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INTERVIEW OF SEAN MENDELL

CERTIFIED COPY

REPORTER'S TRANSCRIPT OF THE
INTERVIEW OF SEAN MENDELL

APPEARANCES

DETECTIVE BRUCE JOWER

DETECTIVE TRACY REESE

Transcribed by: RAJAHNIQUE JONES, CSR No. 13457



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1 INTERVIEW

2 BY DETECTIVE JOWER:

3 Q. I'm Detective Jower. That's Detective Tracy
4 Reese.

5 You okay?

6 A. Yeah.

7 Q. All right. We're going to talk to you about
8 what happened, but just to go over a few things
9 first -- just to let you know, you're not a suspect in
10 this case. You're here freely and voluntarily. Okay.
11 You don't have to talk to us, but we need to figure out
12 what's going on. So we definitely hope that you would
13 want to talk to us. And any time that you don't want
14 to talk to us, you can leave. Okay?

15 A. Okay. I just want to know what's going on.

16 Q. Yeah.

17 A. I want to make sure --

18 Q. We're trying to get to the bottom of this as
19 well.

20 A. Okay.

21 Q. What I'm going to ask you to do is kind of on
22 your own just tell me what happened. All right.

23 A. Okay.

24 Q. And then, kind of like, just free talk.

25 A. Okay.

1 Q. S-e-a-n?
2 A. Yeah.
3 Q. Sean. Okay.
4 A. Mendell. M-e-n --
5 Q. M-e-n --
6 A. -- d-e --
7 Q. -- d-e --
8 A. -- l-l.
9 Q. -- l-l. And what's your date of birth?
10 A. 6/30/82.
11 Q. Okay. And what's your current address?
12 A. That's my current address.
13 Q. And what is that?
14 A. 1110 Boulevard Way, Walnut Creek, 94595.
15 Q. Okay. And do you know your driver's license
16 number by chance?
17 A. Yeah. D --
18 Q. Uh-huh.
19 A. -- 2538253.
20 Q. Okay. And your home number and your cell
21 number?
22 A. Home number is -- that's a good question. I
23 just got a new home number there. I'll just give you
24 both my cell phone numbers, I guess.
25 Q. Okay.

1 A. 925 --

2 Q. Uh-huh.

3 A. -- 330-9400. That's actually the cell phone
4 that Josh is using currently.

5 Q. So Josh is using this one?

6 A. Yeah. Because his got shut off, so I was
7 letting him use mine right now.

8 Q. Using this one. Okay. What's this one here?

9 A. That's -- they're both cell. This one is
10 510-287-6706.

11 Q. 06?

12 A. Uh-huh.

13 Q. Okay. This is what you're using now?

14 A. Yeah. That's my work cell. That's the one --
15 I always pick up that one.

16 Q. Okay. And how long have you been living
17 there?

18 A. I guess it's been a year now, maybe more.
19 That's a good question.

20 Q. All right. Okay. Now that I know who you
21 are -- well, you just start like we started.

22 A. So, yeah. I got in a dirt biking accident, so
23 basically I got back fracture in my lower vertebrae.

24 Q. Okay.

25 A. I've just been resting.

1 Q. Okay.

2 A. I've been there every day for the last --
3 since Friday. I had the accident Friday, so I haven't
4 been going to work. I've just been hanging out. My
5 girlfriend's in town for spring break, so she's been
6 there every second of the time.

7 I don't know. We just woke up. She heard it
8 first, I think. It was just -- it sounded like almost
9 metal banging or something. It's hard to say what
10 we -- I actually heard because the TV was on and she
11 muted the TV. And then I think I heard at least three
12 or four gunshots. That's what they were. I didn't
13 know that at the time. I thought it was just somebody
14 banging around something.

15 She went up and looked through the blinds and saw
16 that the back gate was open, and I said, "Oh, crap.
17 That's bad." The back gate can't be left open because
18 Abby will get out, the dog. Because people leave it
19 open sometimes. I said, "I'll take care of it." I
20 kind of sprung out of bed -- because I was like,
21 "What's that noise? What's going on?" I was like,
22 "What's going on here?"

23 I thought Josh was screwing around with something.
24 I was going to go talk to him. Because he was always
25 working on stuff. I opened my door. I walked out. I

1 saw the garage -- the back garage door was open also.
2 So I was like, Oh, maybe Josh is working in there or
3 something.

4 The house is always -- basically almost always
5 unlocked. Everything's unlocked. She started locking
6 it recently when -- six months ago -- maybe four months
7 ago there was another incident. It was probably the
8 same guy. Throwing a rock through the front window.
9 Throwing a rock through her back window. She's always
10 afraid of this guy. He's, I think, made numerous
11 threats to her and stuff. She's in a lawsuit with the
12 father of the guy.

13 So basically I saw the two doors open. I got out
14 of bed in a robe. There was just -- you know, I was in
15 my boxers, so I put on a robe, walked to the gate. I
16 walked -- there's grass and then there's a cement path
17 that goes around that, and the house kind of goes like
18 this. So I was walking on the cement path. I got to
19 where the rear sliding window was, kind of turned
20 right, and I was right in front of where the BBQ grill
21 would be there.

22 And he walked out of the back sliding window,
23 which -- where his -- Sam's room is. I'm guessing
24 that's where he went into. It's hard to remember. I
25 looked at him and I -- I think I may have even said,

1 "Who the hell are you," or something like that.
2 Basically just looked at him. And then he started
3 walking towards me and I was like, What's going on? I
4 didn't know.

5 I kind of, actually, put up my guard because I was
6 like, I'm going to tackle this guy. I don't know who
7 the hell this is. He kind of came over to me and --
8 "Where's Sam? Where's Sam Rhoads? Where's Sam
9 Rhoads?" Just kept repeating it nonstop.

10 I said, "Who are you?" He pulled out his gun. I
11 think it might have been behind his trench coat. I
12 didn't see it before then. I think at that time I
13 said, "Whatever you want" -- I was backing up. I said,
14 "Whatever you want. I'll give you anything you want.
15 Don't hurt me. Whatever you want. I'll give it to
16 you. You want it? I'll give it to you."

17 He said, "Where's Sam?" "Where's Sam, he kept
18 saying.

19 I said, "I don't know. Inside. I don't know. I
20 don't know where she is. I don't know. I don't know.
21 I don't know."

22 And he put the gun to my head -- I think I got on
23 my knees, kind of put my hands up, I guess, and said,
24 "Don't" -- whatever. Whatever. And I was squirming
25 around and I think I kind of squirmed my head around

1 and he shot and missed. He shot the gun. My -- this
2 ear. So I think it was this ear. I can't even
3 remember, but my ear -- I couldn't hear after he shot.
4 It was hard to hear.

5 I didn't know if it was a pellet gun. I didn't
6 know if it was a real gun. I didn't hear any ricochet.
7 I didn't hear anything. Immediately after I got shot I
8 thought I had got shot in the head. I didn't know what
9 was going on.

10 I didn't even know -- I kind of did that whole
11 thing. Okay. And he's like, "Give me your money."

12 I said, "No problem. I'll give you whatever you
13 want." I was like, "Open up my door." I was basically
14 inviting him in to take whatever he wanted. I said --
15 Mari- -- yelled, "Mariele, give me my wallet. Give me
16 my wallet." I think he was close to that door at the
17 time, and he just disappeared. I don't know where he
18 went. I didn't see him. I came back outside with
19 money, and he was gone. I didn't see him anywhere. I
20 didn't go anywhere. I was just standing next to my
21 door looking around me.

22 I said, What the hell am I doing? Ran into my
23 room. Locked my door. Told her to get away from all
24 the windows. Told her to get in my closet, because I
25 have a closet. I have so much shit in there. I just,

1 kind of, managed to crawl my way in there. Closed the
2 door and she started crying, and we were kind of
3 freaking out.

4 She's like, "We need to" -- when I came in and
5 asked for my wallet she's like, "Call 911. Call 911."
6 At that time I didn't want to because I didn't know
7 where. I thought he was right there. I didn't want
8 to -- I was afraid he was going to kill me. I didn't
9 want to make any, you know, any sudden movements or
10 anything.

11 Got in the closet. Was in the closet for, maybe,
12 two minutes. Realized, Oh, crap. I have to call 911.
13 I don't know what's going on. Got out. Realized my
14 door was locked. Told her and I to lie against the
15 door in case he tried to break the door in or something
16 he couldn't get in.

17 At that point I called 911. I was in my room.
18 The dis- -- I was on the phone with the dispatcher.
19 They put me through to, I guess, your local department
20 because they transferred me or something. And I just
21 kind of freaked out over the phone. I tried to stay as
22 calm as I could. I just said, "He tried to shoot at
23 me. He's got a gun. I don't know if it's a cap gun.
24 I don't know if it's real. I don't know what's going
25 on."

1 She said, "Is he still there?"

2 I said, "I don't know." And things basically went
3 from there.

4 I stayed on the phone. I didn't know if police
5 were there or what. I kept asking her. "Are they
6 here? I mean, am I safe to walk out?" I
7 instructed the officer -- I held my girlfriend's hand.
8 They told me to walk towards the sliding glass door. I
9 opened the sliding glass door. I went through the
10 house. I opened the front door, and then there you
11 guys were.

12 And then, obviously, I heard a bunch of times --
13 "I can't see. I can't see. I can't see." We just
14 walked out with our hands, and then you guys did it
15 from there.

16 DETECTIVE JOWER: Okay. Can I borrow a big piece
17 of paper from you, please?

18 DETECTIVE REESE: Sure.

19 DETECTIVE JOWER: I'm going to --

20 THE WITNESS: I smelled -- when I walked into the
21 house -- when I opened the sliding glass door I smelled
22 gun power. It smelled like a cap gun. I mean, it just
23 smelled like gun power. I mean, I'm sure they all
24 smell the same. I didn't go anywhere. I was -- my --
25 automatic everything -- when the guy was holding the

1 gun to my head too, I knew where Sam was. I wasn't
2 going to tell him. I didn't want -- I didn't want him
3 to know. I'm sure he already knew. He was already in
4 the house firing the shots off. He knew exactly where
5 she was. Unless she heard something -- I don't know
6 what happened. I don't know -- he probably confronted
7 Josh first. Josh said something. She locked herself
8 in the -- I don't know. I don't know what happened,
9 but I didn't want to tell him.

10 And then after he shot I was pretty much desperate
11 for anything. And then at that point he was just like,
12 "Give me your money."

13 And I'm like, "I don't have any money. I have a
14 little bit of money. I'll give you my wallet. I'll
15 give you" -- "help yourself. Take whatever you want."

16 When I was in the backyard too, I should add, I
17 asked Mariele when I was in the backyard, I said, "Do
18 you know how to hop a fence?" I was going to jump
19 over -- if she wasn't there, I would have jumped over
20 the neighbor's fence and ran as fast as I could and as
21 far as I could.

22 After he shot me I contemplated attacking him
23 because I figured it was a fake gun because I think he
24 basically shot me right in the head. I don't know if
25 he moved it at the last minute. I was moving. I mean,

1 it just happened so fast. That was my only thought.
2 Like, this guy is -- I don't know. I know it sounds
3 funny, but I kind of sized him up and I was like, I'm
4 going to do whatever I can, you know. But he was so --
5 he was so nervous. He was not a professional at this.
6 He had no idea what he was doing. He was trying to
7 reload his gun after he had shot me and fumbling around
8 all over the place.

9 I saw the -- when he pulled it back -- or after he
10 shot me, pulled it back when he was trying to reload it
11 and his hands were shaking. It looked to have two --
12 two barrels. It was a handgun maybe the size of this
13 paper. And I don't think he was wearing gloves, so I
14 don't know.

15 He was wearing a black beanie. Looked like it was
16 a long beanie, but he had rolled it up so it was like a
17 hat on him. Sunglasses. From what I remember just a
18 black trench coat and -- I'm trying to think of what
19 else. I think that's about it. Thank God my
20 girlfriend didn't go out there.

21 Q. Do you have --

22 A. I'm still curious -- the most curious thing I
23 am is if he had a real gun --

24 DETECTIVE JOWER: Okay. I need a Sharpie.

25 DETECTIVE REESE: Sharpie?

1 THE WITNESS: -- or if it was a blank or if it was
2 a misfire or what.

3 DETECTIVE JOWER: Just a new one there from my
4 desk.

5 THE WITNESS: I don't know if you have pictures of
6 guns. Recognize the gun, possibly. It was not a loud
7 gun. It was nothing like a shotgun or anything like
8 that.

9 BY DETECTIVE JOWER:

10 Q. Semi-automatic or revolver?

11 A. It looked -- he cocked it back. Exactly. He
12 was trying to reload it.

13 Q. What color?

14 A. Black. All black.

15 Q. What I'm going to do is when my partner comes
16 back I'm going to draw the layout that you drew for me
17 later, and we're going to --

18 A. Hopefully that helps.

19 Q. What we're going to do is we're going to go
20 through this, and I'm going to ask you specific
21 questions from -- we're going to fill in the blanks.

22 We're going to have a total picture, and we're
23 going to go sequence of events. But in order to do
24 that, once I draw the layout out you can show me
25 places. Because you mentioned things like BBQ, the

1 patio --

2 A. Yeah. Of course.

3 Q. I'll go ahead and draw it from what I
4 remember. Let's see.

5 A. Yeah. I'm not the best drawer of the house, I
6 guess.

7 Q. So this is Josh's room last time that you told
8 me; right?

9 A. Yup.

10 Q. Next room is a -- a bathroom.

11 A. I can give you scales of what size it is
12 compared to the other ones too.

13 Q. Just in general.

14 A. Okay.

15 Q. Then this is the laundry room?

16 A. Yeah.

17 Q. And then you have a room right here which is
18 just the office?

19 A. Workout room. Workout room is that one.

20 Q. I'm making a skinny hall, obviously.

21 A. Yeah. I understand. That actually is a lot
22 better. That's more what the hall is like.

23 Q. This is the office?

24 A. Yeah.

25 Q. And then there's a closet, you said? Is it a

1 small one door closet you said right here?

2 A. It's actually a walk-in closet. It's probably
3 half of the size of the room -- of the office.

4 Q. Walk-in closet.

5 A. That looks right there.

6 Q. There's a sliding glass door right here that
7 goes to the backyard; right?

8 A. That's where he walked out of.

9 Q. Okay. Then there's -- right here is the
10 bathroom -- master bathroom; right?

11 A. Laundry room -- yes. Master bath.

12 Q. Right here?

13 A. I think. Yes. Well, it connects -- yeah.

14 Q. Now, the doors that you're talking about, you
15 have one door right here?

16 A. Well --

17 Q. And that other door --

18 A. The door actually is -- the first door -- this
19 is all open until the office.

20 Q. Until the office. So the first door is right
21 here, and then this is a continuation of the hallway.
22 This is the master bathroom?

23 A. Kind of. Actually, no, it's not. Because
24 she's got a small bathroom attached to the master bath,
25 like, in this corner.

1 Q. It's --

2 A. It's just a toilet.

3 Q. Okay. So toilet. Okay. And there's no door
4 to the master?

5 A. There's, like, a little mini bar right here.
6 There's no door. It's all opened.

7 Q. This is open?

8 A. Yeah. Yeah. The whole room is open back
9 there.

10 Q. Okay. So the door -- this --

11 A. That's her bedroom door, yeah.

12 Q. Okay. So this is the --

13 A. Well, there's two doors. There's one at the
14 office, and then there's one at the -- if the bathroom
15 came out farther it would be --

16 Q. So this is the other door then?

17 A. Let me think. It's basically like at the
18 beginning of the office and at the end of the office.

19 Q. Okay.

20 A. And one's a pocket door and one's a --

21 Q. Okay. So this is the -- basically the
22 entrance to the master?

23 A. Exactly.

24 Q. Is there a wall right there or is it just --

25 A. No.

1 Q. There's no wall?
2 A. No. No wall.
3 Q. Okay.
4 A. Master bedroom. Then there is a small closet,
5 I guess -- it's a small closet directly across from
6 this one. Maybe the same size.
7 Q. So a closet right here?
8 A. Yeah. Something like that.
9 Q. Okay. Now, you said -- so the hall -- so
10 there's a hall. There's front doors right here; right?
11 And in order to go to the hallway you have to make a --
12 kind of a -- one of these?
13 A. Well, Josh's room -- yeah.
14 Q. It doesn't have to be exact. I just need --
15 A. Yeah. Exactly.
16 Q. -- to get bearings.
17 A. Exactly.
18 Q. Okay. So --
19 A. Exactly.
20 Q. There's a wall all the way down here?
21 A. Yeah. The wall comes to right about here.
22 Q. Okay. Does it start -- it ends right here or
23 is it in between?
24 A. Actually, the wall goes to right here. Draw a
25 dot right there and then draw your wall to the hallway.

1 Q. This way?

2 A. All the way to the hallway. Yeah.

3 Q. All the way up?

4 A. All the way -- this hallway would be --

5 Q. Like this? Like that?

6 A. The hallway would be the same skinny -- yeah.

7 Q. Okay. So there's --

8 A. Here there's a door -- there's a wall too.

9 There's not a door there, but there's an entrance.

10 Q. So there's a wall -- there's an entrance right
11 here?

12 A. There's a wall that goes from here to that
13 dot. Yeah. Like that.

14 Q. Okay. So you would have to get in here and
15 you'd have to go like this; right?

16 A. Yeah.

17 Q. For the front door?

18 A. Josh's -- no. There's no wall there. I'm
19 sorry.

20 Q. That's okay.

21 A. Yeah. It's set up --

22 Q. Something like that. Okay. Then you have the
23 living room --

24 A. There's a window.

25 Q. Kitchen. Window. Here's a room. Here's a

1 garage; right?

2 A. Yeah.

3 Q. Now, there's a door from the garage to the
4 backyard; right?

5 A. Yup.

6 Q. This goes to the backyard, and there's a
7 slider right here you said?

8 A. Well, more like right about here.

9 Q. That goes to the backyard?

10 A. Yup.

11 Q. Is there any doors that go to the backyard
12 from this room?

13 A. No, there isn't.

14 Q. Okay. Now, here's the side of the house;
15 right?

16 A. Yeah.

17 Q. You got the gate?

18 A. There's a gate right there.

19 Q. Gate right there.

20 A. Then there's a gate right there.

21 Q. Gate right here. And that goes to outside?

22 A. Yup.

23 Q. Okay. So your house is right here?

24 A. Yup. Exactly.

25 Q. Okay.

1 A. Think of it as -- this is all cement like
2 this, and this is grass.

3 Q. Okay. So is it a circle or just grass?

4 A. I'm sorry. It would be, like -- here's the
5 grass. Do a grass square, basically.

6 Q. Grass?

7 A. My house is more like right here or something.

8 Q. Your house is right there. Okay.

9 A. This is all cement.

10 Q. Cement. Okay. Is it, like, a pathway?

11 A. Yeah. Exactly.

12 Q. Then it goes --

13 A. The BBQ grill is right here.

14 Q. Okay. So BBQ. Okay. So your house is going
15 to be right here, then?

16 A. Yeah. Exactly. So I was right about -- right
17 about here.

18 Q. Okay. So now let's go through the story, and
19 then we're going to reference this to, kind of, figure
20 out the chain of events. All right. I'm going to ask
21 specific questions, and don't go ahead. Okay. If I
22 ask a question it may spark some new things.

23 A. No problem.

24 Q. We'll take it from there. So you were in your
25 house; right?

1 A. Uh-huh.

2 Q. Okay. What time did you wake up?

3 A. What time did I wake up or what time did I
4 actually hear stuff? Because I was awake when I heard
5 it.

6 Q. Okay. What time did you hear this? Did you
7 look at a clock? Were you --

8 A. I can look at my phone and reference by what
9 time I called people.

10 Q. Okay. Just approximately.

11 A. My phone's going to go crazy with voicemails,
12 but I'll just ignore that for now. Okay. Who did I
13 call? What I'm actually going to do is see my 911 call
14 and subtract time because I think that's the best way
15 I'm going to be able to notice. So I called --

16 (Interruption in the interview.)

17 MR. MENDELL: -- 10:00 o'clock.

18 DETECTIVE JOWER: (On the phone) Okay. What do
19 you want me -- what do you want him to tell Marlene?
20 Okay. Thanks. Okay. Okay. Okay. What's -- okay.
21 Thanks. Bye.

22 BY DETECTIVE JOWER:

23 Q. Do you know Marlene?

24 A. Yeah.

25 Q. Okay.

1 A. Problem is --
2 Q. Is that Sam's friend?
3 A. It's -- it's basically Josh's grandma and
4 Sam's best -- I mean, it's her grand- -- I mean, it's
5 like all she has really.
6 Q. Okay. Could I get the number from you?
7 A. The problem is, I don't have her number I
8 don't think, but I could definitely get her number.
9 Oh, I do have her number.
10 Q. Okay.
11 A. It is -- the problem is, she's not going to
12 pick up a number that she doesn't know, maybe.
13 Q. We can use your phone.
14 A. Yeah. Okay. Here it is if you want to call
15 her.
16 Q. Excuse me for a second.
17 A. Yeah. No problem. It was about 10:00
18 o'clock.
19 Q. Okay.
20 A. That's the wrong number. That's Mariele's
21 number. I can't even think right. That's my
22 girlfriend's number. It says Mariele, huh?
23 DETECTIVE REESE: I didn't even look.
24 THE WITNESS: Yeah. I'm stupid. I have to call
25 Shawna and get the number.

1 BY DETECTIVE JOWER:

2 Q. That's fine. Go ahead and get the number.
3 I'm going to fix this map.

4 A. Okay. She has a home number, so -- and of
5 course -- okay. Give me a second to think here.

6 Q. Okay.

7 A. What's Marlene's number? This is something I
8 should have. I think Shawna is at work. She works at
9 the Moraga -- Shawna is Marlene's granddaughter, and
10 her cell phone's off. Let me think about this. Give
11 me a second.

12 I can -- you want to get her number from, like,
13 411? Or can you guys call AT&T Wireless and get her
14 number?

15 DETECTIVE REESE: What's her name?

16 THE WITNESS: It's Marlene Vanucci.

17 DETECTIVE REESE: Do you know how she spells
18 Vanucci?

19 THE WITNESS: V-a-n-u-c-c-i, I think.

20 DETECTIVE REESE: Okay. Marlene.

21 THE WITNESS: Marlene. She lives in Concord. I
22 can't remember the name of the address. I'll give you
23 a couple different options.

24 DETECTIVE REESE: Okay.

25 THE WITNESS: She has an AT&T Wireless cell

1 phone -- I know that -- so you can call AT&T Wireless
2 to get that. That's the best number, probably, to
3 reach her at. She also has a home number, and it might
4 be listed for 411.

5 DETECTIVE REESE: Okay.

6 THE WITNESS: The other person you want to call is
7 her granddaughter Shawna Vanucci is very close in the
8 family. She would know Marlene's number or how to get
9 a hold of Marlene.

10 DETECTIVE REESE: Okay.

11 THE WITNESS: I just called her cell phone. It's
12 off. You could call her. She works at the Bank of
13 America -- shoot -- I think, in Moraga. She used to
14 work at the Lafayette one.

15 DETECTIVE REESE: Okay.

16 THE WITNESS: She's probably working right now.
17 That's why her phone's off. She called me from a
18 number, but I can't remember it.

19 DETECTIVE REESE: Okay. And how old is Marlene,
20 about?

21 THE WITNESS: Marlene's probably 65.

22 DETECTIVE REESE: Okay.

23 THE WITNESS: And Marlene is Sam's closest family
24 friend.

25 DETECTIVE REESE: Okay. You don't know what

1 street she lives on in Concord?

2 THE WITNESS: I don't. No, I don't.

3 DETECTIVE REESE: Great. Thank you.

4 THE WITNESS: Yeah. No problem.

5 Well, somebody's in the hospital. You want me to
6 redraw?

7 BY DETECTIVE JOWER:

8 Q. Yeah.

9 A. I'm sorry. What's really funny is when I was
10 in my room, too, right before I called 911 I almost
11 called -- I was going to grab -- I was thinking, grab
12 my digital camera and take a picture. So hard to
13 remember who is --

14 UNKNOWN SPEAKER: Sorry to interrupt. Detective
15 Reese?

16 DETECTIVE JOWER: She's in there making a phone
17 call.

18 UNKNOWN SPEAKER: Okay.

19 THE WITNESS: You want -- I need to -- I can't sit
20 down for that long. It just kills my back.

21 BY DETECTIVE JOWER:

22 Q. That's fine. Go ahead and stand up if you
23 want to.

24 A. Just for a minute just to, kind of, stretch.
25 I'm trying to think of how else I could get a hold of

1 her. Trying to help just as much as I can. I can't
2 imagine what Sam's going through right now.

3 Q. What's your girlfriend's name?

4 A. Mariele, M-a-r-i-e-l-e.

5 Any luck?

6 DETECTIVE REESE: I got somebody else working on
7 it for me.

8 Okay. Couple of quick questions for you. I know
9 I'm going to be, kind of, fast forwarding ahead, but
10 this is for the people that are still out on scene.

11 THE WITNESS: Okay.

12 DETECTIVE REESE: Did -- did you see him leave?

13 THE WITNESS: No.

14 DETECTIVE REESE: Okay. So we have no idea if
15 he's in the house?

16 THE WITNESS: No idea.

17 DETECTIVE REESE: Okay. So the last time you saw
18 him he was where on your map?

19 THE WITNESS: Probably right -- right next to --
20 running around on the grass right next to my house. I
21 can't remember, but I think he might have actually been
22 at my door, you know.

23 DETECTIVE REESE: Okay.

24 THE WITNESS: The thing is, I kind of turned
25 around and just ran in my room and grabbed everything,

1 and give it all to him to get this guy out of here.

2 DETECTIVE REESE: Okay. Give us a quick
3 description on the gun. You described it as a handgun
4 with two barrels.

5 THE WITNESS: I think it had two barrels. It
6 might have been, like, one longer one and one shorter
7 one on the bottom. I remember him, like, cocking it
8 back and you could actually see the barrels itself.
9 And --

10 DETECTIVE REESE: Okay. What color was it?

11 THE WITNESS: Black.

12 DETECTIVE REESE: Black. All right. And you
13 mentioned him fidgeting like he was reloading it.

14 THE WITNESS: He was trying to reload it for sure.

15 DETECTIVE REESE: Why do you say that? What was
16 he doing to make you think --

17 THE WITNESS: He was -- he had the barrel back and
18 it looked like he was trying to shove something in it.
19 He was scrummaging around, and he was definitely trying
20 to reload the gun.

21 DETECTIVE REESE: Okay. Are you familiar with
22 handguns at all?

23 THE WITNESS: No.

24 DETECTIVE REESE: No. Okay. Do you know the
25 difference between a revolver and a -- like, a

1 semi-automatic?

2 THE WITNESS: If I saw pictures, I'd know. That's
3 about it.

4 DETECTIVE REESE: Okay. Like a revolver has the
5 chamber in the center.

6 THE WITNESS: It's not a revolver.

7 DETECTIVE REESE: It's not a revolver.

8 THE WITNESS: So he pulled back the side. Yeah.
9 For sure.

10 DETECTIVE REESE: Okay. And when you say
11 reloading, he was reloading it from the top of the --

12 THE WITNESS: Yeah.

13 DETECTIVE REESE: Did you actually ever see any
14 type of bullets?

15 THE WITNESS: Nope.

16 DETECTIVE REESE: Okay.

17 THE WITNESS: I -- either a pellet gun or blanks.
18 He had to be -- I think -- I don't know. I'm thinking
19 he's shooting blanks or he got a bad bullet or
20 something because he shot -- if he didn't shoot me in
21 the head, he shot an inch away, and I thought I would
22 have heard a ricochet or something.

23 DETECTIVE REESE: Okay. You want to do this real
24 fast?

25 DETECTIVE JOWER: Yeah.

1 DETECTIVE REESE: Will you give us consent to
2 search your --

3 THE WITNESS: Of course.

4 DETECTIVE REESE: -- house to make sure he's not
5 in there?

6 THE WITNESS: Of course.

7 DETECTIVE REESE: Okay. Thank you. What I'm
8 going to do is have you read this.

9 THE WITNESS: It's not my property, so...

10 DETECTIVE REESE: What about the house you stay
11 in?

12 THE WITNESS: I just rent.

13 DETECTIVE REESE: Okay. Are you the only person
14 that rents it?

15 THE WITNESS: Yup.

16 DETECTIVE REESE: Do you have a roommate?

17 THE WITNESS: Just my girlfriend. She's not
18 there --

19 DETECTIVE REESE: Okay. She's just visiting?

20 THE WITNESS: Yup.

21 DETECTIVE REESE: Okay.

22 THE WITNESS: It's just a little dinky place.
23 It's a freaking mess too. You have to understand, I've
24 been out on disability for a week.

25 I'll just be honest. The only thing you're going

1 to find in there is I have fireworks under the bed.

2 DETECTIVE REESE: Okay. Your address is 11 --

3 THE WITNESS: It's the same address, yeah.

4 I've grown up with Josh and Sam. They're
5 basically family. I mean -- so I just rented it to,
6 kind of, you know, help her out. It's a nice location.

7 I basically live in the house most of the time.

8 There's no bathroom back there or anything.

9 I'm going to turn this off again. I just realized
10 I had it on. If they don't have any luck trying to get
11 a hold of Marlene, maybe her -- she's out of service.

12 The -- Shawna, I can give you Shawna's cell phone
13 number too.

14 DETECTIVE REESE: Okay. So what this is basically
15 explaining to you is that you do not have to give us
16 consent to search your residence. Okay.

17 THE WITNESS: Yeah. I have no problem.

18 DETECTIVE REESE: Can you --

19 THE WITNESS: Yeah.

20 DETECTIVE REESE: You can read English?

21 THE WITNESS: Oh, yeah. Vehicle. If you guys
22 need to, I can tell you guys where the keys are. It's
23 no issue.

24 DETECTIVE REESE: Okay.

25 THE WITNESS: Just sign right here?

1 DETECTIVE REESE: Yes, please.

2 THE WITNESS: And that's it?

3 DETECTIVE REESE: That's it. Thank you.

4 BY DETECTIVE JOWER:

5 Q. Okay. Now, let's continue. I'm going to walk
6 you through it. You said about what time did you hear
7 the gunshots?

8 A. I called 911 at 10:36, so I'm guessing 10:10,
9 10:15. The neighbor said that she heard -- she saw the
10 guy at 10:00 o'clock.

11 Q. Okay.

12 A. She said she saw a guy that looked like him.
13 That was probably him.

14 Q. So I'm going to walk you through this. Okay.
15 Just try to answer my questions, and we'll go through
16 this. At 10:10 hour you were in the back room?

17 A. Yeah. Laying down in the bed --

18 Q. Okay.

19 A. -- watching TV. Are blanks quieter than
20 actual bullets?

21 Q. No. They're about the same. Laying down
22 watching TV. Okay. What were you watching?

23 A. Oh, was I on my -- no. I was actually on my
24 computer. Mariele was watching TV. It's hard to
25 remember.

1 Q. That's okay.

2 A. I think I was on my computer, yeah.

3 Q. So you were not laying in bed?

4 A. Yeah. I was laying in bed. I had a laptop.

5 Q. On a laptop. Okay.

6 A. Yeah. I was on my laptop.

7 Q. What were you doing on your laptop computer?

8 A. Work. I was on my remote desktop.

9 Q. Were you on a Web site online, or --

10 A. I was on my remote desktop for my server. So,
11 actually, if you guys want to know exact time, that
12 will give you an exact time.

13 Q. Your work server?

14 A. Yeah.

15 Q. Is that on an online --

16 A. Remote desktop. Yeah. It's online.

17 Q. Online remote desktop.

18 A. Yup.

19 Q. What online -- what -- what site is that?

20 A. It's not a site. It's a remote server. It --
21 basically you type in your --

22 Q. What's your work?

23 A. Pro Home Systems.

24 Q. Pro Home. Okay. And your girlfriend was on
25 the -- watching TV?

1 A. Yeah.

2 Q. What's her name again?

3 A. Mariele.

4 Q. M-a --

5 A. M-a-r-i-e-l-e.

6 Q. And her last name?

7 A. Longfellow. L-o --

8 Q. -- n-g --

9 A. -- n-g-f-e-l-l-o-w.

10 Q. Was up watching TV?

11 A. Yup.

12 Q. Is this -- is this one room? So there's not,

13 like --

14 A. Yeah. It's just one big room. The closet

15 doors are off, the TV's in the closet, and there's a

16 small closet right next to the TV.

17 Q. Okay. So where's the front door?

18 A. The front door is right here.

19 Q. Okay. So we have front door. Where's your

20 bed? Where's your computer?

21 A. My bed's right here.

22 Q. Your bed. Is it against the wall or --

23 A. Yeah. It's against this wall.

24 Q. Okay. So we have --

25 A. Yeah.

1 Q. Where is your computer?

2 A. I was on -- it was on my lap.

3 Q. On your lap. And then where's the TV?

4 A. But I do have a desktop computer and other
5 stuff here. The TV's in the closet -- in the closet
6 right here in this corner.

7 Q. TV's right here?

8 A. Yeah. Then the closet's right here. There's
9 just a little closet in the corner.

10 Q. So we got TV. Where was Mariele?

11 A. Laying on the bed right next to me. We were
12 both laying in the bed.

13 Q. So -- okay. What was she watching?

14 A. That's a very good question. I remember
15 because I thought it was funny. She was watching a
16 movie with Mandy Moore and somebody else in it. And it
17 was a really dumb movie. And it was a chick flick, so
18 obviously I don't remember the name of it.

19 Q. Okay. It was a movie though; right?

20 A. Yeah. She was watching a movie. Whatever
21 channel the TV is still on is what we were watching.

22 Q. Okay. So you were watching. Then what
23 happened?

24 A. That's when we heard the clank. She heard it
25 first.

1 Q. Okay. So how many minutes -- at around 1:10
2 you were still --

3 A. Right at -- right at, probably, 1:05, 1:10 we
4 heard, maybe, two shots.

5 Q. Okay. She heard it first?

6 A. Yes. I think we both heard it. Actually, it
7 was kind of like in the distance we just heard a "Boom.
8 Boom."

9 Q. Okay.

10 A. We're like, What the hell? She goes, "What
11 the hell is that?"

12 I'm -- "I don't know. Probably Josh or" --

13 Q. Both of you heard two what? At that time what
14 did you think it was at that time?

15 A. Somebody --

16 DETECTIVE REESE: I'm sorry to interrupt. Quick
17 question. When you went back inside to grab your
18 wallet, did you hear any other noises once you were
19 back inside grabbing your wallet?

20 THE WITNESS: That's a good question. No. I
21 think he had left at that time.

22 DETECTIVE REESE: Okay. Why do you think that?

23 THE WITNESS: Or did he go back in -- maybe he
24 went -- I'm not sure, to be honest with you. I don't
25 think I did. I think he left at that time because I

1 think what had happened is he was coming out the door
2 and he was leaving. He was (unintelligible), and then
3 he ran into me. And then at that point when he ran
4 into me after he shot, I ran back inside. And while I
5 was doing all my stuff, I think he -- he was all over
6 the place. I think he might have ran back inside and
7 then ran back out. I mean, he was just -- I don't
8 know.

9 DETECTIVE REESE: You don't know. Did you hear
10 any other loud bangs --

11 THE WITNESS: I didn't hear. Not that -- to my
12 recollection, I didn't hear any other shots.

13 DETECTIVE REESE: Okay. Thank you.

14 THE WITNESS: I didn't hear the gate slam or
15 anything.

16 BY DETECTIVE JOWER:

17 Q. Going back. Both of you guys then heard two
18 what?

19 A. Sounded like -- they were definitely shots now
20 that I know what it was, but it sounded like -- it just
21 sounded like --

22 Q. Pops? Bangs?

23 A. Yeah. Just a pop. It sounded like two pops.
24 Like a -- almost like somebody -- fireworks or somebody
25 banging metal or something like that, you know.

1 Q. Or banging --

2 A. I thought Josh was outside in the garage --

3 Q. Okay. Hold on. Okay.

4 A. -- beating on his dirt bike or something, you
5 know, trying --

6 Q. So you heard two pops. So then what did you
7 do?

8 A. I was in bed and she said, "What was that?"

9 Q. Okay. Then she said, "What was that?" And
10 then what?

11 A. And then there was -- then I think we heard
12 about -- and then right after that, just, maybe -- I
13 mean, a minute later or 30 seconds later we heard a
14 couple more.

15 Q. Okay. So 30 seconds. I know it's hard. Same
16 noise? Same noise?

17 A. Exact same noise.

18 Q. Both of you guys heard it or just you?

19 A. See, the thing was, I was working. I wasn't
20 paying attention. Mariele was hearing all this stuff,
21 but I -- I was hearing it but not paying attention.

22 Q. Okay. So about 30 seconds later you heard.
23 Did she hear it too?

24 A. Oh, yeah. We both heard it.

25 Q. Okay. Both heard two more pops?

1 A. Two or three.

2 Q. And it's the same -- almost like fireworks
3 or --

4 A. It was the exact same noise, yeah.

5 Q. Okay. So you guys are in bed. You heard two
6 pops. Thirty seconds later you heard two pops. You're
7 still in your room. Then what happened?

8 A. She got up. She said, "What was that? I'm
9 going to go see what that was. What the hell?"

10 I was like, "I don't know. It's probably Josh
11 screwing around with something," you know. She looks
12 through the blinds. She sees that the gate is open.
13 She goes --

14 Q. Stands up. Okay. Now, let's talk about that
15 gate. Which gate was it? You talking about this gate
16 right here?

17 A. This one.

18 Q. Okay.

19 A. This gate's on a spring. A lot of people come
20 over our house or when we leave it's open a lot of
21 times. Really pisses Sam off because the dog can get
22 out.

23 Q. Okay. So -- okay. The gate is open. Okay.
24 And then what?

25 A. When I -- she says, the gate's open.

1 Q. Okay.

2 A. I said, "Oh, crap. Who left the gate open or
3 what" -- "Josh must have left" -- I thought Josh was
4 working on his dirt bike and had everything open.

5 Q. Okay.

6 A. So I walked back to close -- I got up. I put
7 on my robe.

8 Q. Okay.

9 A. Well, no. I'm sorry. I looked, saw the gate
10 open, and I said, "The garage is open too."

11 Q. Stop right there. You peaked out the window
12 too?

13 A. No. I opened the door.

14 Q. So you exit -- you opened the door?

15 A. I opened the door.

16 Q. Okay.

17 A. In my boxers. Saw that the garage was opened
18 also.

19 Q. Okay. Hold on for a -- this garage door here?

20 A. Yeah. Yeah.

21 Q. Okay. Hold on for a second. So let's see --

22 DETECTIVE REESE: Is the garage where he usually
23 works on his bike?

24 THE WITNESS: And our garage door is busted right
25 now. The front of the garage doesn't open.

1 DETECTIVE REESE: Okay.

2 THE WITNESS: So I figured he was working on --
3 sounded like he had a hammer and he was hammering
4 the -- the rear tire rim or something, and that made
5 sense to me at that time. It wasn't an abnormal kind
6 of -- well, it was abnormal. I figured he was working
7 on his dirt bike or something because he's out of work
8 too.

9 BY DETECTIVE JOWER:

10 Q. Okay. So Mariele says -- stands up, looks
11 through the blinds, looks -- "Hey, the gate's open."
12 You said, Okay. That doesn't look right. You stood up
13 from your bed. You walked to the front door. You
14 opened the door and you look out and you see the garage
15 door open; right?

16 A. The --

17 Q. This garage door?

18 A. I saw they both were open.

19 Q. This and this?

20 A. Yeah.

21 Q. Then what did you do?

22 A. I put on my robe --

23 Q. Uh-huh.

24 A. -- and I walked, you know, on the asphalt,
25 because it goes around. Started walking this way.

1 Walked to right about here --

2 Q. So you went from here --

3 A. Right about there. That's right where it
4 happened.

5 Q. Okay.

6 A. I saw him --

7 Q. Okay.

8 A. -- as I was walking.

9 Q. Okay. Now stop right there. Okay. So you
10 walked in this direction?

11 A. Uh-huh.

12 Q. Okay. And you -- what were you facing? This
13 way? You were facing this way? Where were you facing
14 when you saw him?

15 A. I was facing probably, like, looking -- I
16 was -- I'm sorry. The -- the cement's a bigger area,
17 so right about here is where I was walking. I was
18 walking, like, this way, and he's kind of -- not behind
19 me, but...

20 Q. So did you do, like, a loop and then walk this
21 way?

22 A. Yeah.

23 Q. So you were about right here?

24 A. Yeah.

25 Q. So let's just say you were right here.

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A. Yup.

Q. Okay. And then were you looking towards him or -- you said you were looking this way.

A. I heard the sliding door open.

Q. Okay. So you're looking towards this way?

A. Yes.

Q. Okay. Hold on a second. So you walked out...

A. Were you able to get a hold of Maria --
Marlene?

DETECTIVE REESE: We have somebody working on it.
I think they're having some complications.

BY DETECTIVE JOWER:

Q. So you heard -- so you're looking this way --

A. Yup.

Q. -- and then you heard --

A. I heard the sliding glass door slide open.

Q. Okay.

A. It's like he touched the sliding glass door.

Q. Okay. Then what did you do after you heard
that?

A. I turned around. I looked.

Q. Okay. Okay. What did you see?

A. Immediately I thought it was Sam. Hey, the
sliding -- who opened the -- why's the gate open?

Q. Were you looking at him when you said that

1 or --

2 A. No. No. I was hearing that in my head. I
3 was thinking when I looked, Oh, the sliding glass door
4 is open. It must be Sam. She's going to yell at me
5 about the gate.

6 Q. Okay. But you weren't saying anything. You
7 were just internalizing that?

8 A. Exactly.

9 Q. Then you turn around and you saw what?

10 A. Nathan or whoever this was.

11 Q. You saw a male?

12 A. Male. Yeah. With the description I gave you.

13 Q. Okay.

14 A. Opening -- well, I didn't really notice it
15 until he stepped out, and that's kind of -- seemed like
16 I looked at him for a little while before he put two
17 and two together that I was looking at him. Seemed
18 like he had made it to about right here until he
19 noticed that somebody was in the backyard.

20 Q. So he stepped out and walked towards you?

21 A. Yeah.

22 Q. Okay.

23 A. Fast and very, very, like, strong. Like, he
24 was --

25 Q. You're right here?

1 A. I take that back. Right when I was right
2 about here. I think that's when he pulled out his gun
3 and he was, kind of, walking towards me like --

4 Q. Okay. Did you -- when you heard the sliding
5 glass door did you start walking towards --

6 A. No. No.

7 Q. So you were actually not here. You were
8 actually right here?

9 A. No. I'm definitely right here.

10 Q. Okay. You're right here. You heard the
11 sliding glass door?

12 A. Right.

13 Q. You turn around; right? So you turn around
14 and then you see this guy?

15 A. Yeah.

16 Q. Okay. Now, he steps out --

17 A. Steps down the stairs.

18 Q. There's stairs here?

19 A. There's stairs, yeah.

20 Q. Okay. He steps down the stairs and then
21 what's he do?

22 A. He looked at me. This is where it's going to
23 get hard.

24 Q. This is why we're going to just -- that's why
25 we're breaking it down.

1 THE WITNESS: The problem was he's wearing this
2 big trench coat and it's a black gun. It's black. I
3 couldn't tell what --

4 DETECTIVE REESE: Okay. What race is he? I
5 missed that.

6 THE WITNESS: White.

7 DETECTIVE REESE: Okay.

8 THE WITNESS: You know, shriveled up face. Looked
9 like he was definitely on drugs.

10 DETECTIVE REESE: What makes you say that?

11 THE WITNESS: He just wasn't -- he was all over
12 the place. Couldn't -- couldn't do anything. Couldn't
13 think. Couldn't concentrate. Didn't know what he
14 wanted to do. No -- no fear to do -- I mean, just -- I
15 don't know.

16 DETECTIVE REESE: Okay.

17 DETECTIVE JOWER:

18 Q. So he's firmly walking towards you with his
19 hands in his pockets. All right. And you stay still.
20 All right.

21 A. Uh-huh.

22 Q. So he's going here. He's going pop, pop, pop.
23 And right around midway? Right about here?

24 A. I think right around midway was when I -- he
25 just was walking at me. I didn't know -- I thought it

1 was, maybe, one of Sam's clients.

2 Q. Okay. So midway he stopped -- did he stop
3 or --

4 A. No. He never stopped.

5 Q. Okay. So midway -- what did he do midway?
6 What did you see midway? So he's --

7 A. I think it was about midway when I saw him
8 pull out his gun.

9 Q. Okay. Where did he pull out the gun from?

10 A. I just -- I can't remember. I just remember
11 seeing a gun. And then I freaked and kind of started
12 backing up and squirming around and -- sounds funny,
13 but whenever I think of seeing a gun I just try to move
14 as much as I can hoping that he can't hit me.

15 Q. So you see it. Now, does her -- like I said,
16 I'm trying to picture it from my head. You see it and
17 he pulls it out but continues to walk?

18 A. Fully. He's like --

19 Q. Okay. Now, is he continuing to walk with
20 his -- like this with the gun or is he actually, like,
21 this or was he --

22 A. He's kind of like --

23 Q. Is he --

24 A. I think he's just -- no. He kind of pulled it
25 out and put it right to me.

1 Q. Okay. But you're backing up; right?

2 A. I'm -- yeah. I'm kind of, like, all over this
3 area.

4 Q. Okay. So you're just -- you're just, kind of,
5 walking around this area?

6 A. Uh-huh.

7 Q. Right? And -- but you weren't --

8 A. Not until I saw his gun. I was still. He was
9 walking towards me.

10 Q. So you see the gun. He had it pointed at you,
11 you said?

12 A. Yeah.

13 Q. Okay.

14 A. No. I don't think he was -- I think he was,
15 kind of, doing this until he got close, then that's
16 when he put it to my head.

17 Q. Okay. Stop right there. Was he holding it
18 with his right hand or his left hand?

19 A. I think it was his right. I'm not 100 percent
20 positive. I'm getting so blurry, I can't even remember
21 what ear. I mean, it sounds funny, but I think it was
22 this ear.

23 Q. Okay. So he's coming -- if I'm doing this
24 right and he's coming at you, can you picture if he had
25 it in this side?

1 A. I can tell you right now which side it was
2 because I was facing this way.

3 Q. Right.

4 A. No, I can't. I think it was his right hand.

5 Q. You think. Possibly right hand?

6 A. Could have been his left. It's really hard to
7 say.

8 Q. Okay. He's walking towards you and he finally
9 makes contact and puts the gun to your head.

10 A. Correct.

11 Q. Now, where did that part happen?

12 A. Right about here.

13 Q. Okay. Right here?

14 A. Yeah.

15 Q. Okay.

16 A. And I think --

17 Q. So --

18 A. I was on my knees, I'm almost sure.

19 Q. Did you, like, in reaction drop to your knees?

20 A. Yeah.

21 Q. So he approaches you, puts a gun to your head.
22 Were you standing up when the gun was to your head and
23 then you dropped to your knees or did you just drop to
24 your knees then he put the gun to your head?

25 A. I think he put it to my head and I, kind of,

1 dropped then lowered down and started, like -- I don't
2 even know what I was doing. I was freaking out. I was
3 just --

4 Q. Okay. Now, this is where I want you to
5 visualize as much as you can. Okay. This one little
6 part.

7 A. Uh-huh.

8 Q. You dropped to your knees. Okay. Are you
9 still facing what direction?

10 A. I think I'm facing towards (indicating).

11 Q. So you're facing this way. Okay.

12 A. No. I might have been facing, like -- because
13 I think he -- no. Because he shot from this direction.
14 I remember. I think I even remember looking and seeing
15 if there was, like, bullets or whatever.

16 Q. What -- this is what I needed.

17 A. So I had to be facing this way.

18 Q. So you're facing your house?

19 A. Yeah.

20 Q. Right here?

21 A. Yup. Yeah.

22 Q. Okay. So this is where you're facing. This
23 is your head. This is your nose. So he put the gun --
24 you're like this. Pretend to actually, kind of, act
25 this out. Pretend you're looking at your house behind

1 you. Okay. This is the same direction. Now, you're
2 on your knees. Okay?

3 A. Uh-huh.

4 Q. Now, he puts the gun to what side of your
5 head?

6 A. Right here. Like, to the -- he's waving this
7 thing around.

8 Q. Okay. Your left ear?

9 A. I just want to say ear because my ear hurt.
10 No, he's all --

11 Q. Now, that's the next question.

12 A. He put it right, like -- I don't know. That's
13 the problem.

14 Q. But the left side?

15 A. I think it was the left side because -- I'm
16 trying to, like, remember what ear hurt because
17 that's --

18 Q. Does it hurt right now?

19 A. Yeah.

20 Q. Okay. So --

21 A. This ear is more swollen.

22 Q. Okay. So he put it to this side. Now, does
23 he press it against you? Does he --

24 A. Yeah.

25 Q. -- hit you at all with it?

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1 Q. You felt him shaking and moving the gun
2 around?

3 A. No. I was kind of looking at him. I could
4 kind of see him at the same point. He was kind of --
5 it seemed like he was -- I could almost see him out of
6 the corner of my eye.

7 Q. Okay.

8 A. I know this sounds funny, but I don't know how
9 much of this is actually my imagination and how much of
10 this is actually exactly what he was doing. But I know
11 for a fact he pointed a gun and he shot it at my head.

12 Q. Okay. So you saw from the corner of your eye
13 like this?

14 A. Uh-huh.

15 Q. Definitely this side, your left side. He --
16 you just remember him moving the gun around a lot?

17 A. Yeah.

18 Q. But it --

19 A. He kept asking.

20 Q. He was moving it as he was pointing it at you?

21 A. Yeah.

22 Q. So he was like this but he constantly kept it
23 pointed at you; right?

24 A. Yeah. Constantly, yes.

25 Q. Okay.

1 A. I know it sounds funny, but I just like to --
2 I have ADD, so I jump all over the place. The reason I
3 don't think this was Nathan -- I know this sounds
4 funny, but he asked for my money.

5 Q. Hold on for a second.

6 A. If I hold I'll forget what I've --

7 Q. I'll bring you back. Okay. So constantly --
8 so he's pointing it. He's moving. He's constantly
9 pointing it at you; right?

10 A. Uh-huh.

11 Q. Now, was he standing or was he kneeling next
12 to you?

13 A. Standing.

14 Q. He was standing? Okay. So now he's standing;
15 he's doing this. What was he saying?

16 A. "Where is Sam? Where is Sam? Where is Sam?"

17 Q. How many times?

18 A. Probably ten. He probably said it a total of
19 ten times.

20 Q. Ten times.

21 A. "Where's Sam? Where's Sam Rhoads? Where's
22 Sam Rhoads? Tell me where Sam Rhoads is."

23 It's funny. I don't remember. He probably did,
24 but I don't want to remember him saying, I'm going to
25 kill you.

1 Q. Now, "Where's Sam Rhoads? Where's Sam
2 Rhoads?" He said this ten times before firing a shot?

3 A. That's the difficult part.

4 Q. Or did he fire a shot and --

5 A. He asked me a bunch of times where Sam Rhoads
6 is.

7 Q. Okay.

8 A. And then he fired a shot. Then he probably
9 said it about two more times.

10 Q. Okay. Hold on.

11 A. "Where's Sam?" And then he started, kind of,
12 freaking out after he shot the gun. Like --

13 Q. Fired shot, then "Where's Sam" two more times.

14 A. Then I said, "What do you want? I'll give you
15 anything. I'll give you anything."

16 Q. Hold on.

17 A. Okay.

18 Q. So he fired a shot. Now, let's talk about the
19 fired a shot part. Okay. So you're -- he's still
20 right here. We're still playing in this area.

21 A. Uh-huh.

22 Q. Okay. So he fires a shot and you said it was
23 right here because it was near your ear. Okay. When
24 that shot went off you said it hurt your ear?

25 A. No. I kind of --

1 Q. Did your ear go numb? Did you feel like a
2 compression? Did you feel anything?

3 A. Yeah. I thought I had gotten shot.

4 Q. What did you feel?

5 A. I just felt pressure. Like, boom. You know.

6 Q. You felt pressure?

7 A. Yeah.

8 Q. Okay.

9 A. And I know this sounds funny --

10 Q. To the left side of your head; right?

11 A. Yeah. You know, I'm not 100 percent if it was
12 the left or right, but I'm pretty sure it was the left
13 side. I know it sounds funny, but you could probably
14 do a hearing test and it will tell you exactly where it
15 was. And Mariele might know this also. My ear
16 started, kind of, ringing is what -- you know, it kind
17 of like --

18 Q. Your left ear though. We know that; right?

19 A. Yeah. No. I don't know if it's my left or
20 right. That's what I'm saying. I'm not positive if it
21 was my left or right ear. I know it sounds funny,
22 but...

23 Q. No, it doesn't. I understand.

24 A. I was telling him right after it happened
25 because I knew, you know.

1 Q. Right.

2 A. Everything gets fuzzy after.

3 Q. Okay. So you felt the pressure, you thought

4 you got shot --

5 A. Yeah. I immediately thought I was dead.

6 Q. -- your ear started ringing, then you -- then

7 he says "Where is Sam Rhoads" two more times --

8 A. But at this time I'm not thinking about my ear

9 ringing, the pressure on the side of my head, or

10 anything like that.

11 Q. Right.

12 A. I'm just thinking, Oh, my God. I'm going to

13 die. I'm dead or -- I felt my head, I think, right

14 after. I think I thought that he had shot me in the

15 head.

16 Q. Okay. Then you heard him "Where is Sam" two

17 more times?

18 A. Yeah. "Where is Sam Rhoads? Sam Rhoads?"

19 Q. So you go, "Boom." "Where's Sam Rhoads?

20 Where is Sam Rhoads?"

21 A. Yeah. Exactly.

22 Q. As he's saying that --

23 A. I'm --

24 Q. -- what was going on?

25 A. I'm sitting here just saying, "I'll do

1 anything. What do you want? What do you want? Don't
2 hurt me. Don't kill me, please."

3 Q. Were you still on your knees?

4 A. Yeah. I was kind of, like --

5 Q. Were you doing this or were you just pleading
6 with him?

7 A. Just kind of, like -- like this, you know.

8 Q. You were kind of --

9 A. Curled up.

10 Q. -- curled up. Okay. You're curled up and you
11 were saying to him what?

12 A. "What do you" -- "What do you want? I'll give
13 you anything. I'll give you anything. Please don't
14 kill me."

15 I think what set him off was that I wasn't telling
16 him where Sam was. He asked. He asked, "Where's Sam
17 Rhoads." After he had shot I think I said, "In the
18 house. I don't know," or "I don't know if she's here.
19 I don't know. Is her car out front?" Or something
20 like that.

21 Q. So you curled up and you're saying, "What do
22 you want? I'll give you anything. Please don't kill
23 me?"

24 A. Yeah.

25 Q. Okay. And then what did he --

1 A. Money.

2 Q. You're still kneeled down?

3 A. Yeah.

4 Q. Okay. Hold on. And then as you're doing

5 that, what was his response or what transpired directly

6 after you remember saying that? "Don't kill me."

7 You're kneeling down. "Please don't kill me. I'll

8 give you whatever you want."

9 A. He said, "Give me your money."

10 Q. Okay. And we're still right here. We're

11 still right here.

12 A. Yeah.

13 Q. This is still going on in the same spot.

14 "Give me your money." Then what happened?

15 A. I think I said, "I'll give you my" -- "I don't

16 have any money. I don't have much money." I --

17 Q. Okay.

18 A. He's just -- at this point I'm getting up and

19 I'm like, "I have to get it. It's in my room."

20 He's like, "No."

21 Q. Did you start getting up at that time?

22 A. Yeah. I got up.

23 Q. You said, "I don't have that much money," and

24 got up?

25 A. Yeah.

1 DETECTIVE REESE: What this is, it's a gunshot
2 residue collection kit.

3 THE WITNESS: Okay.

4 DETECTIVE REESE: What I would like to do is
5 collect samples --

6 THE WITNESS: Okay.

7 DETECTIVE REESE: -- on both sides of your face
8 where you think that he may have shot off a round.

9 THE WITNESS: Okay.

10 DETECTIVE REESE: You comfortable with that?

11 THE WITNESS: Yeah.

12 DETECTIVE JOWER: He didn't wash anything.

13 THE WITNESS: I wiped my face with my hands.

14 DETECTIVE REESE: You did wipe your face?

15 THE WITNESS: Well, I kind of went like this
16 (indicating).

17 DETECTIVE JOWER: Yeah. We'll do it to your hand
18 as well.

19 THE WITNESS: Okay.

20 BY DETECTIVE JOWER:

21 Q. Okay. As she's preparing that, you said, "I
22 don't have much money," then you stood up?

23 A. Yeah. And then I started, kind of, running in
24 my room. I said, "It's in my room. Let me get it."

25 Q. Okay. So when you stood up, what did he do?

1 A. He --

2 Q. Did he --

3 A. He was following me with the gun. He was

4 still with the gun, like -- no. No, he wasn't. He was

5 trying to reload his gun at that time.

6 Q. Okay. Still right here?

7 A. Yeah.

8 Q. So you stood up. Okay. We're going to

9 re-enact this. So you were like this. You stood up.

10 "I don't have much money." Okay. You still kind of

11 facing your house --

12 A. Yeah. I'm like --

13 Q. -- right? And he is here?

14 A. No. He's on --

15 Q. So he's on your left side?

16 A. Yeah.

17 Q. Okay. So he's right here?

18 A. Uh-huh.

19 Q. And he's doing what?

20 A. Trying to reload his gun.

21 Q. Fumbling with his --

22 A. Fumbling with his gun. Exactly.

23 DETECTIVE REESE: Okay. So what I'm doing is I'm

24 going to press this against your head repeatedly all

25 around.

1 THE WITNESS: Sure.

2 DETECTIVE REESE: So without touching your face,
3 you described it just around your --

4 THE WITNESS: I know it sounds funny, but when he,
5 like, shot me, it seemed like he shot at my hair. I
6 was like, I wonder if I'm missing any hair.

7 DETECTIVE REESE: Okay. Do you remember where
8 about on your face the muzzle would have touched?

9 THE WITNESS: Probably like right up here.

10 DETECTIVE REESE: Okay. Am I missing any areas
11 that you feel it could have been?

12 THE WITNESS: No.

13 DETECTIVE REESE: I'm going to do your other side
14 also.

15 THE WITNESS: Sure.

16 BY DETECTIVE JOWER:

17 Q. Okay. As she's preparing that --

18 A. Sure.

19 Q. So he's possibly reloading. As he's
20 fumbling --

21 A. He's fumbling. He's trying to reload a gun.

22 Q. Then what were you doing?

23 A. I was kind of, like, going to my room.

24 Q. Did you run or walk or what to your room?

25 A. Kind of, like, a -- I can't remember. I think

1 I was kind of, like, walking, like, stumbling-type.

2 Q. It was kind of like in slow motion?

3 A. Yeah. I mean, I was kind of like -- I think I
4 might have been -- I think I went across the grass and
5 I was kind of, like, going and then he -- he said
6 something, but I can't remember what he said. I think
7 he said, "No" or "What are you doing" or -- I think he
8 was looking in at my room while I was grabbing my
9 wallet because he -- at that point he thought, Oh, God.
10 This guy might have a gun too. You know, he thought
11 maybe I was going to grab my gun or something.

12 Q. Okay. So you went to your room. You actually
13 made it inside?

14 A. Yeah.

15 Q. So --

16 A. I was in my room.

17 Q. So now we're at the point where you're --

18 A. I lost -- I lost contact with him probably
19 right in the middle -- right at the same point that he
20 saw me, I lost contact.

21 Q. So then you went from here --

22 A. Yeah.

23 Q. -- to your room --

24 A. Uh-huh.

25 Q. -- right? So we're talking --

1 A. I think he was -- it seemed like he was trying
2 to reload so he could be ready again, but then when he
3 couldn't figure out to reload or something, that's
4 probably --

5 Q. So were you -- at this point as you're walking
6 he stayed here?

7 A. I don't know. I lost -- I lost him.

8 Q. So you lost him --

9 A. No. I think he, kind of, was still looking
10 around. I mean, he's probably running all over the
11 place trying to do everything.

12 Q. But you weren't watching him at this point?

13 A. No.

14 Q. Was your back to him?

15 A. Yes.

16 Q. As you're walking back to your room your back
17 was to him; is that accurate?

18 A. Yes.

19 Q. Okay. And you -- was your door still open?

20 A. Yes.

21 Q. Okay. And you walked into your room?

22 A. And then I think he was -- Mariele will know
23 because I think this is when Mariele actually saw him.
24 I think he was at my door.

25 Q. Okay. Stop right there. Okay. Stop right

1 there.

2 DETECTIVE REESE: Thanks.

3 THE WITNESS: Were you able to get a hold of
4 Marlene?

5 DETECTIVE REESE: I'm not sure. I haven't checked
6 on the status of that.

7 THE WITNESS: I just know that's really going to
8 be really, really important person.

9 DETECTIVE REESE: Okay.

10 BY DETECTIVE JOWER:

11 Q. Okay. So that's when Mariele sees him,
12 possibly, at the front door. So you're inside.
13 Mariele is at the door inside looking outward; right?

14 A. I don't know if she's looking out. She
15 probably is peeking --

16 Q. After --

17 A. -- after she heard the shot.

18 Q. Both of you guys are now in your room; is that
19 correct?

20 A. Yeah.

21 Q. Okay. And your door was open; right?

22 A. Yes.

23 Q. Okay. Now, he's right here because then you
24 look back and you saw him right there?

25 A. I don't remember.

1 Q. But you --

2 A. I think -- I'm almost positive he was there
3 for a little while looking. What are you doing or -- I
4 don't know. It's hard to say. Because I just got --
5 I -- I think because --

6 Q. So he's --

7 A. -- Mariele started -- it seems like she saw
8 him and she started, just, going crazy. "Don't hurt
9 us. Oh, my God," and just started crying and balling
10 and --

11 Q. Okay. So he's saying, "What are you doing?"
12 Now, at one point -- now we're right here. Okay.
13 You're inside --

14 A. Uh-huh.

15 Q. -- right?

16 A. No. I'm right at the door.

17 Q. Okay. You're right here -- right? -- and
18 Mariele is close by you?

19 A. She's, like, all in here looking for my -- her
20 wallet.

21 Q. Okay.

22 A. No. I think -- I can't remember if he was
23 asking or she -- she told him -- she told me. I don't
24 know if she was telling him too. I don't know -- it's
25 in -- "I don't know where it is. I don't know where it

1 is."

2 Q. So you guys were having a conversation for
3 about, what, ten seconds?

4 A. Mariele and I?

5 Q. No. The suspect.

6 A. I don't know. That's the problem.

7 Q. Okay. So you guys were looking but he was
8 waiting for -- he was waiting --

9 A. I think he was waiting for me to give him some
10 money or --

11 Q. Okay.

12 A. The problem is I don't know that for sure. I
13 can't remember. He just said, "Give me all your money.
14 Give me all your money."

15 I said, "I don't have very much. I'll give you
16 everything."

17 Mariele handed me a wad of cash, and I went out to
18 give it to him.

19 Q. Okay.

20 A. Couldn't find him. When I couldn't find him
21 it was probably around 10:20.

22 Q. Uh-huh. So you turned around -- you went --
23 did you -- when she gave you the cash inside the house,
24 did you go outside to give it to him?

25 A. Yeah.

1 DETECTIVE REESE: You said you have not washed
2 your hands?

3 THE WITNESS: No, I haven't.

4 DETECTIVE REESE: Okay.

5 THE WITNESS: I sweated like a madman.

6 DETECTIVE REESE: Yeah. I bet.

7 BY DETECTIVE JOWER:

8 Q. So you gave it to the suspect, and when you
9 went outside he was gone?

10 A. He was gone or he was inside. I don't know.
11 I couldn't find -- I didn't see him.

12 Q. So unknown direction of travel. So that's --
13 we're going to stop there for a second. Okay?

14 A. Okay.

15 Q. See how we kind of went through a lot of
16 details?

17 A. Uh-huh.

18 Q. Okay. I'm going to go through what I just
19 went through, and I'm going to ask you more specific
20 questions because there's some things that sparked my
21 memory. It might have sparked your memory.

22 DETECTIVE REESE: Mind if I interrupt you for a
23 sec?

24 DETECTIVE JOWER: Sure.

25 DETECTIVE REESE: I'm going to do both of your

1 hands also.

2 THE WITNESS: Okay.

3 DETECTIVE REESE: Okay?

4 THE WITNESS: Okay.

5 DETECTIVE REESE: I'm going to start on the web of
6 your right thumb on the outside, and then I'm going
7 to -- yeah.

8 THE WITNESS: Oh, I'm touching my face. I
9 shouldn't do that.

10 DETECTIVE REESE: Yeah. Thanks. Flip it over.

11 BY DETECTIVE JOWER:

12 Q. How are you doing?

13 A. I'm okay. I'm worried. I want to know what's
14 going on. I just want to make sure that Mariele is --
15 I mean, Marlene's gotten a hold of because that's who
16 Sam's going to need more than anybody right now because
17 she's -- you know, she's a big deciding factor on
18 whatever's going on too, so...

19 Q. Who is? Marlene --

20 A. And Marlene --

21 Q. -- or Sam is the big deciding factor?

22 A. I think Marlene might be related somehow. I'm
23 not positive.

24 DETECTIVE REESE: To?

25 THE WITNESS: To the suspect, maybe.

1 DETECTIVE REESE: Okay.

2 THE WITNESS: I don't know.

3 BY DETECTIVE JOWER:

4 Q. Okay. We'll cover that in a second.

5 A. Okay.

6 DETECTIVE REESE: I'm going to do his --

7 BY DETECTIVE JOWER:

8 Q. So I'm going to go back to the beginning.

9 Okay?

10 A. Okay.

11 Q. And this is what I got. At around 10:10, all
12 right, you were lying in bed or sitting in bed on your
13 laptop computer in your little house right there in
14 your room, and you were on online remote desktop with
15 your work.

16 A. Uh-huh.

17 Q. So you were going online and you were -- you
18 work with Pro Home Systems. So if we had permission to
19 look at your computer, it should show where you're at?

20 A. Of course.

21 Q. And you give us permission to look at your
22 computer?

23 A. Of course. The problem is, the remote
24 desktop, it closes automatically after a certain period
25 of time. You have to log in.

1 Q. Okay.

2 A. You guys have permission to do whatever you
3 want.

4 Q. Okay. I just want to ask to make sure.

5 Laptop. Okay. That's one question I need to -- okay.
6 So -- and then Mariele Fellow, who is your girlfriend,
7 was watching TV and she was sitting on the bed with you
8 and she was watching some chick flick --

9 A. Yeah.

10 Q. -- movie; right? Okay. Both you guys are
11 sitting down. You hear two pops. The type of pops
12 that you heard were almost like fireworks or some
13 banging metal against each other. "Pop, pop." You
14 guys acknowledged the sound. About 30 seconds later
15 both of you guys --

16 A. Watch the center. I have a piece of lead
17 right there.

18 DETECTIVE REESE: You sure do.

19 BY DETECTIVE JOWER:

20 Q. About 30 seconds later both of you guys heard
21 two more pops of the same nature. Your girlfriend
22 stands up, looks out the blinds, and sees this gate
23 open.

24 A. Uh-huh.

25 Q. She tells you what she sees. You stood up,

1 still in your boxers. You open your front door. You
2 look out. You also saw both of these open.

3 A. Now, it's hard for me to remember if I
4 actually looked out the front door or if when she
5 popped the blinds open I saw that the garage door was
6 open also.

7 Q. Regardless, you saw that open.

8 A. Yeah. I saw both open.

9 Q. Okay. So at that time you walked out, okay,
10 and you were facing towards this area. Because that's
11 where you're looking at.

12 A. Correct.

13 Q. Okay. As you're walking out you kind of heard
14 behind you -- because you are now right here. You
15 heard behind you the sliding glass door opening.

16 A. Uh-huh. Correct.

17 Q. You talked about your internalizing that you
18 thought maybe it was Sam, Josh, or somebody, but then
19 you turned around.

20 A. I saw the dog out there too. I don't know if
21 that helps.

22 Q. The dog.

23 A. The dog that's in the backyard that was
24 barking. I didn't (unintelligible) that.

25 Q. Okay. Dog. Oh, so whose dog was out there?

1 A. Josh's mom's. Sam's dog.
2 Q. Sam's dog?
3 A. Yeah.
4 Q. What kind of dog is it?
5 A. A miniature Yorkie. That's what the officers
6 should be more afraid of. That thing's mean.
7 Q. So miniature -- he was running around?
8 A. Not running. Still. I looked and the dog was
9 just sitting there, which is very rare because that
10 dog -- I don't even know if that dog -- I don't know if
11 he shot the dog. It was alive at that point. I heard
12 the dog barking before any shots, anything.
13 Q. Okay. So before lying in bed, heard dog
14 barking?
15 A. Yes.
16 Q. Okay. That's good. About what time was that?
17 A. Maybe five minutes before.
18 Q. So around 10:00 o'clock?
19 A. The problem is that dog barks at everything
20 always. I heard growling and, you know.
21 Q. Dog barking and growling.
22 A. I actually yelled, "Shut up, Abby."
23 Q. In the backyard?
24 A. Yeah.
25 Q. Okay. See how come we go over? The new

1 things kind of sparks memories.

2 A. Yeah. I yelled "shut up" to the dog.

3 Q. Okay. So you turned around. All right. All
4 of a sudden you see this male subject who you described
5 already to us, the description. A male.

6 A. Yeah. I described --

7 Q. A white male subject. This male subject
8 was -- had sunglasses on, had a black --

9 A. The funny thing was, is I didn't really
10 remember that he was wearing sunglasses. Mariele said,
11 "He's wearing sunglasses," and then I kind of brought
12 it back.

13 Q. Okay. He -- you did not see any gloves.

14 A. No.

15 Q. Okay.

16 A. But he could have been wearing gloves.

17 Q. Okay. But you did not see gloves?

18 A. I didn't see -- I don't remember seeing
19 gloves.

20 Q. Okay. You did not see gloves?

21 A. I mean, chances are he was probably wearing
22 gloves, but I'm guessing.

23 Q. And then as he's coming down he looked at you.
24 So you're face-to-face at these two locations. He
25 walks down the stairs and he walks about halfway. At

1 this point you see him -- you don't know where -- from
2 what area, but now he has a gun, and you're not sure
3 what hand he has a gun in.

4 And he continues to walk towards you, and you guys
5 end up somehow in this location. He points a gun to
6 your head. All right. And your reaction, you kneel
7 down. He's on your left side. You're looking towards
8 your house. Okay.

9 A. Uh-huh. Correct.

10 Q. And your left ear at the temple area -- you,
11 kind of, was looking at him, and he's shaking, he's
12 shaking. He pressed it a couple times, but he was
13 constantly moving. And then all of a sudden he said
14 about ten times, "Where is Sam Rhoads? Where is Sam
15 Rhoads? Where is Sam Rhoads" -- over and over.

16 A. "Tell me where Sam Rhoads is. Tell me where
17 Sam Rhoads is."

18 Q. Right. "Where" -- over and over. All of a
19 sudden one shot?

20 A. One shot.

21 Q. "Boom."

22 A. Yup.

23 Q. You hear a shot and you felt the pressure, you
24 said. Okay. And you thought you got shot. You
25 thought you were going to die. Let me see -- you said

1 tell me what -- you said tell me?

2 A. Yeah.

3 Q. "Tell me where Sam is." Your ear starts
4 ringing. You thought you were going to die, and then
5 after that you hear him say, "Tell me where Sam Rhoads
6 is," about two more times?

7 A. Uh-huh.

8 Q. You then kind of -- you were kind of curling
9 up. In reaction you're saying, "What do you want?
10 I'll give you anything. Please don't kill me," as
11 you're kneeling down. Then he made a comment, "Give me
12 your money." Okay. Then you say, "I don't have much
13 money." You stood up. As you stood up he was still on
14 your left side. You saw him fumbling around?

15 A. Yeah.

16 Q. He's fumbling around, but you think he was
17 reloading his gun?

18 A. Correct.

19 Q. As that's going on you walk across the grass
20 and you make it back to your back door and you make it
21 inside; correct?

22 A. Correct.

23 Q. As you make it inside, your back was to him so
24 you don't know what's going on really, but next thing
25 you know --

1 A. Well, I think I'm more like this. I'm facing
2 this direction. I'm -- might have been looking, but I
3 didn't see. I don't remember it.

4 Q. Okay.

5 A. I kind of, like, I don't remember seeing him,
6 but I kind of remember feeling like he was -- you know
7 what I mean?

8 Q. Right.

9 A. I think he was there for a little while and
10 then he's like, Oh, screw this. I'm out of here.

11 Q. Okay. Now, could you -- let's go back because
12 this part --

13 A. The dog was real -- he wasn't loud. He
14 wasn't -- he wasn't yelling.

15 Q. So he was, kind of, whispering or?

16 A. I think he was -- "Where's Sam Rhoads?
17 Where's Sam Rhoads?

18 Q. Sort of in the normal voice tone?

19 A. Yeah. Or --

20 Q. Not too loud?

21 A. Firm.

22 Q. Firm but not too loud?

23 A. "Where's Sam? Tell me where Sam Rhoads is.
24 Tell me" -- you know, like the --

25 Q. Not yelling?

1 A. And "I'm going to kill you" on his face.

2 Q. Okay. So what direction do you think he -- I
3 mean, obviously he's to your left and you feel pressure
4 right here. If he missed, where do you think that
5 bullet went? If --

6 A. Directly -- I could actually pinpoint where it
7 went. I think it went right here.

8 Q. You think he shot here?

9 A. Yup. Yup. I remember at some point -- I
10 don't know when, looking at where -- like, doing one of
11 these and going like this and then kind of, like,
12 looking at where he would have shot and trying to,
13 like, see if I could see -- at that point I wanted -- I
14 wanted -- I thought this was a pellet gun. I wanted to
15 know if it was a real gun. Because if I could figure
16 out that it wasn't a real gun, I was trying to figure
17 out -- I looked -- I was looking at the gun trying to
18 see if it was real.

19 Q. Okay.

20 A. Because I wanted to grab it from him or do
21 something. I don't know.

22 Q. So -- so you think you went right there. And
23 then he's reloading it, your back is to him. Somehow
24 you made it inside and Mariele was still inside. And
25 somehow he made it to your door. You think he was

1 waiting for you.

2 A. Uh-huh. He never waited for anything. He was
3 always --

4 Q. Around.

5 A. -- looking around, jumping, like, just all
6 over the place.

7 Q. Okay. Waiting or looking around.

8 A. Like when he saw me, he didn't run at me. He
9 firmly walked at me, like --

10 Q. Okay. And then once you got the money, you
11 turned around to give it to him and he was just gone?

12 A. I shoved it in my pocket, which I don't even
13 know where it is now. I don't know if I threw it or --
14 I don't know what happened.

15 Q. Okay.

16 A. I brought it back in my room and threw it on
17 the counter. Probably it's laying on the counter.

18 Q. Now, and then you don't know what direction --
19 you don't know if it's in the house or out the house.
20 You don't know if he's still there or anything like
21 that --

22 A. I don't know.

23 Q. -- right?

24 A. Nope.

25 Q. Now, that was just the event. Okay. My next

1 question is -- you're not going to get in trouble or
2 anything like that. Do you use drugs at all?

3 A. No. Not at all. 100 percent no. I'm not
4 even on painkillers for my back.

5 Q. No prescription medications?

6 A. Nothing.

7 Q. No narcotics? No nothing?

8 A. Enzymes. Repair natural. You know, no. Not
9 at all. Mariele's has (unintelligible), and my doctor
10 asked me if I wanted pain medicine. I'm not for any of
11 that stuff. I'm completely against it.

12 Q. What was the last time you drank any alcohol?

13 A. Last night.

14 Q. What time last night?

15 A. 10:30 at night.

16 Q. How much?

17 A. Two glasses of wine.

18 Q. That's it?

19 A. Yup.

20 Q. And you are not -- you didn't feel the effects
21 of the alcohol? I know that's a silly question.

22 You're a --

23 A. I understand. I mean, I had been up since
24 8:30, 9:00. I got up at 9:00 o'clock in the morning to
25 do work.

1 Q. Okay. You said that you could possibly
2 identify a gun if -- if we did a gun photo lineup of
3 guns --

4 A. I think I would be able to, yes.

5 Q. Do we have pictures of guns?

6 DETECTIVE REESE: We might.

7 BY DETECTIVE JOWER:

8 Q. Okay. We'll definitely do a photo line up of
9 guns. Okay?

10 A. I know it sounds funny, but it just looked
11 almost like the guns that normal police officers carry.
12 It wasn't loud. It was weird. It didn't sound like --
13 I was just thinking it was a fake gun because when it
14 went off it didn't sound like it was a -- and I looked
15 at it and there was no silencer or anything like that.
16 So I just -- I think that it was --

17 Q. Going back.

18 A. Then why would he be reloading?

19 DETECTIVE REESE: Could you smell? Could you
20 smell anything?

21 THE WITNESS: I smelled it. That's what I was
22 telling the other guy. When I went in the house, when
23 the officers -- when I was on the phone with dispatch
24 and they had me walk into the sliding glass door, right
25 as I opened the sliding glass door I smelled. I

1 smelled.

2 DETECTIVE REESE: It was this sliding glass door?

3 THE WITNESS: No. Right here. Once they called
4 me to come out, I came in here and I walked through the
5 house and then to the front door.

6 BY DETECTIVE JOWER:

7 Q. Okay. Now, this is where -- now, we talked
8 about -- this is where we're going to ask you what did
9 you see or what's going on right here. Because the
10 thing is this -- I guess the officers brought you guys
11 out at gunpoint?

12 A. Yeah.

13 Q. Hold on from this thought right here. So
14 you -- so at this point you don't know what direction
15 of travel. When did you call 911?

16 A. In my phone records it was 10:36.

17 Q. So 10:36. So how many minutes would you think
18 after you didn't know he left?

19 A. Ten.

20 Q. Ten minutes?

21 A. Ten minutes, yeah.

22 Q. You waited ten minutes?

23 A. I waited in my -- I grabbed the money, I
24 looked for him, came back in the house, was in the
25 house for a while, then decided we would lock ourselves

1 in the closet.

2 Q. Waited ten minutes and then went back into
3 your house?

4 A. Yes. Then when we were in the house I decided
5 we should go in the closet.

6 Q. You locked -- the closet right here?

7 A. Yes.

8 Q. In your house. Okay. Waited ten minutes.
9 Back in --

10 A. The whole time Mariele's saying, "Call the
11 police. Call the police. Call 911."

12 Q. Hid in closet. So --

13 A. I told her when we first came in and when I,
14 kind of, went out -- I don't know if I actually came
15 out to give him the money or I just looked and I didn't
16 see him and I closed the door and locked the door. I
17 said, "Get under the bed. Let's hide under the bed.
18 Let's get under the bed."

19 DETECTIVE REESE: Quick question. Is there any
20 other way into the backyard except that gate there?

21 THE WITNESS: There's -- the side of the house
22 here, but the gate doesn't open.

23 BY DETECTIVE JOWER:

24 Q. So you waited ten minutes?

25 A. Besides going through, you know, the house.

1 DETECTIVE REESE: Okay.

2 BY DETECTIVE JOWER:

3 Q. Waited ten minutes?

4 A. Uh-huh.

5 Q. Called 911 on your cell phone; right?

6 A. Yup.

7 Q. And then you were transferred to us, I'm
8 assuming?

9 A. I called 911 and I said, "Did somebody
10 already" -- I thought somebody might have already
11 called it in. I thought Sam had called it in because I
12 figured at this point he had left. I don't know what I
13 was thinking. I said, "I'm at 1110 Boulevard. I need
14 somebody over here. There's gunshots."

15 Q. So when did you -- so did they transfer you to
16 us?

17 A. They said -- they didn't transfer. They're
18 always on the phone, but, yeah -- it's a dispatch or
19 something. Then I was talking with someone.

20 Q. From Walnut Creek?

21 A. I think.

22 Q. Okay.

23 A. Yeah.

24 Q. After you call 911 -- you call 911 while
25 you're in here?

1 A. Yeah. I came out of the closet.

2 Q. Okay. Out of the closet.

3 A. I told her to get away. She was walking over
4 to, like, the window, and -- to grab the cell phone. I
5 pushed her down and I said, "Don't get near any of the
6 windows." She grabbed the cell phone and we both stood
7 right by the door. I said, "Stay by the door. And,
8 you know, in case he -- I had the door locked.

9 Q. But this is where you call 911?

10 A. Right here.

11 Q. In the house?

12 A. Yes.

13 Q. In your house?

14 A. Yes.

15 Q. When did you go from here to here?

16 A. Only when they instructed me to.

17 Q. Okay. So dispatch instructed you to go to the
18 main house?

19 A. They had me in my back room for -- obviously
20 everything happened slow -- or fast.

21 Q. Right. Right.

22 A. But I think I was probably back there for
23 about seven minutes on the phone with them before they
24 had -- maybe, actually, longer. They were just asking
25 me every question that they could to try and figure it

1 out.

2 Q. So you're in the main house and you're on the
3 line with 911?

4 A. Yes. I was on the --

5 Q. Did you actually open the sliding glass door?

6 A. Yeah. Sliding glass door, I opened.

7 Q. Okay. You opened it?

8 A. I don't know if I closed it.

9 Q. You walk in and you're still on the phone?

10 A. Still on the phone.

11 Q. Okay. You're still on the phone and you're
12 walking in the main house; right?

13 A. Yup.

14 Q. Okay. Soon as you walk in right here, what do
15 you see?

16 A. Nothing. Just a normal room, you know. Just
17 everything is normal. This is when I smelled it.
18 Right when I opened the sliding glass door I smelled
19 it. Gunpowder or it smelled like a -- you know, pop,
20 whatever.

21 Q. Okay. Saw nothing but smelled gun powder?

22 A. Yeah. For --

23 Q. So --

24 A. Yeah.

25 Q. Then you're -- where were you standing when

1 you smelled that?

2 A. Right about here.

3 Q. Right here?

4 A. Right as I stepped into the house, roughly.

5 Q. Okay. So you're right there. Then what?

6 A. I'm still on the phone with dispatch all the
7 way to the front door.

8 Q. Did you just B-line it straight here?

9 A. Straight.

10 Q. You never went up here?

11 A. Nope.

12 Q. Never went up here?

13 A. They told me just go straight for the front
14 door.

15 Q. As instructed?

16 A. Yup. Ever since I was on the phone with 911,
17 I did everything they said.

18 Q. Okay. As instructed. Now, you go into the
19 front door and then what happens?

20 A. I opened the front door.

21 Q. Uh-huh.

22 A. I'm on the phone. And they're saying
23 on dispatch, "Can you see them? Can they see you?
24 Can" -- you know, they were making sure you guys could
25 see me. I'm on the phone.

1 Q. Uh-huh. You open the front door.
2 A. I open the front door. I think I saw you
3 right here.
4 Q. No. It wasn't me.
5 A. Okay. Somebody was right through --
6 Q. A police officer?
7 A. An officer, yeah. I saw an officer right
8 through -- there's a fountain right here.
9 Q. Okay.
10 A. I'm sorry. Not right here. There's bushes
11 here.
12 Q. Okay.
13 A. He was on the other side of the bushes.
14 Q. Okay. So --
15 A. Then I knew there were officers. I was
16 worried that I was going to be walking out here -- I
17 didn't know what was going on.
18 Q. So you walked out the front door?
19 A. Uh-huh.
20 Q. Then what?
21 A. Somebody was right here.
22 Q. A cop?
23 A. Yes. A police officer.
24 Q. Near the front door?
25 A. No. I'm sorry. There was somebody right

1 here. An officer.

2 Q. Uh-huh.

3 A. That was the officer I think that was on the
4 phone with the dispatch lady. We're going back and
5 forth. "Can you see him?"

6 "Yes, it is him."

7 "Are you sure it's him?"

8 "Yes."

9 "Put your hands up in the air."

10 "Okay."

11 Then they said, "Okay. The police officers --
12 well, it was -- actually, I got off the phone before I
13 put my hands up in the air.

14 Q. Okay.

15 A. They acknowledged me. Got off the phone.
16 Heard a bunch of officers say, "I can't see him. I
17 can't see him. I can't see him." I got a little
18 scared, obviously. Just ever since then I took their
19 full instructions.

20 They walked me out to the street. I got on the
21 ground. They handcuffed me. Blah, blah, blah.

22 Q. And then they brought you somewhere; right?
23 They handcuffed you?

24 A. We laid on the ground, you know. They
25 searched us, they handcuffed us. They brought us

1 around the corner to where you actually picked us up
2 and just started asking -- you know. I know it sounds
3 funny, but five different officers asked me the same
4 question.

5 Q. How about Mariele?

6 A. Mariele was right behind me the whole time.

7 Q. So both -- so when you're calling and
8 you're --

9 A. Actually, she's right -- the only time she
10 left me was right here and I walked out here. I walked
11 out first. Then I said --

12 Q. Okay.

13 A. -- what do I -- when I'm on the phone still I
14 said, "What do I do with Mariele?"

15 Q. So right here both of you guys -- you're on
16 the phone, but both of you guys walked in at the same
17 time?

18 A. Yes. Yes. The whole time we're walking --

19 Q. And then both you guys -- Mariele's still
20 right here, and then you went out first.

21 A. Yup. Exactly. Because I think they wanted
22 to -- while I'm on the phone.

23 Q. Okay. And you guys were both handcuffed at
24 the same time, more or less?

25 A. I don't really know. Yeah. I don't know.

1 Q. That was --

2 A. We just came out together, and I told her to
3 hold my hand. We were walking out together. They told
4 us to keep our hands up. I got my hands up. There was
5 one point where they were like. "I can't see him. I
6 can't see him," you know. And I'm raising my hands as
7 high as I can. That was it.

8 Q. Okay. Now, let's talk about the suspect
9 really quick. Okay. You mentioned about no -- we're
10 going to go back to where all this is happening.

11 A. Uh-huh.

12 Q. This is where you're in contact with the
13 suspect. Okay. Now -- okay. So, suspect. Color
14 beanie?

15 A. Black beanie.

16 Q. Rolled up?

17 A. Yeah. Well, it was folded, you know. I don't
18 know if it was actually one that was sewed on or if he
19 folded it up.

20 Q. Folded up?

21 A. His ears were showing, I think. I mean, this
22 is what I remember.

23 Q. Okay. Do you remember the eyes?

24 A. No.

25 Q. Do you remember sunglasses?

1 A. I don't remember sunglasses.

2 Q. Nose?

3 A. Not -- it didn't -- it wasn't, like, a perfect
4 straight nose. The -- I think I remember it being kind
5 of shrively.

6 Q. Mustache? Goatee? Clean shaven?

7 A. I don't remember seeing any facial hair.
8 Clean shaven from my recollection.

9 Q. Okay.

10 A. Here's the thing, if I see him, I could
11 definitely identify him.

12 Q. Okay. Now, was the neck showing? Was he a
13 white male?

14 A. White.

15 Q. Black -- you sure?

16 A. Yes. Positive.

17 Q. Okay. Now, did you see hair out of the
18 beanie? Was it short hair? Long hair?

19 A. No. I think it was short hair.

20 Q. Did you see hair --

21 A. No. I didn't see hair coming out of the
22 beanie. He had short hair. It looked like it was a
23 shaved head because I -- I don't think it was covering
24 his whole head.

25 Q. So we have beanie, hair, ears. Don't remember

1 the eyes; right? Nose, no facial hair, white male.
2 Did he have any jewelry? Necklace?
3 A. No. If he did, it was being hidden by his --
4 Q. Okay.
5 A. No. I don't remember seeing any jewelry.
6 Q. Now, you saw a trench coat. Did you see a
7 shirt?
8 A. No. I think he probably was just wearing a
9 black shirt or something. I didn't see anything.
10 Q. Was the trench coat?
11 A. I was trying to look for --
12 Q. Okay.
13 A. I know it sounds funny, but while this was
14 happening, I was trying to look for signs of something.
15 Q. Okay. Now, trench -- so -- but was it --
16 A. I'm going to say a black coat.
17 Q. How long?
18 A. I think it was long. I think it was probably,
19 like, down to his knees, I think.
20 Q. Okay.
21 A. That's the problem.
22 Q. What kind of pants?
23 A. That's the problem. I was trying to remember
24 myself.
25 Q. Unknown pants?

1 A. Unknown.

2 Q. How about shoes?

3 A. I tried -- same thing. I'm trying to remember
4 right now. I'm guessing he was wearing black pants and
5 black shoes because I didn't see any immediate -- you
6 know what I mean? I didn't see anything that was -- if
7 I had to guess -- from my recollection it's -- he was
8 all black hiding everything.

9 Q. Okay. Hands? Not sure if he had gloves?

10 A. Not sure.

11 Q. So you don't remember seeing any rings?

12 A. No.

13 Q. See any --

14 A. Nope.

15 Q. You remember seeing any blood on his hands?

16 A. No, I don't.

17 Q. Injuries? Cuts?

18 A. Nope.

19 Q. He didn't have any cuts or injuries on his
20 face?

21 A. His face was very shriveled. Very shriveled.
22 He looked like he --

23 Q. How --

24 (Break in audio.)

25 THE WITNESS: Looked like a -- if Nathan had a --

1 it looked like it could have been his brother from
2 that, I mean.

3 BY DETECTIVE JOWER:

4 Q. How old do you think this guy was?

5 A. Mid-thirties.

6 Q. How tall -- how tall are you?

7 A. This looks like a guy -- I know it sounds
8 funny, but, you know when you look at a guy and he does
9 meth and his whole --

10 Q. Like meth face; right?

11 A. He looked like he had a meth face.

12 Definitely.

13 Q. How tall?

14 A. That's the problem. I can't remember. He
15 wasn't a tall guy. Probably, like, 5'10 or something.
16 I'm going to say 5'10.

17 Q. Okay. Thin?

18 A. That's the problem.

19 Q. Bulky?

20 A. That's the problem. I couldn't get any build
21 because he had this big coat on. I'm going to say --
22 I'm going to say not a big guy. That's why I'm
23 thinking it's not Nathan, but --

24 Q. Unknown build.

25 A. Yeah. He wasn't fat. He wasn't -- he didn't

1 look like he was super skinny. He wasn't intimidating.
2 I mean, he was intimidating because he had a gun. I
3 was thinking about trying to attack him.

4 Q. Do you know what color hair he might have or?

5 A. I think it was, like -- almost -- I think it
6 was brown.

7 Q. Do you know what color eyes?

8 A. No. Sunglasses -- I think he had sunglasses
9 on.

10 Q. Do you know what color sunglasses?

11 A. Black with blue -- I know it sounds funny, but
12 I don't know why this is coming to me, but black with
13 the real -- you can't see his eyes at all. It was like
14 a silver blue, if you know what I mean. Just real
15 cheap sunglasses.

16 Q. Black silver with silver blue?

17 A. Yeah. It was the kind of sunglasses that was
18 very cheap. Everything he was wearing seemed very
19 cheap. When he was muscling with his gun, it seemed
20 like he had it, like, right here, and he was -- I don't
21 know. Just trying to remember as much as I can. You
22 wish you had, you know, the best memory ever.

23 Q. Now, did you do a photo lineup?

24 A. No.

25 Q. You did not do a photo lineup?

1 A. Officer came up to me, said, "Is this the" --
2 "can you take a look at this picture?" I looked inside
3 the white unmarked car with two -- not sheriffs. They
4 were wearing tan uniforms.

5 Q. Uh-huh.

6 A. They had some badges here. They said, "Is
7 this the guy?" I looked in and I said, "That looks
8 like him."

9 Q. So they showed you a photo?

10 A. They showed me a photo. They pulled up
11 somebody's record. A photo this big. And I said,
12 "That looks like him."

13 Q. How sure -- so the sheriff's office guy;
14 right? Showed a single photo?

15 A. There was two -- but I don't know if it was
16 sheriffs because they had an unmarked car. Sheriff's
17 uniforms are a little darker.

18 Q. Right.

19 A. This was lighter tan.

20 Q. It's tan?

21 A. Yeah.

22 Q. Okay.

23 A. So -- and they had sheriff's -- it's funny
24 because I was --

25 Q. Maybe CHP.

1 A. CH- -- you normally have a uni- -- thing on
2 your badge.

3 Q. Yeah. Yeah.

4 A. They had a couple, like -- maybe three of
5 these here. It might have been a sheriff. It was
6 probably a sheriff. I know our house is in the
7 sheriff's department.

8 Q. Showed you a single photo?

9 A. Yes. Said, "Is that the guy?"

10 I said, "It looks like I'm. I'm not 100 percent
11 sure. That definitely looks like him, but then at the
12 same time, you know, I'm thinking in my head it's not
13 him because Nathan is a big guy. And this guy didn't
14 look big. But I haven't seen Nathan in two or three --
15 no. Two years.

16 Q. All right. Does Nathan have a brother?

17 A. I have no idea. I don't even know Nathan at
18 all. I seen him in a bar once, and I heard about him
19 through a lot of -- he's a bad -- he's the kind of guy
20 that might -- I didn't think he was this extreme, but
21 he's the kind of guy --

22 Q. Nathan's brother?

23 A. No. Nathan himself.

24 Q. Nathan himself. Okay. When you saw this guy,
25 did you say, "Oh, that's Nathan. I know him?"

1 A. No. Not at all. I said, I have no idea who
2 this is. I didn't know who this guy was.

3 Q. You know Nathan; right?

4 A. The problem is that -- no, I don't know
5 Nathan.

6 Q. You don't know Nathan?

7 A. I've very vaguely seen him at a bar before.

8 Q. Okay. So you don't even know what Nathan
9 really looks like?

10 A. No.

11 Q. So the person that you saw you didn't know who
12 he was?

13 A. No. Not at all. I have no idea who this guy
14 was.

15 DETECTIVE REESE: Would you recognize Nathan if
16 you saw him?

17 THE WITNESS: Would I recognize the guy that was
18 there that held a gun to my head? Yes.

19 DETECTIVE REESE: Okay.

20 THE WITNESS: I think so.

21 DETECTIVE REESE: And would you recognize Nathan
22 if you saw him --

23 THE WITNESS: No.

24 DETECTIVE REESE: -- just from your memory of him?

25 THE WITNESS: No. I'd recognize his -- I remember

1 him being -- he's a -- two years ago you couldn't miss
2 him. He's a big, muscle, workout guy.

3 BY DETECTIVE JOWER:

4 Q. When was the last time you saw Nathan?

5 A. Probably when I was -- see, I can't remember,
6 but I think when I was doing work on -- I have been
7 good friends with Sam and Josh. Back when they were
8 doing the addition I think I came by once and he was --
9 yeah. That's where I remember.

10 Q. How long ago?

11 A. Probably over four years ago. When I saw him
12 at the bar, I don't even remember what he looks -- I
13 mean, it was --

14 Q. Okay. So --

15 A. -- "Hey, there's Nathan."

16 "Oh."

17 Q. So Nathan is a stranger to you then?

18 A. Yes. Completely. He didn't know who I was.

19 Q. I'm not trying to put words in your mouth or
20 anything like that, but when you saw this guy you
21 didn't recognize him?

22 A. Not at all.

23 Q. And it could have been Nathan because you
24 haven't seen him for four years, and before that you
25 met him once.

1 A. Exactly.

2 DETECTIVE REESE: Has your girlfriend ever met
3 him?

4 THE WITNESS: No. Never. Sam -- Josh's mom --
5 and Josh would know exactly. They can say right now --
6 you can call them and say, "Was it Nathan," and they
7 can say yes or no, guaranteed.

8 BY DETECTIVE JOWER:

9 Q. Sam and Josh would know?

10 A. Oh, yeah. For sure. I mean, I know it sounds
11 funny, but if you go and look at Nathan now and he's
12 some guy that's not as big as he was because his
13 picture is four years ago, then you'll know that -- I
14 mean --

15 Q. Let me talk to my partner really quick.

16 A. Yeah. No problem.

17 DETECTIVE JOWER: Do you have any questions right
18 now?

19 DETECTIVE REESE: I was going to make sure we
20 established the relationship of Nathan and Josh and
21 Sam. Did we talk about that?

22 DETECTIVE JOWER: No, we did not.

23 BY DETECTIVE JOWER:

24 Q. Okay. Okay. So Sam is --

25 A. Sam Rhoads is basically, like, my second

1 mother. I met Josh seven years ago.

2 Q. Okay. And that's -- that's Josh's mom; right?

3 A. And then she started inviting me for all the
4 holidays. I was over there all the time. Every day.

5 DETECTIVE REESE: She has a business originally --
6 (Interruption in the proceeding.)

7 DETECTIVE REESE: Thank you. You said when you
8 saw this person coming out of the house you immediately
9 thought --

10 THE WITNESS: Yeah. I thought --

11 DETECTIVE REESE: What kind of business does she
12 have?

13 THE WITNESS: Well, when he first came out I was
14 like, Who is this? It's a little weird, but I didn't
15 automatically suspect, Oh, this guy's shooting people
16 in the house or -- I suspended, Oh, well maybe it's one
17 of -- because Sam does insurance. She does -- she's
18 been doing a bunch of different deals.

19 DETECTIVE REESE: Is she an insurance agent?

20 THE WITNESS: She does life insurance or
21 something.

22 DETECTIVE REESE: Life insurance.

23 DETECTIVE JOWER: This is Sam?

24 THE WITNESS: Yeah. So I figured it was some
25 client or somebody that was helping refer or, you know,

1 somebody working on the house.

2 DETECTIVE REESE: Did she work out of her house?

3 THE WITNESS: Yes.

4 DETECTIVE REESE: Okay.

5 THE WITNESS: Yeah. So Nathan -- Tony. Tony and
6 Sam were good longtime friends. Really good friends.

7 BY DETECTIVE JOWER:

8 Q. Who is Tony?

9 A. Tony is the contractor that built -- that did
10 the addition for her.

11 Q. Okay. Tony is Sam's friend?

12 A. Was.

13 DETECTIVE REESE: What part is the addition? The
14 master, is that the addition?

15 THE WITNESS: This -- the house used to just be
16 like this.

17 DETECTIVE REESE: Okay.

18 THE WITNESS: That's it. That's all it used to
19 be.

20 DETECTIVE REESE: Okay.

21 THE WITNESS: But he did all this.

22 DETECTIVE REESE: When was that?

23 THE WITNESS: Six years ago or something.

24 DETECTIVE REESE: Okay.

25 BY DETECTIVE JOWER:

1 Q. Okay. So --

2 A. Tony's friends with Sam. He's a big family
3 friend. Everybody was friends. He said, "Sure. I'll
4 do the addition." Everybody was great. Everybody was
5 nice. He came in, did the addition. He was never
6 there. He left her house flooded. I mean, screwed her
7 completely beyond belief.

8 DETECTIVE REESE: What's his last name?

9 THE WITNESS: I don't know.

10 DETECTIVE REESE: Okay.

11 THE WITNESS: She'll know. So Tony did -- skipped
12 out of town. Buying homes in Oregon. Blah, blah,
13 blah. Sam's like, What's going on?

14 BY DETECTIVE JOWER:

15 Q. How long ago was this?

16 A. Probably, like, six years ago or something
17 like that. So then the addition -- she's like, I can't
18 do this. Tony said he needed more money for materials.
19 She already paid 80 percent. You're not even supposed
20 to pay until the job's done. Anyways, they got into a
21 scuffle. Not a big scuffle. I mean, just like, Oh,
22 well I need somebody to finish my house. So she hired
23 a contractor --

24 DETECTIVE REESE: When you say "scuffle," not a
25 physical scuffle.

1 THE WITNESS: No. No. Not at all.

2 DETECTIVE REESE: Okay.

3 THE WITNESS: Probably just an argument over the
4 phone. Hey, I'm going to hire another contractor. I
5 need this done. Or he just -- actually, I think he
6 just stopped contact completely from her. Just took
7 the easy way out. The guy's a real -- not a good guy.

8 So, anyway, Nathan was working on the house at the
9 time running the electrical -- from what I'm told --
10 for the house. He's not in any way -- he was -- she
11 was told he was an electrical contractor. He doesn't
12 have any licenses. He's just a hobo that knows how to
13 run wires.

14 BY DETECTIVE JOWER:

15 Q. At the same time six years ago he was doing
16 this?

17 A. Yes. Exactly. Nathan, I think, is Tony's
18 son, or somehow they're related, I think. I think Tony
19 might be related to Marlene. Which Marlene is a --
20 basically family to Josh and everybody, but not really.
21 Not blood related. He was working on the house. They
22 did -- she did the addition.

23 Q. I'm sorry. Tony's related to Marlene?

24 A. I don't know.

25 Q. Okay.

1 A. Possibly. I'm not sure. I know they're
2 family -- I know they're friends. They were all family
3 friends.

4 Q. And then Marlene is too?

5 A. Marlene is not related to Josh or Sam in any
6 way, but she should -- I mean, she's family. Totally.
7 Completely.

8 Q. Good family friend?

9 A. Yeah. She's fam- -- I mean, every holiday,
10 Christmas, she's there. She's the one buying all
11 the -- you know.

12 Q. Got you.

13 A. Josh calls her his grandma. Okay. So Nathan
14 was working on the -- so then Sam hired a contractor to
15 come in and get it finished. Paid a bunch of money.
16 Saw how much money she paid. Ridiculous amounts.
17 She's been in a lawsuit with Tony for the longest time.

18 DETECTIVE REESE: Once the new contractor
19 started --

20 THE WITNESS: He finished.

21 DETECTIVE REESE: -- Nathan stopped?

22 THE WITNESS: Oh, yeah. Nathan was no longer --

23 DETECTIVE REESE: He was affiliated with only --

24 THE WITNESS: Sam got, I think, in a fight with
25 Nathan. Not in a fight. But told Tony, "Who the hell

1 is this guy? Why is he in my house? He doesn't know
2 what he's doing."

3 She hired another electrical contractor that came
4 in. All his wires were laying in water. I mean, Sam
5 tried to take his contractor's license first.

6 BY DETECTIVE JOWER:

7 Q. Whose?

8 A. Tony's. Which Tony doesn't even have a
9 contractor's license. He has a painting license.
10 Painting contractor's license. Couldn't get that.
11 Tried to do the bond. She was trying to get what she
12 can out of him so she can get her money back. Any of
13 it. She's been in a lawsuit for six year now, I guess.
14 Multiple different attorneys. Ever since she
15 started -- ever since Tony got a letter little events
16 have been happening around the house.

17 Q. When was the letter?

18 A. I don't know. You'd have to ask her.

19 DETECTIVE REESE: Do you know how much money
20 you're talking about she's suing him for?

21 THE WITNESS: 250,000. Probably, like, 250,000
22 or -- the funny thing is, every single time something
23 happens bad, it's a couple days after she gets -- they
24 get a letter.

25 DETECTIVE REESE: They get a letter from --

1 THE WITNESS: From an attorney or something.
2 Every time Tony feels threatened it seems like
3 something happens. Last time she got a -- this is what
4 she's telling me.

5 Last time she got a letter, a rock was thrown
6 through her back window of her car and through the
7 front window of the house. No other vehicles were
8 effected.

9 BY DETECTIVE JOWER:

10 Q. So Sam is getting a letter from Tony's
11 attorney or --

12 A. No. Tony is getting letters from -- not just,
13 probably, an attorney. From the state. Probably from
14 a bunch of people.

15 Q. From people. Okay.

16 A. Tony's probably communicating with him saying
17 Oh, they're still after me. Blah, blah, blah. He's
18 crazy.

19 Q. So every time Tony seems to get a letter from
20 somebody, something happens to Sam's property?

21 A. Exactly.

22 DETECTIVE REESE: When was this, the rock through
23 the window and the house?

24 THE WITNESS: We filed a police report. There was
25 a police officer there. You guys have that

1 information.

2 BY DETECTIVE JOWER:

3 Q. Do you know how long ago that was?

4 A. Probably six months ago. Maybe four or six
5 months ago. Then just recently did Tony get -- I think
6 just recently did Tony really realize, I'm so screwed.
7 Because I think he's starting to have -- he keeps
8 sending back, "I'll pay you 10,000." He's trying to do
9 these little payoffs, and she keeps fighting it. Just
10 recently did he realize, I guess -- he's been through
11 multiple attorneys. They said, "Hey, you're screwed.
12 You're going to have to pay a lot of money." Now this
13 happened, from what I know. Sam would be able to tell
14 you every gory detail. But Nathan definitely does not
15 like Sam. Absolutely hates --

16 Q. Why do you say that?

17 A. Because she told him -- because she always --
18 he always had a very bad attitude with her. She always
19 didn't want him in the house because -- she has so many
20 stories. I think he was smoking in the -- she told
21 him -- I know there was a bunch of little issues that
22 she had with him. She never liked him. He's, like,
23 this drug using -- he's --

24 DETECTIVE REESE: When you say "smoking," smoking
25 what?

1 THE WITNESS: Probably smoking cigarettes. I
2 don't even think it was the smoking. I think it was
3 his attitude.

4 BY DETECTIVE JOWER:

5 Q. Why does he keep on coming back?

6 A. Nobody's caught him.

7 Q. No. Why does he keep coming back to Sam's
8 house?

9 A. What do you mean?

10 Q. You said that she caught Nathan smoking.

11 A. No. No. No. This is when the construction
12 was --

13 Q. Oh, okay.

14 A. Finally I think she might have kicked him out.
15 Said, "I don't want this guy here anymore," to Tony.
16 This is six years ago.

17 DETECTIVE REESE: Has she mentioned Nathan over
18 the last six years?

19 THE WITNESS: Oh, all the time.

20 DETECTIVE REESE: And why --

21 THE WITNESS: Every time something happens she
22 thinks Nathan is the --

23 DETECTIVE REESE: Why does she think it's Nathan
24 and not Tony?

25 THE WITNESS: Because he's -- I don't know all the

1 gory -- the details, but I'm pretty sure that Nathan
2 has a bad history of this violence and whatever's going
3 on. And I don't know. Because he's the only one that
4 would do this. Tony lives in Oregon, I think, or
5 something. I don't -- I skipped out of town or
6 something because he's getting sued and he's trying
7 to -- I don't know.

8 DETECTIVE REESE: When's the last time you heard
9 Sam mention Nathan or Tony's name? I know six months
10 ago we had the rock incident, but is there anything
11 since then.

12 THE WITNESS: Three days ago I asked her -- I talk
13 to her every day, almost.

14 DETECTIVE REESE: Okay.

15 THE WITNESS: I said, "What's going on with" --
16 "How are things going?"

17 "Well, I got a letter back. It's looking good. I
18 got a new attorney or whatever. We're going after him.
19 I think it's going to be good. She's, like, the
20 sweetest lady you'll ever meet. She tries so hard to,
21 just, make it. I help her out. That's why I'm living
22 back there, because she got screwed. She has no money,
23 she's barely getting by, and these people keep
24 attacking her house. So --

25 DETECTIVE REESE: Did she say -- when she got the

1 letter saying things were looking good -- I know you
2 had this conversation three days ago.

3 THE WITNESS: Give it a week. I'm not sure.
4 Probably less than a week ago she told me that things
5 were looking really good.

6 Q. Did she ever mention any kind of --

7 A. She was always afraid.

8 Q. -- threats or exchanges of --

9 A. I think he's threatened her before. Called
10 her and threatened her.

11 DETECTIVE REESE: Who is "he"?

12 THE WITNESS: Nathan.

13 BY DETECTIVE JOWER:

14 Q. Why do you say that?

15 A. I think I recollect Sam saying something like
16 that. I'm not positive of that.

17 Q. What kind of threats?

18 A. I have no idea. I think I've just heard Sam
19 saying before -- I know she's afraid of the guy. I
20 know -- I don't think she was ever afraid with her life
21 of him, but she was afraid that he was going to come
22 and -- and every time it seems like when they've
23 through the rock through the window, she was there. So
24 it's like he's doing this when she's there. I don't
25 know if he was trying to break into the house and

1 somebody -- no. Wait. I think I remember now.

2 Gotta look at the police report because last time
3 this happened I pulled up and I drove around the
4 neighborhood because we were looking for somebody
5 because there was a suspicious suspect that was -- when
6 I pulled up to the house, somebody was parked and raced
7 off and burned out, out of the place. At that point I
8 didn't see who it was. I couldn't see because it was
9 dark. And I told her -- I saw the girl. It was a
10 young girl that was driving. And that's how he kind of
11 figured it was Nathan too because it was probably his
12 girlfriend or something like that. I don't know. It's
13 just --

14 Q. What kind of car was it?

15 A. This was a while ago, but I think it was,
16 like, a silver sports car. This is all -- should all
17 be in the detailed police report.

18 DETECTIVE REESE: Is this the same time that the
19 rock was thrown through the window?

20 THE WITNESS: This is when the rock was thrown
21 through the window.

22 DETECTIVE REESE: So you were (unintelligible).
23 And then what happened?

24 THE WITNESS: I drove up, and when I drove up --
25 it was like, I'm pulling up and this car is right where

1 I was pulling -- like, I was parked behind the car.
2 What's this person doing? Go, you know. This is my
3 parking spot. Raced off. I came in, and I walked in.
4 And I said, Oh, the window is busted. Or Sam called
5 me. This is so long ago it's hard to remember, but I
6 remember seeing the rock busted and she's crying and
7 she doesn't know what's going on. I'm like, that was
8 weird that somebody raced off like that.

9 Q. Do you know what kind of car Nathan drives?

10 A. Yes.

11 Q. What kind?

12 A. He drives a blue Dodge Ram pickup truck.

13 Probably a 2000 or 2001 extended cab four-wheel drive
14 lifted really tall. Like, eight or ten inches off the
15 ground. You know, lifted. Big, huge tires.

16 DETECTIVE REESE: How do you know this?

17 THE WITNESS: Because -- that's really funny
18 because I was driving around with either Sam or Josh
19 and they said, "There's Nathan," and they pointed at
20 him, and that was his truck. And I've heard Sam say
21 multiple times that was his truck, and I've seen it all
22 over town. I've seen -- he lives locally.

23 DETECTIVE REESE: Do you know where he lives?

24 THE WITNESS: No. I think he lives in Martinez.
25 Which he looks -- not to be prejudice, you know, saying

1 statements like that, but he looks like the kind of guy
2 that would live in Martinez. Hopefully none of you
3 guys live in Martinez. I'm sorry. No. You know what
4 I mean.

5 DETECTIVE REESE: We're -- yeah. No problem.

6 THE WITNESS: He's not a Walnut Creek kind of guy.

7 DETECTIVE REESE: Point taken.

8 DETECTIVE JOWER: Do you have anymore?

9 DETECTIVE REESE: No.

10 DETECTIVE JOWER: Excuse us for a second. I need
11 to just talk.

12 DETECTIVE REESE: I do have a couple questions for
13 you real fast to finish filling out these forms here.

14 Are you right-handed or left-handed?

15 THE WITNESS: Right.

16 DETECTIVE REESE: Okay. What is your occupation?

17 THE WITNESS: I do custom home theater systems.

18 I'm an installation technician.

19 DETECTIVE REESE: Okay. And let's see, you said
20 you were not -- your hands were not washed; right?

21 THE WITNESS: No.

22 DETECTIVE REESE: Okay.

23 THE WITNESS: I know it sounds funny, but the
24 money that I touched was the only thing I touched
25 after.

1 DETECTIVE REESE: Oh, okay. This happened --
2 THE WITNESS: There might be some evidence on
3 that.
4 DETECTIVE REESE: Let's see. That's all the
5 questions I've got for you.
6 THE WITNESS: Okay.
7 DETECTIVE REESE: Thanks.
8 DETECTIVE JOWER: All right. We'll be right back.
9 You want some more water?
10 THE WITNESS: Yeah. That would actually be great.
11 I want to go take a shower. I stink.
12 DETECTIVE JOWER: Well, we can't smell you --
13 THE WITNESS: No, I know.
14 DETECTIVE JOWER: -- so you must not stink that
15 bad.
16 THE WITNESS: Well, that's good.
17 DETECTIVE JOWER: I'll be back with the water.
18 THE WITNESS: Thank you. How's Mariele doing?
19 DETECTIVE JOWER: Good.
20 THE WITNESS: She's waiting? Is there any way to
21 check and see if Marlene got --
22 DETECTIVE REESE: I'm sure we'll find out.
23 DETECTIVE JOWER: We'll find out. We'll let you
24 know.
25 DETECTIVE REESE: Yeah.

1 DETECTIVE JOWER: We're pretty good at taking care
2 of things.

3 THE WITNESS: No. I know. I just know Sam --
4 like, the most thing she needs more than anything is
5 Marlene, so...

6 DETECTIVE JOWER: Yeah.

7 THE WITNESS: Okay. Thanks.

8 BY DETECTIVE JOWER:

9 Q. Sean.

10 A. Uh-huh.

11 Q. I know that you reside mostly in the back
12 house --

13 A. Uh-huh.

14 Q. -- but you made mention that you go into the
15 main house on a regular basis.

16 A. All the time. Yeah.

17 Q. As if it were your own. Do you keep clothing
18 there or any property in the main house?

19 A. No. I mean, I just do my laundry and stuff in
20 there.

21 Q. You do your laundry in the main house?

22 A. I don't think I have anything in there now.
23 Everything's in my back --

24 Q. Would you have the, I guess, the authority to
25 give consent to search the main house? Do you live

1 there enough or?

2 A. Yeah. For sure.

3 Q. You think so?

4 A. Yeah. I can. I can give consent as long as
5 nothing is going to be torn apart where Sam's coming
6 back and shit is everywhere.

7 Q. Definitely not. So you can consent us to go
8 into the main house?

9 A. Yeah. For sure. She's going to want you to
10 search the house.

11 Q. Now, my question is, how often are you in the
12 house to give -- to have that authority to give consent
13 for the main house?

14 A. Lately not that much because I
15 (unintelligible) every day. Normally I come home from
16 work and I'm in the house more than in my room.

17 Q. You're in the house more than you're in the
18 room?

19 A. Yes.

20 Q. Now, let me ask you this --

21 A. The house is considered partially mine because
22 I use the bathroom.

23 Q. Okay.

24 A. Garage and everything.

25 Q. So you use the bathroom?

1 A. Uh-huh.

2 Q. You use the garage?

3 A. Uh-huh. And the living room.

4 Q. You use the living room to watch TV. When you
5 come home from work, how do you access your house?

6 A. Usually through the front door and then --

7 Q. So you go through the front door of the main
8 house?

9 A. If people are there I say hi, yeah.

10 Q. And then -- so you do have standing in the
11 house because you use it on a regular basis because you
12 have to go to the bathroom every day?

13 A. Yeah. Of course.

14 Q. Okay. I just wanted to clear that up really
15 quick. Hold on for a second.

16 (Break in audio.)

17 DETECTIVE REESE: You might be more comfortable in
18 our lobby. There's a couch and you can, kind of, hang
19 out.

20 THE WITNESS: Okay. What's -- Mariele's just
21 getting in -- you guys are just working with her right
22 now?

23 DETECTIVE REESE: Yeah. Exactly. We're all
24 still, kind of, scattered about.

25 THE WITNESS: Okay. My mom's, like, wondering

1 what's going on.

2 DETECTIVE REESE: Oh, okay.

3 THE WITNESS: I wanted to know if I could call
4 her.

5 DETECTIVE REESE: Do you have your phone on you?

6 THE WITNESS: I do.

7 DETECTIVE REESE: Okay. If you turned
8 (inaudible).

9 THE WITNESS: I just text messaged her, but I'll
10 turn it off.

11 DETECTIVE REESE: Okay. I'm sorry?

12 UNKNOWN SPEAKER: What's your name?

13 THE WITNESS: Sean.

14 UNKNOWN SPEAKER: Oh, you're Sean. You live in
15 the house that's in the back?

16 DETECTIVE REESE: Yeah. (Inaudible).

17 UNKNOWN SPEAKER: How are you doing, buddy?

18 THE WITNESS: Better.

19 UNKNOWN SPEAKER: Huh?

20 THE WITNESS: Better.

21 UNKNOWN SPEAKER: Do you know Nathan?

22 THE WITNESS: Yes.

23 UNKNOWN SPEAKER: Did you recognize the person as
24 Nathan?

25 THE WITNESS: The problem is, I haven't seen

1 Nathan (inaudible).
2 UNKNOWN SPEAKER: Okay.
3 THE WITNESS: What happened is they showed me
4 (inaudible). The problem is (inaudible).
5 UNKNOWN SPEAKER: The mom (inaudible) Nathan.
6 She's sure it's Nathan. (Inaudible). He wasn't
7 wearing a mask. Just a hat.
8 THE WITNESS: (Inaudible).
9 UNKNOWN SPEAKER: A beanie. It was rolled up in
10 the front. Yeah. She was, "Hey, man. It's him."
11 Positive ID. You live in the cottage in the back?
12 THE WITNESS: Yes.
13 UNKNOWN SPEAKER: (Inaudible). Sam has given us
14 consent to search her house?
15 THE WITNESS: Yes. I just gave it to them.
16 UNKNOWN SPEAKER: Very good. What are we going to
17 do with him?
18 DETECTIVE REESE: (Inaudible).
19 THE WITNESS: Is everybody okay?
20 UNKNOWN SPEAKER: (Inaudible).
21 THE WITNESS: Any information?
22 UNKNOWN SPEAKER: Not yet. (Inaudible).
23 --o0o--
24 (Whereupon, the proceedings were concluded.)
25


1 STATE OF CALIFORNIA.)
) ss.
2 COUNTY OF CONTRA COSTA)

3 I, RAJAHNIQUE JONES, CSR, License No. 13457,
4 State of California, do certify:

5 That the foregoing pages are a true and correct
6 transcription of the electronically recorded
7 proceedings before the Fremont Planning Commission,
8 taken October 18, 2012, except as noted
9 "unintelligible" or "inaudible."

10 I further certify that I am not interested in
11 the outcome of said action, nor connected with, nor
12 related to, any of the parties of said action or to
13 their respective counsel.

14
15 IN WITNESS WHEREOF, I have hereunto set
16 my hand and affixed my official seal this
17 4th day of February, 2014.

18 
19 RAJAHNIQUE JONES, CSR, License No. 13457
20 State of California.

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