. So then I brought it up of you know, hey, how can this help me. And
22 I have no problem continuing what I already told you and putting it on

1 paper and on voice recorder.

2 DM So what deal was made at that point?

3 MA The deal was made that I would be brought in for nothing but a gun
4 possession. That was the, that was the deal that me and the detectives
5 pretty much covered. This had nothing to do with (unintelligible) yet.

6 DM But I'm speaking now of that first time you told them it was Omar. Do you
7 remember who you were talking to when you first said it was Omar?

8 MA Shannon, Shannon Cobane.

9 DM But did you talk to somebody before you to Cobane? Did you talk to
10 Mooney?

11 MA Nope. I talked to Shannon Cobane first. I mean, well, you talking about
12 when I first first got shot? My first, I said I didn't know.

13 DM No, I'm talking about when you were arrested on the gun charge.

14 MA On the gun charge, I talked to Shannon Cobane about it. That's who I
15 talked to. Not Mooney. Mooney then came in and then I talked to Mooney.
16 Mooney was the second person I told it to. Shannon, Shannon Cobane was
17 the first person that I talked to and told everything to. Then came, then
18 that's when I talked to--

19 DM Takemoto.

20 MA Takemoto. I just say Tak. Then I talked to Takemoto. Then I, then I
21 talked to Mooney. Then I talked to them. Shannon Cobane was the first
22 officer that I, that I had any discussion about anything.

1 DM So who did you make the deal with first about what would happen if you
2 made a statement?

3 MA Well, Shannon Cobane talked to the prosecutor, called from the phone,
4 said, came back said hey, this is what we got for you. We just gonna book
5 you on just a possession with a firearm for now and then they said, then,
6 then once you get in, 'cause I got caught with some drugs, and then they
7 weren't gonna try to pin me for the, for the shooting 'cause they know, I
8 think they knew that I didn't do it honestly. That's why they weren't gonna
9 try to really do all that. They could if they wanted to. I got caught with a
10 gun that, that just got fired off, so if they easily wanted to be assholes, they
11 could've pinned a drive-by shooting on me, discharging a firearm, assault
12 2. They could've did whatever they wanted to, you know, so instead of
13 taking it that way, they just brought me in with a gun charge. And they
14 said when I go in that the, that the prosecuting attorney will come talk to
15 me and will negotiate something with me. So pretty much, you know, from
16 my cooperation with them, just a gun charge got stuck at that time.

17 DM And this is still while you're first talking to Cobane?

18 MA Yeah, talking to Cobane. And he called the prosecutor's office and they
19 said fine, just book him on that gun charge, that's it, bring him in, we'll talk
20 to him later.

21 DM And then next after that you said Mooney comes in?

22 MA You said what?

1 DM Did you say--

2 MA Mooney, yeah. Then after that, Mooney came in because it was, I think
3 he's the, was the officer that come on the first part of this, when I first got
4 shot by, by him, so. Then we came in and we finished out the statement
5 and did that. And then me and Shannon Cobane did one and Takemoto. I
6 talked to Mooney afterwards I think. I talked to three people, that day, so.

7 DM So other than the call that Cobane made to the prosecutor's office and then
8 they told you about that conversation was there any other discussion about
9 what would happen on your behalf as a result of your cooperating?

10 MA They just told me that, they pretty much told me that they'll do what they
11 can do to get these charges dropped as much as possible, down to as low as
12 possible. Didn't want to make no promises or nothing but just told me they
13 could do what they were gonna do. They were gonna call the prosecutor's
14 office. But right now, they're just gonna book me onto a firearm charge.
15 Then when I get in there, we can negotiate something else 'cause there's no
16 way I'm gonna just take a VUFA 1, still 63 to 83 months and testifying on a
17 murder and assault 1. I wasn't gonna do that, you know, 'cause then I have
18 to still go to the penitentiary. I probably won't make it now, so I need less
19 time as possible.

20 DM So do you get released or held in jail?

21 MA I get held in jail. They called, they made a call and asked can I get released.
22 They said no, you gotta book him in.

1 DM So how long do you stay in jail?

2 MA I stay in jail 'til May 30th to August 18th and I bail out \$25,000, \$2,500
3 and a car title. I bail out. No bail reduction, no help. I bailed out myself.

4 DM So you get bailed out and come back to jail at some point?

5 MA I come back to jail January 11th. I missed a court date December 15th,
6 December 16th. Bounty hunters came and kicked at my door, shot me with
7 a little taser gun a couple times and then.

8 DM Was the date you missed in connection with the gun charge or something
9 else?

10 MA I missed a court date with the gun charge at the, at the point they're
11 pushing my stuff back 'til this is over with, so, you know.

12 DM Were you in jail on some kind of violation proceeding between the time you
13 in from May up until January of '09?

14 MA Yeah. I had a DOC warrant for getting caught with a gun.

15 DM When was that? When did you get picked up on that?

16 MA The day I got caught with the gun they automatically gave me a DOC
17 warrant.

18 DM Okay. So that was based on the May arrest?

19 MA May arrest. And then I was getting bailed out, then a assault 4 took place,
20 or something.

21 DM But I'm saying as far as the DOC hold, did the DOC put a hold on you while
22 you were in from May 'til August?

1 MA Yeah. I had to do 180 days.

2 DM So was the 180 days counted between May and August?

3 MA And August 18. Good time, yeah.

4 DM Okay. So that's when you were free to go?

5 MA Yeah, when I was free to go.

6 DM And then you got picked up in January?

7 MA I got picked up in January, yeah, for missing court dates.

8 DM Have you been in custody since that time?

9 MA Yeah, been in custody since then.

10 DM Is there any agreement for you or was there supposed to be some kind of
11 release at some point on home detention?

12 MA Yeah, yeah. This is after--then like I told you, well, we haven't talked about
13 that part yet. Then me and Castleton made an agreement.

14 DM Okay. So the home detention release is part of the agreement with the
15 prosecutor's office?

16 MA Yeah. Yeah. But I never, I never did it though. I stayed here because I had
17 trouble of finding a place to go for house arrest. People were, kinda were,
18 they were I don't know. I had trouble finding places to go for house arrest
19 so I ended up actually staying in here.

20 DM You mentioned something about at some point an Auburn charge. Is that
21 the assault 4 you're talking about?

22 MA I didn't mention Auburn charges. I mentioned assault 4. You just said

1 Auburn charge, so you must know about it then, that's what you're saying.
2 But yeah, I did have an assault 4 in Auburn.

3 DM So that came up when?

4 MA That came up in September.

5 DM Were you in jail for that for a while?

6 MA Eight days. I did eight days and that's it.

7 DM Have you been held at any point since May of '08 in the downtown jail,
8 King County jail, across the street? Have you been held down here at some
9 point between May, between May, end of May of '08 up until now?

10 MA Yeah. Now I'm in--January 11th I got booked in here. They brought me,
11 they brought me here and I've been there ever since, in the protective
12 custody unit.

13 DM While you've been down here have you discussed with anybody the deal
14 that you made with the prosecutor's office, any other inmates?

15 MA Honestly, yeah, I have. I have. I discussed the deal, not discussed
16 everything. I just told somebody that they--somebody was through the
17 window and was like, pretty much like seen the paperwork. They was like,
18 they was like why you doing that kinda like, you know. And I was like, and
19 I told him I was, I used sign language and I told him, you know, I said I'm
20 getting a deal whatever, you know. Don't worry about me pretty much,
21 worry about yourself. Dude I was talking to is in there looking at 180 years
22 for killing a dude from Philly. He shouldn't be worried about me. He

1 needs to worry about his own stuff.

2 DM Were you telling people that you were going to get released on home
3 detention?

4 MA Yeah, but not because of the deal. I told people I was under house arrest.
5 Why you asking me this? Can I just ask you that please?

6 DM I mean, if you don't want to answer, that's fine. I just need to ask the
7 question.

8 MA Okay. Well then, I didn't know I didn't have to answer.

9 DM As far as the incident itself about what you knew about Omar, did you
10 discuss that with anyone, any inmates at the jail?

11 MA I don't know.

12 DM I'm sorry?

13 MA I don't, I don't know. I will answer any questions that got to do about the
14 case. If there's, if there's any conflict of somebody calling you trying to get
15 a deal off of me or something, then we need to talk about that. I'd rather
16 know about that now than getting cracked with it later or something, if
17 that's why you're asking that question.

18 DM In your statement in May of '08, at least in one of them you mention the
19 fact that Omar had a gun with him. In this Lexus.

20 MA Yeah.

21 DM You said it was a nine millimeter.

22 MA Yeah, it was a—I don't know. Now see now hold on. Let me clarify this.

1 That's something that I was looking over too that I do want to recall.
2 Before the murder I knew he had a nine millimeter Ruger with extended
3 clip. When I seen him in the car, he had another similar nine. I can't say
4 for a fact that it was the same one that I seen from back there, because I
5 also do remember being with Omar with him getting caught with one of his
6 guns. I don't know if it was that one. And he got booked in and told on D2
7 or wrote a statement and got out in like three or four hours. And so that's
8 the time I was talking about. But when I was in there, he did have a similar
9 nine. Like I say, we're on a dark street, the car was dark, we're smokin',
10 we're drinkin', but he did have a handgun onto his lap. But I don't know if
11 it was that same nine Ruger that I seen before, but I know before the
12 murder, he had a nine Ruger with extended clip.

13 DM How often would you see him with it before Milam was killed, this nine?

14 MA Before who was killed?

15 DM Milam.

16 MA Oh, how often I seen him with it? That was his, pretty much his gun of
17 choice. That was the one he was carrying around.

18 DM But over what period of time would you say?

19 MA That's hard to say. That's hard to say 'cause—that's hard to say. That's hard
20 to say. It may be a few months maybe.

21 DM You also mentioned a 30-30 handgun.

22 MA Yeah.

1 DM Where did you see that?

2 MA He (unintelligible).

3 DM What?

4 MA He was showing everybody that one. That one, that one was a, I never seen
5 no gun like before actually, it was crazy. It was a big old 30-30 handgun
6 with 50 caliber bullets in it.

7 DM And you're saying you saw that before Milam was killed or after?

8 MA I seen that one before.

9 DM And where did you see him with that gun?

10 MA Just (unintelligible), driving through, have it on his lap, showing
11 everybody. He got in an argument with somebody one time, pointed it at
12 them in front of 20th and Jackson in front of the Emo. Just, you know, I
13 seen it and everyone knew Omar had this big ass silver gun with, with, with
14 these big old bullets in it that I, that I assume are 50 caliber bullets.

15 DM How did you know it was a 30-30?

16 MA 'Cause he told me it's a 30-30 handgun. That's, that's, that's what he told
17 me. Now I usually know that are 30-30s are like rifles and so he was like
18 naw, this is a 30-30 handgun. I've never heard of one before. I never even
19 seen one before. I'm pretty sure he know what his gun. It really resembled
20 a 50 caliber. I seen a Desert Eagle before. That's what it looked like, but
21 one thing the Desert Eagle is they have a muzzle like this. That one didn't
22 have a triangle muzzle, it had a big old, you know, circle muzzle.

1 DM So other than the nine millimeter Ruger and the 30-30, have you seen him
2 with any other guns?

3 MA No. Just heard, but what I seen, that's Omar's I seen.

4 DM What had you heard of?

5 MA I know when he was running around looking for me, he had a, a Mack 90
6 with a sling around it. Run around with a Mack and a shotgun. They were
7 trading a shotgun off, hitting—I was one of the three people to get hit with
8 the same shotgun. I was one of the three people to get hit with this exact
9 same shotgun.

10 DM You talking about people shot by Omar or just the gun?

11 MA Just the gun. They were passing it around within the LP.

12 DM What is your relationship, if any, with Charles Justice?

13 MA Very, very close. Very, very close. So close we call each other cousins. Like
14 I say, my mom used to baby sit 'em. His mom used to baby sit me.
15 Christmas time, I'll be at their family's house, they'll come to mine's. We're
16 real, real close. I'm talking about like when I mean close, I mean like four
17 or five years. When I was a baby, grew up with him. We stayed on 23rd
18 and Union until the Collins, they stayed Union but down the street more.
19 And their brothers played with my brothers and just became that. And he
20 calls my mom mom. I call his mom mom too, you know.

21 DM And is he associated with a gang, Charles?

22 MA Charles with Deuce 8.

1 DM And have you ever heard him talk about Terrell Milam's—

2 MA No, never. Never. Never. Never me and him never talked about that ever.

3 Well, actually we have, we have talked about that. We talked about it

4 where he would say they got me twisted, I don't know nothin' about that. I

5 wouldn't have did that and T Kid's my homey. He said stuff like that but

6 never talked about like what happened or if he was, his involvement. He

7 pretty much said he wasn't involved at all.

8 DM But you were aware that someone was accusing him of being involved?

9 MA Yeah, I was aware of that, yes. Someone was accusing him of being

10 involved in. Like I say, I don't know. I would hate to, I would hate to, I

11 would hate to believe.

12 DM What did you know of Omar's relationship with, with Rollo or Rafael?

13 MA Just somewhat cool, I mean, because Omar hung around Chuck, so. I'd say

14 he's like around him too because Chuck's Rollo's brother. So I mean, wasn't

15 super tight. I never seen them just ride together all the time or them mess

16 with each other like that.

17 DM But you, in terms of the two brothers, you would say Omar was closer to

18 Charles than—

19 MA Chuck, yeah. He got, he has Chuck's name on his arm.

20 DM This thing about this chain that was supposedly taken off of Ken Hamlin,

21 you say you saw that at some point?

22 MA Yeah. But you know, I can't identify if that was even the chain. It's a

1 rumor. I seen, I seen Thomas with a chain before. People said that that
2 was the chain. I don't know who the chain, he never told me that was the
3 chain. I just seen him with a expensive platinum chain cross like with
4 diamonds in it and stuff. I don't know if that was the chain. I don't know.
5 But I just, I seen him with a chain that people was saying that was the
6 chain. Rumors. I don't know though.

7 DM Do you know whether Tyree's death had anything to do with the feud
8 between LP and Deuce 8?

9 MA It did.

10 DM How do you know that?

11 MA Everybody knows that. It's just everybody knows that. I mean, everybody
12 knows that's what happened. There's some stuff in the streets that you just
13 know, you know. Just word of mouth common sense what's going on
14 around you. Just that's what happened. Tyree got killed because they
15 believed that—well, Omar's running around telling people that they were
16 burning the clothing at the spot. I don't know if he said he were, Omar
17 was, even when he told me, when he said they burnt it at the spot, everyone
18 was already saying that, that, that they knew that they went to to T Lee's
19 house. This is afterwards, after, way after what I heard and all that stuff.
20 Pretty much, you know, Tyree was riding around. And then even, even
21 when I got shot, Tyree was riding around with Omar two days after that.
22 So hold on, I do excuse myself, I did hear someone say they seen Omar, a

1 girl Danesha who stays in the Bryant Manor said she seen Omar two days
2 after I got shot riding around with T Lee, and I was very upset about that.

3 DM Upset that he was with T Lee or upset—

4 MA That T Lee was with him. Because T Lee, me and him (unintelligible), you
5 know what I mean. I mean, even before I got—T Lee knew what Omar was
6 gonna do to me. I should go to the spot on 20th and King, buy weed from
7 him. He started acting like it was the last time he was gonna see me. Every
8 time he seen me, he'll give me a hug, embrace me close and be like man, be
9 careful, you hear me, be careful. I knew what he was saying. There was no
10 reason to ask why you saying that, why you saying that because everyone
11 knew that O was looking for me.

12 DM So was T Lee Deuce 8 or LP?

13 MA T Lee was, T Lee, T Lee got 31st and Cherry on his arm. It's not a real big
14 popular gang. It's probably like six, seven people from it that just all grew
15 up on 31st and Cherry. And he, he associates with LP. I never really seen
16 him, I never really seen Tyree just throw up LP like boy, I'm from LP, but
17 he hung around all the LPs, so we (unintelligible) that came to his house.
18 He had a tight bond with them pretty much, so. But I never, I never
19 associated T Lee with, T Lee being from LP, just hanging around them a
20 lot, a lot where you would suppose he is. But he had 31st and Cherry on his
21 arm. He's from 31st and Cherry.

22 DM So I guess I'm trying to understand why would Deuce 8 go after him?

1 MA It's not, doesn't have to, I mean even doesn't have to be with just 'cause
2 you're—'cause he was hanging around all them guys. He was guilty. They
3 thought that Omar burnt the clothes at his house. They thought, they
4 thought he was guilty. They thought, they thought he aid in this incident
5 pretty much.

6 DM Do you know why nobody went after Omar?

7 MA Say what? You don't think they were looking for Omar?

8 DM I said if the word was that Omar had killed—

9 MA Omar got very, very lucky. That's why Omar's still alive. That's the only
10 reason he's alive, not because people weren't looking for him. People were
11 trying to kill Omar. He got shot at a few times. He just didn't get hit. He
12 got, he got shot at a few times. He shot at people a few times. It was back
13 and forth. People were trying to kill Omar. People shot up his grandma's
14 house, drove by on multiple occasions trying to find him, even knocked at
15 his door, knocked at his grandma's door one time and I threatened her. I
16 mean, people were trying to kill Omar. T Lee was just more of a we gotta
17 just do him pretty much.

18 DM What?

19 MA T Lee, it was more of a just he's guilty by association, we gotta slip him,
20 let's do him pretty much. It wasn't something that was just totally planned,
21 like T Lee just happened, somebody did that to him.

22 DM Do you know who killed T Lee?

1 MA I heard of who. I don't know, and I'm not gonna speak on that.

2 DM Did you ever talk to him, that is, Tyree, about that night, the night that
3 Milam was killed?

4 MA No, never.

5 DM What about Cedric Jackson?

6 MA Teddy Barquet?

7 DM Jackson.

8 MA Jackson? I heard—like I said, this is what I heard, for the record, so
9 whoever hears or whatever. I just heard that they did it in his car. That's
10 all I heard. I heard that they did it in Ced's car.

11 DM What kind of car did he have?

12 MA I heard it was a SUV. That's all I heard. Truck. Truck. I just heard that
13 they did it in his car. That's what I heard.

14 DM But you never talked to him about it, Cedric?

15 MA No, I'm (unintelligible) Cedric like that.

16 DM Did you talk to anybody who you heard or knew to be at the spot as you call
17 it the night that Milam was killed about what had happened that night,
18 other than Omar?

19 MA Talked to a David Milton that used to be at the spot. And he, and he—me
20 and him talked and he told me that, that pretty he know O did it too, he's
21 guilty. Said he needs, David Milton knows what happened. He, he knew
22 what happened, so he's another person that knows what happened.

1 DM And when did you have that conversation with Milton?

2 MA Couple times. Before I got shot we had a conversation about it. After I got
3 shot, we had a conversation about it.

4 DM Did you tell Milton about your conversation with Omar?

5 MA No. We never, we never—this is more what it was. Me and David, he never
6 told me what he knew; I never told him what I knew. It was more just yeah
7 I know all about that, he's guilty. Not more like me saying okay, David, I
8 was sitting in the car with him and me and O—I did that already too much.
9 I thought that was my mistake. So after that, I pretty much kept my mouth
10 shut about it. People ask me about it right now, I tell them I don't know
11 about it 'cause I just don't want to get into it no more. But David never told
12 me anything about what he thinks happened, he just said he knows O did
13 it. He said Omar did that, I know it. And I never asked him what do you
14 know. He never asked me what do I know.

15 DM Wes, do you have any questions?

16 WE A couple quick ones. How senior or what's your status in Deuce 8, how
17 senior are you or were you?

18 MA Like where was I?

19 WE How senior were you, yeah.

20 MA You mean was I? Was I.

21 WE Was I.

22 MA I was pretty, I was pretty active I guess you could say. They would say I

1 was—I mean I been bangin’ Deuce 8 since I was 20 years old, 23 years old
2 and I’m not dead or in the penitentiary for the rest of my life. That goes to
3 show for something.

4 WE So I guess on a scale if say T Kid’s like a 10 as far as seniority and wannabes
5 are 1, where would you be on that scale?

6 MA Probably about a 7.

7 WE Did you say that when you talked to Walter Hayden that he had known
8 about scratches on T Kid’s neck or some sort of marks on his neck?

9 MA Yeah, he know about that. He’s really close with T Kid’s family, so I’m
10 thinking that they provided him information with what happened. But
11 yeah, but when I told him, his face was in shock though. He was man, are
12 you serious, that goes to show for scratches on his neck (unintelligible), he
13 got shot in the middle of head. I was like—and it’s kinda like, you know,
14 kind of was like all the pieces were coming together.

15 WE And you mentioned when you were talking to one of the detectives, you
16 mentioned a person by the name of Tiger.

17 MA Who you talking about?

18 WE Do you know anybody by the name of Tiger, with the nickname tiger?

19 MA Yeah, I do. Why?

20 WE You had mentioned it in one of your statements that they were a person
21 that got shot.

22 MA Yeah, I mentioned him getting shot, but which thing are you talking about?

1 Do have that statement with you? How do you see that statement?
2 Where'd you see that statement at?
3 WE I think you made a statement like that in the hospital when you were in the
4 hospital.
5 MA I said me and Tiger Sims got shot with the same gun.
6 WE Something like that.
7 MA Yeah, yeah, I said that, yeah, yeah. 'Cause the police were like it's the same
8 gun that Tiger got shot with. I said yeah, I know.
9 WE What's Tiger's full name?
10 MA I don't want to answer that. I'm not into that. You guys can find that out
11 that any way you want to. I'm not trying to implicate no one else in more
12 of this shit. I'm dealing with Omar. I'm not dealing with anybody else. I'm
13 not trying to be an asshole or be rude. I just don't, I got enough bad tag on
14 me for doing this. I don't want to put 10 more people in it, you know what
15 I mean.
16 WE That's all the questions I have.
17 DM All right. I guess that's all we have. It's now approximately 4:57.

18 -OO-

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20
21
22

OMAR ALI NORMAN)
APPELLANT)
V)
STATE OF WASHINGTON)

NO. 63913-7-I

AFFIDAVIT OF SERVICE
BY MAILING

I, OMAR ALI NORMAN, being first sworn upon oath, do hereby certify that I have served the following documents:

Upon: COURT OF APPEALS DIV 1, King County Prosecution Attorneys Office
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By placing same in the United States mail at:

WASHINGTON STATE PENITENTIARY
1313 NORTH 13TH AVENUE
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On this 29th day of December, 2010.

Omar Norman 301004
Name & Number

Affidavit pursuant to 28 U.S.C. 1746, Dickerson v. Wainwright 626 F.2d 1184 (1980); Affidavit sworn as true and correct under penalty of perjury and has full force of law and does not have to be verified by Notary Public.