No. _____

In the
Supreme Court of the United States

_____

IN RE DAVID CHARLES THATCHER,
Petitioner.

_____

APPENDIX VOL. 9

_____

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WINSLOW: Well what would the test show?

PATINO: That I never assisted in a robbery. I've never--I'd just sit there and they'd go buy dope and (inaudible) come back and then we'd cruise back to the house.

LOPEZ: You sure about that?

WINSLOW: They don't seem very confident.

PATINO: I never been in a interrogation room before it's like...

WINSLOW: (Inaudible) Well you know--you--you--there's--there's somethings (inaudible) talk about that you--you're very--you're confident and other things we've talked about like this--you're not very confident. (inaudible) Okay? Now if we looked at the picture here (inaudible) for a reason. Okay? Now Mark here is working this case for (inaudible) I got joined into it last week. Okay? (inaudible) you're sitting here for a reason. (Inaudible) look at this. Are you familiar with 10/20 life?

PATINO: No.

WINSLOW: You have no idea what 10/20 life is? About 1996 I believe it was, people of California (inaudible) you know what that is? Put on the ballot. A new law (inaudible) put on the books.

PATINO: (Inaudible)

WINSLOW: Okay. The people go to the polls and they vote like they vote for president, and they also check yes or no (inaudible) validation. And 10/20 life was a--was a uh--is a law that when firearms are used in certain crimes, they (inaudible) have what they call enhancements? You follow that? Okay. Now, the first enhancement is by walking into say a bank, with a gun, and the mere fact that you brought a gun to the bank to rob it just to show it--just to scare a teller and a few clerks maybe customers, that's 10 years on top of regular robbery. Ironically, if you would go to that bank and rob a teller and still get the money with just knife, okay? That would just bring the regular robbery sentence, which is what? 2,4,6 I think it is?

LOPEZ: Mmm hmm.

WINSLOW: Just a basic straight robbery is 2, 4, 6 be it--you know--with a knife. But yet you bring uh--uh--uh a gun, to the robbery you're looking at the 2, 4, 6, so you say you get the 4 and then you get the 10 year enhancement for

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the gun. Okay, now we have an interesting situation here. Now, with this--this series of events here that Mark is trying to describe to you. We got people carrying guns, we got people carrying knives, when it comes time to own up to the good judge, everybody's gonna be wanting to hold the knife. You know what I'm saying?

PATINO: Yeah.

WINSLOW: Make sense? Now, I'm a little confused as to how you were identified. Were you the man with the gun (inaudible) have the knife.

PATINO: I never have any of the weapons.

WINSLOW: Okay, but do you understand what I'm getting at here? You know what I'm saying? We need to clarify which side of that fence you were on. Was it the knife side or the gun side? Because (inaudible) when it comes down you know there's gonna be two different package out there. One (inaudible) with the knife and the other guy with the--holding that gun.

PATINO: But I never held none of em. They always had em (inaudible)

WINSLOW: Your name wasn't pulled out of a hat by these people either though. Okay? Like you--your picture was shown, this same photo stack package he showed you earlier. The same just as--the same photo package he showed you of--of David and of Leo, the once you picked them out of right? That's what these people saw. These people who had knives and guns pointed at em. Okay? That's why they were forced to give up the money to the business and explain to their boss what happened. I don't think you're a bad guy at all. I think you got caught up in the crank world. I think since you went home this last week, you're mom's kinda got you straightened out, she got you back under her rules. Got you back (inaudible) right? That week you were gone you (inaudible) now were you?

PATINO: No.

WINSLOW: You went to work, you came home right? You're--you ever live away from home before other than that week?

PATINO: I went to in Farmersville for about two or three days kicked it with someone else's house and he told me go back to your mom's and that--he--he talked to my mom and said if he ever needed some place to stay, I could go to his house.

WINSLOW: That's another guy though, right?

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PATINO: Yeah.

WINSLOW: That's not David?

PATINO: Nah that's (inaudible)

WINSLOW: (Inaudible) Leo right?

PATINO: And I had my--my kinda aunt over here in Visalia that I've stayed...

WINSLOW: Mmm hmm.

PATINO: ...at her house for about a week, just--just to get straight stuff--straightened out at my house.

WINSLOW: (Inaudible) mom and dad (inaudible).

PATINO: Yeah.

WINSLOW: You live with dad too?

PATINO: Both of em.

WINSLOW: Okay, little sisters living there too?

PATINO: Yeah, about 7--6.

WINSLOW: Everybody's still at home? You the oldest? You the youngest? Where you...

PATINO: No there's--I'm about third from the smallest.

WINSLOW: (Inaudible) the middle guy (inaudible) oldest and the youngest, seem to get all the attention. So, living at home's kind of a new thing--or living away from home's kind of--has always been kind of a new experience for the most part, right? You've never been in a situation at this point where you have to write out a check or take cash to the landlord every--every month?

PATINO: No.

WINSLOW: Or the PG&E bill comes to you, the phone bill comes in and you hafta kick down with a check or cash or take it up to...

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PATINO: I just...

WINSLOW: ...the Oval and pay it up there right? You know what I'm saying?

PATINO: No, I just have my mother always come in.

WINSLOW: Or where ever you pay it, in Farmersville right?

PATINO: Yeah. I have...

WINSLOW: (Inaudible)

PATINO: I give my mom like 50 or 80 bucks a week from my check and she goes pays the bill.

WINSLOW: She goes pays bills?

PATINO: Yeah.

WINSLOW: She pay it by check in the mail or she take it down to a little place where they pay?

PATINO: Takes it to...

WINSLOW: Yeah. See you've never really stood in them lines.

PATINO: No, just one time I get a money for her and they just...

WINSLOW: Right--right--right.

PATINO: (Inaudible)

WINSLOW: Right. (Inaudible) So, living away from home's been a new experience, right? How long you been in the army?

PATINO: A year.

WINSLOW: Are you a reservist or what?

PATINO: Yeah.

WINSLOW: Reserve? So, how long you in boot camp?

PATINO: Two or three months.

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WINSLOW: Two, three months?

PATINO: Yeah, 16 weeks.

WINSLOW: (Inaudible) explaining the rules and (inaudible) right? (inaudible) Where you--where's your reserve unit at?

PATINO: Right here at Akers.

WINSLOW: Okay, what kind of a unit is it?

PATINO: A mechanized unit.

WINSLOW: Mechanized? Mechanized for what?

PATINO: Mechanized infantry unit (inaudible)

WINSLOW: Okay, what kinda machinery you got down there? You got tanks? You got...

PATINO: Yeah, we're doing tanks right now.

WINSLOW: You have tanks down there? What kind?

PATINO: I don't remember.

WINSLOW: You work on the tanks (inaudible)

PATINO: We drive em. Drive em around.

WINSLOW: Drive em around? They the new ones, the M1's or they the (inaudible)

PATINO: They're the M1's--or the old ones.

WINSLOW: The older ones? (Inaudible) M1's? How old are those tanks?

PATINO: (Inaudible)

WINSLOW: The M1's been around (inaudible) older than that?

PATINO: I think it might be (inaudible)

WINSLOW: I guess the big picture is--you're at a crossroads in your life right now. You follow what I'm sayin'? You're at a crossroads (inaudible) maybe I should say you're going down the road and (inaudible) goes this way and

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one goes this way. Now what's done is done. And quite frankly (inaudible) done. You can see here in front of whatever judge and your attorney and such and--and deny the same story, but the guy that a gun in his face he's gonna get up there and tell a story, you follow what I'm sayin'?

PATINO: Yeah.

WINSLOW: He's gonna be told, can you identify the person that did that? And he's gonna point. Okay? And when that pointin's done it's all over. You follow what I'm sayin'?

PATINO: Yeah.

WINSLOW: You don't want to get I that far, you don't wanta take it to that point.

PATINO: I don't even know what you guys are talkin' about.

WINSLOW: Well we're talkin' about you.

PATINO: Yeah, me but....

WINSLOW: Okay, well...

(Copy of transcript typed up to this point given to investigator for court)

Visalia Police Department / js / 11/7/01 at 0835 hours

WINSLOW: ...it's about (inaudible)

PATINO: It's about (inaudible) friends.

WINSLOW: No--no (inaudible) See we're at a crossroads. We're at a fork in the road and you can take it one way and deal with what you did now today or you can deal with it at later date and deal with it (inaudible) I'm sure. Because the road you're off onto right now is dirt one full of pot holes and stuff and here's the one that's got--you know--the pavement on it you know what I'm sayin'? Which one you rather drive your car down?

PATINO: Paved.

WINSLOW: Right--right. Okay, now there's a price to be paid either way. The price issue is how much of a price you're gonna pay. Follow what I'm getting at.

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here? Cause we hafta to (inaudible) to the point we hafta drag this man and he says (inaudible) points you out in court (inaudible) things are go a lot harder, you're on a pot hole road, you know what I'm sayin'? Tonight's the opportunity to stay on the paved road and deal with it.

LOPEZ: So let's get to the meat. Let's get onto it, take responsibility for what it is that you did and what you didn't do. Don't tell me that you don't know anything, cause that will...

PATINO: I never (inaudible)

LOPEZ: ...make me a liar. Just tell me what it is that you know specifically. All right?

WINSLOW: (Inaudible) about buying dope. I'm tired of that stuff and I don't wanta hear about (inaudible) buying dope. (inaudible)

LOPEZ: I'm gonna write this down.

WINSLOW: So, stay away from that dope story, cause that's not true and you know it, okay buddy? Stay away from buying dope story, or I went to the market to buy a burrito and they got out to buy. I don't wanta hear that crap. Okay?

LOPEZ: You know exactly what happened and what they did and why and what part you had and that's what I wanta get to before they come up with their own lies, okay? So, let's go.

PATINO: Monday we just (inaudible) I went to their house, they took me to work. I worked, went back and that's it. I never held a gun or nothin'--I don't really know whose trying to blame this shit on me.

LOPEZ: Maybe you're driver and that's a huge difference and that's what I'm trying to get at. I'm not gonna just tell you specifically what it is that I have here. The reason being is it does me no service. It's best to show you later and that's what I'm saying to you right now son. I'm not gonna show you all my cards. This is your test. If you're trying to say to us that we have no clue as to what's going on here, I think you're mistaken cause you've seen the photos here. All right? So, the thing of it is I need to know your involvement because I know your knowledge. I know that you know. It's not some question of I don't know what happened. I don't know what they did. I know who did what and I need to know what it is that you were doing and what was going on through your head. But so far you're telling me that you don't know nothin', about nothin', about nothin'.

PATINO: I didn't never seen em pull a gun or nothin'.

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LOPEZ: I--I--That's fine, I'm not asking that specific question. Listen to my question again. What is it that you know happened on these robberies? what is it you know because you were there, what did you see? What was your part as opposed to, I didn't see this specific act. Okay? I want you to just tell me, instead of holding back what happened on these occasions, what was going on in their head. I need to get paid, so I'm doing this--this--this--this, this is what I did. I did not go in there, I did not do this. I know which part every single one, I got sittin' right here. Every single one, I know your parts in each of these. It's simple, my case is done. So, tell me what it is that was going on. What was the thought process here? That's all I'm--I'm lacking here.

PATINO: They needed money to pay Barbara's rent cause she (inaudible) for 400--500 on rent.

LOPEZ: That I understand.

PATINO: So, I mean probably went when (inaudible)

LOPEZ: Not probably.

PATINO: They prob--They went...

LOPEZ: We went to these locations. I did what?

PATINO: Sat in the car, that's it.

LOPEZ: That's right. Now let's start from the beginning. From the very beginning. Do you remember where you parked and where you sat in the first car on the first time?

UNKNOWN: (Inaudible) Monday.

LOPEZ: In the car--the Monday. The very first one? I know you remember the first one. Where were you parked? Where did you sit?

PATINO: Monday?

LOPEZ: The very first time they did this?

PATINO: Some apartments, but I don't know (inaudible)

WINSLOW: Where was it near?

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PATINO: Towards the north side.

LOPEZ: Where?

WINSLOW: Where at on the north side? What major landmarks are in the north side that you recall? Name some stores, name some businesses, street names.

PATINO: I wasn't really paying attention to that--I don't know Visalia.

LOPEZ: Well, I think you know--you know some of Visalia.

PATINO: Some, just...

LOPEZ: Let me help you.

PATINO: (Inaudible)

LOPEZ: All right. Behind the shopping center, does that help you? Near some projects maybe?

PATINO: Well, I don't know what shopping center?

LOPEZ: Okay. All right, well I--I'll give you the benefit of that. You sat in the car, is that right?

PATINO: Yeah.

LOPEZ: Driving? You were the driver? That's why you're so worried about your car. The very first time, you remember?

PATINO: I think I was driving, I don't know.

LOPEZ: Well you just told me a minute ago.

PATINO: (Inaudible) get out of the car, they drive it and...

LOPEZ: And you just sat there? Well let's talk about the first time this robbery took place. Where were you in the car?

PATINO: I think I was probably in the back seat or I was at their house.

LOPEZ: In the back seat, huge difference. Now when they left, you tell me what was in their thought process and what was in yours.

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PATINO: Mine just sitting there waiting there making sure.

LOPEZ: That what?

PATINO: That nothing happened (inaudible)

LOPEZ: That the cops showed up, kinda make sure the cops weren't around?

PATINO: I was just sitting in there just thinking what I've done wrong.

LOPEZ: And what were--what was it that you did wrong on the first time--the very first time?

PATINO: I never did nothin', I just sat in the car right there waiting for them.

LOPEZ: Okay. And--and what did they say they were gonna do? Get money for rent you told me.

PATINO: Yeah, go and come back--they said.

LOPEZ: And--and what were they gonna do, how?

PATINO: They just said they were gonna go and come back, that's all.

LOPEZ: Well, I'm sure they told you details there my friend. Nobody just sits in the car and that's what I'm wanting to get from you son. So please come on. I'm tired now.

WINSLOW: You know (inaudible) you just mentioned here just not even a minute ago that you knew this was wrong. Now sitting in the car in and of itself is not wrong, unless you know there's a different reason why you're sitting in the car. Now this was wrong, you knew it was wrong, why? What were--what--what did you know that was wrong? If you were sitting in the car, what did you know that was wrong?

PATINO: They'd do something and then come get me. Or cause they could have ran and the cop be there to catch me. (inaudible)

LOPEZ: That's right--that's right because they went to do something and that's what we can't get. Why is that so hard? Are these guys your best buddies that take your car and rip you off? These--Are you protecting these people?

PATINO: Nah.

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LOPEZ: Then let's get on with it.

PATINO: They probably robbed somebody behind the market and came back and (inaudible)

LOPEZ: No, I want you to know specifically--I want you to tell me specifically what they did, what they said and what they did with the money and what'd they do with this property. I wanta know when they came back, what happened, what did they say? What did they say they did?

PATINO: Nothing they--we just split back to the house that's it.

LOPEZ: Well let me hear it about Monday, what did they do? The very first time, the first time everyone remembers, okay? Let's hear about it.

PATINO: I never...

LOPEZ: You're sitting in the car, you're in the car with who?

PATINO: By myself.

LOPEZ: And those two--we're talking Leo and David, right? Come on this is you, I wanta hear from you. Leo and David do what?

PATINO: Just left and came back.

LOPEZ: And Leo had what with them?

PATINO: I think his gun.

LOPEZ: That's right and what was he gonna do with his gun?

PATINO: Probably rob someone or (inaudible)

LOPEZ: Don't give me this probably, what did he tell you what do you know?

PATINO: I don't know nothing, they don't talk to me about what they do.

LOPEZ: There's a reason why you're so afraid. Leo has his gun. You're parked where? In some apartments. We'll go find em, we can go out there. We'll go find em. I'd rather you just tell me, but we'll go find em.

PATINO: I don't know what apartments--I don't know Visalia. Every time I (inaudible)

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LOPEZ: That's okay, we'll go out there we'll find em.

PATINO: Every time I go with David, I let him drive cause he knows it better than I do.

LOPEZ: Okay, but in this case you're sitting in the car. Your car. These boys are going to commit a robbery, is that right?

PATINO: I think that's what they did. I really don't know what (inaudible)

LOPEZ: Well when they came back--when they left with the gun did they come back with some money?

PATINO: They never showed me nothin'.

LOPEZ: Well you just get nothing?

PATINO: (Inaudible)

LOPEZ: What did they say when they...

PATINO: They never gave me nothin' or said anything.

LOPEZ: (Inaudible)

WINSLOW: They use your car...

LOPEZ: You're there...

WINSLOW: ....(inaudible) nothin'?

PATINO: Nah.

LOPEZ: Are they puttin' gas in the tank?

PATINO: Well they put a--at least two or three bucks when they need it.

LOPEZ: Okay.

PATINO: But that's all.

LOPEZ: What did they say to you when they came back?

PATINO: Nothing.

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LOPEZ: What did they have in their hands?

PATINO: They just (inaudible) up like that and said let's split.

LOPEZ: Were they successful in their mission?

PATINO: They didn't tell me nothing.

LOPEZ: You're trying to tell me here that the reason why you're all freaked out about what they did in your car is because you don't know what they did?

PATINO: Yeah.

LOPEZ: Isn't that ridiculous what you're just telling me now?

PATINO: My mom told me the same thing, they don't know--I don't know if they killed someone with my car or when they left (inaudible)

LOPEZ: The thing of it is you were there. And the scariest thing about it, is that what do you think they're gonna say when they talk to me about you.

PATINO: That I pulled a gun.

LOPEZ: That's right.

PATINO: But I didn't.

LOPEZ: All right, but that--whose--who they gonna believe? Three guys who are scoundrels? You are the least of these scoundrels, okay? You are the guy who has a future, do you not? Please act like you do. Sit up straight. Sit up straight--straight, tall. All right. Now you talk to me soldier and say it like you're supposed to unless you wanta slouch over and get to this level here. All right? Now you tell me on this first day--on this first time what it is that took place and what happened.

PATINO: They robbed someone I guess, I don't...

WINSLOW: There's no guessing to it.

PATINO: Well, I don't know what they did, they don't tell...

WINSLOW: You do--you do know.

PATINO: ...they do (inaudible) They don't tell me what they're gonna do. Like if they go do something, they won't tell nobody.

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WINSLOW: They never told you ever anything?

PATINO: Nah uh.

WINSLOW: Not the second time, not the third time?

PATINO: (Inaudible) remember (inaudible) second or third time (inaudible)

WINSLOW: We just set ourselves back (inaudible) we are back (inaudible)

PATINO: They probably robbed someone and came back, but I don't know…

WINSLOW: There's no probably about it, you either know what they did or you don't.

PATINO: I don't.

WINSLOW: But you do know, that's the irony of the whole thing. You do, you're sitting here lying trying to feed us a bunch of B.S. thinking we're gonna believe it. (Inaudible)

PATINO: I never heard them say anything, I never pulled a gun anybody, I just sat…

LOPEZ: Freddy, your sat in the car waiting.

PATINO: (Inaudible)

LOPEZ: Was the car running?

PATINO: Nah uh, it was off.

LOPEZ: It was off?

PATINO: Yeah.

LOPEZ: And who had the keys?

PATINO: Uh--At that time David was driving.

LOPEZ: And Leo left with his gun to go do something?

PATINO: Basically, yeah. But I don't know what though.

LOPEZ: And they wanted to get paid, so they can pay their rent?

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PATINO: Yeah.

LOPEZ: And they got paid didn't they?

PATINO: I think they did it (inaudible)...

LOPEZ: That's right.

PATINO: ...and they--they robbed someone and took the money, but they never gave me none of it or talked to me about it.

LOPEZ: And--So, how do you know that to be true?

PATINO: That's what I don't know.

LOPEZ: Well I think you do. It's not because I'm telling you, and that's why this whole fear you have. It's not because I...

PATINO: (Inaudible)

LOPEZ: ...know, I already know. It's what you know. (laugh) And that's what I'm trying to get here my man, so please get away from that. You know of it, you know what happened. They know it too, they're in these line-ups for the same reason. What do you think, these are magical? It's like God damn, that's why you're in it too. And that's why I'm confused about certain things. I know you're either sitting in the car or you're right there and there's someone that's seeing you. We already talked about this. Okay? And you're telling me you don't know nothing and it's blank?

PATINO: I never seen em pull anything, I swear to...

LOPEZ: But you know. It's a huge difference.

PATINO: I never--they never talked to me about what they were...

WINSLOW: They do talk. Nobody (inaudible)

PATINO: They talk, but they don't say what they were doing (inaudible) shoot someone or what, they don't tell.

LOPEZ: Well you sure are worried about it. How many times were you with them when you sat in the car?

PATINO: I went once or twice.

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LOPEZ: That's right. Let's talk about the second time where were you the second time that they parked, where in Visalia?

PATINO: Well we were at Fairway and he made a phone call that's all I know.

LOPEZ: Okay at Fairway?

PATINO: Fairway.

LOPEZ: Is that the first or the second time?

PATINO: The second time.

LOPEZ: At Fairway? How about the first time?

PATINO: First time at those apartments.

WINSLOW: Who make the phone call at Fairway?

PATINO: Uh--Leo.

LOPEZ: Let's talk about the third time. Right. The third time that you were in the car and I know this one.

PATINO: One...

LOPEZ: Third time.

PATINO: One time I went to Tulare with Heather, that's it.

LOPEZ: Okay, I don't care about Tulare and Heather. I'm talkin' about when these robberies are taking place.

PATINO: I--I don't know what robberies.

LOPEZ: Well when these guys leave the car together with a gun and /or a knife and you're waiting for em to come back. Where are you?

PATINO: In the car.

LOPEZ: Where in Visalia on the second or third time?

PATINO: I don't remember.

LOPEZ: Tell me about all these robberies, which one do you remember the most?

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PATINO: None, I never seen them say anything or do anything to hurt nobody or anything. They just co--leave, come back after they turn the corner and that's it. We just split, they never say nothing (inaudible)

LOPEZ: Okay. Tell me where this corner is that you're--you're talking about? You turn the corner, where are we talking about in Visalia? Cause I've got multiple occasions here and I wanta know which one that you are (inaudible) to and which one you aren't.

PATINO: (Inaudible) know what you guys are trying to do?

LOPEZ: Get the truth is what we're trying for here.

PATINO: (Inaudible) I've never seen them do anything wrong.

LOPEZ: Well, let's get--let's get down...

PATINO: When I was with em.

LOPEZ: ...to it again. Let's go down to the basics again. I wanta know what was going on through your head when they were committing these robberies? You can work, what is going through your head when this is taking place?

PATINO: I don't--just saying I don't what these guys are doing, trying to hurt somebody or what just...

LOPEZ: Well you knew they were doing something bad, did you not?

PATINO: I think so.

LOPEZ: You're darn right you did--you think so.

UNKNOWN: Yeah.

WINSLOW: And you know what, you chose to go back out a couple more times with em.

LOPEZ: What was going on through your head? Was it exciting?

PATINO: (Inaudible)

LOPEZ: It was scary? It was a thrill?

PATINO: I didn't think nothing of it.

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WINSLOW: You know I'm gonna give you the benefit of the doubt that you went out one time with them, and not quite certain what the hell was going on, what they planned to do and then they came back and talked about it and (inaudible)

PATINO: They didn't talk about it.

WINSLOW: They do talk about it.

PATINO: To themselves cause when (inaudible)

WINSLOW: Well (inaudible) and you overheard it--you were in the back seat listening.

LOPEZ: Bragging--they were talking about it.

WINSLOW: They were bragging.

PATINO: (Laugh)

WINSLOW: You overheard the conversation.

PATINO: I didn't hear nothing, we went out to the work site they pulled off to the side when they first took my they were talking about something--so we didn't hear nothing. Me and David we were there, we didn't hear nothing. They were just talking off to the side like all low then they split. That's when my car was stolen, that's what they do. I never hear their conversations, so I don't what they're trying to do or what.

WINSLOW: Why are these people picking you out?

PATINO: Probably cause I was sittin' in the car and just there.

WINSLOW: But you were not there? But you were not there there--you were away some where you were saying--you know--they were around the building you're telling me. How would somebody whose being a victim of a crime around the corner of a building be able to pick you out?

PATINO: They probably already (inaudible) to those people or something.

WINSLOW: What other people?

PATINO: To a lot of people. There's a lot of people that could lie for them.

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WINSLOW: What are you talking about? I'm talking about the victim. The guy who got the knife stuck in his face.

LOPEZ: And the witnesses.

PATINO: I never did that.

WINSLOW: How are they picking you out? Why are they picking you out if you're telling me that these two guys were--you were parking on the other--around the corner and such and you waited in the back seat of the car like a good little guy and they're going around the corner and yet people are picking you out. It don't make sense.

PATINO: I never held a--their weapons.

LOPEZ: We're not saying that son. What I'm saying is how are people seeing you at these robbery things and what are you doing? You're telling me you don't know anything about it, I think that's a complete total lie.

PATINO: I don't.

LOPEZ: I need to know what it is that these people are seeing you do. If you're telling me that you are sitting in the car waiting for them, I might believe you. I might.

PATINO: I was sitting in the car just there.

LOPEZ: But what I wanta know what it is that they had planned and why they would allow you to see this and do this, what were you getting other than the fact they were using your car?

PATINO: Nothing.

LOPEZ: You sure about that?

PATINO: I wasn't getting nothin' out of it.

LOPEZ: Well let's hear then?

WINSLOW: You got a couple gallons of gas every day.

PATINO: They put the gas, that's it and they needed it or sometimes I'd go to the bank and use my money to put gas for them.

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LOPEZ: All right, what was the deal then? What--what deal did you have with them?

PATINO: Just...

LOPEZ: Because you broke the deal--face the wheel, that's why they're ticked. Break the deal, face the wheel, name the movie and you win the prize. But bottom line here they are ticked off because they know what's up and they know that someone's gonna hafta be blaming. So what was the deal with them? What is the deal with them when this was taking place? What was the arrangement? Tell me the truth now. I know--Okay, I'll--I'll sit here and listen to you, but I'm not saying that I'm--I'm talking to you because I'm completely ignorant about what happened. I got all these photos.

WINSLOW: Actually (inaudible) patience (inaudible) with you.

LOPEZ: So, let's go cause almost done. I wanta know what you did at each of these locations that you were present at. If you just sat there...

PATINO: Yes.

LOPEZ: ...then you explain to me what the arrangement was. What did they say they were gonna do? How did they say they were gonna do it? How was talkin' what? I wanta know between that because later on when they throw this back in my face, that you were the one that planned it. You were the one that supplied the car. You were the one that had the idea. You're the one with the weapons. You're the one with all this crud. I don't wanta hear it from them, because I won't believe them. The only person I would come close to believing is you.

PATINO: They really didn't talk about it in front of me. They probably talked about it...

WINSLOW: But they do, they had to. You know that? (inaudible)

PATINO: They probably--sss--they probably...

WINSLOW: If you--they didn't talk about it--if they didn't talk about it, you wouldn't have been scared any time, you wouldn't have been concerned. You wouldn't have been sitting back there thinking man this is a bad deal I'm getting myself in...

PATINO: The only thing I...

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WINSLOW: ...you wouldn't have packed your crap up Saturday morning and went back to mama and you...

PATINO: They wanted me to pay the lady cause I was there for about a week. They told me since you were staying here you gotta put money in for the rent so...

WINSLOW: Oh, they're gonna boot you out?

PATINO: They're...

WINSLOW: You're their--you're their car--you're their driver...

PATINO: (Inaudible)

WINSLOW: ...and they're gonna kick you out?

PATINO: They just wanted money or...

WINSLOW: Well yeah you had--money had to be earned, right? That's all part of living away from home. We're not with the army anymore, we're not at our aunt's, we're not at our friend across town who will take you in at a moment's notice just because--if you have any problems with mom (inaudible) day. You know. You--you're in the real world now. These guys want some money put up. Money had to be earned, correct? You know, well there's only two ways to get money up front. Either get out and working on the construction site or help them out with what they were doing, is that true?

PATINO: Yeah.

WINSLOW: Yeah, okay so--and so did you help them out knowing--to do what they were doing, one--you had to--you knew what they were doing. You understand what they were doing and you knew it was wrong and regardless of whether or not you ever put the money up come Saturday, you decided you had enough of this crap and you decided it was time to go home to mom you can get three free meals a week or a day, seven days a week and nice bed to sleep in and knew you wouldn't have to be doughing the (inaudible) and living their gangster lifestyle. It just wasn't quite your cup of tea was it?

PATINO: No.

WINSLOW: It's not. But all the same you didn't play a--you did have a little but of a fun li--you did have a good real quick life with those guys for a week there

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and you got to see what the gangster lifestyle's all about and your curiosity was satisfied by the end of the week. Right? You realized that all that crap you see on TV and all you hear about on the streets and this is the way it truly is when the peddle meets the rubber and you're living on a damn mattress in a filthy crud hole, is that what you had?

PATINO: (Inaudible) just a couch.

WINSLOW: Your couch, okay, well that will put you at least a foot off the ground and not on the floor right? With the cock roaches, right?

PATINO: Yeah.

WINSLOW: Tell me about that house. What was that house like?

PATINO: It had a couch here, a couch over here. A big ole room where the lady slept in. Heather's and Leo's room and that's (inaudible) the two restrooms (inaudible)

WINSLOW: All right when was the last time the restrooms were clean?

PATINO: They were pretty clean with I was there.

WINSLOW: They were? I guess the lady cared, huh? How much food you get to eat that week?

PATINO: Not very much.

WINSLOW: That's right you couldn't open--there wasn't much--when you opened the refrigerator door, it just wasn't quite there like it is at mom's right?

PATINO: No.

WINSLOW: Exactly. Well that's the gangster lifestyle. Right?

PATINO: Yeah.

WINSLOW: And after about a week of it, eight days, you got tired of it, right? You're doing things you knew you weren't supposed to be doing, you think that were wrong and you knew it was all gonna come to a big head and crash. Right? That's what we're here to talk about.

LOPEZ: That's why we're tired of this. So, let's get on with it okay? Starting with the very first time. Tell me what the--what the arrangement was.

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PATINO: To rob I guess, they needed the money so they went and robbed.

LOPEZ: Okay, what place?

PATINO: That's what I don't know, I was just sitting in the car...

LOPEZ: No--no...

WINSLOW: Let's not go--let's not go that way.

LOPEZ: Where?

WINSLOW: We wanta know where.

PATINO: Apartments.

WINSLOW: (Inaudible) didn't rob apartments.

PATINO: Or a store.

WINSLOW: Store, what store? What kinda store?

PATINO: Liquor I guess.

WINSLOW: Robbed a liquor store?

PATINO: I don't know. I didn't...

LOPEZ: Do you want me...

WINSLOW: (Inaudible) Do you have a liquor store robbery too?

LOPEZ: No. Do you want me to believe for a second, that these guys are gonna do this exact thing with you without taking a look at the place their gonna do first?

PATINO: They probably knew what they were gonna hit before...

LOPEZ: Nah--nah, you...

WINSLOW: No.

LOPEZ: ....don't just go there, there could be a cop parked right in front. They take a look, you're there in the car with them and that's why you're lying to me.

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PATINO: (Inaudible)

LOPEZ: People--I know how to do robberies.

WINSLOW: It's called a drive-by you check it out first.

LOPEZ: You check it out. They always check it out and you're telling me you don't know that? Give me a break. There's a reason for the check out. A cop could be eating a donut, you know what I mean? Smoking a cigarette right across the street, so they take a look at it. You were in the car with them and that's why son what you're telling me is--is not good. It makes you look very bad. So help me here, there's places that they looked at. If you telling me that it wasn't your idea, I might believe you.

PATINO: It wasn't.

LOPEZ: But, you did look at this place. You were there, you have eyes, ears, and a nose.

WINSLOW: And you knew what was going on and you went back more than once. (inaudible)

LOPEZ: And you wanted to see it and you wanted to see it for yourself as well, while you sat in the car. And that's what I'm asking you, what was the arrangement? You wait over here until we're done, we'll go over here, we'll go over here do this, do that, do the other thing and that's what I'm waiting for. If you don't know the streets or names I want you to describe it to me exactly.

PATINO: (Inaudible)

LOPEZ: Just to describe it to me. We can go out after here and figure out what it is, but I need to know what the arrangement was. Starting with the very first one. Because I've got some very specific questions about each and every one of these. But I wanta start with the very first one, because that is the one that popped your cherry, so to speak, and that is the one that's important to me. Okay? So, can we start from right there, the first time this happened. I want you to tell me what was discussed, when they drove by, who got out of the car, what they were wearing, what happened to the money, what did they brag about, what did they use. All these questions in that order if you can memorize, if not we'll start from the beginning. Where were we on the first one?

PATINO: I don't know.

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LOPEZ: In what city? Let's start there then.

PATINO: Visalia.

LOPEZ: Okay. Where?

PATINO: Some where on the north side.

LOPEZ: All right.

PATINO: I (inaudible) know the right location.

LOPEZ: That's okay. And what was the location that they wanted to rob? Cause I know they checked it before, what was it? Describe it. Go ahead and describe it.

PATINO: I don't know.

WINSLOW: No--no--no.

LOPEZ: Come on, I can--you know what (inaudible) you know what's going on here. I won't give up. I'm not gonna give up, so let's just go. Describe it to me.

PATINO: Probably a store.

WINSLOW: What kinda store?

PATINO: Grocery store.

WINSLOW: Like rob a grocery store?

PATINO: I don't know.

LOPEZ: That's--that's not--that's not true. You know what that and that isn't gonna help me too. I know exactly what the spot is. So come on son, describe it to me, what it is that you drove by and wanted to look at with them. I know they checked it out before, they're not stupid. So what is the place that we're talkin' about?

PATINO: (Inaudible)

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LOPEZ: Let's go--let's just get on with this. The very first one. Tell me what it is that they were talking about tackling? Tell me what it is that they did tackle?

PATINO: Probably a person, I didn't seem em tackle anybody.

LOPEZ: Well you know what I mean, they rushed somebody to get something.

PUDER: (Inaudible)

LOPEZ: (Inaudible) robbery. What?

PUDER: When you get a minute, I can shed some like on something for you.

LOPEZ: Okay.

WINSLOW: You're not seeing the big picture (inaudible)

PATINO: I don't know what they...

WINSLOW: No, there is a lot to tell. (inaudible) and that's where you've buried yourself cause you're sittin' here (inaudible) an hour and a half. Okay? That's not good.

PATINO: They really never talked about it when I was around em.

WINSLOW: They had to because (inaudible) You knew what was happening. That's the problem. What you're telling us is not adding up and it's not making sense, because when (inaudible) comes back two or three more times (inaudible) and not know what the hell they're doing...

PATINO: A bar (inaudible)

WINSLOW: A bar?

PATINO: I don't know what place it was.

WINSLOW: Who drove?

PATINO: David.

WINSLOW: Every time or just the first time?

PATINO: (Inaudible)

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WINSLOW: It's your own car, why would you let these guys drive your car? That doesn't make sense. Everybody--everybody honors that. It's the guy who owns the car is there, he gets to drive his car.

PATINO: I guess they punked me (inaudible) drive the car.

WINSLOW: They did what for you?

PATINO: They probably punked cause they've been driving.

WINSLOW: They punked you?

PATINO: Probably, I don't know. They didn't...

WINSLOW: (Inaudible)

PATINO: So, I just--they asked me for the keys (inaudible)

WINSLOW: They bent you over?

PATINO: Nah.

WINSLOW: That's what I think when you say punked, man that's what I'm thinking.

PATINO: They probably say give me your keys or I'll stab you cause that fools liable to stab--David (inaudible)

WINSLOW: They didn't you that.

PATINO: But I just--he probably...

WINSLOW: They didn't tell you that.

PATINO: He asked me for the keys, I go here you go. I'll stay home, kick back, drink a malt 40 liquor and just...

WINSLOW: Okay, that's once or twice you loaned em the keys and you wanted to stay home in that dirt hole there, I'm talking about the times you went with--the times your with-- everybody understands it's the rule man. It's his car the guys car, he gets to drive his own car and--if he coming along. Now, it's one thing to borrow someone's car and they stay at home, but when you're out and that person who owns the car is out, he gets to drive his car. It's just the rule man, it's just--you know--it's his--his car. He gets to drive he's there. So, I don't believe this crap about you being in the back seat at all. Cause I don't think that's logical. Everybody knows

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(inaudible) drive your own car, everybody else is a guest. They all understand that. So, (inaudible) did you drive up there and they were the passenger's? I think that's more realistic. What was the deal Freddy?

PATINO: I don't know (inaudible)

WINSLOW: When you all left...

PATINO: (Inaudible)

WINSLOW: When you all went out you drove. Realistically think about it. Am I wrong?

PATINO: (Inaudible)

WINSLOW: I'm not wrong?

PATINO: I don't even know if I drove Monday or not.

WINSLOW: What's the deal? That don't make sense. I'm not even saying you robbed anybody.

PATINO: I didn't that's (inaudible)

WINSLOW: I'm saying you drove, that's what makes sense. You ever hear of the get-away man, the rob--bank robberies you know you got a guy out there driving and two guys go inside? You know what I'm sayin'? If that's what you did, that's fine. We can work with that. But you know sittin' here telling me you was in back, you--you gave this guy your keys and let him drive and let him take your keys while you waited in the car and sat in the back seat not even able to listen to tunes because you had no keys to turn on the stereo, that don't make sense. It's 100 degree days, hot weather, hot--you want the AC running, right? The AC work in your car?

PATINO: No.

WINSLOW: It don't work?

PATINO: 460 window.

WINSLOW: 460 window huh?

PATINO: (Inaudible)

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WINSLOW: We're at that crossroads (inaudible), we're at the fork in the road. And you just keep seeing--you have your turn signals on to--that's pointing to the--to the pot hole side. Do you understand? That's where you seem to be going.

PATINO: (Inaudible)

WINSLOW: (Inaudible)

PATINO: I just don't really know that whole...

WINSLOW: You do know, don't say you don't.

PATINO: ...week cause I've been spun like a crazy (inaudible)

WINSLOW: Well, I think you have a better memory then what you're telling me you have.

PATINO: But I never heard (inaudible)

WINSLOW: But you did. You don't go back out on these things, these little adventures time in time out--And you know what? You did have the money to pay the rent, because you have a job. You have a regular job.

PATINO: I was gonna help here with 125.

WINSLOW: Hmmm?

PATINO: I was gonna help that lady with 125, but...

WINSLOW: 125 bucks, right?

PATINO: Yeah, they booked me so I said (inaudible)

WINSLOW: What do you mean booked you?

PATINO: Yeah, they took my car (inaudible) give her some money

WINSLOW: Oh, so that's why you ran and went back home? That's don't make sense. (inaudible)

PATINO: I took (inaudible) home cause I didn't wanta do no more dope, I wanted to stay clean because my--my mom is up every night just crying waiting--waiting for me to go back.

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WINSLOW: Right.

PATINO: That's what--just my dad said. (inaudible)

WINSLOW: Is that why you went home, because your mom? Or you went home because of what was going on and you just got real burned out on it and thought it was kinda crazy?

PATINO: Kinda both things my family, my mom, and little brother and sister...

WINSLOW: Uh huh and you missed your family, that's fine.

PATINO: ...and (inaudible)

WINSLOW: You also didn't really care for what was going on around here did you? No? That's what this is all about. The idea is to separate yourself from what you knew and what you did. And right now you're playing dumb to the whole darn thing and that's not adding up because people saw you there. We didn't drag you in here--people saw you there Freddy. Picked you out of that same group of photos that we showed you. Okay? We need you to explain why you were there and what you did. Here right now you're telling us you're around the corner of the building, well the people wouldn't see you around the corner of the building, right? They just wouldn't do that. You wouldn't--they wouldn't think twice about you (inaudible) back there. You know--it's just only logic you gotta check the joint out before anything happens (inaudible) and you know what's going on and they're talking back and forth. They're saying things like, looks good--looks good, let's go it--let's do it. That's the kinda stuff that their saying, you gotta cruise around looking for a place to do. The decision was made you're diving passed (inaudible) happen or not. And if it doesn't look like it's gonna happen, you make a decision because there's a cop sitting there drinkin' a cup of coffee under a shade tree right down the street, you're thinking nah, it's a bad choice. Am I on the right track here?

PATINO: Yeah.

WINSLOW: Yeah, drive-bys are done, that's what you call em. I'm not talking drive-by like a shooting...

PATINO: Yeah.

WINSLOW: ...I'm talking drive-by like check it out drive-by. You know what I'm sayin? That's what that happens there. Nobody goes into--into the bank blind, not knowing whose driving by and saying hey--the cops here--(inaudible)

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check out (inaudible) cops you know V.P.D. has--they're everywhere down here--you know what I'm sayin'? (inaudible) spread out (inaudible) cops (inaudible) you know what I'm sayin'? You gotta make sure they're not there. You drive around the block a couple times make sure the cops aren't there. Like you say eating a donut. All right and during that time conversations are had--said, conversations between Leo and David. Let's do it--let's do it. You got it? (Inaudible) gun (inaudible) Things like that. Those are important things to know when you're about to do something, right?

PATINO: Yeah.

WINSLOW: Right? Well that's what we're here to talk to you about. What these kinda things that are said. I know you were a little spun that day and sure. I'm sure you weren't the kinda guy that would do this sober, but you know you got a little bit of a habit to support and you needed a helper. You had a rent to help pay these guys who are letting you stay at their place. Help on the deal it helping pay (inaudible) the driver. That's fine. (inaudible) We're at that cor--we're at that "Y", fork in the road. You got the paved lane, or you got the pot hole lane and you just keep drifting like you're gonna go on the pot hole lane. You sit here tellin' us don't know nothing, didn't do it, never saw anything (inaudible) You know. Bart Simpson's a TV character--all right? Let's don't be like him. Cause you did do it, you've been seen, and we can prove it. How are you gonna work this out?

PATINO: I just wanta know how...

WINSLOW: Hmmm?

PATINO: I never...

WINSLOW: Never did what? (Inaudible)

PATINO: Heard em talk about it. The day he--he pulled out the gun...

WINSLOW: (Inaudible) no--no--no--no. I don't--that's not right. (Inaudible) guns were pulled out, I'll agree there. But to say you didn't know what was going on, that's bullshit.

PATINO: I knew they were trying to go out and get--I knew they were going out to get money, but I didn't know when they were gonna make a hit. That's the only thing I don't know.

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WINSLOW: And they'll lo--drive around block and you didn't figure anything out? Is that you're trying to tell me here?

PATINO: I'm just sayin' they're (inaudible) just messed up.

WINSLOW: No, you were driving, that's your car. And you're there and you're driv-- and it's your car, you're the one gonna get to drive it. It's just the code, it's (inaudible) All your friends know your car, right?

PATINO: Yeah, the ones in Farmersville. I got no friends in Visalia.

WINSLOW: Well friends from Farmersville occasionally come to Visalia go shopping (inaudible) back seat of your own car. It's just not right--that's not cool. It's your car, you're gonna be in the front seat. They're gonna be saying, turn left, turn right, go this way, go that way, right? Go around the block, let's check it out, that's what we're here to talk about. That drive around the block, they're checking it out, looking for that cop. Looking for that-- you know making sure there's not a big traffic jam and construction there that's gonna screw you up, you can get away quick. You know what I mean? The last thing you wanta do is drive around the corner, you're trying to get away--get away--and run across (inaudible) bunch of fire trucks sitting in the road there putting out somebody's burning car in their driveway. You drive around the block and make sure there's nothing blocking the roads, so when you get out of there you can get out. Am I making any sense here, or am I just talking for the hell of it?

PATINO: (Inaudible) happened, just drove around (inaudible)

WINSLOW: Okay (inaudible) during that drive around things were said. Decis...

PATINO: (Inaudible)

WINSLOW: ...decisions were made during those drive arounds. The decisions were made. And things like there's no cops were discussed--you know. And there's no--there's no fire trucks around the block putting out someone's house fire that's gonna keep you from getting away in a hurry. You know those--that's what happens and that's what we wanta talk about. What-- What the things that were said and we know (inaudible) what they want to do. And--and I don't buy this thing about you--you were sitting in the back seat of your own car man, it's--it's--it's the rule of the road man, it's a guys gonna let you use his car, you're the passenger he drives. As long as he's there. Now maybe you can maybe borrow the car from him and you get to drive it, but that's because he's sitting at home and you borrowing the car. But if a guys owns his own car, it's--it's the rule of the road, he gets to drive it. You wouldn't wanta humiliate him (inaudible) being seen

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by your friends some how in the back seat of your car. It's just not right. You know it's not right, I mean and they know it's not right. It's not their car, they get to be the passenger. Now I wanta know what the hell was said as you guys were cruising around the block checking things out.

PATINO: Just directions.

WINSLOW: No--no--no. Directions for what?

PATINO: To find the place I guess, they were just...

WINSLOW: All right and what kinda place were found? What kinda place was found? What was selected? What was the target?

PATINO: Just the house or some store.

WINSLOW: No--no stores. Keep going.

PATINO: Or (inaudible) I was just standing by myself.

WINSLOW: No--no (inaudible)

LOPEZ: You heard me say it already. Now, you're avoiding it like the plague. You already heard me say it.

PATINO: (Inaudible)

LOPEZ: (Laugh) You already heard me say it.

PATINO: Aluminum stand.

WINSLOW: Yeah aluminum stand, exactly.

LOPEZ: That's right.

WINSLOW: Hey we made some progress here. All right.

LOPEZ: All right.

WINSLOW: So, why would--why pick on aluminum stand?

PATINO: Cause there's hardly no one around and there's only one guy and the cash is easy to get.

WINSLOW: Exactly.

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LOPEZ: Who taught you that of the two clowns? Or did you know that?

PATINO: No, it's just--it's obvious that anyone could tell you how--anyone could tell you how easy it's just--well just go up there act like you're gonna do some and tell (inaudible)

WINSLOW: All right.

PATINO: But I never held a gun to no one's face.

LOPEZ: So, all right. So, describe the location.

PATINO: That's what I--that's--that's what I don't remember where it was.

WINSLOW: So, make sure I understood this. Aluminum targets have quick cash, right? And no one's standing around, right? It's not like a bank, right?

PATINO: Nah. Banks (inaudible)

WINSLOW: Or like a supermarket where you got all these tellers in there and camera's and stuff, right? No cameras are on aluminum stand are they?

PATINO: Nah.

WINSLOW: What else makes an aluminum stand look good?

PATINO: Uh--They get a little bit of cash here and there.

WINSLOW: No, they give away cash. (inaudible) They have cash...

PATINO: They have cash (inaudible)...

WINSLOW: (Inaudible

PATINO: ...help you out.

WINSLOW: So who drove the first time?

PATINO: I think I did.

WINSLOW: Okay. Actually taught you that, it wouldn't be right for them to use your car and not be the one to drive, right? Makes sense.

PATINO: (Inaudible) spots at (inaudible)

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WINSLOW: Well that's why--that's why they say left, right, and straight, right? Or turn around, maybe you passed it right? That's why they're the navigator you're the--you're the pilot right? The guy with the map drives in--rides--rides shotgun, right? Now, so you picked out this aluminum stand, what area (inaudible) this?

PATINO: I think on the north side.

WINSLOW: The north side, okay. This is that first Monday?

PATINO: Yeah.

WINSLOW: Okay. You picked out this aluminum stand and like you say it--easy target, easy cash, it's got cash, there's no one hanging around (inaudible) right? Did you guys wanta hurt anybody doing this?

PATINO: I didn't wanta hurt no body, I (inaudible)

WINSLOW: What about them?

PATINO: I don't know what they were thinkin'...

WINSLOW: Yeah.

PATINO: ...they probably said--they were probably thinking in their heads if he tries something let's pull out the gun or what (inaudible) time. Cause I know David--I think he went away for robbery and stabbing someone, so they probably be that type and get crazy--some one try to get crazy with him, he'll just (inaudible)

LOPEZ: Well that's why you're worried about him, huh?

PATINO: Yeah, that--that way too. He might try to come back at me, try to get me.

LOPEZ: I understand. The first time as he said, I want you to tell me where is this aluminum stand um--like compared to the street, compared to the road, compared to something. Describe it.

PATINO: Behind a store.

LOPEZ: When you say behind, you were behind and the aluminum stand is in front of the store?

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PATINO: Uh—There's a store--I think behind the store way in--like in the corner. Just there (inaudible)

LOPEZ: Where?

PATINO: I think Fairway.

LOPEZ: Which Fairway?

PATINO: The one over there going to Avenue 320.

LOPEZ: The one that goes toward uh--Dinuba?

PATINO: Yeah, that one over there by Proteus Office.

LOPEZ: Proteus Office?

PATINO: There's a Proteus Office out there (inaudible)

LOPEZ: The Fairway Market though?

PATINO: Yeah.

LOPEZ: So it's--and it--where is it in relation to the market? Cause I know what the market looks like.

PATINO: The market's here, it's like towards the--towards--by the street.

LOPEZ: By the street?

PATINO: Yeah.

LOPEZ: Okay. And what color is that?

PATINO: I think it was (inaudible)

WINSLOW: The aluminum stand? Or what were you...

LOPEZ: Yeah, what--what color aluminum stand?

PATINO: The trailer?

LOPEZ: Yeah.

PATINO: The trailer, I think gray or white.

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LOPEZ: And which way does it face the opening?

PATINO: Uh--Here's the street and this way the openings towards...

LOPEZ: Here. (ripping paper) I'm gonna draw the highway. This is going toward Dinuba. Draw me the market first.

PATINO: I think there's some--some pay phones right here. We were parked there.

LOPEZ: By the pay phones?

PATINO: Yeah, we stopped there for a while and I heard something about--David saying those are the guys that shot at us. Over here (inaudible) and after that...

LOPEZ: What...

PATINO: ...I didn't see him for a while.

LOPEZ: Where is the--the stand?

PATINO: Like this and the opening's right here.

LOPEZ: Okay, where's the road now?

PATINO: Right there's like about a little ways from the road.

LOPEZ: Okay, where--where's the front doors of the Fairway?

PATINO: Front doors of the Fairway?

LOPEZ: Yeah, of the market where you go in, draw an "X".

PATINO: Right here, this side.

LOPEZ: Oh, okay.

PATINO: (Inaudible)

LOPEZ: Wh--where's the other road?

PATINO: The other road?

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LOPEZ: The cross (inaudible)

PATINO: The crossroad?

LOPEZ: Okay, draw it--draw it.

PATINO: (Inaudible)

LOPEZ: Okay, do you know the name of that street?

PATINO: No.

LOPEZ: Okay.

WINSLOW: How's it controlled? Stop signs? Stop lights?

PATINO: There's a stop sign right--right here. Then just check what business comes in and just go out.

LOPEZ: If you go this way to Dinuba, is that right? Which way is this way? If you went this way on that road where do you go? Do you know?

PATINO: To uh--somewhere done here there's a Oval.

LOPEZ: Oval, okay write down Oval. You know how to write?

PATINO: Yeah.

LOPEZ: Okay, so the Oval's that way and you're car's parked where? And you're driving?

PATINO: Yeah.

LOPEZ: And the pay phones are where roughly?

PATINO: Right here, just right here next to--or to the side.

LOPEZ: Now this first time we're talking about who leaves to do this robbery?

PATINO: David. I seen Leo at the phone and I didn't see David for a while.

LOPEZ: Okay, write Leo at the phone (paper ripping) and let's put Leo--point to the phone. Now, David went where?

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PATINO: That's what I don't know, he probably--he went around the corner and just did that.

LOPEZ: Okay. Over here at the aluminum stand?

PATINO: Yeah.

LOPEZ: Now how long was David gone? Write David over here at the aluminum stand.

PATINO: About five minutes--two minutes. After he showed up, we just split.

LOPEZ: Okay, now when you guys--before he went, were you looking around for cops, making sure there's no cops sittin' there?

PATINO: I was just ssstanding there--just looking left and right.

LOPEZ: Making sure it's clear?

PATINO: Kinda yeah--basically.

LOPEZ: Okay. What about Leo? Whose he calling? What was he doing?

PATINO: I don't know who he was calling, but he...

LOPEZ: Was his job the same?

PATINO: I think so, he just--I don't see him put money in the thing, he just acting like he was holding the phone.

LOPEZ: And David goes over here and does his thing?

PATINO: Yeah.

LOPEZ: What does he have in his--for a weapon?

PATINO: Knife. Leo had the gun.

LOPEZ: And when he came back--Let me see this. He had a knife this time?

PATINO: Yeah.

LOPEZ: And then when he gets it, how does he come back? Running? Walking?

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PATINO: I think running.

LOPEZ: Running? Do you remember this clear?

PATINO: I don't see him running towards the corner, but he probably ran from there to the corner (inaudible)

LOPEZ: Okay and so from this location, then who got into what part of the car? You're driving still?

PATINO: Yeah. Leo was in the--nah at that time...

LOPEZ: The first time--this is the first one.

PATINO: The first time. Okay, David got into the car's--the front side. Leo went to the back. I'm in the front side passenger.

LOPEZ: Okay.

PATINO: And I was just kicking back--just laying low like that.

LOPEZ: I thought you drove? You drove?

PATINO: No, David came back, he's...

LOPEZ: He jumped in the back?

PATINO: Yeah. And then...

LOPEZ: And he hid probably?

PATINO: Yeah.

LOPEZ: Is that true?

PATINO: Cause of the guys were trying to shoot at us in the red truck. That's when he said those guys are trying to shoot at us and I just saw a red truck storm by that way. They followed--we went around the Fairway first time, when around the block, came back at the Fairway after he said that, parked, they did their thing. And we just split. (inaudible) started driving, he said go left, go right here right (inaudible)

LOPEZ: Okay--okay, wait let's just chronologically after the robbery, he gets into the car?

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PATINO: Yeah.

LOPEZ: Okay, where does David go into the car?

PATINO: Back seat.

LOPEZ: Okay and then you guys leave?

PATINO: Yeah, we went back to the house.

LOPEZ: Whose house?

PATINO: Barbara's the one on Vine Street.

LOPEZ: Okay. How much money did he get?

PATINO: That's what I don't know, probably about 50 bucks--30, I'm not sure.

LOPEZ: 50--30 to 50 bucks. And what else did he take? What did he brag about what did he tell you?

PATINO: He didn't say nothing to me, he just said we gotta get back to Barbara's, that's it.

LOPEZ: So you drove directly from here to Barbara's, this Vine Street?

PATINO: (Inaudible) yeah went there, kinda.

LOPEZ: Well you were cool?

PATINO: Yeah.

LOPEZ: You didn't do anything? And neither did Leo, other than look for the cops, drive the car and wait for him. Did you ever think about splittin' and leaving him hanging?

PATINO: Nah, cause Leo coulda just said, hey where you going and shot me or something. Cause I (inaudible)

LOPEZ: Were these guys bragging after?

PATINO: I think when we went to the house, then we went--They pulled off to the side and went to the room and started talking about it. They were talking about it, cause I was just sitting there drinking a 40.

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LOPEZ: How did you feel about this whole thing?

PATINO: That it was--they pulled something and it was messed up.

LOPEZ: Well you were there.

PATINO: Yeah.

LOPEZ: Did they slap you on the back and say good job?

PATINO: Nah, they just popped me a 40.

LOPEZ: On this one right here, I wanta you to uh--Do you know how to sign your name?

PATINO: Yeah.

LOPEZ: Sign your name so I want people to know that I didn't draw this diagram.

WINSLOW: Where'd you buy the 40 at?

PATINO: Uh--They went out and bought it after we got back.

LOPEZ: And like this is the first time right? First time this took place?

PATINO: (Inaudible)

LOPEZ: Okay, now was that easier than lying this whole time?

PATINO: (Inaudible) Yeah, it's kinda easy.

LOPEZ: Isn't that better?

PATINO: Yeah.

LOPEZ: Cause you know we know and that's the thing.

PATINO: Yeah.

LOPEZ: Why did you lie this whole time?

PATINO: I didn't want you guys to try to like go ask them and they try to say something different and after they--do something, they could send someone to hurt me or my family. That's all I'm worried about is my family not getting hurt. I got two little girls (inaudible)

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LOPEZ: This is the truth here. I mean--you know what I'm sayin'? These are some details that--that none of us could provide. This is the only thing that you would know because you were there and that's where you were wrong and that's why you were afraid, is that right?

PATINO: Yeah.

LOPEZ: Okay. After this did he tell you who he robbed?

PATINO: Nope. I had no contact about that, he just...

LOPEZ: Well, they must have slapped you in the back and said good job?

PATINO: We went home and they got 40's first--we just drank 40's and kicked back.

LOPEZ: Everybody was all happy and proud?

PATINO: Kinda. We went home drank 40's, smoked some dope.

LOPEZ: Okay.

PATINO: Just kicked it for--for the rest of the night.

LOPEZ: Okay, did they ever give you some cash?

PATINO: Nah. Just put gas in the car, 5 or 6 bucks here and there.

LOPEZ: Now, I missed this one part, but when you did this was it because it was a--a macho thing for you or you just thought you could do it or what--what was it that you just wanted to act like a pussy or what--what was it?

PATINO: Just drive around and let them handle their stuff. It wouldn't look bad on me they don't call me a little (inaudible)

LOPEZ: Pussy?

PATINO: Yeah--yeah. That way they don't think I'm a little punk or scared or whatever.

LOPEZ: All right, now that we're rolling along here. I'm gonna flip the thing over, now we're talking about the second time. You gotta a pen? On you?

WINSLOW: Uh--In brief case, which is out in the car.

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LOPEZ: I'll grab one right here then. You gotta pen?

PATINO: Yeah.

LOPEZ: He's my boy. Okay, second time. What day?

PATINO: Uh--Wednesday.

LOPEZ: Wednesday. All right, location?

PATINO: (Inaudible) that's all I can think where we went is (inaudible)

LOPEZ: Well now, I need to know location. This is the location that's definitely different, it's easy to remember because it's not in Visalia. Remember? That help you?

PATINO: Goshen--uh...

LOPEZ: Well describe the area.

PATINO: Yeah.

LOPEZ: I mean you went out there to hit--look at the house.

PATINO: (Inaudible)

LOPEZ: Location (inaudible) Describe it. Give me some streets, show me the streets, show me the layout and I can help you.

PATINO: Uh--I don't know what town it was (inaudible)

LOPEZ: That's okay.

PATINO: There was some...

LOPEZ: Show me streets first.

PATINO: I don't know (inaudible)

LOPEZ: It's okay. Draw it.

PATINO: There's like--there's a corner right here.

LOPEZ: Okay.

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PATINO: There's a house there's like--I think it was the second or third house, I'm not sure. And then we just drove around once, there was a big ole party some where he said--he just said like there's a party some where we--we went around hit a cul-de-sac, turned around came back to that same location.

LOPEZ: Okay.

PATINO: I think that's what we did.

LOPEZ: Okay. Let's talk about where a we--no--what is this place there we're talking about?

PATINO: Uh--A house. But I don't know any--like (inaudible)...

LOPEZ: No--no remember--remember let's get back to the truth here. What is the robbery, what is the robbery of what?

PATINO: (Inaudible) target...

LOPEZ: Is uh...

PATINO: Make some money.

LOPEZ: Yeah, I know that, but what...

PATINO: (Inaudible)

LOPEZ: ...what's the location? What is the thing that you're robbing here?

PATINO: A house.

LOPEZ: (Inaudible) Now come on now--come on. (snapping) I have it right here, I know what it is.

PATINO: Another aluminum...

LOPEZ: Okay. Another aluminum (laugh) Why is that so hard for this boy? Draw the big streets.

PATINO: It's like this--like this.

LOPEZ: Okay. Here's one. Now where's the other street?

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PATINO: (Inaudible) like, it's down (inaudible) this--this one kept on going. I'm not sure how the street was exactly.

LOPEZ: Okay. Draw the aluminum stand in relation to whatever little buildings around there, I know it very well. So do you, you've been there a 100 times. Everybody passes that location at one point or another for goodness sakes. You probably even saw something else there huh? What did you see in front, next to the road?

PATINO: (Inaudible)

LOPEZ: What's on the very corner?

PATINO: Very corner?

LOPEZ: On the very corner of those two streets?

PATINO: Gasoline--well--I...

LOPEZ: There's something at the very corner, right?

PATINO: Yes (inaudible)

LOPEZ: Is it a business?

PATINO: It might have been a lawyer place, I'm not sure.

WINSLOW: A what?

LOPEZ: Let's clarify a couple of things. I know the location, all right. Can I just say--can I ask you a few simple questions? It's not in Visalia, is it?

PATINO: Nah, right there by--I think Goshen (inaudible)

LOPEZ: Or Dinuba? Okay. Now, because it's not in Visalia, it should be pretty easy to describe this thing. Because it's basically, tell me if I'm wrong, in the middle of no where.

PATINO: Yeah.

LOPEZ: Okay. Now, I see you're drawing some kinda of an intersection there. All right. This aluminum stand is that what you said? is where just draw a square for this aluminum stand.

PATINO: It's (inaudible)

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LOPEZ: Just draw a square, it is a square is it not?

PATINO: Yeah.

LOPEZ: Okay, draw it for me. However, you see it in your head.

PATINO: Just (inaudible) right here.

LOPEZ: Draw it Okay, now if that's the aluminum stand, where are you parked after you drive by a couple of times?

PATINO: Uh--Out here some where.

LOPEZ: Okay. And where are you? On the road? In a neighborhood?

PATINO: (Inaudible)

LOPEZ: In a business?

PATINO: In the neighborhood by a business.

LOPEZ: Okay. Draw it. Tell me what happens on this one.

PATINO: Just went and he told me we'll be right back. And...

LOPEZ: You're driving again?

PATINO: Yeah.

LOPEZ: Okay. Whose he?

PATINO: David. I think this one we only went me and him. Cause we'd been driving around (inaudible) about 8 or 9. Me and him were at that--at that time I think it was just me and him.

LOPEZ: Okay, hold that thought for one second, I forgot one thing. On this first time, the first one we got through at the Fairway, what time of the day is that or night?

PATINO: 3 in the afternoon--3 or 4.

LOPEZ: Okay. Sorry about that. Now on the second one that we're talking about. What time is this one?

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PATINO: Late afternoon about 5 - 6 - 7.

WINSLOW: (Inaudible)

PATINO: I sure cause we'd been driving (inaudible)

LOPEZ: It's daylight though?

PATINO: Yeah.

WINSLOW: Afternoon you think?

PATINO: Between 11 and 4. I'm not sure what time it was exactly.

LOPEZ: So between 11 and 4 we got that, Wednesday it's an aluminum stand and its...

(End of side B of tape #1 - Beginning of side A of tape #2)

PATINO: (Inaudible) kinda...

LOPEZ: Don't lie here--to do certain things because this detective knows this case inside and out. This one--this is his world. That's his backyard. He calls that home.

WINSLOW: You say this was (inaudible) you parked in a neighborhood?

PATINO: And kinda off to the side (inaudible)

WINSLOW: Okay. How far away from here were you? How many streets?

PATINO: I'd say about two or three.

WINSLOW: Two or three streets away? So then what happens? It's just you and David?

PATINO: Yeah. He leaves for a while and comes back and then we just take off and (inaudible) back this way.

LOPEZ: In the car out front? The same car?

PATINO: In the same car.

LOPEZ: The same car that you used on the first one? Okay.

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WINSLOW: That's the blue Buick?

PATINO: Yeah.

WINSLOW: Now here's my concern here. You've already deviated just a little bit from the truth, now you've already said Leo did not come, right?

PATINO: Nah.

WINSLOW: And--and you're saying you and only David went, right?

PATINO: Me and him.

WINSLOW: You--pardon?

PATINO: Me and him.

WINSLOW: All right.

PATINO: Right.

WINSLOW: Well, you didn't stay with the car did ya?

PATINO: No.

WINSLOW: No. You went with David back there, right?

PATINO: Yeah.

WINSLOW: You parked the car a couple blocks down the street, right? And you and David went to this place, right?

PATINO: We walked for a little while.

WINSLOW: Okay.

PATINO: But I just--that--at that time, I think I like--I didn't see him point the gun out or anything and we just went back to the car and we split.

WINSLOW: I know. You know why I'm not worried about the gun on this time?

PATINO: Yeah.

WINSLOW: Cause no one had a gun...

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PATINO: Yeah.

WINSLOW: ...(inaudible) had a knife. Okay? So you and David walked in (inaudible)

PATINO: Yeah. Well (inaudible)

WINSLOW: Pardon? So tell me you were there, saw it all happen...

PATINO: Yeah.

WINSLOW: Okay. How did it happen?

PATINO: We went up there and I think he said give me the money or--he pulled out the knife and said some words and took off the money and we split. But I never seen none of that money, he just put five or six bucks for gas. That's all he did all the time, but five or six bucks for gas. He goes, let's go put some gas.

WINSLOW: So David pulls out the knife, says give me the money, right?

PATINO: Yeah.

WINSLOW: You speak Spanish?

PATINO: Yeah.

WINSLOW: Okay. Does David speak Spanish?

PATINO: Nah, he's pretty white, he don't speak Spanish.

WINSLOW: Okay, here's my concern. The guy got robbed...

PATINO: Yeah.

WINSLOW: ...he don't speak no English either.

PATINO: No.

WINSLOW: So how can David tell him give me the money and expect that guy to understand him?

PATINO: He probably knew a couple of Spanish words.

WINSLOW: Who?

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PATINO: David.

WINSLOW: Nah, he said more than that though. Stuff--Words like uh--(inaudible) lay down on the floor.

PATINO: That (inaudible)

WINSLOW: Huh?

PATINO: Probably go down to the ground and give me your damn money.

WINSLOW: How would you say that?

PATINO: I don't know.

WINSLOW: Well yeah you know, you would know how to say it cause you're Spanish (inaudible)

PATINO: Yeah.

WINSLOW: Okay, I don't think David was that good at uh--Let me kinda help you out a little bit here. What kinda truck was this?

PATINO: Truck?

WINSLOW: What kinda outfit, what kinda rig was this aluminum stand? Was it a truck? A trailer? A--a--a 4th of July firecracker stand lookin' kinda place, what was it?

PATINO: A--A it's like a little back trailer.

WINSLOW: A back trailer, huh? Like what kinda trailer? Like a trailer you carry lawn mowers on or--or--or what?

PATINO: Kinda--Just uh--like a--just a normal sized trailer. Like where you pull a boat, just one of those little..

WINSLOW: A boat trailer?

PATINO: Nah, not a boat trailer, just like--just a regular trailer.

WINSLOW: Compare it to what kinda...

PATINO: The ones you see people going and mowing lawns--cut lawns--yards.

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WINSLOW: Well there only about like this tall.

PATINO: Yeah.

WINSLOW: (inaudible) you can see the mowers inside, that's not quite right. That's (inaudible) either.

PATINO: It's--it's one of those (inaudible)

WINSLOW: You know, did it have a roof on it or did it not have a roof?

PATINO: I don't think it had a roof.

WINSLOW: You don't know huh?

PATINO: Nah, I...

WINSLOW: Are you sure David was there? (laugh)

PATINO: I think, yeah.

WINSLOW: Okay.

PATINO: Cause I never said, get down on the floor to nobody in Spanish.

WINSLOW: Well here's the problem. That old boy picked out you (inaudible) Like you say you were there, right?

PATINO: Yeah.

WINSLOW: You were there, he picked you out, right?

PATINO: But I never held the knife and said anything's in Spanish.

WINSLOW: What did you do?

PATINO: Just stood out there.

WINSLOW: You did more than stand. You did more than stand outside. Okay? So why don't we own up a little bit more here.

PATINO: I never held the knife or nothing.

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WINSLOW: Okay, I'll give you that. I'll say you didn't handle the knife and I'll even say you didn't tell the guy to get down on the ground. But see he didn't get down on the ground, that's the other problem. What did he get down on?

PATINO: In the trailer.

WINSLOW: He got down in the trailer, right? Now did he get down in the front where the door is, or did he get down in--in the back? Or did he get down...

PATINO: Towards the middle I think.

WINSLOW: Okay (inaudible)

PATINO: (Inaudible) scared.

WINSLOW: Mmm hmm. So, who had the knife?

PATINO: Not me, David.

WINSLOW: No, let's keep going here.

PATINO: David or Leo, I don't know. Cause Leo wasn't there (inaudible) I never held the knife in my hand. His knife is like--is his.

LOPEZ: You're lying about one thing and it makes it really difficult to believe. He knows the truth here on this one. So, please tell em who was there, tell em what happened.

WINSLOW: The truth.

LOPEZ: Stop doing this.

PATINO: I never held the (inaudible)

LOPEZ: Who did?

PATINO: David.

LOPEZ: What?

PATINO: David. I never...

WINSLOW: David can't tell this guy get down on the floor, he doesn't speak the Spanish. Well let's go back. Let's not worry about whether it's David or

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what it Leo, let's now worry about that. But who ever you were with, told him to get down on the floor, right?

PATINO: The only one that knows Spanish is Leo.

WINSLOW: And you.

PATINO: Yeah--And me, but I never exchanged those words that...

WINSLOW: Okay. I'm gonna give you that I'm gonna--I'm gonna say that happened. So, be it David, be it Leo, the day--How high is this trailer?

PATINO: About here or here, I'm not sure.

WINSLOW: You're talking between--I'd estimate...

PATINO: (Inaudible) Two and a half feet to like three--three and a half, four foot.

WINSLOW: Okay, so you're saying the trailer was high--the trailer was about uh--the trailer floor right?

PATINO: Yeah.

WINSLOW: It's about two and a half to four feet high?

PATINO: Yeah, it's...

WINSLOW: Off the ground?

PATINO: He's--yeah--about two and (inaudible)

WINSLOW: Okay, now--It's about two and a half to four feet high off the ground, now how are you gonna order a guy with your--with--with--you know--be it David, be it Leo, one of em whose ever there has the knife. How are they gonna order the guy to get on the floor if--if they're standing outside? How's he gonna believe that? He's four feet above em, he'd kick em in the face.

PATINO: Yeah.

WINSLOW: So how's he gonna--how's he gonna--how you gonna make this guy believe them?

PATINO: Nah, he probably he gonna be able to, he's just get on that floor--on the trailer floor....

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WINSLOW: Who (inaudible)

PATINO: (Inaudible)

WINSLOW: Whose the dude?

PATINO: The one we robbed.

WINSLOW: Okay, and he's up there, right?

PATINO: Yeah.

WINSLOW: Okay. How can you convince a guy to get on the floor?

PATINO: Tell him to get out of the trailer, get on the floor and (inaudible)

WINSLOW: Get out of the trailer?

PATINO: Get off and get on the floor.

WINSLOW: On the ground?

PATINO: Yeah.

WINSLOW: But he didn't do that. You're already saying he was in the middle of the trailer.

PATINO: He didn't get on the floor, cause I think it was (inaudible)

WINSLOW: How would you make this guy...

PATINO: Get on the floor.

WINSLOW: ...get on the floor?

PATINO: We couldn't. Probably at knife point.

WINSLOW: But he did. Let's fill in some gaps here. I'm--I'm opening the door here for you to fill in the gaps. I think you've figured that out, right?

PATINO: Yeah.

WINSLOW: So what was done?

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PATINO: Tell em--We pulled a knife on him.

WINSLOW: Right (Inaudible) pulled a knife, that's fine. But you're standing outside the trailer, right?

PATINO: Yeah.

WINSLOW: So, how you gonna intimidate a man whose standing four feet above you if you got close to the trailer edge, and he just pumped one right in--between your eyes with his foot like you're a damn football. Okay, so how you gonna convince a guy that he needs to get on the floor if he's standing four feet above you?

PATINO: You really can't.

WINSLOW: So, how'd you do it?

PATINO: Pulled the gun or the knife out.

WINSLOW: You pulled a gun and a knife on him now?

PATINO: The knife.

WINSLOW: Huh?

PATINO: Just the knife.

WINSLOW: Just the knife.

PATINO: Yeah.

WINSLOW: So how you gonna make him?

PATINO: Tell him in Spanish get on the ground.

WINSLOW: Okay, well that was you then if it was David then, right?

PATINO: Yeah.

WINSLOW: Okay.

PATINO: If it was me and Leo, that was Leo.

WINSLOW: Okay.

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LOPEZ: All right, so who is it then?

PATINO: Me and David we only together that night.

WINSLOW: Okay.

PATINO: That day.

WINSLOW: I guess what I'm asking you is, did someone jump up on the deck of that trailer and talk to this guy with a knife in their hands, so they're on equal level like you and I are?

PATINO: I didn't jump up there.

WINSLOW: But who did?

PATINO: Probably David.

WINSLOW: What do you mean probably?

PATINO: Or did.

WINSLOW: Did someone jump up on (inaudible) Did someone jump up on the deck of the trailer? Up on the floor with the guy?

PATINO: David.

WINSLOW: David? And what happened?

PATINO: I guess they were talking and I think he said like here's your money (inaudible) give (inaudible) the money. The guy got scared and jumped to the ground.

WINSLOW: Ground to what?

PATINO: To the trailer ground. (Inaudible) I really don't remember what happened.

WINSLOW: Okay, so David jumps up in the trailer and told the guy to get his money huh?

PATINO: Yeah.

WINSLOW: See I have a problem with that, that guy don't speak English. If he was sitting in this room right now, he wouldn't understand a word you and I are

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talking about. So, how can David be the one that ordered him to speak--to--in Spanish.

PATINO: Well, probably I told him--probably...

WINSLOW: Okay.

PATINO: ...I told him (inaudible)

WINSLOW: Did you get up in the trailer?

PATINO: No.

WINSLOW: Here me out. So where did you stay?

PATINO: Outside.

WINSLOW: All right and how is that gonna--so what's David doing up there?

PATINO: Just holding the guy at kni--knife point.

WINSLOW: All right so how can he take his money if he's holding him at knife point? He can't can he? It's kinda hard to take a guy's money when you're occupying him at knife point, right? He can't talk to him, right? Cause he don't speak the Spanish. So how did we get the money? Come on we know the answer here.

PATINO: I picked it up and we left.

WINSLOW: Where'd you pick it up from?

PATINO: The stand--the little table thing.

WINSLOW: The table thing? What was it, was it just sitting on a table like--like these car keys or was it doing something? Was it in something?

PATINO: I think it was like in a little bucket. I don't remember, (inaudible)

WINSLOW: So how'd you get the money? Did you--did you climb up in this trailer too?

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PATINO: I jumped up, got down and we--I guess they--me and David took off running to his car and we left.

WINSLOW: Okay, so you jumped up in the trailer?

PATINO: Yeah.

(Nextel beep)

LOPEZ: Hey, can you make sure we have--still air conditioning. It's kinda getting warm.

WINSLOW: So the money was in some kinda of a bucket or...

PATINO: Like a square or a bucket, I can't remember that good.

(Nextel beep)

UNKNOWN: (Inaudible)

WINSLOW: Square what?

PATINO: Like a little box or a bucket. It was just there and I got it and took (inaudible)

WINSLOW: How much you get?

PATINO: About 40 or 50, I'm not sure.

WINSLOW: You sure? That's kinda--stop and think here. Let's kinda do an accurate count here. Cause I already know what the figure is.

PATINO: (Inaudible)

WINSLOW: (Inaudible) tell you how much you got. I know the figure. I'm confident you know the figure.

PATINO: Just-I stuffed it in my pocket and we split (inaudible)

WINSLOW: Yeah, but you later counted it. So how much did it add up?

PATINO: I gave it to David and he (inaudible)

WINSLOW: Oh, no--no--no, you had to take a cut man. You had a cut. There ain't no way that you...

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PATINO: He put gas in my car, that's about it.

WINSLOW: Don't be--no--no--no--no. He didn't (inaudible) money just to put gas in your car.

PATINO: (Inaudible)

WINSLOW: Nah--nah--nah, oh, he paid you with dope?

PATINO: He gave me dope.

WINSLOW: All right, well it's still--how much money did you give him man? You don't take money like that and not count it out.

PATINO: Nah.

WINSLOW: You just don't just hand the wad over there. Come on be realistic here. Be realistic. You need to convince me that you (inaudible) Now I've been--we have been choking here--well not literally, we have been grasping at every issue to get the truth out of you and you have give us one lie after another after another...

PUDER: Feel bet--better?

LOPEZ: It feels better. How much--how much time you think? We've been going...

PUDER: It's been on for--you know--it's been on four about two hours and 20 minutes, the air conditioner--so--you know how they are about it.

WINSLOW: You following me?

UNKNOWN: Oh yeah.

LOPEZ: Three?

PUDER: (Inaudible) I'm not sure.

WINSLOW: Let's be realistic here.

LOPEZ: Same kind that you have in your office. Did you check the battery?

PUDER: It's still showing. (inaudible)

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LOPEZ: Okay, that's good, as long...

WINSLOW: (Inaudible) okay? So, let's be realistic, let's get the truth here. There's more 40--50 bucks...

PATINO: It's about 90--85.

WINSLOW: Uh--no--no (inaudible) let's keep going up.

PATINO: 145?

WINSLOW: Uh--We're getting close, but we're not quite close enough. Come on. How much did you keep?

PATINO: About--I just got about a 40 (inaudible) Crank, that's it.

WINSLOW: You got about a what?

PATINO: 40 set--two 20's.

WINSLOW: You got two 20's worth of Crank? Or two 20's in cash?

PATINO: In--in pay I guess.

WINSLOW: So who'd you give the money to?

PATINO: The rest of it they (inaudible) David we just came back (inaudible) He had--he had a couple on him. Every time I seen him he bust out a baggie. I don't know where he got his dope from.

WINSLOW: Okay. Did he fill your tank up or what?

PATINO: He puts about 5 or 6 bucks that's it, just enough for--to get to work and (inaudible) about half a tank (inaudible)

LOPEZ: Who drove off after you guys were done there?

PATINO: David.

WINSLOW: Why? Wouldn't you take the keys with you?

PATINO: Yeah. (Inaudible) ignition ready.

WINSLOW: Huh?

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PATINO: We had (inaudible)

WINSLOW: Nah--nah, you'd be a fool to park your car in that neighborhood with the keys in it, so don't--let's not go there. Now you drove up there...

PATINO: Yeah.

WINSLOW: ...you guys drove around, right? Okay, you checked it out your parked a couple two--three blocks down, down the road, right? You walk on over, correct?

PATINO: Yeah.

WINSLOW: You both had to jump up on that truck--that truth--that flatbed--that--that trailer, right?

PATINO: Yeah.

WINSLOW: Okay, David confronts the guy with a knife, right? But you hafta tell him in Spanish to get down on the ground?

PATINO: Get down on the ground.

WINSLOW: Right--right? You tell the guy, right?

PATINO: (Inaudible)

WINSLOW: You talk about--tell him if you--if you get up we're gonna--you're gonna get stabbed?

PATINO: No (inaudible)

WINSLOW: Did you tell the guy you got--you were gonna stab him?

PATINO: I don't recall telling him that, we just--we did it pretty quick and got out of there in about three or four minutes.

WINSLOW: Why would you expect the guy to get down on the ground if you're telling him in Spanish and you're holding a knife. What--what would be--how would you expect him to get down on the ground? You gotta make this real to him, right?

PATINO: Yeah.

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WINSLOW: You gotta make him believe if he don't do what you tell him, he's gonna get hurt, right? Am I right? So, you had to just say more than just standing holding a knife in your hand, and say--then--just say get down on the ground. I mean is he--maybe he's a little dumb--maybe he's a little slow--he don't quite make the connection. Knife--being told to get down on the ground, so what did you tell him?

PATINO: Get down or you're gonna get hurt I told him.

WINSLOW: Okay.

PATINO: (Inaudible)

WINSLOW: That's fair enough. Now how would you hurt him?

PATINO: Try to stab him. (inaudible) David held him in case he tried to jump or jump out.

LOPEZ: What else did you guys take?

PATINO: That we know of nothing else--that I know of.

LOPEZ: Who searched the guy?

PATINO: David.

WINSLOW: Pardon.

PATINO: David checked it out and then I took the money and we split.

WINSLOW: Did David search the man?

PATINO: Yeah, he got him with the knife went like this (inaudible) some how just (inaudible)

LOPEZ: And what'd he--what'd he search him for?

PATINO: if he had any extra cash on him or...

WINSLOW: Did he?

PATINO: I don't think he did.

WINSLOW: You don't think he did?

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PATINO: No. I was kinda looking out too, in case something came up or someone came up.

WINSLOW: Okay. You recall taking a pager?

PATINO: Not me, he probably stuffed it in his pocket. Cause I was---after that I was kinda of like scoping back, making sure no one passed by.

WINSLOW: Okay. So you took the money from the--from the box, right? The box or the can or whatever they had there, right? Stuffed it in your pocket...

PATINO: And we left.

WINSLOW: How'd ya--did you walk or did you run, or did you hike, you thumb a ride? How's ya get out--how'd you leave that stand?

PATINO: We ran.

WINSLOW: You ran?

PATINO: Yeah.

WINSLOW: You ran back to the car? Right? Who drove away?

PATINO: I did.

WINSLOW: Okay.

LOPEZ: How did you run from this location to the car? Along what?

PATINO: Just straight towards the car, around--just ss.....

LOPEZ: On--on what?

PATINO: On foot.

LOPEZ: On foot, on--on what though?

WINSLOW: Did you run through alleys? Did you run through yards? Did you run along the main road? Did you run in the middle of the road, did you hafta cross a road to get to your car?

PATINO: Then we took the--uh--we took the (inaudible)

WINSLOW: Hmmm?

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PATINO: It think it was a alley or we ran through--just got to the car and we got in there and took off.

LOPEZ: You didn't hop any fences?

PATINO: I might have hopped one or two.

LOPEZ: How far away was the car?

PATINO: About two or three blocks. No, two--one, two, three.

LOPEZ: And what's the name of this place?

WINSLOW: (Inaudible)

PATINO: I don't know.

LOPEZ: What do you think it's called?

PATINO: Either Goshen or Dinuba.

WINSLOW: Nah, you weren't near either one of em.

PATINO: Nah?

WINSLOW: No. Did you ever go in that market?

PATINO: No.

WINSLOW: So you (inaudible) know where you were huh?

PATINO: Nah, I didn't know.

WINSLOW: You live in Farmersville all your life and just don't know much about Visalia?

PATINO: Yeah. My parents never let me out. Well they do sometimes, but just around the block or something to my friend's house.

WINSLOW: Right. How old are you?

PATINO: 19.

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LOPEZ: Sign your name on that--on that thing there. So I know that you drew that with your red pen.

WINSLOW: So how many more of these did you do?

PATINO: (Inaudible)

WINSLOW: How many more of these did you do?

PATINO: About--just two that I recall.

LOPEZ: (Laugh) Let's--Let me help you know cause we're gonna move on to the next one. Okay? Are you ready? Let's talk about another Visalia one. This one should be easy to remember. I'm not gonna argue--about dates and times, it seems like it's somewhat blurry. But let's talk about a third one. It could be the first, the second, the third one, but let's talk about--let's start from the very beginning again and let's go quick okay? Cause I'm hungry.

PATINO: Yeah, my mom's (inaudible)

WINSLOW: (inaudible)

LOPEZ: We gotta call her right now. All right in a minute and you hafta explain stuff to her.

PATINO: All right.

LOPEZ: All right so, we already talked about the first time, we talked about the second one. Now, I wanta hear about the thir--the third one that happened whatever your memory tells you, last week. Not this week, last weeks.

WINSLOW: (Inaudible)

LOPEZ: All right, the third time let's go. We start off with locations. Where?

PATINO: Uh--Visalia.

LOPEZ: Visalia. Where?

PATINO: (Inaudible)

LOPEZ: Rough area? What stores? Like before. These are easy.

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PATINO: I think around a grocery store or a liquor store (inaudible) and by alotta houses.

LOPEZ: Okay. I mean give me something better, I need a name of a big stores--these are big stores out there--there's a big liquor store, there's all kinds of stuff.

PATINO: I--I didn't really check that out.

LOPEZ: Give me the main road.

PATINO: (Inaudible)

LOPEZ: What side of town?

PATINO: I think off--on the north side.

LOPEZ: All right well this one right here...

PATINO: Or on the...

LOPEZ: Or on the?

PATINO: South.

LOPEZ: On the south. That's the one I wanta talk about. What's the big street there?

PATINO: Uh...

LOPEZ: Come on, let's go.

PATINO: Giddings or uh--Demaree (inaudible)

LOPEZ: Come on--come on--come on--come on.

PATINO: There's Demaree, there's Giddings, (inaudible)

LOPEZ: What other things are there, that are close by?

PATINO: Uhhh...

LOPEZ: I mean I know you know these.

PATINO: No.

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LOPEZ: I know you know all that kinda stuff.

PATINO: Albertson's.

LOPEZ: Albertson's. You know about more. This one right here is--the specific one on the south side. Help me out here.

PATINO: Walmart.

LOPEZ: All right, now we're getting warmer. Now what street is this one here? Well what's the other big store?

PATINO: Montgomery Ward, there's Walmart.

LOPEZ: Walmart's way over here. Where's the main street, come on--come on--come on...

PATINO: Uh...

LOPEZ: ...you hafta call your mom.

PATINO: I don't know what the street is called. I just--I never--didn't pay attention to the streets. We'd just go and come back.

LOPEZ: Okay. The third one is on the south side, you know where Walmart is correct?

PATINO: Yeah.

LOPEZ: Is it--is it toward--going toward Farmersville, is it closer--now you know this. Tell me from Walmart how do I get to this location? Which way do I go?

PATINO: Uh--It's more this way coming towards...

LOPEZ: Farmersville?

PATINO: Yeah.

LOPEZ: All right, you know what the next big str--you know where Walmart is?

PATINO: Yeah over here by (inaudible)

LOPEZ: All right we'll go with the map again.

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PATINO: McDonald's (inaudible).

LOPEZ: That's right.

(Tearing paper)

LOPEZ: I'm gonna draw you a portion of this map in black and then red you can fill in the blanks. This red line is Highway 198. Okay? This is Ben Maddox, this is McDonald's, this is Walmart, and Farmersville is this way. And just--I'm not saying that's where the town is, but that's just which way to go to go on the freeway...

PATINO: Yeah.

LOPEZ: All right? Now with your red pen, draw for me this location.

PATINO: Uhhh...

LOPEZ: There's McDonald's...

PATINO: McDonald's.

LOPEZ: ....there's Walmart, here's this little road you drive past em going that way. All right, now with your red pen--let's go though--let's going on this right here.

PATINO: There's uh...

LOPEZ: Draw the next road.

PATINO: There's a street going this way.

LOPEZ: That's right. Do you know the name of that street? It's a big street.

PATINO: Yeah.

LOPEZ: What is the big street?

PATINO: It's Giddings or...

LOPEZ: No.

PATINO: Mooney Blvd.

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LOPEZ: No. Come on you're 19, you drive this all the time. You see it all the time on the sign. What is it? (Inaudible)

PATINO: Locust? Court?

LOPEZ: What?

PATINO: Locust or Court?

LOPEZ: No.

PATINO: Nah.

LOPEZ: (Laugh) It's got a beautiful name. Well just draw it better in red so I can see it and I'll help you.

PATINO: It's that street right there.

LOPEZ: All right it's that street. Now, where is this place that we're talking about now, that we robbed?

PATINO: Uh...

LOPEZ: Just draw a square.

PATINO: A little on side.

LOPEZ: A little what? On the side?

PATINO: It's on the on side of the store right here.

LOPEZ: Okay, that's it. Now draw it for me.

(Door closing)

LOPEZ: Okay. And where's the parking lot?

PATINO: Uh--There's a parking lot from Walmart down here--yeah (inaudible) down there. There's a parking lot here. It's...

LOPEZ: Okay. Do you know the name of that road yet?

PATINO: Nah.

LOPEZ: Do you want me to help you with that name? If I said it was Lover's Lane?

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App. 1968

PATINO: On Lover's Lane?

LOPEZ: Would that be it?

PATINO: Yeah.

LOPEZ: Okay. Now, I'll draw Lover's Lane since I said it, is that right? Am I--am I drawing this right?

PATINO: Yeah.

LOPEZ: Okay. Draw an "X" where the opening is.

PATINO: Uh--I think it's right here.

LOPEZ: But you're not sure?

PATINO: Yeah, they could have moved it or what today--or tomorrow, I'm not sure. (inaudible)

LOPEZ: Okay, but you think that might help you?

PATINO: Yeah.

LOPEZ: If you think you're confused here, no--you're doin' good here. Now, where did you park the car if you drove on this one?

PATINO: This one? I don't think I drove on this one.

LOPEZ: Okay. We're talkin' about the same car, right?

PATINO: Yeah.

LOPEZ: What time of the day? Let's get goin' here.

PATINO: Afternoon, I think--yeah...

LOPEZ: Okay.

PATINO: ....yeah, afternoon cause I'd be workin' during the day.

LOPEZ: What time in the afternoon?

PATINO: About between 3 and 8.

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TAPED STATEMENT OF FREDDY PATINO
CASE # 01-9239, 01-09336- 01-09750

LOPEZ: Tell me what happened this time.

PATINO: Uh--David left, came back and we took off.

LOPEZ: And so what would you do this time?

PATINO: Drive away with (inaudible) make sure that no cops come.

LOPEZ: Okay, you're lying to me right now. Where--Show me where you parked your car. And I want you to put uh--let's see here a triangle for your car where you parked it.

PATINO: It's...

LOPEZ: Was it in the parking lot?

PATINO: I don't (inaudible) I'm not sure.

LOPEZ: Well you--you said you drove.

PATINO: Yeah, I drove.

LOPEZ: You didn't go in there and do this one.

PATINO: It's been a while.

LOPEZ: Okay, where do you think? Was it on the road? Was it in the lot? Was it across the street?

PATINO: (Inaudible)

LOPEZ: Was it at the gas station? Was it at the liquor store? Was it at the Chevron? There's all kinds of stuff out there.

PATINO: It was a gas station somewhere (inaudible)

LOPEZ: Come on now.

PATINO: We parked right here some where.

LOPEZ: Behind? Put a triangle. Okay, so behind the--this thing. What do--what do you call this square that you're drawing there?

PATINO: The aluminum stand.

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LOPEZ: The aluminum stand. What'd the guy look like inside there?

PATINO: I don't know, I didn't go up there.

LOPEZ: Was he white? What he black?

PATINO: Uh--I don't recall.

LOPEZ: All right, who drove?

PATINO: I did, to get away.

LOPEZ: Okay. What weapon?

PATINO: He--he had--he had his knife on him at that time or a gun cause he was talking about going to Walmart and buying some bullets.

LOPEZ: Okay, so where was it then? What did you see that time?

PATINO: I saw the gun.

LOPEZ: The gun?

PATINO: Yeah.

LOPEZ: Now be sure about this cause I don't want you to lie to me. I know who did this one, now tell me the truth. Who was with you on this one?

PATINO: Leo.

LOPEZ: Okay, why are you afraid to tell me the truth about them? Are you more afraid of Leo? Are you more afraid of the relationship with Leo? Tell me why you keep lying about Leo and David here, why do you change em around? Cause you don't like David, you've only known him a week? What is it about that?

PATINO: Nah, it's just that they might try to pull something.

LOPEZ: I understand that son, but I mean the truth here is what's important. Who was there with you then this day?

PATINO: I think Leo.

LOPEZ: All right, who went in there and--and robbed the dude?

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App. 1971

PATINO: He did.

LOPEZ: Leo did?

PATINO: Yeah.

LOPEZ: And what did Leo rob him with?

PATINO: I think the gun (inaudible)

LOPEZ: And how do you know this?

PATINO: He's always strapped down with that gun.

LOPEZ: All right, what did you see him do exactly?

PATINO: Just walk over there and come back.

LOPEZ: Where was the gun when he walked over?

PATINO: His pocket.

LOPEZ: Which pocket?

PATINO: (Inaudible)

LOPEZ: What did he wear that day?

PATINO: I think, black pants and I don't know what color shirt.

LOPEZ: What did he wear on his head?

PATINO: Red bandana.

LOPEZ: You sure about that? Or you just guessin'?

PATINO: Uh--I don't recall what he wore on that day.

LOPEZ: All right.

PATINO: It coulda been a bandana or a hat.

LOPEZ: Okay, what color hat does he like?

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PATINO: Red hat.

LOPEZ: Huh?

PATINO: Red hat.

LOPEZ: What kinda hats?

PATINO: Uh--Pro (inaudible)

LOPEZ: Are you--Oh, baseball cap?

PATINO: Yeah.

LOPEZ: Are you guessing or do you know?

PATINO: I'm not sure what it was exactly, but that's one--the one he had at the house is a red Pro (inaudible) hat.

LOPEZ: Okay, but do you know if he wore a hat or not that day?

PATINO: No.

LOPEZ: You're not sure?

PATINO: Not sure.

LOPEZ: All right. That being the case, who was in the car other than you?

PATINO: Me and just Leo.

LOPEZ: Okay, did David go on that one?

PATINO: I'm not sure.

LOPEZ: Or not?

PATINO: I'm not sure.

LOPEZ: Think about it now, that's a different one. This is way over here by Walmart where he wants to buy bullets for his gun. Why, didn't he have enough bullets or what?

PATINO: He just wanted to get more, I guess. In case he used em up.

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LOPEZ: On what?

PATINO: Try to shoot somebody.

LOPEZ: When?

PATINO: To like (inaudible) somebody or something.

LOPEZ: When?

PATINO: Any day, he could of pulled...

LOPEZ: This revolver you say?

PATINO: Yeah.

LOPEZ: What kind is it?

PATINO: It's a little .22.

LOPEZ: What kind?

PATINO: Uh--It's a gray one, it's gots the handle and (inaudible)

LOPEZ: What color's the handle?

PATINO: It's all gray or silver.

LOPEZ: Gray like my gun? This blackish gray?

PATINO: No, silver--like--more like your shirt tie. (inaudible)

LOPEZ: What model?

PATINO: I don't know it just gots a--you know the--the turning cylinders?

LOPEZ: Yeah.

PATINO: It gots eight of em and the long nose tip.

LOPEZ: Like a cowboy gun?

PATINO: Yeah.

LOPEZ: Is that right? You know what a cowboy gun looks like, right?

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PATINO: Yeah, it has the long nose tip like that...

LOPEZ: Deputies always carry those.

WINSLOW: Not any more.

LOPEZ: So eight cylinders, long barrel?

PATINO: Yeah. It's (inaudible)

LOPEZ: Let me see?

PATINO: It's about--well the guns right here, it's about that long--the--from the (inaudible)

LOPEZ: (Inaudible)

PATINO: ...the turning thing to there, it's about that long.

LOPEZ: About 3 or 4 inches?

PATINO: Yeah.

LOPEZ: And the handle is what color? Same?

PATINO: The same--it's all the same color.

LOPEZ: Plastic? Wood?

PATINO: Uh--uh...

LOPEZ: You ever shot it?

PATINO: (Inaudible) nah, never shot it.

LOPEZ: How do you know it works?

PATINO: Cause it looked like it been fired before when I saw it.

WINSLOW: Like how can you tell?

PATINO: There's like--it'll smell like gun powder or you could see the powder in there. It's not clean.

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LOPEZ: Did you go over there and get whatever it is that uh--did you help him? Did you go up in this trailer?

PATINO: No.

LOPEZ: Did--did you actually see him go up into the trailer?

PATINO: I didn't see nothin' happen that time, I was just sittin' in the car just right here.

LOPEZ: Right there? What happened after it was done?

PATINO: We took off?

LOPEZ: Where?

PATINO: I think--we rode around a bit and then went to uh--Barbara's house, there's where we always go, cause it's the only place we got to go.

LOPEZ: Okay. When you took off to go to these locations on this one right here, when you finished with this one, what did he tell you he got? What did he show you? Cash?

PATINO: He didn't show me none at that time.

LOPEZ: So you never saw it?

PATINO: Nah.

LOPEZ: What did he say he did to the guy inside?

PATINO: He didn't tell me he did nothing. He just...

LOPEZ: What else did he take?

PATINO: Money he got and I don't know. I don't know what else.

LOPEZ: Did he take anything personal? A pager from this dude? Do you remember this one?

PATINO: I don't think he took a pager, I'm not sure. I don't recall.

LOPEZ: Okay, but you re--do you remember--How many times did you guys go to this place?

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App. 1976

PATINO: Probably (inaudible) days.

LOPEZ: To rob it?

PATINO: Not to rob, just once to rob. But we've been (inaudible) just once.

LOPEZ: Okay. How many times did you go there to check it out?

PATINO: Probably once and they went during the day by themselves to check it out and come back and then...

LOPEZ: So you didn't go to check it out before or did you go?

PATINO: Before?

LOPEZ: Yes.

PATINO: I went one--one time.

LOPEZ: And that's just before the robbery or earlier--earlier?

PATINO: Like about 35 minutes before--I think.

LOPEZ: So you check it out, it looks good? You saw the guy inside?

PATINO: Yeah.

LOPEZ: Was he by himself?

PATINO: Uh--I think so.

LOPEZ: What kinda guy was he?

PATINO: I think he was white, I'm not sure. I don't recall.

LOPEZ: You don't know the guy?

PATINO: No, no.

LOPEZ: Now tell me about what Leo wears on his face.

PATINO: Probably a red (inaudible)

LOPEZ: Anything else?

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App. 1977

PATINO: Nah.

LOPEZ: But you don't remember what he wore that day or you do?

PATINO: Nah uh. I don't know what he...

LOPEZ: Okay.

PATINO: ...wore.

LOPEZ: Does he ever wear a bandana to cover his face? You ever seen that?

PATINO: I've seen him in the house wearing a red bandana.

LOPEZ: But did you ever see him do this during these robberies?

PATINO: Not this (inaudible)

LOPEZ: Did you ever see him use um--oh, I don't know--sunglasses?

PATINO: Yeah, black ones.

LOPEZ: Black ones?

PATINO: Black or little blue ones.

LOPEZ: That look like mine?

PATINO: Uh--Pitch black--dark black.

LOPEZ: Dark black?

PATINO: Yeah.

LOPEZ: Like his?

PATINO: Kinda like that, the glasses are just like...

LOPEZ: Square or like that?

PATINO: Oh--round.

LOPEZ: Rounded more?

PATINO: Just like that. Like a regular typical black dark glasses.

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App. 1978

LOPEZ: Cool ones for cool guys like him?

PATINO: Yeah.

LOPEZ: All right. Sign your name on that for me. Just anywhere. After, what did you get? He buy you a beer? Get you dope?

PATINO: Uh--We got--went home and we drank about two or three 40's, malt liquor--that's all I've been drinkin'.

LOPEZ: And what did you win? He give you some money?

PATINO: No.

LOPEZ: He give you dope?

PATINO: We smoked uh--dope.

LOPEZ: So he bought a bunch of dope? A smoke-o-rama?

PATINO: He had it already at the house.

WINSLOW: You referring to Crank or you referring to Marijuana for the smoke?

PATINO: Uh--I don't do Marijuana cause they'll drug test over there at the army.

LOPEZ: So Crank?

PATINO: Yeah (inaudible) Crank.

LOPEZ: You smokin' a glass pipe? Foil? What?

PATINO: Both.

LOPEZ: Just in everything and everything?

PATINO: Just a glass pipe and foil. During that week, but during this week I haven't done (inaudible)

LOPEZ: (Inaudible) Now, anything more last week?

PATINO: I don't think ss...

LOPEZ: Think hard now let's go. Cause I'm tire.

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PATINO: I don't think we did anything else.

LOPEZ: Let's talk about this week.

PATINO: This week I haven't been out--I've been with my mom all the time. Monday and Tuesday, I--Monday, Tuesday, Wednesday, I don't know what they did with the car, when they went by themselves. (inaudible)

LOPEZ: What made you stop doing this? What was the breaking point? Was it this? Or because you guys got in a fight?

PATINO: It was just missing the family, wanted to change, cause I--I was messing myself up and I talked to my mom a couple times.

LOPEZ: And? What'd she say?

PATINO: She was heartbroken, crying for me.

LOPEZ: Did you tell her what you did?

PATINO: No.

LOPEZ: Tell me the truth.

PATINO: Nah, I just told her I was on dope, that's it.

LOPEZ: You didn't tell her about these robberies?

PATINO: Uh huh.

LOPEZ: Okay.

PATINO: I told her I was on dope and she said that ssss--I messed up big.

LOPEZ: Okay. Unless you have some specific questions, for this young man, I'm gonna call his mama. I'm not gonna tell her this and you're gonna tell her what you've done. What's the number?

PATINO: [redacted]

(Dialing phone)

LOPEZ: [redacted]

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TAPED STATEMENT OF FREDDY PATINO
CASE # 01-9239, 01-09336- 01-09750

PATINO: [redacted]

(Dialing phone)

WINSLOW: [redacted]

PATINO: Yeah. (inaudible)

(phone ringing)

WINSLOW: (Inaudible) what's your address there?

PATINO: [redacted]

LOPEZ: (Inaudible)

MALE: Whose this?

LOPEZ: Hi, can I speak to uh...

PATINO: Martha.

LOPEZ: ...Martha please?

MALE: Whose this?

LOPEZ: This is Detective Lopez.

MALE: (Inaudible)

MARTHA: Hello.

LOPEZ: Hi, Martha.

MARTHA: Hi.

LOPEZ: How are you?

MARTHA: Uh--Well I cannot say fine, just worried.

LOPEZ: Okay, I'm here um--with Freddy.

MARTHA: Uh huh.

LOPEZ: And uh--We were wondering what was for dinner? What's...

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MARTHA: What's for dinner?

LOPEZ: Yeah, what's for dinner?

MARTHA: Menuedo.

LOPEZ: Oh, that's what I thought. Unfortunately, we're not gonna be able to go. Okay? And what I want you to hear is something that you're not gonna wanta hear. Do you hear me Martha? Martha?

PATINO: She's crying.

MARTHA: Yes.

LOPEZ: The problem is, is that your son has gotten himself involved in some fairly serious things and I don't think it's really my--I don't know--my responsibility--I think it's his and I think he's gonna tell you what it is that he's done in this car with these guys. Okay?

MARTHA: Besides uh--He's safe?

LOPEZ: Yes. So, starting with the beginning...

MARTHA: Okay.

LOPEZ: ...te--tell your mom what--what's going on.

PATINO: Mom.

MARTHA: Yeah.

PATINO: Um--(Spanish)

MARTHA: Huh?

PATINO: Three robberies.

MARTHA: (Spanish)

PATINO: Yeah.

MARTHA: (Spanish)

PATINO: Yeah.

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TAPED STATEMENT OF FREDDY PATINO
CASE # 01-9239, 01-09336- 01-09750

MARTHA: (Spanish)

PATINO: (Inaudible) what to do--he uh--driving the car around as a getaway.

MARTHA: (Spanish)

PATINO: Yeah.

MARTHA: (Spanish)

PATINO: I was...

LOPEZ: Martha (Spanish)

PATINO: I was participating in it ma.

MARTHA: (Spanish)

PATINO: Yes.

MARTHA: (Spanish)

PATINO: I know that.

LOPEZ: Tell her where.

PATINO: In Vis--in Visalia.

LOPEZ: Tell her all the locations. Just tell her.

PATINO: (Inaudible) in Walmart um--Fairway--and I forgot the...

WINSLOW: Patterson.

PATINO: Patterson.

MARTHA: (Inaudible)

PATINO: (Inaudible) what?

MARTHA: I tell you what can I do--(inaudible) to come home. What ever you needed you know (Spanish)

LOPEZ: Tell your mother what you did to the man in Patterson.

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PATINO: I told him to get on the ground and he wouldn't get hurt. Um--In la Patterson (Spanish)

MARTHA: (Spanish)

PATINO: (Spanish)

MARTHA: (Spanish)

LOPEZ: No.

PATINO: No.

MARTHA: (Spanish)

PATINO: (Spanish)

MARTHA: (Spanish) Freddy.

PATINO: (Spanish)

MARTHA: That brings shame in the family.

LOPEZ: Tell her what car you used.

PATINO: (Spanish)

LOPEZ: Did you hear that Martha?

MARTHA: Si. (Spanish)

PATINO: It was (inaudible)

MARTHA: (Spanish)

PATINO: (Inaudible)

MARTHA: (Spanish)

PATINO: (Inaudible) and dinero (inaudible)

MARTHA: (Spanish) and dinero.

PATINO: (Inaudible)

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WINSLOW: What else did you buy?

LOPEZ: Tell her what you...

MARTHA: (Spanish)

PATINO: No.

MARTHA: (Spanish)

LOPEZ: Tell (inaudible)

MARTHA: (Spanish)

LOPEZ: (Inaudible) Tell her about the drugs.

PATINO: (Spanish)

MARTHA: (Spanish)

PATINO: (Spanish)

MARTHA: (Spanish)

PATINO: Si.

MARTHA: (Spanish)

PATINO: (Spanish)

MARTHA: (Spanish)

LOPEZ: Answer her Freddy.

PATINO: (Spanish)

MARTHA: (Spanish) Freddy. (Spanish)

PATINO: No.

MARTHA: (Spanish)

PATINO: (Spanish)

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LOPEZ: Martha?

MARTHA: Si.

LOPEZ: I don't have too much of an option here. All right, what he has to do he has to go to jail and he's gonna hafta talk to the judge. Okay?

MARTHA: Uh huh.

LOPEZ: The thing of it is, is that it's important for us and I know the reason why now to find the other guys.

MARTHA: Mmm hmm.

LOPEZ: Okay? I don't think that it's--it's all this young man's fault, I think that...

MARTHA: I don't believe so.

LOPEZ: I--I--I think coming from a good family like yours I think he--I think he was led astray by people who have been--I don't know--who've been in some problems before.

MARTHA: Mmm hmm.

LOPEZ: And I think these people are a bad influence and they were shaming him by saying things that he could not possibly--you know--get out of. Like if you don't do this you're a little girl or whatever--okay?

MARTHA: Mmm hmm.

LOPEZ: He's a prideful boy. But at the same time I think he knew exactly what was going on and I tell you the truth, for the first hour here he lied to us.

WINSLOW: (Inaudible)

LOPEZ: And lied and lied and lied and lied, but finally I think he--he wanted to change and I think he's changed.

MARTHA: Mmm hmm.

LOPEZ: But unfortunately what he's gonna hafta do he's gonna hafta talk to some people about this and my job is to catch the other people. Okay?

MARTHA: Mmm hmm.

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LOPEZ: All right? It will not help me if you tell them, okay?

MARTHA: Mmm hmm.

LOPEZ: And I hope that they are responsible for what they do themselves.

MARTHA: Mmm hmm.

LOPEZ: Okay? I wanta tell you something that my friend here has told me that they have used weapons. Tell em Freddy.

PATINO: (Spanish)

MARTHA: (Spanish)

PATINO: Natha.

MARTHA: (Spanish)

LOPEZ: Okay?

MARTHA: (Spanish)

LOPEZ: Is there anything else you need to know? For now that's what we're gonna do. He's gonna go to jail and--and we're gonna--and we're just gonna hafta keep working.

PATINO: What are we gonna do about my car?

LOPEZ: All right. Um--We'll work on that. Do you have any other questions? He'll call you later when he gets the chance.

MARTHA: Okay, uh--and uh--the car is not (inaudible) anymore, right? The cars trash by now?

LOPEZ: Uh--The car's here, I'm gonna--I'm gonna talk to my sergeant and a couple other people and see what we can do about that. His friend David is here...

MARTHA: Uh...

LOPEZ: ...at this point I--I don't believe David is involved, is he?

PATINO: No.

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LOPEZ: And I think it's just the other two guys....

MARTHA: Yeah.

LOPEZ: ...have you--have you seen them tonight?

MARTHA: No, I just keep praying that all this get...

LOPEZ: Okay.

MARTHA: ...straightened out.

LOPEZ: Well...

MARTHA: That this young man will have another chance or something.

LOPEZ: Well you'll hafta ask the judge for help on that--and like you were praying before. Because the thing of it is, is that he's in a lot deeper than I thought. Okay?

MARTHA: Okay.

LOPEZ: And the thing of it is, is he actually participated and actually did certain things, but at least he was honest about it.

MARTHA: Mmm hmm.

LOPEZ: And hopefully the judge will forgive all the lies and stuff and he'll be able to do certain things.

MARTHA: Mmm hmm.

LOPEZ: Okay? But for now I will look for those people and hopefully they will be responsible for certain things and not blame this young man.

MARTHA: Okay.

LOPEZ: Okay?

MARTHA: But (Spanish)

LOPEZ: No, I--and I could use your help if you know him or see him or know where they are.

MARTHA: Okay.

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LOPEZ: I could--It would help me to go out there and be able to find them.

MARTHA: All right.

LOPEZ: And I will and I will--I will give them the opportunity to say the same thing and hopefully they will say that you're son um--wasn't like they were.

MARTHA: Mmm hmm.

LOPEZ: They--Hopefully they can say that you're son wasn't hurting and beating people down or doing anything like that. Okay?

MARTHA: Okay.

LOPEZ: So...

MARTHA: I'll call you if I--know anything.

LOPEZ: And it would be an emergency, so if you call anyone over here it's important that we find out right away. Okay?

MARTHA: Okay, uh--The numbers you give me uh--what number can I call?

LOPEZ: Just call the Visalia Police Department or the county for that matter--emergency line and--and say you know where these people are and--and you've told me the names--you remember?

MARTHA: Uh huh.

LOPEZ: What are the names?

MARTHA: Uh--Leonel Palafox.

LOPEZ: And?

MARTHA: David--what's his last name?

FEMALE: Thatcher.

MARTHA: Thatcher.

LOPEZ: That's right. If you know where they are, call either the Sheriff's Department or Visalia 911. Okay?

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MARTHA: Okay.

LOPEZ: And then we'll um--we'll take care of--(inaudible)

MARTHA: Okay, and your name again? Mark?

LOPEZ: My name is Mark Lopez.

MARTHA: Mark Lopez, okay.

LOPEZ: And--and my partner here is Doug Winslow with the Sheriff's Department.

MARTHA: Doug Winslow?

LOPEZ: Doug Will...

WINSLOW: Winslow.

LOPEZ: Winslow.

WINSLOW: Yes.

MARTHA: Doug Winslow.

WINSLOW: Do you want a spelling?

MARTHA: Mmm hmm--yeah.

WINSLOW: It's W-I-N-S...

MARTHA: W-I-N...

WINSLOW: ...S...

MARTHA: ...S...

WINSLOW: ...L...

MARTHA: ...L...

WINSLOW: ...O-W.

MARTHA: O-W.

WINSLOW: I'll give you a phone number to the Sheriff's Department, you ready?

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MARTHA: Yes.

WINSLOW: 733...

MARTHA: 733...

WINSLOW: ...6218.

MARTHA: 733-62?

WINSLOW: 18.

MARTHA: 18.

WINSLOW: Yes.

MARTHA: Okay, (inaudible)

LOPEZ: If you see these people.

MARTHA: Okay.

PATINO: (Inaudible) visit me?

LOPEZ: Um--Yeah, she'll--he'll be able to what--it'll just be after a while and they'll give you the times and places when you can do this, okay?

MARTHA: Okay, thank you very much.

LOPEZ: Thank you.

WINSLOW: Thank you ma'am.

LOPEZ: That's it for now. I'm (inaudible)

WINSLOW: (Inaudible)

LOPEZ: ...for now on this particular thing.

WINSLOW: (Inaudible) good address for this guy David do we?

LOPEZ: On who? Well he knows where--where David hangs out at, isn't that right?

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PATINO: Nah, they're not at the house anymore so, I don't know where they went or (inaudible)

WINSLOW: (Inaudible) place up on Vine?

PATINO: Yeah, they're not there no more the house is gone.

LOPEZ: But you also told me that they're also--they also go to his girlfriend's?

PATINO: Yeah, but with--with...

WINSLOW: Heather.

PATINO: That's Leo's girlfriend, but I don't know where she stays--the place--the place like she went to his aunt's house and she got kicked out of there real quick. She don't want her there.

LOPEZ: Did they stay at the Marco Polo last night?

PATINO: That's where my car was found and I think they were there, cause they said the cops showed up and they went to my worksite and told David about. So, I don't know where they're at.

LOPEZ: So basically they brought the car there. Stayed there...

PATINO: Yeah.

LOPEZ: ....they went over to your worksite. Told Dave that the car was there?

PATINO: No, they went and gave my friend Ernie--my lunch pail and my stuff that was in there.

LOPEZ: When was that? Early this morning?

PATINO: Yeah. When I picked the car up.

LOPEZ: Okay. (Inaudible) Let's get over there. It's important for us to find them--for reasons. Where would I go? I need you to tell me this. Where do I go to find them?

PATINO: (Inaudible)

LOPEZ: Do you have any weapons on you now that I should have known about? (Inaudible) tell me (inaudible)

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TAPED STATEMENT OF FREDDY PATINO
CASE # 01-9239, 01-09336- 01-09750

PATINO: (Inaudible)

LOPEZ: (Inaudible)

WINSLOW: Freddy, I'm wanta ask you something here. Okay? I wanta go over a couple issues I need to clarify. Are we okay to do that? Okay. It's late and I know--but uh--I--I need to clarify some things. Okay, you--you recall your rights as I've explained to you earlier, correct? Okay. Do you have any questions about that?

PATINO: Nah uh.

WINSLOW: Okay, I wanta talk to you about some--just to clarify some things. I've got the sense that you were protecting um--Leo a lot during (inaudible) cause you're--you're concerned about him more so than you are David. Okay? Now, the burglary--I'm sorry, the robbery that I'm primarily investigating is the one that occurred that out there in Patterson Tract outside of town. Okay? The one where you and I had the big discussion (inaudible) the second one--not to say that it was exactly the second on in it's order, but the second one. Okay? Now during that--that robbery, this is where you say you spoke Spanish to the man and told him to get down on the floor.

PATINO: Yeah.

WINSLOW: Who'd you say your partner was?

PATINO: Uh--David.

WINSLOW: Okay. Okay. I wanta ask you something and I need the straight up answer, was it David?

PATINO: I--I'm not sure.

WINSLOW: Why are you not sure?

PATINO: Is there a way I could undergo a--a test and if I complete every single thing--if I change my answers from this--if I complete...

WINSLOW: I don't understand.

PATINO: Like if I never participated in any of these robberies, never knew about or nothing and I came clean under it--lie detector test.

WINSLOW: Are you asking to take a polygraph test?

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PATINO: Yeah. Just to get my--cause I got. No involvement in this and if I came out true and everything came out true.

WINSLOW: Well, I think we know you did have involvement in this. We--we talked about this--we spent three hours talking about your involvement in these crimes. Okay?

PATINO: Okay.

WINSLOW: I don't think you'd come out clean.

PATINO: No? I think I'd come out pretty clean.

WINSLOW: Well, are you saying that you will come out clean on such issues as like you didn't hurt anybody, yeah. I would say...

PATINO: Or--Did any of these participation's.

WINSLOW: Well I think you did do participation's. Okay? And you know you did. Now, I'm gonna admit that you probably might have been smoking some Crank that morning and that probably effected your judgement. I'm confident that effected your judgement. What I'm asking you is this, the (inaudible) the robbery up in Patterson Tract--okay? Where you and your crime partner hopped up into the back of that truck, okay? And you took the money out of that--you're not sure if it was box--you're not sure if it was a...

PATINO: Can.

WINSLOW: A can? Okay, that robbery. Okay? Who was your crime partner?

PATINO: David.

WINSLOW: You're certain of that?

PATINO: Uh huh.

WINSLOW: What do you mean?

PATINO: I'm (inaudible) sure.

WINSLOW: What do you mean?

PATINO: If David or Leo.

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WINSLOW: Why are you saying you're not sure?

PATINO: Cause been a while--a couple days.

WINSLOW: It was only a week ago--a week ago. Now you talked about another rob--robbery with Detective Lopez after that and you clearly implicated Leo as the guy who--you know--was with you.

PATINO: Yeah.

WINSLOW: All right? So, it's not like you haven't implicated Leo in other parts of this whole mess. You know--what I mean by mess--I mean like sev--several different...

PATINO: Yeah.

WINSLOW: ...aluminum places. What I'm trying to clarify is, the robbery at Patterson Tract, who was your crime partner?

PATINO: (Inaudible) say. I'd say most likely Leo.

WINSLOW: Why are you changing?

PATINO: I'm not sure if it was David or Leo. It could be David, it could have been Leo.

WINSLOW: Okay. Now, that's fine. Why--what would be the factors--what would be the things that would make you be uncertain of your memory?

PATINO: Drugs.

WINSLOW: Drugs?

PATINO: Yeah.

WINSLOW: Have you been injured at any time--you know--get--got hit in the head for any reason--fell down...

PATINO: Nah.

WINSLOW: ...hit your head or anything that might cause a memory problem or injury?

PATINO: No.

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WINSLOW: I don't see any injuries on you, but I wanta make sure--you know--that what...

PATINO: (Inaudible)

WINSLOW: Okay. Anything else you can think of that might be effecting you?

PATINO: Huh uh.

WINSLOW: You say drugs, what type of drugs you talkin'?

PATINO: Crank that's it. Crank and Malt Liquor.

WINSLOW: Crank and Malt Liquor. What kinda Malt Liquor?

PATINO: Um--Old English (inaudible), King Cobra--or Cobra.

WINSLOW: Old English 800 and King Cobra, huh? How much had you done that day or what?

PATINO: About a 40 set.

WINSLOW: Pardon?

PATINO: 40 in Crank.

WINSLOW: Smoked it or...

PATINO: Yeah.

WINSLOW: 40 bucks did you say?

PATINO: Two 20's--40.

WINSLOW: Did you do that two 20's before you went and did this robbery or after?

PATINO: I think before in the morning.

WINSLOW: That's alotta Crank. That's alotta Crank. And you did more afterward, I bet too.

PATINO: In the afternoon.

WINSLOW: Pardon?

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PATINO: The afternoon.

WINSLOW: Cause they went out and got some more yea?

PATINO: Just a little bit though (inaudible)

(End of side A of tape #2 - Beginning of side B of tape #2)

PATINO: (Inaudible)

WINSLOW: I understand that., you're worried about your mom and your family. (Inaudible) or David?

PATINO: Nah.

WINSLOW: Okay. Did he ask you--tell you about this it's--uh--maybe true or not untrue?

PATINO: No.

WINSLOW: How'd you get--how'd you get that sore?

PATINO: On wood at work.

WINSLOW: Wood at work?

PATINO: Which one? Work. All this is all work related.

WINSLOW: Splinters?

PATINO: Yeah. Splinters, I got hit with a board right there.

WINSLOW: Okay. It looks a little infected, that's why I was concerned.

PATINO: And then--all this is just wood.

WINSLOW: Cool. Well you're a hard worker, I'm sure. I see you kinda skipped out on work a few days and--tried to take up a new profession. It's just not quite your style--you know what I mean?

PATINO: Yeah.

WINSLOW: Take care of this--what ever comes--it comes with, but when it's all said and done get on with your life--all right? Don't look back. All right?

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TAPED STATEMENT OF FREDDY PATINO
CASE # 01-9239, 01-09336- 01-09750

PATINO: (Inaudible)

WINSLOW: Okay, let's cruise.

End of taped statement.

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PARKS: If I knew where he was, I probably (inaudible) I don't know where he's at.

LOPEZ: Okay, why wouldn't ya?

PARKS: Uh--I don't know. I--I love David Thatcher, I--I (inaudible) something bad happen to him--I mean...

LOPEZ: That's why it might be important for us to (inaudible)

PARKS: I haven't seen David for a few days.

LOPEZ: When was the last time you saw David?

PARKS: It's been like a while. I've been in Farmersville at my grandma's cause I hadn't had a place to stay.

LOPEZ: Okay.

PARKS: And since I've been in Farmersville, I haven't associated with anybody except when I went with Leo last night.

LOPEZ: Okay, when was the last time you saw David?

PARKS: It must have been more than a week ago.

LOPEZ: When was the last time you saw Leo prior to last night?

PARKS: I think two days before that. He came to my house--my grandma's house (inaudible)

LOPEZ: So you haven't seen Leo in a week?

PARKS: No, David. Two day--I seen Leo two days before--before last night, because he came to my grandma's house with his kids and we went swimming and he ordered pizza and (inaudible) and he wasn't with David.

LOPEZ: All right so, let me see. That's two days ago was the last time you saw Leo, before today?

PARKS: Yeah.

LOPEZ: And let's see, today is what?

PARKS: Before last night.

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PARKS: Yeah.

LOPEZ: ...you happy people--(inaudible) couple.

PARKS: Oh, yes.

LOPEZ: And then there's this gray thing that you were telling me about that's...

PARKS: Yeah, but that's not lent to them to drive. My aunt will go get them and take them..

LOPEZ: Drive them?

PARKS: ...somewhere.

LOPEZ: Okay. Whose the yellow Chevy belong to?

PARKS: The what?

LOPEZ: A yellow Chevy.

PARKS: I have no idea about a yellow Chevy.

LOPEZ: When was the last time that Leo and David were together?

PARKS: I don't know, you hafta ask Leo.

LOPEZ: Oh, I just--I'm asking you.

PARKS: I don't know.

LOPEZ: But have you seen them together lately?

PARKS: No. I see Leo, I just go see Leo.

LOPEZ: Well if David's there, does he ever (inaudible)

PARKS: No, I never--what? Huh?

LOPEZ: Does he ever watch?

PARKS: Watch what?

LOPEZ: You guys together?

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PARKS: No.

LOPEZ: You guys don't hang out with him?

PARKS: No, I--if I--(inaudible) last time--the only times I seen Leo is I go I see Leo, I don't see (inaudible)

LOPEZ: I thought you were David's girlfriend?

PARKS: Nope--nope. I've known David for a while and I'm not his girlfriend.

LOPEZ: You say you love him?

PARKS: Oh, yeah--uh--when David was in prison I was writing to him. I wrote to David for a couple years when he was in prison the first time.

LOPEZ: You like these bad boys do ya?

PARKS: No, I--I--I've known David before he went to prison, and he's like family.

LOPEZ: Okay. So when was the last time you saw these two guys together? It's pretty critical.

PARKS: Oh, God.

LOPEZ: Weeks? Months?

PARKS: It's probably been a week or two.

LOPEZ: What happened to your arm there?

PARKS: Self-mutilation.

LOPEZ: Self-mutilation? Let me take a look at that. Go like this in the light so I can see. This way--this way, here you go. So you're mutilating yourself, why?

PARKS: (Inaudible) long time ago.

LOPEZ: That...

PARKS: (Inaudible)

LOPEZ: ...those are old?

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LOPEZ: What--what week was this?

PARKS: Oh, I don't know.

LOPEZ: What kinda car is it?

PARKS: It's--it's a blue car with a brown top.

LOPEZ: Two door or four door?

PARKS: I don't--I don't remember that much, if it was a two door or four door.

LOPEZ: When did they lend him this car? When did Freddy lend them this car?

PARKS: (Inaudible) it was a couple weeks ago.

LOPEZ: All right. This is photo line-up A. All right, who do you see?

PARKS: I see David (inaudible)

LOPEZ: All right what number is David's?

PARKS: 538805.

LOPEZ: That's right. How does he look different than this? How does he look different than this?

PARKS: He's got his whole goatee on.

LOPEZ: He has a whole goatee?

PARKS: Yeah.

LOPEZ: What else?

PARKS: That's it.

LOPEZ: All right. Whose are lovely friend there? Photo line-up B. Who?

PARKS: Leo.

LOPEZ: What number?

PARKS: 839137.

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LOPEZ: Okay, so when I ask him, if he says--look--I go hey Leo, tell me who knows about your problem and if he tells me--listen, I just spoke to--you know--you...

(Door closing)

PARKS: If he tells you that I tell Heather secrets about what I go out and do when I'm doing my deeds, then...

LOPEZ: He's lying?

PARKS: ...he's lying.

LOPEZ: Okay. That's what I wanta know.

PARKS: Cause he doesn't tell me anything.

LOPEZ: Who used to live with you guys on Vine?

PARKS: Who didn't live with us on Vine.

LOPEZ: Okay, David Thatcher?

PARKS: No, David Thatcher just--wasn't living there.

LOPEZ: He stay with his mom?

PARKS: Neither--Leo wasn't living there either.

LOPEZ: (Inaudible) Where'd David stay when you guys were there?

PARKS: David would stay with his mom.

LOPEZ: Okay. Go on, who did stay?

PARKS: My mom and I--excuse me-- and my uncle stayed there for a little while before...

LOPEZ: Whose your uncle?

PARKS: Uncle Billy.

LOPEZ: Billy big guy?

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TAPED STATEMENT OF DAVID THATCHER
CASE # 01-09239

LOPEZ: Hey, make sure the air conditioning's on for me okay?

UNKNOWN: Yeah.

LOPEZ: (Inaudible)

OFFICER: No, I'm good. Just as long as the detective shows up.

UNKNOWN: Yeah.

OFFICER: You gonna tell him I'm in here?

UNKNOWN: Okay, they're in route and the rest of the paperwork's here on the table so...

OFFICER: Thanks for your help.

UNKNOWN: No problem man.

OFFICER: He's been cooperative hasn't he?

UNKNOWN: Yeah, he's been cooperative.

OFFICER: Good. Just be a minute.

UNKNOWN: All right.

LOPEZ: So, scoot on over here, so I can talk to you and not yell. (Laugh) There you go. Okay, what's your complete name?

THATCHER: David Charles Thatcher.

LOPEZ: Tina is your stepmother, right?

THATCHER: Yes.

LOPEZ: And the lady that lives up in Marysville, what's her name?

THATCHER: Uh--That's my mother.

LOPEZ: What's her name?

THATCHER: Uh--Cindy Ravenscroft.

LOPEZ: Cindy Ravenscroft?

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App. 2004

THATCHER: R-A-V-E-N-S-C-R-O-F-T.

LOPEZ: These are all nice people?

THATCHER: Yes.

LOPEZ: Have you told them already?

THATCHER: About?

LOPEZ: About everything? Tell her your in custody? You tell anybody yet?

THATCHER: No, I haven't been able (inaudible)

LOPEZ: Okay, listen I--I made some promises to these people--all of em including Billy, Barbara, Heather, that everything would be okay. So, I need you tell them that everything's okay. Let's tell Tina first. What's uh--what's her number?

THATCHER: [redacted].

LOPEZ: Just tell her everything's cool it's a speaker phone.

(Busy signal)

THATCHER: It's busy.

LOPEZ: Give me Billy's.

THATCHER: Uh--62...

LOPEZ: 6...

THATCHER: [redacted].

LOPEZ: [redacted]..

(Phone ringing)

LOPEZ: You don't get along with Christina very well?

THATCHER: No, we get along, it's (inaudible) Why? She didn't have nothing good to say about me huh?

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LOPEZ: Yah--not really bad, but I was talking to Billy he said that--that sometimes you guys...

RECORDING: (Inaudible) nobody's available to take your call. But if you leave your name, number, and a brief message, someone will get back to you. Thanks.

LOPEZ: Leave a message, tell her you're okay.

THATCHER: Billy, it's David. Uh--I'm in jail. Uh--I'm not shot or nothing, so everything's okay.

LOPEZ: (Laugh) All right.

THATCHER: (Inaudible)

LOPEZ: Is he at Kentucky Fried Chicken? Does he work tonight?

THATCHER: Uh--Most likely yeah.

LOPEZ: Do you know the number to--to Cindy off hand? I have it on my desk, do you have it? Hi, in Visalia. Can I have the number to Kentucky Friend Chicken on Mooney Blvd.?

RECORDING: (Inaudible)

LOPEZ: Do you remember or no? She's your biological mother, right?

THATCHER: Yeah.

RECORDING: [redacted], thank you. (Inaudible)

LOPEZ: Do you remember?

THATCHER: I remember uh--[redacted] is the last four. And it's [redacted] I got it somewhere.

(Busy signal)

LOPEZ: Your number is busy.

THATCHER: I got her cell phone number though.

LOPEZ: Do you wanta tell her?

THATCHER: Yeah.

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App. 2006

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LOPEZ: (Inaudible) what's the--go.

THATCHER: Uh--[redacted]

LOPEZ: 000...

THATCHER: 7.

LOPEZ: 7? And that's her cell phone?

THATCHER: Yeah.

LOPEZ: She knows about all that's been going on here, right?

THATCHER: She knows that um...

LOPEZ: I'm not trying to get her in trouble just--She knows that you're wanted and all that?

THATCHER: Yeah, she--she just found out too.

LOPEZ: Okay. [redacted]...

THATCHER: Yeah.

LOPEZ: ...James Bond.

THATCHER: Well you know I do have a--uh...

RECORDING: Your call has been forwarded to an automatic voice message system. The (inaudible) is not available. At the tone, please leave record your...

THATCHER: (Inaudible) remember (inaudible)

LOPEZ: (Inaudible)

THATCHER: It's 1[redacted]and then the operator comes on dial 99.

LOPEZ: Do what now with that?

THATCHER: Uh...

LOPEZ: You just tell me what to do.

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THATCHER: [redacted]...

RECORDING: (Inaudible) make your call (inaudible)

THATCHER: 99 (Inaudible)

LOPEZ: Like that?

(Phone ringing)

LOPEZ: Is this a work number or something?

THATCHER: (Inaudible) keeps calling all the time (inaudible)

LOPEZ: It's 1-800-what?

THATCHER: [redacted]

RECORDING: Hello, I can't come to the phone right now (inaudible) and we'll get back to you. Thank you.

LOPEZ: (Laugh) Just batting zero here. All right, how about uh--Barbara, do you have her number?

THATCHER: No.

LOPEZ: How about Heather Fletcher?

THATCHER: I don't have her phone number (inaudible) you know. I--I didn't bring nothing.

LOPEZ: Is it in your wallet?

THATCHER: (Inaudible)

LOPEZ: Well who can we call that can tell everybody that you're cool? Other than KFC Billy? Does he know everybody?

THATCHER: Yeah.

LOPEZ: Let's try at KFC.

(Dialing phone)

LOPEZ: Did those guys tell you that I was looking for you?

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App. 2008

THATCHER: Who?

LOPEZ: These--Your friends?

THATCHER: They told me uh--their houses got raided and--huh--and uh--was wondering why in the hell you were looking for me.

LOPEZ: But they told you turn yourself in?

THATCHER: Yeah.

LOPEZ: (Inaudible)

THATCHER: Man they said you guys been looking for me for three weeks man?

LOPEZ: So to speak.

THATCHER: Man, I've been (inaudible)

(Busy signal)

THATCHER: ...two weeks, I didn't see my parole officer (inaudible) man. Take off one day, call and find you guys just went right after I left.

LOPEZ: I know.

THATCHER: I was like, what the fuck.

LOPEZ: I know. But I'll tell you all about it. I gotta take some photos. Who else can I call though, I need to call somebody here, cause all these people I made promises to. And basically, I told him that you were gonna be okay and I was just kinda--I wanta make sure that they all know so somebody could start spreading the word cause I know you're gonna be--you know what I mean? You're gonna be in there for a while, I don't think you can make long distance phone calls do ya? Collect, like that?

THATCHER: Collect yeah.

LOPEZ: Even long distance? It doesn't matter? One more time KPDY ATTORNEY

(Dialing phone - Busy signal)

THATCHER: What the hell is her number?

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LOPEZ: Who else? It doesn't matter, anybody.

THATCHER: [redacted] think it is--[redacted]

(Dialing phone)

LOPEZ: [redacted]

THATCHER: Uh huh.

LOPEZ: Whose this?

THATCHER: I think that's Heather.

LOPEZ: Fletcher?

THATCHER: Yeah.

LOPEZ: Come on (inaudible)

(Busy signal)

THATCHER: (Laugh) What the hell?

LOPEZ: Are they all talking to each other?

THATCHER: They might be.

LOPEZ: Did you see yourself in the newspaper?

THATCHER: No, I'd like (inaudible) though. (laugh)

LOPEZ: Would ya?

THATCHER: Yeah.

LOPEZ: I got one.

THATCHER: I don't even know what I'm in the paper for? They said I was in the paper twice man.

LOPEZ: Twice? That's too cool.

THATCHER: No, it's not.

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LOPEZ: I got one in the car.

THATCHER: Do ya?

LOPEZ: Yeah. Who told ya?

THATCHER: (Inaudible)

LOPEZ: I'm not trying to get anybody in trouble, I just--I'm just kinda curious. The same group of people that were trying to get ahold of ya?

THATCHER: (Inaudible) I think it was one of my aunts or something. (inaudible)

LOPEZ: Which one's your aunt?

THATCHER: I'm not sure if it was her--I can't remember who in the hell told me that.

LOPEZ: But you never got to see it?

THATCHER: No. (Inaudible) in the paper. (inaudible) outside.

LOPEZ: You're a star--you're a star. Let's try one more time.

(Dialing phone - busy signal)

LOPEZ: How bizarre. Maybe it's my phone that screwed up. Let's try this phone.

(Dial tone)

LOPEZ: No, it's busy there too.

THATCHER: (Inaudible) call (inaudible)

LOPEZ: (inaudible)

THATCHER: (Inaudible) there too (inaudible).

LOPEZ: All right let's try it again. [redacted]-what'd you say?

THATCHER: [redacted]

(Dialing phone - phone ringing)

FEMALE: Hello.

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THATCHER: Heather.

FEMALE: It's Peggy.

THATCHER: Hey, put Heather on the phone.

FEMALE: Who?

THATCHER: Heather.

FEMALE: Who is this?

THATCHER: This is David.

FEMALE: Uh--There's no Heather here.

THATCHER: Oh, there's not?

FEMALE: No, what number are you trying to call?

THATCHER: Uh--[redacted]

FEMALE: You got the right number, but there's no Heather that lives here.

THATCHER: Oh, there isn't? I'm sorry.

LOPEZ: Well forget that one.

(Dialing phone)

LOPEZ: Did you get to see the fireworks?

(Busy signal)

LOPEZ: I'll try one more time for mom and I give up, okay?

THATCHER: Mmm hmm. Can I call--well can I call my old lady?

LOPEZ: Which one?

THATCHER: Uh--ssss....

LOPEZ: Where we just came from?

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TAPED STATEMENT OF DAVID THATCHER
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THATCHER: That ain't my old lady.

LOPEZ: That ain't your old lady?

THATCHER: No, she's married...

LOPEZ: What's on your neck?

THATCHER: Nah, this is--this--yeah...

LOPEZ: (Inaudible)

THATCHER: Yeah.

LOPEZ: All right.

THATCHER: She's--she's married man.

LOPEZ: What's her number?

THATCHER: Yeah.

LOPEZ: Go ahead.

THATCHER: Uh-[redacted]

LOPEZ: Whose this?

THATCHER: This is my girlfriend.

LOPEZ: What's her name?

THATCHER: Tammy (inaudible)

LOPEZ: All right. Come on now magic--let's go. [redacted]

THATCHER: [redacted]

(Phone dialing)

LOPEZ: She can tell everybody, right?

(Phone ringing)

LOPEZ: Do you think she's there?

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App. 2013

THATCHER: I--I don't know.

FEMALE: Hello.

THATCHER: Hello.

FEMALE: Hello.

THATCHER: Hey is--is Tammy there?

FEMALE: Huh?

THATCHER: Of course, hold on.

LOPEZ: (Inaudible)

THATCHER: (Inaudible)

LOPEZ: Who?

THATCHER: (Inaudible)

LOPEZ: He's a good dude, I like him.

(Talking in background)

THATCHER: They're good people.

LOPEZ: Yeah?

TAMMY: Hello.

THATCHER: Hey.

TAMMY: Hello.

THATCHER: Hello.

TAMMY: Hello.

THATCHER: Hey...

TAMMY: (Inaudible) um--my dad called me and I couldn't click over.

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REF TO D.A.
App. 2014

THATCHER: Hey.

TAMMY: Cause, it was long distance. (inaudible)

THATCHER: Uh--I'm in jail.

TAMMY: What?

THATCHER: Yeah.

TAMMY: (Inaudible)

THATCHER: I'm fuckin' they got me on--on a parole violation.

TAMMY: Nuh uh.

THATCHER: Yeah. Uh...

TAMMY: (Inaudible) When? Where?

THATCHER: Uh--They busted me over by Tina's.

TAMMY: At Tina's house?

THATCHER: Yeah.

TAMMY: (Inaudible)

THATCHER: Huh?

TAMMY: So they--they got you on a parole (inaudible) violation?

THATCHER: Yep--yeah.

TAMMY: When's your court date?

THATCHER: I don't get court for a violation.

TAMMY: For what? (inaudible)

THATCHER: Yeah, I get um--they're probably give me like six months or a year or something.

TAMMY: No kidding, that long? You don't go to court for it?

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THATCHER: No. I don't have to go to court for a parole violation.

TAMMY: Oh. So how are you gonna find out how long?

THATCHER: Uh--As soon as they come see me.

TAMMY: (Inaudible)

THATCHER: But hey...

TAMMY: What?

THATCHER: Uh--You got Billy's number?

TAMMY: No he just went--hello.

THATCHER: Hello.

TAMMY: Hello.

THATCHER: Hey. Okay, what ever. Uh--[redacted]

TAMMY: Uh huh.

THATCHER: Uh--[redacted]

TAMMY: [redacted]ou wanta call on the job?

THATCHER: Yeah, tell him to uh--let everybody know.

TAMMY: Okay.

THATCHER: All right.

TAMMY: (Inaudible) Where are you calling?

THATCHER: Huh?

TAMMY: Without it being collect? Is it collect?

THATCHER: No, this kind gentleman here let me use his phone. So...

TAMMY: Oh.

THATCHER: But uh--yeah...

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TAMMY: You're at Pre-Trial right now?

THATCHER: Huh?

TAMMY: You're at the Pre-Trial right?

THATCHER: No, I'm at the uh--uh station.

TAMMY: (Inaudible)

THATCHER: But I'll be over there like 20 - 30 minutes.

TAMMY: Over where?

THATCHER: At the Pre-Trial.

TAMMY: Oh yeah--yeah.

THATCHER: But uh...

TAMMY: They're gonna keep you at (inaudible)

THATCHER: Oh, uh--Bob Wiley's or uh--some where (inaudible)

TAMMY: They won't put you in--in there--(inaudible) jail will they?

THATCHER: Well yeah--no--well no--no not on a violation. Not on a violation. I should--but I should be gone to uh--Delano here in like within a week. Hello.

TAMMY: I'm here.

THATCHER: Hey you gonna write me or what?

TAMMY: Well yeah, for sure I will.

THATCHER: Oh--All right, um--I gotta get off the phone though.

TAMMY: (Inaudible) What?

THATCHER: I gotta get off the phone.

TAMMY: All right (inaudible)

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THATCHER: Uh...

TAMMY: Thank you for calling me.

THATCHER: No.

TAMMY: I'll write you all right?

THATCHER: All right.

TAMMY: Okay.

THATCHER: Bye.

TAMMY: Bye.

LOPEZ: She's not that good of a girlfriend?

THATCHER: I was supposed to marry her, but uh...

LOPEZ: Well how come you didn't tell her love ya?

THATCHER: Because shit happened.

LOPEZ: Because what?

THATCHER: Because shit happened between us.

LOPEZ: Oh.

THATCHER: I'm like...

LOPEZ: You're on--you're in the dog house?

THATCHER: Well no, she did something.

LOPEZ: Oh, she's in the dog house? You're a forgiving man. Those cops read you your rights when they arrested ya?

THATCHER: (Inaudible)

LOPEZ: How come?

THATCHER: Ask them.

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App. 2018

TAPED STATEMENT OF DAVID THATCHER
CASE # 01-09239

LOPEZ: Aren't they supposed to?

THATCHER: Yes they are.

LOPEZ: Do you know what they are?

THATCHER: Uh--Yeah.

LOPEZ: Let's hear it. What's the first one?

THATCHER: You know I...

LOPEZ: You don't know?

THATCHER: It's been a--it's been a couple months.

LOPEZ: All right. You have the right to remain silent. You know that one?

THATCHER: Yeah.

LOPEZ: Anything you say can and will be used against you in a court of law.

THATCHER: Uh huh.

LOPEZ: You know that one?

THATCHER: Uh huh.

LOPEZ: What's the next one?

THATCHER: I have the right to an attorney?

LOPEZ: You have the right to an attorney and have him present with you while you are being questioned. Do you understand that one?

THATCHER: Mmm hmm.

LOPEZ: What's the next one?

THATCHER: Uh--If I can't afford one, uh--one will be appointed (inaudible)

LOPEZ: If you can't afford to hire one, one will be appointed to represent you free of charge if you so desire.

THATCHER: Uh huh.

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LOPEZ: You know all these?

THATCHER: Mmm hmm.

LOPEZ: That's cool. Having those in mind, I want you to look at a few things here. I bet you're curious about this other stuff here?

THATCHER: I don't even know what the hell's going on.

LOPEZ: I hear you brother. And that's what I'm here to talk to you about. But before I do that, I'm gonna show you a couple photos here. The first one is--whose this fine man right here?

THATCHER: That's Billy.

LOPEZ: That's right. What's Billy do?

THATCHER: Hmmm?

LOPEZ: What does Billy do?

THATCHER: What's he do? Mmm--Works at KFC.

LOPEZ: Slings chicken. That's right. All right, let's try this other one over here. This is photo line-up A. Who do you see in there that's a sharp lookin' devil?

THATCHER: I don't know.

LOPEZ: Well who do you recognize in this beautiful line-up here? (laugh) Whose that?

THATCHER: (Inaudible)

LOPEZ: It--Doesn't that look like you?

THATCHER: Uh...

LOPEZ: That is you. Hey you're a lot thinner now, how much did you weigh here?

THATCHER: Huh?

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LOPEZ: How much did you weigh in this photo? Well have you gained alotta weight? Are you thin? What--what's the story?

THATCHER: No, I've lost weight since I got out (inaudible)

LOPEZ: Since this right here? How much do you weigh now?

THATCHER: About 175.

LOPEZ: Oh, so you were chubbier here.

THATCHER: I weighed 210 when I got out.

LOPEZ: You're a rock.

THATCHER: I was fat. (laugh) (inaudible) fat.

LOPEZ: How tall are you?

THATCHER: Uh--5'9", 5'10".

LOPEZ: Let's see. You're only about 5'9" or so. Did you grow as well?

THATCHER: Did I grow?

LOPEZ: (Laugh)

THATCHER: What do you mean muscle or...

LOPEZ: Height.

THATCHER: Height? No.

LOPEZ: Same for the most part? Anyway I talked to some other people and these are the people in these photographs here, about certain situations that have been going on and basically what I've heard is the whole--the whole scam about the drugs. About the sex, about the whole little sorted affair. I'll show you the photos and you'll know what I'm talking about. All right?

THATCHER: Photos?

LOPEZ: Yeah. I have some photos here that I want you to look at. The thing of it is, is that for us it's now a question of who or what, the question is why? And I think what you--what stated over here to your parole guy that you

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App. 2021

been using Crank has a lot to say. Because you know--when I talked to you on the phone, when I'm talking to you right now--You're sober right now are you not?

THATCHER: Hell no.

LOPEZ: Well you're not nuts?

THATCHER: No, I'm not--You know what I mean--I don't know.

LOPEZ: That's what I mean and we you like in a freak out mode here in the last few weeks?

THATCHER: No.

LOPEZ: You've been pretty much like you are now? Just like this calm as a cucumber?

THATCHER: Why--why panic, then you draw attention to yourself.

LOPEZ: Well not so much about with cops, just other people. (inaudible) cops at all, I'm not even concerned about the way you are with cops, with other people your friends? All these people.

THATCHER: (Inaudible)

LOPEZ: Even hell? Now weird issues? You didn't get involved in some weird LSD trippin' highin' wooooo--I don't know. No?

THATCHER: No.

LOPEZ: Everything's been cool in your life?

THATCHER: Yeah.

LOPEZ: And Crank doesn't make you (whistle) nuts? Insane? Desperate? Crazy? Fightin'? Drinkin'? You don't beat any of these women, apparently you have people that actually love ya.

THATCHER: I don't believe in that.

LOPEZ: So you're cool with everybody?

THATCHER: Yeah.

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App. 2022

LOPEZ: Let me show you a picture...

THATCHER: Well...

LOPEZ: Go ahead.

THATCHER: There--there's a--there's a guy he doesn't like me...

LOPEZ: Whose that?

THATCHER: ...he's weird (inaudible).

LOPEZ: Whose he, because he might be in this group here I'm about to show ya? Whose the weirdo we're talking about that does not like you, that might be spreading rumors about you?

THATCHER: Some fff--uh--he's a fat Mexican dude.

LOPEZ: Uh--What's his name?

THATCHER: I don't know what his name.

LOPEZ: Oh, I'm sure you know who he is. Who--Why would he give you any grief--the fat Mexican dude?

THATCHER: I don't--no, (inaudible) walking down the street or something and (inaudible) roll by all slow and shit...

LOPEZ: It's here?

THATCHER: ...it's like (inaudible) and shit--you know--(inaudible)

LOPEZ: You did?

THATCHER: Yeah, I (inaudible)

LOPEZ: Is he gangster?

THATCHER: I don't know what the hell he was man. He was wearing white.

LOPEZ: So he wasn't going either way?

THATCHER: No, it was just--I told him bring it. There was like five of them and one of me, I (inaudible)

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LOPEZ: Did ya?

THATCHER: (Inaudible)

LOPEZ: Okay, other than this group, you--you're not claiming anything are ya?

THATCHER: (Inaudible)

LOPEZ: Nothing?

THATCHER: Not me.

LOPEZ: NR?

THATCHER: No.

LOPEZ: Peckerwood?

THATCHER: No.

LOPEZ: SWP? (Inaudible) What's that?

THATCHER: (Inaudible)

LOPEZ: (Inaudible) All right, well let me show you a photo here and tell me what you know about this guy. It's photo line-up B.

THATCHER: Who?

LOPEZ: Well your eyes are taking you right to my friend here. Yeah? What's he to you?

THATCHER: Who?

LOPEZ: This dude?

THATCHER: Who the fuck is that?

LOPEZ: (Laugh)

THATCHER: You don't know who this is 39137?

LOPEZ: Now, he's a skinny tall Mexican that you've been hanging out with the last two weeks--three weeks. You used to hang out with him and live with him on Vine. You know--Doesn't look familiar? No? Okay.

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(Inaudible) forget that one. And you don't know him as Leo Palofax? Maybe you just don't recognize the photo?

THATCHER: No, I've met Leo.

LOPEZ: Okay, Leo. Now you recognize him? He looks exactly the same you just saw him what? A few days ago. No?

(Cell phone ringing)

LOPEZ: You remember Leo?

THATCHER: No. What am I being questioned about--on?

LOPEZ: Well the things that these guys told me that you're involved in basically. And so I got one more set of photos to show you, okay? And then maybe that will help ya. And this is a colored photos, do you recognize somebody here? Photo (inaudible) the first one colored Polaroid? All right, how about over here in the corner? #3, I'll help you. Remember Freddie?

THATCHER: (Inaudible)

LOPEZ: Okay, is that Freddie? Okay.

THATCHER: It looks like him ya.

LOPEZ: Looks like him it is him. I'll--I'll help you with that part. Now this is the situation that I'm talking about. And there's one other dude here, but I don't feel its really important.

THATCHER: Whose that?

LOPEZ: Right here. You know that dude? No?

THATCHER: Who the hell's that?

LOPEZ: This is photo line-up--photo line-up C. You don't know who this is? I didn't think you would. All right. Do you know uh--Michelle Ybarra's boyfriend?

THATCHER: Um--Possibly.

LOPEZ: Do you know his name? He's in custody by the way.

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THATCHER: I couldn't say.

LOPEZ: He's the boyfriend. Is it David--that's his name. David (inaudible) something like that. Cholo dude that lives with Michelle at Heather's?

THATCHER: I don't know I--I go to Heather's some times, but...

LOPEZ: He's the guy that lives in the back. Red Rider, ring a bell? Huh? Now as part of your parole, I'm told that you are not supposed to have knives.

THATCHER: Correct.

LOPEZ: But you had a knife recently according to Barbara and Heather Park's little girl. So, they would be lying?

THATCHER: Well they uh--no--no--no--no. I had a--uh--my--no it states in my parole I'm not allowed to have a knife--blade over two inches.

LOPEZ: Oh, okay, what kinda knife did you have then?

THATCHER: One of them little uh--black ones. Just a cheapy little--cheapo.

LOPEZ: Folding knife?

THATCHER: Yeah, just a pocket knife.

LOPEZ: How big was it?

THATCHER: You know the blade and everything it was about like that.

LOPEZ: That you can have?

THATCHER: Yeah, to uh--over--nothing under under--or over two inches.

LOPEZ: How big was the handle then?

THATCHER: Well the handle was about like that big.

LOPEZ: So, it was about a two and a half, three inch knife?

THATCHER: No, it was about one and a half, two inches.

LOPEZ: The handle? (laugh) Thimble knife--It's a thimble knife

THATCHER: Well--it's--it's a--it's just a folding knife.

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LOPEZ: Folding knife. All right, black handle?

THATCHER: Right.

LOPEZ: Steel blade, but it's not over all--length total with it's open, how big?

THATCHER: I'd say three.

LOPEZ: Okay, where is this knife now?

THATCHER: Oh, I gave it back to my cousin. Cause my uncle's--he just died.

LOPEZ: Whose your cousin?

THATCHER: Uh--I need some water man. (inaudible)

LOPEZ: Uh--Just a minute, it shouldn't take much more. These people in Goshen?

THATCHER: (Inaudible)

LOPEZ: Okay, it's your uncle's knife, but you gave it to your cousins and so they can show that it's not a huge some kind of David Bowie thing?

THATCHER: It's--(inaudible) anyway.

LOPEZ: (Inaudible) gone?

THATCHER: Yeah.

LOPEZ: Okay. All right, now this kid at one point told me that you had his car. He said that he didn't wanta press charges cause you guys had his car and that's according to Leo and Leo's mother and sister, Rosalie and Teresa. Whatever the heck their names are. Now, did this man Freddie loan you his blue car, or did you steal it? That's kind of an important question I think.

THATCHER: This--So this is what I'm being questioned about?

LOPEZ: Yes.

THATCHER: I didn't steal anybody's car.

LOPEZ: Okay. Did he in fact loan it to you?

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TAPED STATEMENT OF DAVID THATCHER
CASE # 01-09239

THATCHER: (Inaudible)

LOPEZ: Or did he negotiate something. Let me just ask you, did you steal it from him?

THATCHER: I didn't steal anybody's car.

LOPEZ: Okay. Is the reason why he doesn't wanta press charges against you two guys--do you know what a civil deal is? Do you know what civil means as opposed to criminal?

THATCHER: Civil is uh...

LOPEZ: Business, as opposed to criminal which is thievery. He wanted to make a report, but then didn't wanta make a report. That's kinda bizarre is it not? He wants to make a report and at the same time he says he loaned it to you guys and then he said that he wanted to make a report because certain things were missing out of it. Now if he loaned it to you guys because of a business proposition, I'm not gonna ask you--you know the details about it, but I suspect, is that what we're talking about here? When it comes to his vehicle?

THATCHER: I already told you man, I didn't steal nobody's car.

LOPEZ: Okay, but is it a private matter between you two? Or is there something else I should need to know? Nobody reports something and then says I don't wanta report it. You--Does that make sense to you?

THATCHER: Well--well you hafta ask him what he's doing man. Cause I--I don't know what the hell he's doing.

LOPEZ: Well here's--here's what I'm telling you, this is what I found out already through him. He makes a report, my car's been stolen. He gets his car back and says I know whose got it, but it's not stolen anymore, I got it back. Okay? So, he says that it's not stolen, but at the same time there was a report made initially, what's up? But he's happy to get his car back. So, is there something going on with you guys, you guys buddies? Friends? Enemies? What?

THATCHER: Man I--you know what?

LOPEZ: Ask him?

THATCHER: All ya--exactly.

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LOPEZ: All right, I'll ask him.

THATCHER: I mean if he's saying things like that, I mean shit...

LOPEZ: Well that's why I'm asking you.

THATCHER: I don't...

LOPEZ: If he doesn't wanta press charges, that's his business. If he doesn't, he does not. I--I guarantee you that. He got his car back, but I wanta know why he did it in the first place and you don't know?

THATCHER: (Inaudible)

LOPEZ: Okay. How long did you have this car? Weeks? Days?

THATCHER: Couldn't say man.

LOPEZ: How about Leo? Did he drive it too or was it just you?

THATCHER: Uh--(inaudible)

LOPEZ: All right, at one point you lived at this Vine Street. Do you remember the address?

THATCHER: I never lived on Vine Street.

LOPEZ: Well I guess it's a bad way of saying it. Hung out there at [redacted]? Barbara's house? You remember that?

THATCHER: Yeah, I stop in from time to time (inaudible)

LOPEZ: Okay. And at one point when you would stop there you would also be in the company of Freddie and Leo and Heather and I got a whole list if these people and all these other folks. Do you remember when that was?

THATCHER: Mmmm--no.

LOPEZ: No? It's within the last few months.

THATCHER: Well I seen em both in the last few months, yeah.

LOPEZ: But you've actually been there as well on Vine?

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THATCHER: Sometimes.

LOPEZ: And then at the same time you would also stay at Tina's house, is that your normal where you...

THATCHER: Well that--that is--that's my house, I pay rent there.

LOPEZ: Pay rent there? So you would stay there sometimes, go there--did your girlfriend ever go there with ya?

THATCHER: Where at Vine?

LOPEZ: Yeah.

THATCHER: No.

LOPEZ: You just go there because you're good friends with--was it Billy that was there? Barbara?

THATCHER: I'm friends--I'm friends with the whole family.

LOPEZ: With all those people that live there?

THATCHER: With his family yeah.

LOPEZ: Especially Barbara?

THATCHER: No, especially him.

LOPEZ: Oh, Billy?

THATCHER: Uh huh.

LOPEZ: And he stayed there, but he has this other house. What--what's going on there, or he just go there?

THATCHER: That's his family, he--he just goes over there like I do. They're like--they're like family to me.

LOPEZ: Heather at one point said that Leo has a .22. It's a .22 revolver. All right, did you take custody of that weapon? Now, they told me that you definitely had seen it and you definitely have touched it, and held it, it actually fell out of your pants, according to Barbara. All right, that was one of the concerns that we had and that's why we were doing the things

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we were doing. We thought that you might still be in possession of this .22.

THATCHER: I don't remember no .22, I didn't touch any--no guns, no fucking nothing.

LOPEZ: Okay, so all that worry about this .22 was for nothing?

THATCHER: Yeah.

LOPEZ: Cause you didn't have it?

THATCHER: Hell no.

LOPEZ: You've never had it?

THATCHER: No, I have not.

LOPEZ: Okay. So the person I should talk to--the last person who had it was Leo, is that true?

THATCHER: I don't know. I ain't never seen him with a gun.

LOPEZ: If Barbara told me that she actually saw it fall out of your pants, at her house, would that be a lie?

THATCHER: Mmm hmm.

LOPEZ: Why would she lie about that? You're not sure?

THATCHER: No. Maybe she's mad at me for something, I don't know.

LOPEZ: No--no, she likes ya. That's why I was hoping to call her today and let her know that you're okay. She actually said you're a good guy, which I tend to believe. Um--Are you working now?

THATCHER: No, I got--I got a call from--for (inaudible) but uh--I was like--right when all this shit happened fuckin' (inaudible) you know.

LOPEZ: Why were you hiding?

THATCHER: Cause I didn't know what the hell was going on.

LOPEZ: What'd you think it was?

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TAPED STATEMENT OF DAVID THATCHER
CASE # 01-09239

THATCHER: I didn't know. All I was told was there fuckin' everybody I know is getting raided--(laugh) my mom's freaking out over here. I got people calling and telling me--hey (inaudible) you're all in the newspapers here.

LOPEZ: Well...

THATCHER: And then--and then uh--who--who was--who was the one that told my mom that--that uh--the police were just gonna um--shoot first and ask questions later?

LOPEZ: Nah, no one says that.

THATCHER: Somebody told my mom that.

LOPEZ: Tina?

THATCHER: My mom?

LOPEZ: Mom who?

THATCHER: My real mom up--uh--in uh--(inaudible) anyway--oh, Marysville.

LOPEZ: This Cindy lady?

THATCHER: Yeah.

LOPEZ: Uh--I sincerely doubt anyone would ever say something quite like that, but here's what I bet they did tell her. I bet they told her that he was considered in possession of a .22, this pistol.

THATCHER: No, I--I heard I was armed and dangerous and that's--you know--that--I was like, what the fuck.

LOPEZ: Why do you think that is, do you think?

THATCHER: I don't know.

LOPEZ: Well, I'll tell you what. We'll cut to the chase about this, all right? What I'm gonna charge you with when this is all said and done is numerous counts of armed robbery.

THATCHER: What?

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LOPEZ: That's right. It's not a surprise, I think you know and that's why we've been dancing around this little issue here for the last few minutes. And I'll--I'll dance with you some more if you want. It's basically the same armed robberies that sent you jail the first time. It's exact same styles, it's the exact same thing. But this time you're in a line-up and that's why you're in this specific line-up here. You were shown to certain people and you basically have been identified by these people. I'm gonna go--I'm go a step further when it comes to that part of the investigation. In talking to your friends, the people who where there doing these with you, they basically had told me what your role is and what part you took in it, which isn't a surprise. So, what I'm asking here--and that's why I'm asking those specific questions, your mother's gonna wanta know. These family members, all your friends are gonna wanta know what snapped inside David--you were doing well from what I can tell. But if the Crank got into your head, you were desperate for money, had no place to live, those are the kinda questions I need to know. Because to bump off, these Mexican guys you know for chump change money in these recycling places, there's gotta be a reason. Yeah and that's the simplest thing I can tell you. That's why you're here and that's why you're talking to me. The other stuff, well obviously these are all violations of your parole. It will be up to me to finish this other aspect of it. But I--I'm curious to know why? You're a mild mannered guy, if something happened in these recent weeks where the drugs made you ridiculous, maybe desperate for money that you'd go about doing the exact same thing that got you in trouble. Then, I think I owe an explanation to these people. I think you do more than I do, because when it comes to certain things like this, I think it's important for them to try to understand. It's--it's a done deal. They're gonna miss you for a while. What are you gonna tell em? Why? Why boost these--these stupid amounts of money from these guys for what? Is it cause of the dope?

THATCHER: I don't know why somebody would do that?

LOPEZ: It's not somebody, it's you. The vehicle, and all that, why David? Let's start off with the--the first one, the most simple one. The one over there at the Fairway Market. You park over there by the phone booth, so Leo's on the phone. Freddie is sitting there watching the car. You walk over to the recycle place. You whipped out this stupid little knife. You take the stupid amount of change and then leave, go back to Vine Street. You drank some big 40 ouncers. You see what I mean? And--and that's why--that--that's why I'm here. What am I gonna tell these people?

THATCHER: I don't know what you gonna tell em.

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LOPEZ: Well, I think it's--it's gonna be important that you say something to em, they're the ones that are gonna have to deal with you being where ever you're gonna be. They're gonna what happened, why couldn't they have helped you. I think everybody wants to know that kinda thing. Why couldn't you have asked them for help if you need money that bad?

THATCHER: I don't even know what you're talking about man. Well you know right about now um--I'm gonna go ahead and uh--want a lawyer.

LOPEZ: Okay.

THATCHER: I don't like these questions.

LOPEZ: You don't like em? They--they get too close to the quick do they?

THATCHER: No, they're just questions about shit that--I don't know nothing about.

LOPEZ: Nothing?

THATCHER: (Inaudible)

LOPEZ: Okay, then. Well I think we're done with that and we can get on our little merry way and be done with it.

(Nextel ringing)

THATCHER: So, how'd you guys find me?

LOPEZ: I'm sorry?

THATCHER: How'd you guys find me?

LOPEZ: Well for all the same reasons.

THATCHER: Oh, people snitching?

LOPEZ: Not like that. Yes. Okay, tell him I'm in--in the middle of an interview. I can't uh--no. He's just--he's just gonna hafta--he's gonna hafta wait and if he's talking about Mr. Thatcher, then I'll hafta--I'll just. He's not gonna be here with--from what I've gathered already. They're not gonna be here so. I can't help em at this moment. Thanks. Bye. I'm sorry what--what now?

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THATCHER: What is somebody snitching or--I--I mean that's how you guys hear--heard all this other crap right?

LOPEZ: Well if you're asking and if you wanta talk. I'll tell you what I know about that part. Bottom line is there's alotta people that know what you have done. Alotta people are concerned for you. If you wanta believe it or not and because you were doing certain things, the other people have nothing to loose. They've already given me their side of the story. Okay? That being the case, I know through them and for whatever reasons they wanted to speak--unlike yourself, they've got their own versions of what happened and what their involvement is. That's their business. They're looking out for themselves I suspect. But uh--that's not too difficult, you know what I mean? If you talk to the right people, they'll know.

THATCHER: (Inaudible) people snitching (inaudible)

LOPEZ: How--how do you say that's snitching? If there's something going on that's wrong and they're involved in it, I would think that they would wanta make themselves look--you know a little better as opposed to worse. That's why I--I think that it fair that everybody gets a chance to speak and say their piece and that's why I'm taking the time to kinda get to know you just a little bit to see what's going on in that head of yours and you're not what I expected truthfully. It's just--it's not that exact person that I thought. But that's just for me to know. I'd rather have you tell me what it is that was going on, what was it that happened to you that made you got to this--this length, lack of money, lack of food, didn't have a job? There's always an explanation, I know theirs. I understand why they did it. And I'll tell you most of it's drugs, desperate for drugs, stupid with drugs, drinkin', boozing, having fun doing stuff that they shouldn't have been doin', but that's what they're tellin' me. That's their story though. That's their mouth telling whatever they need to tell and at the same time they're saying this is what I did, this is what I didn't do. So, I'll--I'll give you that exact same opportunity and--and that's for that reason. Cause everyone's gonna wanta know and I'm not here to cheat somebody out of that.

THATCHER: I want my lawyer.

LOPEZ: Well you asked. So, I'll stop again. Done? We're good?

THATCHER: Mmm hmm.

LOPEZ: Right this way.

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Narrative **01-0951**

On 6-25-01 at approximately 1540 hrs I was dispatched to the Recycling center at 250 east Visalia road in regards to a PC 211 (robbery) that had just occurred. I arrived on scene and made contact with witness-1, David Ponce.

Ponce advised me that he was the clerk at the recycling center. This business is conducted out of a trailer, which sits in the N/W portion of Nickels Payless Grocery store. Ponce stated that on this date at approximately 1530 hrs, he was inside the trailer toward the back stacking cans. Ponce said that he heard a noise toward the front and when he turned around, he observed a subject inside the truck. Ponce continued that he got a quick glimpse of the suspect and that he was wearing a white shirt, then the suspect yelled at him to turn around and not look at him. Ponce turned around and told the suspect to take whatever he wanted. Ponce explained that before turning around he noticed the suspect had something in his hand but was unable to identify the object as a gun or not. The suspect took the remaining money from the cash drawer and fled the scene. Ponce then ran to the supermarket to call the police.

I was then contacted by witness two, Mike Fountain. Fountain, who is a clerk for the grocery store, was in the southern part of the parking lot when the crime occurred. Fountain advised me that he observed two suspects jumping out of the truck and run toward a car parked on Birch street. At that time he heard Ponce start yelling that he had just been robbed, so Fountain ran to watch the suspect vehicle as it left the scene.

Suspect description:
Suspect number one was described as a Hispanic male adult, between the ages of 22 and 30 years old. He had a shaved head and was wearing a white T-shirt, blue shorts and white tennis shoes. He was between 5' 7" and 5' 10" tall, weighing between 150-170 pounds.

Suspect number two was described as a Hispanic male adult with shaved head. His physical features were described as the same as suspect number one. He was said to be wearing a blue colored shirt and dark colored shorts.

The suspects fled in an early 90's model Oldsmobile, light blue in color. They were last seen driving backwards, east bound on Birch toward Costner/Rose.

Property:
Approximately $72.00 in cash was taken from the cash drawer.

Disposition:
Inactive.

S. Shade #837
Farmersville Police Department

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF TULARE

COPY

The People of the State of California

Plaintiff

vs

DAVID CHARLES THATCHER

Defendant

Court Number: 01-77196

Hearing Date: 12-4-2001

REPORT AND RECOMMENDATION OF THE PROBATION OFFICER

P.O. No: PA-294164

JUDGE: Gerald F. Sevier

CID: B4403085

Department: Visalia Division, Dept. #4

SO ID No: 258795

Attorney: Paul Storey

CII No: A10409711

Address: 225 No. "M" St., Tulare, CA 93274

FBI No: 608017FB2

FAX: 686-4222

SS No:

CDC No: K81267

Defendant's Last Address: Visalia, CA 93277

Phone No: DOB: Age: 21

Birthplace: Visalia, CA

Marital Status: Single

Citizenship: United States

Spouse: None

Race/Nationality: Cauc Height: 5'10" Weight: 185 Hair: Brown Eyes: Blue

CUSTODY STATUS: In Custody

COURT PROCEEDINGS:

Case #	Plea Date	Ct	Offense	Action	Indicated Sentence
01-77196	11-9-01	1	F, 211 PC-2nd Deg	Jury Conviction	None indicated
		SA	1170.12(c)(2)(A) PC		
		SA	12022.53(b) PC		
		SA	667(a)(1) PC		
		SA	667.5(b) PC		

REPORT OF THE PROBATION OFFICER
DAVID CHARLES THATCHER

Case #	Plea Date	Ct	Offense	Action	Indicated Sentence
01-77196	11-9-01	2	F, 211 PC-2nd Deg SA 1170.12(c)(2)(A) PC SA 12022(b)(1) PC SA 667(a)(1) PC SA 667.5(b) PC	Jury Conviction	None indicated
		3	F, 211 PC-2nd Deg SA 1170.12(c)(2)(A) PC SA 12022.53(b) PC SA 667(a)(1) PC SA 667.5(b) PC	Jury Conviction	None indicated
		4	F, 211 PC-2nd Deg SA 1170.12(c)(2)(A) PC SA 12022.53(b) PC SA 667(a)(1) PC SA 667.5(b) PC	Jury Conviction	None indicated
		5	F, 487(d) PC SA 1170.12(c)(2)(A) PC SA 667(a)(1) PC SA 667.5(b) PC	Jury Conviction	None indicated

BRIEF SUMMARY OF FACTS:

On June 18, 2001, the defendant robbed F.O. of personal property at gunpoint. On June 27, 2001, the defendant robbed B&C Recycling and D.L. of personal property at knifepoint. On June 30, 2001, the defendant robbed USA Market and M.A. at gunpoint and stole a firearm. The defendant also robbed D.V. at gunpoint on June 30, 2001.

OFFENSE:

According to reports of the Visalia Police Department, on June 18, 2001, at approximately 3:45 p.m., officers were dispatched to a recycling trailer on North Dinuba Boulevard regarding an armed robbery. Upon arrival, contact was made with the Spanish speaking victim, F.O. He indicated a subject, later identified as the defendant, approached him and pulled a small black handgun from the waistband of his pants. F.O. stated the defendant ordered him to enter the recycling trailer and open the cash drawer. F.O. advised he did so, however, there was no money in the drawer and, when the defendant saw there was

no money, removed F.O.'s wallet from his pants. F.O. indicated the defendant then fled the scene on foot. The victim reported his black wallet was worth about $5, however, contained $235 cash.

On June 27, 2001, at approximately 3:00 p.m., reports of the Visalia Police Department indicate an officer was dispatched to the same recycling trailer on North Dinuba Boulevard where the robbery occurred on June 18, 2001. It was reported the trailer had once again been robbed, this time at knifepoint. Upon arrival, contact was made with the employee, D.L. He advised he was approached by a subject holding a knife, later identified as the defendant. D.L. indicated the defendant began yelling at him in English, which he did not understand. However, a second subject accompanying the defendant, later identified as Leo Palafox, yelled at the victim in Spanish, ordering him to get on the ground. D.L. stated that as he was lying on the floor of the trailer, the defendant removed his wallet from his pants pocket. The victim further indicated the defendant took money from the cash drawer of the recycling trailer. D.L. advised $103 cash was stolen from B&C Recycling. The victim reported his wallet contained $40 cash.

Reports of the Tulare County Sheriff's Department indicate that on June 30, 2001, deputies were dispatched to the USA Market in Goshen, regarding an armed robbery in progress. En route, deputies were advised two subjects, later identified as the defendant and Palafox, were robbing the clerk at gunpoint. At approximately 2:39 p.m., deputies arrived on the scene and contacted the store clerk, M.A. He stated he and his 10 year old brother were inside the family business when he observed a subject, later identified as the defendant, standing by the pay phone in the parking lot. M.A. also identified a second subject with the defendant, Leo Palafox. The victim advised he waited on customers in the market and, when the last one left, began cleaning the counter area. At that time, M.A. reported the defendant and Palafox entered the store and pulled bandanas over their faces. The victim stated Palafox then produced a firearm, pointed it at him and ordered him to open the cash register. As he did so, M.A. advised the defendant entered the store, came up behind him and held a gun to his head. The victim reported the defendant ordered him to lay down on the floor and, when he did so, Palafox placed his foot on the victim's neck. The defendant then

removed $1,600 from the cash register.

The victim stated Palafox then demanded the victim give him the surveillance video tape. M.A. advised he pretended to act as though he did not know what Palafox was talking about, however, Palafox stated, "Don't fucking play stupid with me. If you don't tell me, I'll blow your brains all over the store." The victim then removed the video tape from a VCR and gave it to Palafox. M.A. advised Palafox began looking through the store and took a box containing 26 cartons of cigarettes. Palafox then returned to the victim and ordered him to remove all his jewelry. M.A. reported he gave Palafox his gold and diamond wedding ring and a watch. In addition, M.A. reported Palafox took his wallet from his pants pocket, which contained $740 cash.

As the robbery was occurring, M.A. stated a customer, identified as D.V., entered the store. M.A. reported he heard the defendant and Palafox yell at D.V., but was not able to see what was happening. A short time later, M.A. stated he heard the defendant and Palafox went out of the store, at which point he contacted police. M.A. stated that in addition to the money from the cash register, the box of cigarettes and his personal property, Palafox and the defendant also stolen a .380 caliber semi-automatic handgun.

Contact was made with M.A.'s younger brother. He stated he observed the two subjects standing by the pay telephone in a parking lot. When the last customer left the store, he indicated he saw the two subjects enter the store, pull masks over their faces and produce firearms. He stated he immediately ran out of the store, to his adjacent residence and called 9-1-1.

Contact was made with D.V. He stated he stopped at the USA Market, saw nothing unusual and entered the store, leaving his girlfriend and two year old son waiting in the car. D.V. advised as he entered the market, he saw two unknown subjects with bandanas over their faces, each armed with a firearm. D.V. indicated he heard someone threaten to kill the store clerk. At that time, D.V. indicated he was observed by the subjects and ordered to lay down on the floor. D.V. advised the subjects demanded he give them his money, at which time he produced $29 cash and gave it to one of the subjects. Shortly thereafter, D.V.

indicated the subjects ran out of the store and he went outside to check the welfare of his family. Officers spoke with D.V.'s girlfriend, who confirmed seeing two subjects with bandanas over their faces run out of the market carrying firearms.

As officers continued to investigate these and other robberies, they became convinced all the crimes were committed by the same group of individuals. At some point, contact was made with Freddie Patino, whose vehicle was used as a getaway car in some of the robberies. Patino admitted participation in three robberies, one of which occurred on June 18, 2001. Patino stated that in that robbery, he drove two friends, identified as the defendant and Palafox, to the recycling trailer on North Dinuba Boulevard. Patino reported he knew the defendant was planning to rob the trailer at gunpoint and, after the crime occurred, admitted driving the defendant and Palafox to a nearby residence. Photographic lineups containing the defendant's picture were shown to victims F.O. and D.L., however, both were unable to absolutely identify the defendant as the person who had robbed them. A live lineup was conducted on July 11, 2001. F.O. was unable to positively identify anyone. However, D.L. stated the defendant, "looks the most like the person."

The defendant was taken into custody on July 8, 2001, after officers received information he was hiding in an apartment in North Visalia. Visalia police officers and parole agents contacted the defendant and, after some negotiation, the defendant exited the residence and was taken into custody by his parole agent.

The defendant was interviewed at the Visalia Police Department. He stated he was using methamphetamine, but denied any involvement in any of the robberies. He acknowledged knowing Palafox and Patino, but refused to say he committed any crimes with them. He denied ever owning or possessing a firearm, but reported he did have a small knife, of which he had already disposed. However, at one point, the defendant asked who had "snitched" on him.

REPORT OF THE PROBATION OFFICER
DAVID CHARLES THATCHER

DEFENDANT'S STATEMENT:

The defendant was interviewed at the Bob Wiley Detention Facility on November 27, 2001. He had no comment regarding the offense, other than to say he plans to appeal his conviction.

VICTIM'S INFORMATION:

The victim of the robbery on June 18, 2001, F.O., reported his wallet, valued at $5, was stolen by the defendant. In addition, F.O. advised he had $235 cash in his wallet. It is recommended $240 restitution be paid to F.O.

The employee of B&C Recycling who was robbed by the defendant on June 27, 2001, indicated $103 cash was stolen from the recycling company. In addition, the victim's wallet, containing $40 cash, was stolen from his person. It is recommended $103 restitution be paid to B&C Recycling and $40 restitution be paid to D.L.

Attempts were made to reach M.A., the store clerk at USA Market, with unsuccessful results. Should M.A. contact Probation prior to the defendant's sentencing, his statement will be provided to the Court in a separate memorandum. According to the Sheriff's Department report, M.A. stated $1,600 cash was stolen from the register of USA Market. In addition, a box containing 26 cartons of cigarettes was also stolen. The cigarettes were valued at $608.75. A .380 caliber semi-automatic handgun was also stolen from the store. The gun was valued at $300. It is recommended a total of $2,508.75 in restitution be paid to USA Market. M.A. was also robbed of personal property. These items consisted of a wallet containing $740 cash, a gold and diamond wedding ring, valued at $800, and a $50 men's watch. It is recommended a total of $1,590 restitution be paid to victim M.A.

Sheriff's reports also indicate victim D.V. was robbed of $29. It is recommended restitution in that amount be paid to D.V.

REPORT OF THE PROBATION OFFICER
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PRIOR RECORD:

JUVENILE

DATE	DEPARTMENT	OFFENSE	DISPOSITION
12-30-87	Visalia PD	Petty theft	Handled informally
7-20-89	Visalia PD	Battery	Counseled & released
9-11-89	Visalia PD	Petty theft	Counseled & released
10-1-90	Visalia PD	Battery of school employee	6 mos informal prob
5-17-94	Tul Co Juv Crt	Poss deadly weapon	Infml prob; review 10-20-94
11-28-94	Tul Co Juv Crt	Viol of Prob	Prob; Grp Hm; 3-16-95: Minor absconded prior to placement
4-20-95	Tul Co Juv Crt	Vandalism; Poss deadly weapon; false info to Peace Off; Viol of Prob	Prob; Grp Home
5-22-96	Tul Co Juv Crt	Poss deadly weapon; Viol of Prob	Dispo transfer to Monterey Co.
Pet filed	Tul Co Juv Crt	1st Deg Residential robbery w/SA; 1st deg residential Robbery w/SA; 1st deg residential robbery w/SA; 1st deg residential robbery w/SA	9-9-97: 707(c) W&I petition filed 11-26-97: Minor found unfit for Juv Crt; 1-9-98: Juv prob term'd unsatisfactory

ADULT

1-9-98	Visalia SC#CR-37306	F, 211 PC-1st deg w/SA 12022(a)(1) PC; F, 211 PC-2nd deg w/SA 12022(a)(1) PC	6 years state prison

Circumstances of the above robbery convictions involved the defendant robbing a victim in the victim's residence at gunpoint; and robbing a video store clerk at gunpoint. The crimes were committed three days apart. During the robbery in the residence the defendant was armed with a shotgun, which he used to strike the victim on the face. The victim received lacerations on his nose. During the video store robbery the defendant was armed with a .22 caliber rifle.

3-30-01	CDC Parole	Parole Viol	Return to custody
	CDC Parole	Parole Viol	Pending

REPORT OF THE PROBATION OFFICER
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DRUG /ALCOHOL FACTORS:

The defendant reported he used "everything," indicating many controlled substances. He advised he was released from state prison on parole about one month prior to his arrest. During that time, he described his lifestyle as, "just partying."

PERSONAL HISTORY:

The defendant has no contact with his father, Gary Thatcher. He maintains contact with his mother, Cindy Ravenscroft, who resides in Marysville, California. The defendant has one older sister, who also lives in Marysville.

The defendant is single, having never been legally married nor fathered any children. He reported he is engaged to be married, but those plans are currently on hold. The defendant claimed to be in good physical and mental health. He advised he obtained his GED in 2000, while incarcerated in state prison.

RESIDENCE:

The defendant stated he was paroled to his step-mother's residence in Visalia. He indicated he lived at that residence for about one month prior to his arrest. The defendant claimed to be a lifetime resident of Tulare County.

EMPLOYMENT HISTORY:

The defendant reported he was employed by Tulare County Recycling for about one month prior to his arrest. He advised he earned minimum wage.

FINANCIAL STATUS:

As his only personal liabilities, the defendant claimed to owe about $850 for back phone bills and $200 for medical expenses. He claimed no assets.

COLLATERAL INFORMATION:

Contact was made with the defendant's Parole Agent, Gary Paden. He reported the defendant was initially released from custody, on parole, on February 6, 2001. Agent Paden advised the defendant was employed for only about one week. He confirmed the defendant was employed by a recycling company and

stated he believes the defendant later returned and robbed his former employer. During the defendant's period of parole, Agent Paden advised the defendant was unstable, did not maintain regular employment and was not living where he was supposed to be living. Agent Paden indicated he spent the majority of his time tracking down and arresting the defendant, rather than supervising him normally. Agent Paden reported the defendant maintains white supremacist, "skinhead" gang affiliations.

PROBATION FACTORS:

There are statutory provisions prohibiting a grant of probation pursuant to special allegation 1170.12(a)(2) of the Penal Code. (Rule 4.413(a))

MITIGATION FACTORS:

None.

AGGRAVATION FACTORS:

FACTS RELATING TO THE CRIME:

The crimes involved great violence and the threat of great bodily harm, disclosing a high degree of cruelty, viciousness and callousness. (Rule 4.421(a)(1))

The manner in which the crimes were carried out indicates premeditation on the part of the defendant. (Rule 4.421(a)(8))

The crimes involved the theft of substantial monetary value. (Rule 4.421(a)(9))

FACTS RELATING TO THE DEFENDANT:

The defendant has engaged in violent conduct which indicates a serious danger to society. (Rule 4.421(b)(1))

The defendant's prior convictions as an adult and sustained petitions in juvenile delinquency proceedings are numerous and serious. (Rule 4.421(b)(2))

The defendant was on parole when the crime was committed. (Rule 4.421(b)(4))

The defendant's prior performance on parole and juvenile probation was unsatisfactory. (Rule 4.421(b)(5))

REPORT OF THE PROBATION OFFICER
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CRITERIA AFFECTING CONCURRENT OR CONSECUTIVE SENTENCES:

The crimes were committed at different times and places, rather than being committed so closely in time and place as to indicate a single period of aberrant behavior. (Rule 4.425(a)(3))

ENHANCEMENTS:

Penal Code Section 1170.12(c)(2)(a) - If a defendant has two or more serious violent felony convictions that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment with a minimum term of twenty-five (25) years. Further, the defendant is ineligible for a grant of probation and consecutive sentences are mandatory.

Penal Code 12022.53(b) - Notwithstanding any other provision of law, any person who is convicted of a felony specified in subdivision (a) and who in the commission of that felony personally used a firearm, shall be punished by a term of imprisonment of 10 years in the state prison, which shall be imposed in addition and consecutive to the punishment prescribed for that felony. The firearm need not be operable or loaded for the enhancement to apply.

Penal Code Section 12022(b) - any person or persons using a deadly or dangerous weapon in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one year, unless use of a deadly or dangerous weapon is an element of the offense for which he or she was convicted.

Penal Code Section 667(a)(1) - any person convicted of a serious felony, who previously has been convicted of a serious felony in this state or of any offense committed in another jurisdiction, which includes all of the elements of any serious felony, shall receive, in a addition to the sentence imposed by the court for the present offense, a five year enhancement for each such prior conviction on charges brought and tried separately. The terms of the present offense and each enhancement shall run consecutively.

Penal Code Section 667.5(b) - Where the new offense is a felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefore, the Court shall impose a one year

term for each prior separate prison term served for any felony.

ANALYSIS:

Appearing before the Court is 21 year old David Charles Thatcher for sentencing on four felony counts of 211 of the Penal Code - Second Degree Robbery, all with a special allegation 1170.12(c)(2)(A) of the Penal Code, two prior violent/serious felony convictions, special allegation 667(a)(1) of the Penal Code, prior serious felony conviction, and special allegation 667.5(b) of the Penal Code, prior prison. In addition, three of the four counts of 211 of the Penal Code, include special allegation 12022.53(b) of the Penal Code, personal use of a firearm, and the one remaining 211 Penal Code count, includes special allegation 12022(b)(1) of the Penal Code, use of a knife. The defendant also has one count of 487(d) of the Penal Code, Grand Theft of a Firearm, with special allegations. The defendant was convicted by a jury and no indicated sentence was given.

Circumstances of the offense involve the defendant robbing an employee of a recycling trailer on June 18, 2001, at gunpoint. The defendant stole victim F.O.'s $5 wallet, containing $235 cash. The defendant robbed another employee of the recycling trailer on June 27, 2001. On this occasion, the defendant was armed with a knife and was able to remove $103 cash from the recycling company in a cash drawer. He also personally robbed employee D.L of his wallet, containing $40. On June 30, 2001, the defendant and co-defendant entered the USA Market in Goshen, both armed with firearms. They robbed store clerk, M.A., of $1,600 cash from the cash register, as well as $608.75 worth of cigarettes and a .380 caliber handgun. The defendant and co-defendant also stole personal property form M.A., including his gold and diamond wedding ring, a watch and $740 cash. During the robbery of USA Market, customer D.V. entered the store. The defendant and co-defendant confronted him and stole $29 from his person.

The defendant's prior record reflects he first had contact with Visalia Police at the age of seven. His juvenile record includes three different sustained petitions for possession of a deadly weapon, among other offenses. The defendant was found unfit for Juvenile Court in November, 1997, and was sent to state prison for six years in 1998, for one count of First Degree Robbery and one count of Second Degree

Robbery. He was released on parole, according to his parole agent, on February 6, 2001. He was thus out of custody for approximately four and a half months, with one period of incarceration for a parole violation, before committing the first known crime on June 18, 2001. The defendant has been a Ward of the Juvenile Court since November, 1994, when he was first placed in a group home. It appears the defendant has spent the greater part of his teen and early adult years in custody and/or under strict supervision. His conduct in the instant matter certainly reflects his commitment to a violent, dangerous criminal lifestyle. This defendant is precisely the type of individual for whom the three strikes law was written. In the interest of protection of the community and pursuant to statute, it is respectfully recommended the defendant be committed to state prison for the total term of 162 years to life. Full terms for each weapons enhancement are recommended pursuant to Penal Code Section 1170.1(h).

CUSTODY

FACILITY	DATE	ACTUAL TIME SERVED	2933.1 CREDITS	TOTAL
BWDF	7-8-01 to 12-4-01	150 Days	26 Days	176 Days

TERM:

Case No:	Ct	Offense	Range	Base	Enhancements	Total
01-77196	1	F, 211 PC-2nd Deg	25 yrs to life			41 yrs to life
	SA	1170.12(c)(2)(A)PC				
	SA	12022.53(b) PC			+ 10 yrs	
	SA	667(a)(1) PC			+ 5 yrs	
	SA	667.5(b) PC			+ 1 yr	
	2	F, 211 PC-2nd Deg	25 yrs to life			26 yrs to life c/s to Ct 1
	SA	1170.12(c)(2)(A) PC				
	SA	12022(b)(1) PC			+ 1 yr	
	SA	667(a)(1) PC			+ 5 yrs(stayed)	
	SA	667.5(b) PC			+ 1 yr(stayed)	
	3	F, 211 PC-2nd Deg	25 yrs to life			35 yrs to life c/s to Ct 2
	SA	1170.12(c)(2)(A) PC				
	SA	12022.53(b) PC			+ 10 yrs	
	SA	667(a)(1) PC			+ 5 yrs(stayed)	
	SA	667.5(b) PC			+ 1 yr(stayed)	

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REPORT OF THE PROBATION OFFICER
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Case No:	Ct	Offense	Range	Base	Enhancements	Total
01-77196	4	F, 211 PC-2nd Deg	25 yrs to life			35 yrs to life c/s to Ct 3
	SA	1170.12(c)(2)(A) PC				
	SA	12022.53(b) PC			+ 10 yrs	
	SA	667(a)(1) PC			+ 5 yrs(stayed)	
	SA	667.5(b) PC			+ 1 yr(stayed)	
	5	F, 487(d) PC	25 yrs to life			25 yrs to life c/s to Ct 4
	SA	1170.12(c)(2)(A)PC				
	SA	667(a)(1) PC			+ 5 yrs(stayed)	
	SA	667.5(b) PC			+ 1 yr(stayed)	

TOTAL RECOMMENDED TERM: ONE HUNDRED SIXTY TWO (162) YEARS to LIFE.

IT IS THEREFORE RESPECTFULLY RECOMMENDED THAT:

1. The defendant's Application for Probation be DENIED.
2. In Count One, the defendant be committed to State Prison for the indeterminate term of TWENTY FIVE (25)YEARS to LIFE, with an additional and consecutive TEN (10) YEARS, pursuant to special allegation 12022.53(b) PC, an additional and consecutive FIVE (5) YEARS, pursuant to special allegation 667(a)(1) PC, and an additional and consecutive ONE (1) YEAR pursuant to special allegation 667.5(b) PC, for a total of FORTY ONE (41) YEARS to LIFE, with credit for 150 days actually served awaiting sentence, plus 26 days 2933.1 PC credit, for a total of 176 days.
3. In Count Two, the defendant be committed to State Prison for the indeterminate term of TWENTY FIVE (25) YEARS to LIFE, with an additional and consecutive ONE (1) YEAR, pursuant to special allegation 12022(b)(1) PC, for a total of TWENTY (26) YEARS to LIFE, with zero presentence credits. Said term to run consecutive to Count One.
4. In Count Three, the defendant be committed to State Prison for the indeterminate term of TWENTY FIVE (25) YEARS to LIFE, with an additional and consecutive TEN (10) YEARS, pursuant to special allegation 12022.53(b)(1) PC, for a total of THIRTY FIVE (35) YEARS to LIFE, with zero presentence credits. Said term to run consecutive to Count Two.
5. In Count Four, the defendant be committed to State Prison for the indeterminate term of TWENTY FIVE (25) YEARS to LIFE, with an additional and consecutive TEN (10 YEARS, pursuant to

special allegation 12022.53(b) PC, for a total of THIRTY-FIVE (35) YEARS to LIFE, with zero presentence credits. Said term to run consecutive to Count Three.

6. In Count Five, the defendant be committed to State Prison for the indeterminate term of TWENTY FIVE (25) YEARS to LIFE, with zero presentence credits. Said term to run consecutive to Count Four.

7. The defendant be placed on Parole for life, (if granted Parole) pursuant to Section 3000.1 of the Penal Code.

8. The defendant pay restitution to the victims, F.O., D.L., B&C Recycling, USA Market, M.A., and D.V., all payable through the California Department of Corrections who shall collect and disburse said amounts as follows:

F.O.....$ 240.00
D.L.....$ 40.00
B&C Recycling.....$ 103.00
M.A.....$1,590.00
D.V.....$ 29.00
USA Market.....$2,508.75
30602 Rd 68
Goshen, CA 93227

9. The defendant pay a Restitution Fine pursuant to Section 1202.4 of the Penal Code in the amount of $10,000, subject to the Court's determination that the defendant has the ability to pay such amount.

10. The defendant pay a restitution fine pursuant to Section 1202.45 of the Penal Code in the amount of $10,000. Said fine to be suspended unless the defendant's parole is revoked.

11. That restitution to the Tulare County Victim's Advocate's Office remain open pursuant to Section 1202.4 of the Penal Code.

REPORT OF THE PROBATION OFFICER
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Respectfully submitted,

FREDERICK E. ALLEN
INTERIM CHIEF PROBATION OFFICER

BY: Lori Brewer
LORI BREWER
DEPUTY PROBATION OFFICER III

Read & Approved:

BY: L Williams
LEANNE WILLIAMS
SUPERVISING PROBATION OFFICER

Dated: 12-4-2001
LB/pd
Typed: 11-29-2001

Pursuant to the Provisions of Section 1203 of the Penal Code, I have read and considered the Report and Recommendation of the Probation Officer on File.

JUDGE OF THE SUPERIOR COURT

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01-D 9239

ORIGINAL

TULARE COUNTY SHERIFF'S DEPARTMENT
CONTINUATION REPORT - 5400

CASE NUMBER
01-09813

CRIME: 211P.C.

PAGE 1

Suspect Description:

(S-1)/HMA, 20-25 yrs, shaved head with no facial hair, 6'-0", thin build wearing grey t-shirt and khaki pants. No visible tattoos but had acne marks about facial area.

(S-2)/HMA,20-25yrs. Unknown clothing or other description

Interpreter:

Rodriguez, Mario
559-280-0923

Narrative:

6-22-01/1135 hrs.,

I was dispatched to 32792 RD 124 in Visalia regarding an armed robbery of a recycling redemption truck.

1143 hrs., V-1 Edvwier Ponce statement.

I arrived on scene and contacted V-1 Ponce. V-1 Ponce was unable to speak English at which point I located Mario Rodriguez who stated he could translate for me.

V-1 Ponce stated that he is an employee and operates the recycling truck at the above mentioned location for V-2 A.D. Recycling. V-1 Ponce was sitting in the rear bed of the recycling truck doing paperwork when he noticed two Hispanic males approach the rear of the truck. V-1 Ponce stated that S-1 walked to the right rear of the truck and S-2 walked to the left rear of the truck. V-1 Ponce stated that S-2 was out of his sight and did not get a good look at him, but rather a glimpse out of the corner of his eye.

S-1 then climbed into the bed of the truck holding a knife in his right hand. S-1 pushed V-1 Ponce and ordered him to lie face down in the truck. V-1 Ponce stated that S-1 told him to not look his way or he would stab him. S-1 told S-2 to hurry and get in the truck. S-1 also ordered S-2 to take the money from the money box.

S-1 asked V-1 Ponce if he had any money at which point he stated "no" and told S-1 to go ahead and take his wallet. S-1 removed V-1 Ponce's wallet from his right rear pocket and continued searching the remainder of V-1 Ponce's pockets. V-1 Ponce had nothing else in his pocket, but he did have a pager attached to his belt that S-1 removed.

REPORTING DEPUTY:
Deputy John Lee
DATE/TIME: June 22, 2001 (7:38PM)

REVIEWED BY:

DA

01-09239

V-1 Ponce heard both S-1 and S-2 exit the truck. As S-1 was exiting the truck he again told V-1 Ponce he would stab him if he tried to look at him or chase him. V-1 Ponce stated that he got up from the bed of the truck and walked to the rear opening of the truck. V-1 Ponce stated that he observed the two subjects running E/B on Ave 328 but still was unable to get a good look at S-2. V-1 Ponce then went inside the A-1 Food & Gas Store located on the same lot and notified the Sheriffs Dept.

I contacted Sgt. White who had responded to the scene and briefed him on what I had been told.

Investigation:

V-1 Ponce stated that while S-1 was talking to him it was all in Spanish. When S-1 would converse with S-2 he would speak in English. V-1 Ponce further stated that he could recognize S-1 if he ever saw him again in person or in a picture. V-1 Ponce described S-1 as being a Hispanic male adult around 20-25 years in age. He also observed S-1 to have a shaved head and to have no facial hair but did have acne marks around his facial area. V-1 Ponce did not observe any visible tattoos. S-1 was around 6'-0" with a thin build and wearing a grey t-shirt with khaki pants. V-1 Ponce stated that he believed S-2 to also be a Hispanic male adult around 20-25 yrs of age. V-1 Ponce was unable to provide any further description of S-2. V-1 Ponce stated that he could not recall ever seeing either S-1 or S-2 in the past.

V-1 Ponce described the knife as a butcher type knife approx. 41/2 inch to 6 inch in length. At the time of this report the knife had not been recovered.

V-1 Ponce stated that his wallet was taken but it contained no money. The only item inside V-1 Ponce wallet was his ID card and he estimated his loss at around $10.00. V-1 Ponce's pager was black in color and his pager number was 262-6793. V-1 Ponce stated he paid $60.00 for the pager.

V-1 Ponce stated that $300.00 in cash was taken from the money box used to pay customers the redemption value of their cans. V-1 Ponce stated that the money did not belong to him but to the company he worked for V-2 A.D. Recycling. I observed the money box to be a hard plastic briefcase. I found a money holder similar to the type that would be found inside a cash register to be sitting inside the brief case. V-1 Ponce stated that the briefcase was open and all S-2 had to do was reach in and pull the money out. V-1 Ponce stated that S-2 would not have had to open the case to remove the money.

I located a shoe track at the right rear of the truck where V-1 Ponce stated that S-1 had

01-09239

been standing. Sgt. White photographed the shoe track using a digital camera. I also took two black and white photographs of the shoe track using the track camera. I then took seven color 35 mm photographs of the crime scene area. (See attached list for photograph description) I located no physical evidence other then the shoe track at the crime scene.

Witness Statements:

I contacted Mario Rodriguez who had interpreted for me during V-1 Ponce's statement. Rodriguez stated that he was working in his taco truck which was parked directly in front of the recycling truck when the incident occurred. Rodriguez stated that he was inside cutting meat for tacos and there is no rear facing window in his truck where he would have visual sight of V-1 Ponce or his truck. Rodriguez also stated that he had not heard any disturbance or fight outside.

I contacted Harry Singh who stated he is the owner and clerk for A-1 Food & Gas. Singh stated that he resides at 4848 W. Douglas in Visalia. Singh stated that he did not see anyone or hear anything that had gone on during the time in question. Singh stated that he was in the store and cannot see the recycling truck which sits towards the rear of his store. Singh stated that he did not realize there was any type of problem until V-1 Ponce ran into the store wanting to call the Sheriffs Dept. Singh stated that it is his belief that V-1 Ponce had made up his story. When asked why he felt that no crime had occurred he stated he has run the store for two years and had never been robbed. I asked Singh if he had any evidence to prove that no crime had been committed and he stated "no".

Anastacio Murillo responded and stated that he is the owner of V-2 A.D. Recycling. Murillo was advised of the situation and was provided with the case number for this case.

Detective Brett McGowan responded for the Gang Violence Unit. Det. McGowan was given a description of the S-1 and what we had on S-2. Det. McGowan then checked the area for any subjects matching the descriptions given. Det. McGowan had negative results. Det. McGowan was asked about providing gang member photographs that would be on file for any known gang members who resided in the general area of the crime scene. Det. McGowan stated he would check his files and forward all photographs to the Property Detective Division.

Detective Doug Winslow responded and I briefed him on the information that I had obtained. Det. Winslow stated that he would be handling the case and to forward him a copy of the report.

REPORTING DEPUTY:
Deputy John Lee
DATE/TIME: June 22, 2001 (7:38PM)

REVIEWED BY:

01-09239

TULARE COUNTY SHERIFF'S DEPARTMENT *CASE NUMBER*
CONTINUATION REPORT - 5400 01-09813

CRIME: 211P.C. *PAGE 4*

I then cleared the scene. I transported all photographs taken including the track photographs to headquarters and placed them into the Crime Lab box for future processing. I then cleared the call.

Evidence:

1) tennis shoe track photograph

Case Status: Active

Copy to: Detective Doug Winslow (North End Property)

REPORTING DEPUTY:
Deputy John Lee
DATE/TIME: June 22, 2001 (7:38PM)

REVIEWED BY:

DA

ORIGINAL 1364

01-09239

TULARE COUNTY SHERIFF'S DEPARTMENT
CONTINUATION REPORT - 5400

CASE NUMBER
01-09813

CRIME: 211P.C.

Photographs:

#1-photograph card containing case number
#2- briefcase used for holding money
#3-interior of the truck
#4-interior of the truck looking toward the rear
#5-interior of the truck looking from the rear toward the front
#6-shoe track located on the right rear side of the truck
#7-overall photograph of the crime scene.

REPORTING DEPUTY:
Deputy John Lee
DATE/TIME: June 22, 2001 (7:38PM)

REVIEWED BY:

DA

01-09239

TULARE COUNTY SHERIFF'S DEPARTMENT ~ 5400
SUPPLEMENTAL REPORT:

CASE# 01-9813	OFFENSE: 211 P.C.	PAGE: 1

VICTIM:

(V1) Ponce, Edvwier
DOB: 7/4/80
11171 Mountain View, Selma, CA
891-8142

(V2) A.D. Recycling
11171 Mountain View, Selma, CA
891-8142

SUSPECT:

(S1) Patino, Freddy
DOB: 6/21/82
555 E. Cottonwood Ave., Farmersville, CA
Hispanic male adult, 5'8", 130, black hair, brown eyes

(S2) Palafox, Leo Camarena
DOB: 8/3/69
481 N. Virginia, Farmersville, CA
Hispanic male adult, 6'3", 140, black hair, brown eyes

(S3) Thatcher, David
DOB: 7/13/80
White male adult, 5'10", 135, brown hair, hazel eyes
2422 S. Salle, Visalia, CA

PERSONS CONTACTED:

(1) Dep. John Lee
Tulare County Sheriff's Office (TCSO) Head Quarters Patrol

REPORTED BY:	DATE/TIME:	TYPED BY:	REVIEWED BY:	DATE:
Det. D. Winslow / W0924	6/29/01	Crystal Blackmon		

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DA

ORIGINAL TS64

01-09239

TULARE COUNTY SHERIFF'S DEPARTMENT ~ 5400
SUPPLEMENTAL REPORT:

CASE# 01-9813	OFFENSE: 211 P.C.	PAGE: 2

(2) Det. Mark Lopez
Visalia Police Department

(3) Officer John Pree
Visalia Police Department

NARRATIVE:

06/22/01 – 1200 Hours:

I was contacted by Sgt. Verissimo who advised me a 211 P.C. had just occurred to the A.D. Recycling Center at 32792 Road 124 located behind the A-1 Market.

06/22/01 – 1230 Hours:

I arrived at the A.D Recycle Center and I contacted Dep. John Lee who was on scene. Dep. Lee stated that at 1135 hours, he was dispatched to the A.D. Recycling Center to investigate an armed robbery that had just occurred. Dep. Lee stated he arrived at 1143 hours and contacted the victim, Edvwier Ponce. Dep. Lee stated Ponce was Spanish speaking and he obtained a translator.

Dep. Lee stated Ponce told him that at approximately 1130 hours, he was inside the rear bed of his recycling truck doing paper work at his desk when he observed two Hispanic males approaching the rear of the truck. Dep. Lee states Ponce told him suspect 1 climbed up into the bed of the truck confronted him while holding a knife. Ponce stated Suspect 1 pushed him and ordered him to ly face down on the truck bed or he would be stabbed. Ponce stated he complied. Ponce states Suspect 2 also jumped up into the truck and took all the money, approximately $300.00 from the money box located on the table.

Ponce stated to Dep. Lee, Suspect 1 asked him if he had any money and he told him he did not. Ponce stated Suspect 1 removed Ponce's wallet from his right rear pocket and searched him. Ponce states Suspect 1 also took a pager attached to his belt.

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Det. D. Winslow / W0924	6/29/01	Crystal Blackmon		

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Ponce stated both suspects exited the truck bed. Ponce states that Suspect 1 turned to him and told him that if he tried to look at him or chase him, he would stab him. Ponce stated after the suspects left, he got up and walked to the rear of the truck. Ponce stated he observed both subjects running east bound on Ave. 328. Ponce stated he then went inside the market and called the Sheriff's Department.

Ponce states Suspect 1 spoke to him in Spanish. Ponce states Suspect 1 and 2 spoke to each other in English. Ponce stated he believed he could recognize Suspect 1 if he ever saw him again in person or in a picture. Ponce described Suspect 1 as a Hispanic male adult, approximately 20 to 25 years of age, 6 foot tall, with a thin build, wearing a grey T-shirt, and Kahki pants. Ponce stated that Suspect 1 had a shaved head with no facial hair, however he did have numerous acne marks on his face.

Ponce stated he believes Suspect 2 was also a Hispanic male adult, approximately 20 to 25 years of age. Ponce stated he did not get a good look at Suspect 2 and he could not provide any additional information.

Ponce described the knife brandished to him by Suspect 1 as a butcher type knife, approximately 4 ½ to 6 inches long.

Dep. Lee stated he located a shoe track in the soft soil near the right rear corner of the truck where Ponce states Suspect 1 had been standing. Dep. Lee stated he took two black and white track camera photos of the shoe track and additional 35 mm color photos of the scene. Dep. Lee stated no other physical evidence was located.

Dep. Lee stated he contacted several witnesses, including Mario Rodriguez, who was operating the taco truck and Harry Singh who was the clerk at the A-1 Food and Gas. Both stated they did not see the robbery and could not provide any information. (For further, refer to Dep. John Lee's report.)

06/22/01 – 1500 Hours:

I contacted Det. Brett Mc Gowan of the Tulare County Gang Violence Unit. I advised Det. Mc Gowan of the robbery. I had requested for Det. Mc Gowan any photos of gang members

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residing in the Patterson Track area.

06/25/01 – 0800 Hours:

Dep. Mc Gowan contacted me and provided me eight photographs of eight gang members residing in the Patterson Track and Ivanhoe area.

06/25/01 – 1410 Hours:

I contacted Edvwier Ponce at the A.D. Recycle Center. I presented to Ponce the eight gang member photos and asked him to review them and select anybody he recognized from his robbery. Ponce reviewed the photos and stated he did not recognize them as any of the subjects responsible for the robbery.

06/25/01 – 1730 Hours:

I received a phone call from Det. Mark Lopez of the Visalia Police Department. Det. Lopez advised me of two similar type robberies occurring to recycle centers located within the Visalia city limits. Det. Lopez stated on Monday, 6/18/01, at approximately 1535 hours, a 211 P.C. occurred to a recycle facility located next to the Fairway Market at 1845 N. Dinuba Blvd., Visalia.

Det. Lopez stated on Wednesday, 6/20/01 at 1125 hours, a robbery occurred at the recycling center located 1137 S. Lovers Lane, Visalia. Det. Lopez stated in both robberies, a single suspect armed with a hand gun confronted the clerk operating the recycle facility and took money.

06/26/01 – 1300 Hours:

I attended an inter-agency briefing at the Visalia Police Department. During the briefing, I learned two additional similar 211 P.C.'s have occurred at recycle centers in addition to the three previous. I learned a 211 P.C. occurred on 6-25-01 at 1530 hours to the recycling center at 250 E. Visalia Road, Farmersville, and on 6/27/01 at 1500 hours, a second 211 P.C. occurred to the recycle center located next to the Fairway Market at 1845 N. Dinuba Blvd., Visalia.

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Det. D. Winslow / W0924	6/29/01	Crystal Blackmon		

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TULARE COUNTY SHERIFF'S DEPARTMENT ~ 5400
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Det. Mark Lopez advised he had a possible investigative lead of two suspect identified as Michael Pike (DOB: 5-8-76) and Robert Pike (DOB: 2-16-75). Det. Lopez stated Robert and Michael Pike are known to be driving a blue Sedan vehicle. Det. Lopez stated the suspects were seen leaving in a blue Sedan Oldsmobile after the fifth robbery occurring at the Fairway Recycling Center on 6/27/01.

06/28/01 – 1425 Hours:

I composed two six-pack photo line-ups, one line up containing a photo of Michael Pike and a second containing a photo of Robert Pike. I contacted Edvwier Ponce at the A. D. Recycling Center. I advised Ponce to review the photo line-ups and select anybody he recognized as responsible for the robbery occurring on 6/22/01. Ponce reviewed both photo line-ups and stated he did not recognize anybody responsible for the robbery.

06/28/01 – 1545 Hours:

I received a phone call from Det. Mark Lopez. Det. Lopez stated he had received information regarding three possible suspects responsible for the robberies. Det. Lopez identified the suspects as Leo Palafox (DOB: 8/3/69), David Thatcher (DOB: 7/13/80), and Freddy Patino (DOB: 6/21/82). Det. Lopez requested I meet him at the A.D. Recycle Center.

06/28/01 – 1630 Hours:

I met with Det. Mark Lopez and Officer John Pree at the A.D. Recycle Center at 32792 Road 124, Visalia.

Officer Pree stated he was contacted today by Freddy Patino who stated he had located his car, a 1985 Buick Park Avenue (License #4NXP697) in front of the Marco Polo Lounge. Officer Pree stated Patino told him he had loaned his car last week to Gary Thatcher and Leo Palafox and they had not returned it. Officer Pree stated Patino stated a friend had located his car this morning in front of the Marco Polo Lounge and he went there and found it. Officer Pree stated Patino was concerned that Thatcher and Palafox may have been doing illegal activities with the use of the car.

Det. Lopez stated he composed three photographic line-ups, each line-up containing a photograph

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Det. D. Winslow / W0924	6/29/01	Crystal Blackmon		

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TULARE COUNTY SHERIFF'S DEPARTMENT ~ 5400
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of Palafox, Thatcher, and Patino. Det. Lopez stated he had contacted several of the victims from the Visalia robberies and Palafox and Patino had been identified as the suspects committing the robberies.

Det. Lopez and I then contacted Edvwier Ponce at the A.D. Recycle Center. I observed Officer Lopez identify himself to Ponce as a detective with the Visalia Police Department. Officer Lopez advised Ponce in Spanish that he was going to present to him several photo line-ups and he was to select anybody he recognized as responsible for robbing him. I observed Det. Lopez advised Ponce he was not obligated to select anybody from the photo line-up.

I observed Ponce review the three photo line-ups. I observed Ponce select the photo of Leo Palafox, #39137 on Visalia Police Department Photo Line-up #B. Ponce stated Palafox was the subject who confronted him, brandished a knife, and robbed him. I observed Ponce state he was positive in his identification as Palafox as the subject who robbed him.

6/28/01 – 1910 Hours:

Det. Lopez, Office Pree and I located Freddy Patino at the 24 Hour Fitness Center at 3515 S. Mooney Blvd. Det. Lopez contacted Patino and asked him to come to the Visalia Police Department for an interview. Patino agreed and rode in his own vehicle, a 1985 Buick Park Avenue, license number 4NXP697 to the Visalia Police Department.

6/28/01 – 1940 Hours:

Freddy Patino, Det. Lopez, Officer Pree and I arrived at the Visalia Police Department. I observed Det. Mark Lopez conducting an interview with Freddy Patino. The interview was recorded on a VHS system. During the interview I observed Det. Lopez advised Patino of his rights per Miranda and Patino waived them.

During the initial hour of the interview Patino repeatedly denied any involvement in any of the robberies and he refused to divulge his knowledge of the actions of Thatcher and Palafox.

After approximately an hour of watching the interview from another room, I entered into the interview room and joined Det. Lopez in the interview of Patino.

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Det. Lopez and I questioned Patino on his roll in the first robbery occurring on 6/18/01 at the Fairway Market Recycling Center. Patino stated he drove himself, Thatcher, and Palafox. Patino stated he parked his car on the south side of the market while he and Palafox stood as lookouts. Patino stated Thatcher confronted the clerk at the aluminum stand and robbed him. (Reference Det. Lopez Visalia P.D. report)

Det. Lopez and I then began questioning Patino of his involvement of the robbery occurring at the AD recycling facility at 32792 Rd. 124 on 6/22/01.

Patino stated he believed this robbery occurred on a Wednesday afternoon between 1100 and 1400 hours. Patino stated on this day he drove his blue Buick and David Thatcher was his passenger. Patino stated he and Thatcher planned to rob an aluminum recycle stand. Patino stated he does not know Visalia very well. Patino stated Thatcher took him to a recycle stand outside of Visalia possibly in Goshen or Dinuba. Patino stated after locating the recycling stand they drove around a couple of times and parked in a neighbor hood two or three streets away from the recycle stand.

Patino stated he and Thatcher walked from his vehicle to the recycle stand. Patino stated Thatcher jumped up into the trailer bed and confronted the victim. Patino stated the victim was Spanish speaking only and Thatcher does not speak Spanish. Patino stated he speaks Spanish and English and he told the victim to get down on the ground or he would get hurt. I asked Patino to explain how the victim would be hurt. Patino stated he believed Thatcher would stab the victim if the victim tried to jump out of the truck.

Patino stated the victim complied and laid down on the floor of the truck bed as he had ordered him. Patino stated he then jumped up in the truck bed as Thatcher stood over the victim. Patino stated he observed money sitting inside a square box or in a tin bucket sitting on top of a desk inside the trailer. Thatcher stated he grabbed all the money and shoved it into his pocket. Patino stated he observed Thatcher searching the victim who was lying on the floor. Patino stated he did not think Thatcher took anything from the victim.

Patino stated he and Thatcher then exited the truck bed and ran back to their vehicle. Patino stated he recalled running through an alley and possibly jumping over several yard fences in order to get back to the car.

REPORTED BY:	DATE/TIME:	TYPED BY:	REVIEWED BY:	DATE:
Det. D. Winslow / W0924	6/29/01	Crystal Blackmon		

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TULARE COUNTY SHERIFF'S DEPARTMENT ~ 5400
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I asked Patino how much money he took from the victim. Patino stated initially he believed he took $40 to $50 dollars. I advised Patino the sum lost by the victim was much higher. Patino stated he believed the figure was somewhere around $140 dollars however he did not count it. Patino stated he gave all the money to Thatcher who later repaid him with two $20 dollar bags of crank. Patino stated Thatcher also paid $5 or $6 dollars worth of gas that was later pumped into his car at a gas station.

6/28/01 – 2110 Hours:

I took a break from the interview while Det. Lopez continued interviewing Patino.

2120 Hours:

I returned to the interview as Det. Lopez was discussing with Patino a third robbery occurring on 6/20/01 at a recycle center located at 1137 S. Lovers Lane. Patino also admitted his involvement with this robbery.

Patino stated on Saturday 6/23/01 he returned to his mother's home after living a week with Thatcher and Palafox at a residence on Vine Street in Visalia. Patino stated during the entire week he was using methamphetamine and drinking malt liquor extensively. Patino stated after three robbery's he committed with Palafox and Thatcher, he decided he did not want to be with them any more so he returned home to his parents residence in Farmersville.

Patino stated he did not have any role in any robberies occurring in Farmersville and Visalia. Patino stated Palafox and Thatcher continued to have his car until it was located this morning in front of the Marco Polo Lounge.

Throughout the entire course of the interview, I observed Patino to be evasive and often lying as he tried to mitigate or deny his involvement in the robberies. Patino often stated he did not see what Palafox and Thatcher were doing. Patino often stated his memory was vague due to his excessive use of methamphetamine and drinking malt liquor.

Patino stated he has known Palafox for approximately 15 to 20 years and he has known Thatcher for only approximately the last two weeks. Patino stated he has learned Palafox and Thatcher are

REPORTED BY:	DATE/TIME:	TYPED BY:	REVIEWED BY:	DATE:
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SUPPLEMENTAL REPORT:

very angry with him for notifying the Visalia Police Department that he had located his vehicle. Patino stated he is very concerned for the safety of himself and his family and he believes Thatcher and Palafox may attempt to harm he and his family.

6/28/01 – 10 45 Hours:

I requested and Patino gave me verbal permission to search his vehicle, a 1985 blue Buick, license number 4NXP697 located at that time in front of the Visalia Police Department. Patino gave me verbal permission to search stating there were no narcotics or weapons in the vehicle. I searched the vehicle and did not locate any physical evidence relating to the crimes.

6/28/01 – 2310 Hours:

Patino and I returned to the interview room to clarify with Patino who assisted him on the robbery of the AD Recycle Center on 6/22/01. Patino previously identified Thatcher as the subject who committed this robbery with him, however victim Ponce identified Palafox in the photo line up as the subject who confronted and brandished the knife at him.

I asked Patino if he recalled his rights per Miranda as advised earlier by Det. Lopez. Patino stated he recalled having been advised his rights.

I asked Patino who was his crime partner at the AD Recycle Center . Patino stated David Thatcher was his crime partner that day who brandished the knife at the victim. I asked Patino if he was certain if it was Thatcher or possibly somebody else. Patino changed his statement stating he was uncertain if it was Thatcher or Palafox. Patino stated it could have been either one of them. Patino stated he was having difficulty remembering exactly who assisted him that day because at the time he was under the influence of methamphetamine and malt liquor. Patino stated prior to committing the robbery that day, during the morning hours he smoked two $20 dollar bags of crank and drank a quart of malt liquor. Patino stated the malt liquor was either Old English 800 or King Cobra.

I asked and Patino stated he is not trying to protect Palafox by wrongly accusing David Thatcher as the person who assisted him that day on that robbery. Patino stated he simply could not recall

VISALIA POLICE DEPARTMENT 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. A01-09239 01-09336 01-09750
CODE SECTION	CRIME	CLASSIFICATION
211 PC	ARMED ROBBERY	
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.

SUSPECT INFORMATION:

1. **THATCHER, DAVID**
   DOB 07/13/80

2. **PALAFOX, LEO**
   DOB: 08/03/69

3. **PATINO, FREDDY**
   DOB: 06/21/82
   ARRESTED: Yes

PERSON'S INTERVIEWED BY THIS OFFICER ON 06/28/01:

David Segura
DOB: 01/12/79
3005 E. Duran
Visalia, CA
625-9446

At approximately 1700 hours, 06/28/01:

I began assisting Det. M. Lopez, I88, Officer J. Pree, A104, and Det. Winslow of the Tulare County Sheriff's Office in the investigation of a series of armed robberies of Recycle Truck both in the Visalia and Tulare County area.

At approximately 2045 hours,

I escorted a David Segura, DOB: 01/12/79 into my office at the Visalia Police Department. It should be noted that Segura was with S/PATINO at the time PATINO was asked if he would come down to the Visalia Police Department. Segura provided me with the following statement. Segura states that he knows PATINO, because he works with him. Segura explained that there is a job site at Linwood and Cypress, where there are several laborers building a retirement home. Segura stated that he personally does drywall while FREDDY does general labor. Segura further explained that although they work for different people, he sees FREDDY at the job site almost everyday. Segura also stated

REPORTING/RECORDING OFFICER S. PUDER, S55	TYPED BY / COMPUTER # MG/125	DATE 06/30/01

FURTHER ACTION	COPIES TO		REVIEWED____
( ) YES	( ) DETECTIVE	( )T-BOLT	
( ) NO	(A) DISTRICT ATTORNEY	( )OTHER_____	
	7-2-01 SM	( ) JUVENILE	

VISALIA POLICE DEPARTMENT 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. A01-09239 01-09336 01-09750
CODE SECTION 211 PC	CRIME ARMED ROBBERY	CLASSIFICATION
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.

that he as known for FREDDY for approximately 3 to 4 months, that FREDDY generally works Monday through Friday 0630 to 1600 hours, while he works Monday through Friday 0700 to 1530 hours.

I asked Segura if PATINO had told him about a situation involving his vehicle. Segura stated that PATINO had. According to Segura, PATINO stated that on Monday 06/25/01 between 11 a.m. and 11:30 a.m., these two individuals known to David Segura only as Leo and David Thatcher came to the job site at Linwood and Cypress. Segura went on to state that he could tell they were pressuring PATINO to borrow his vehicle and although PATINO didn't really want to give them his vehicle, he buckled under the pressure and allowed them to take the vehicle. According to Segura, he told Leo and David Thatcher to be back by 1530 hours to pick him up. However, they did not return.

According to Segura, he and FREDDY got a ride to his sister's house where they used the phone and then FREDDY's brother picked them up and took them home. Segura stated that FREDDY's mom took them to the gym on Monday night and his [FREDDY's] mom said that she would take FREDDY to work tomorrow.

According to Segura, FREDDY complained the rest of the week about being afraid of these guys and that one of them was carrying a gun and in fact stopped by Wal-Mart to get bullets for his gun, and he was scared of this particular individual.

According to Segura, on the following Tuesday, 06/26/01, FREDDY was at the work site all day and that the [Segura] left at about 1530 hours and FREDDY was still there. According to Segura, that night, FREDDY's mom took them to the gym. Segura went on to state that on Wednesday, 06/27/01, FREDDY's mom took FREDDY to work that FREDDY was at the job site all day and that later that evening FREDDY's mom took both Segura and FREDDY to the gym.

Segura went on to state that on Thursday, 06/28/01, he was at work and an individual by the name of Marty Layer told him to go to the store to get some ice and some sodas between 7:30 a.m. and 8:00 a.m. According to Segura, he walked to the Beacon Station, at which time on the south side of the Marco Polo he observed FREDDY PATINO's vehicle. When Segura got back to the job site he told FREDDY PATINO that his vehicle was at Marco Polo and that he better call the cops and go pick it up. According to Segura, FREDDY PATINO went right to Marco Polo and got the vehicle.

REPORTING/RECORDING OFFICER S. PUDER, S55	TYPED BY / COMPUTER # MG/125	DATE 06/30/01

FURTHER ACTION	COPIES TO		REVIEWED_____
( ) YES	( ) DETECTIVE	( )T-BOLT	
( ) NO	(X) DISTRICT ATTORNEY	( )OTHER_____	
		( ) JUVENILE	

VISALIA POLICE DEPARTMENT 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. A01-09239 01-09336 01-09750
CODE SECTION	CRIME	CLASSIFICATION
211 PC	ARMED ROBBERY	
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.

I then began Segura in regards to the week prior, which would be the week of June 18th through the 22nd. According to Segura, he stated he seemed like these two individuals Leo and David Thatcher had showed up one time and borrowed FREDDY's vehicle while he was there. According to Segura, he knew FREDDY was using Crank on this particular week, because he appeared to be under the influence while at work. Segura stated that he knew this because at one time he was a drug user himself, and it was apparent to him. According to Segura, he also heard PATINO's boss identified only as Bill, chewing him out about coming to work late and leaving early.

Segura did state that it seemed like PATINO missed at least one day in this particular week and again as far as Segura could remember, he believed that PATINO did not put in a full 8 hours of work each day. He felt that he could have been missing some of those times.

I asked Segura if FREDDY PATINO ever mentioned to him anything that these individuals Leo and David Thatcher were involved in. According to Segura, he recalls PATINO stating that they were pressuring him for money to pay the rent, however they never mentioned being involved in any robberies. Segura did state that PATINO told him that he was driving around with these two individuals last week around 2 a.m. and one of the individuals talked about wanting to pull a robbery, however, according to PATINO they did not pull a robbery. Segura stated that he had no further information in regards to this investigation. Segura made no further statement.

Recommendation: Forward a copy of this report along with the other reports related to this investigation to the Tulare County District Attorney's Office as PATINO is in custody. No further information.

REPORTING/RECORDING OFFICER S. PUDER, S55		TYPED BY / COMPUTER # MG/125	DATE 06/30/01
FURTHER ACTION ( ) YES ( ) NO	COPIES TO ( ) DETECTIVE (X) DISTRICT ATTORNEY	( )T-BOLT ( )OTHER_____ ( ) JUVENILE	REVIEWED_____

TULARE COUNTY SHERIFF'S DEPARTMENT SUPPLEMENT - FOLLOW-UP REPORT	CASE NUMBER 01-10229
CRIME: 211 P.C.	CLASSIFICATION: Felony
VICTIMS NAME: David Vargo	ADDRESS: 2734 W. Caldwell, Visalia

DATE/TIME: 6-30-01/1500 Hrs I CONTACTED David Vargo
[ ] BY PHONE [in person] IN PERSON AT:30602 Rd 68 Goshen
[ ] NO FURTHER INFO [] THE FOLLOWING:

Narrative:

6-30-01/1434 Hrs.

Deputy J. Lee and myself were dispatched to U.S.A. Market 30602 Rd 68 Goshen regarding a armed 211 P.C. in progress.

6-30-01/1439 Hrs.

Deputy Lee and myself arrived and saw (V2) David Vargo standing in the parking lot of the market. He advised Deputy Lee and myself the unknown suspects had fled on foot southbound on Rd 68. Deputy Lee and I checked the area with negative results. I secured the crime scene in front of the market doors and the alley entrance southeast of the market with yellow crime scene tape.

6-30-01/1500 Hrs.

I spoke with (V2) David Vargo, DOB 9-23-63 and he stated he stopped at the U.S.A. Market on 6-30-01/1430 Hours. He said his girlfriend (W) Verna Atilano, DOB 8-23-69 and his two year old son Cody Vargo waited in their 1990 Plymouth Voyager van parked directly in front of the market doors. (V2) David told me he walked into the market and saw two unknown subjects standing behind the counter. David described (S1) as a white male adult, early 20's, 5'10" approximately 160 lbs., dark baseball style cap, dark t-shirt, blue jeans and a red bandana covering most of his face. David described (S2) as a hispanic male adult, early 20's, 5'6" approximately 160 lbs., dark baseball style cap, dark t-shirt, blue jeans and a bandana covering most of his face. David said (S2) was pointing a handgun towards (V1) a unknown person laying face down on the floor. David stated as he walked past the counter, (S1) pointed a rifle at him and told him to get on the floor or he would "blow your fuckin' head off". David said he laid down on the floor, second isle from the south wall and approximately 10' east of the counter. (S1) came out from behind the counter, placed the gun at the back of David's head demanding his money. David reached into his left front pants pocket and removed cash totaling $29.00. David stated as he gave the money to (S1), he heard (S2) yell not to turn his head around or he was going to shoot. David said he was unsure if (S2) was talking to him or (V1). David said he

REPORTING DEPUTY:
J. McMahan #1877
DATE/TIME: July 1, 2001 (12:59pm)

REVIEWED BY:

TULARE COUNTY SHERIFF'S DEPARTMENT	*CASE NUMBER*
SUPPLEMENT - FOLLOW-UP REPORT	01-10229
CRIME: 211 P.C.	***CLASSIFICATION:*** *Felony*
VICTIMS NAME:	***ADDRESS:***
David Vargo	2734 W. Caldwell, Visalia

DATE/TIME: *6-30-01/1500 Hrs* ***I CONTACTED*** *David Vargo*
[ ] BY PHONE *[in person]* ***IN PERSON AT:*** *30602 Rd 68 Goshen*
[ ] NO FURTHER INFO [] THE FOLLOWING:

Narrative:

stayed on the floor one or two more minutes. David stated when the suspects left, he got up from the floor and ran outside to where his family was waiting. David said he and his family drove south on Rd 68, east on Ave 306 approximately 50 yards to a alley. David said he saw the suspects running northbound down the alley. David stated he drove his family directly back to the market and waited for T.C.S.O. to arrive.

6-30-01/1520 Hrs.

I spoke to (W) Verna Atilano and she stated she was standing on the passenger side of their van. She said (S2) a hispanic male adult with a bandana covering his face came out of the market carrying a handgun. She stated (S2) put the handgun into a small cardboard box as he walked south past her. She told me as (S2) stopped at the payphone approximately 30' south of her, (S1) a white male adult with a bandana covering his face came out of the store. He was carrying a gun resembling a rifle. She stated as he walked past her he was putting the gun into a cardboard box. She said she watched (S2) wait for (S1) at the payphone. When (S1) reached the payphone, both of them ran southbound along Rd. 68.

(V2) David Vargo
2734 W. Caldwell, Visalia
Home # 732-6522
Work # 651-8370 (Gang Nails Truss Co.)

(W) Verna Atilano
2734 W. Caldwell, Visalia
Home # 732-6522

(V1) Mike Alrhimi
30602 Rd. 68
Goshen

(For further details refer to Deputy Lee's report)

REPORTING DEPUTY:
J. McMahan #1877
DATE/TIME: July 1, 2001 (12:59pm)

REVIEWED BY:

Suspect description:

S-1: Hispanic male, 25-29 years of age, 6-0, 160 lbs, shaved head, bro eyes. Wearing black shirt, black hat, red bandanna over face. No facial hair seen and no seen tatoos. Carrying unknown type black handgun in right hand.

S-2: white male, 20-25 years of age, 5-3 to 5-5, 140-150 lbs., green eyes. Wearing Black shirt, black hat, blue denim jeans and red bandanna over face. No Facial hair seen and no visible tatoos. Carrying a possible shotgun or .22 cal. rifle with his right hand around the trigger area.

Crime Scene:

The USA Market is a convenience store which sits at 30602 Rd. 68. The business is located on an asphalt lot on the northeast corner of Rd. 68 and Ave 306 in Goshen. The front of the business faces to the west and the rear on the business in to the east. The only access to the interior of the business is through two plate glass doors located in the front of the business. The business is also under video surveillance. There is a dirt field which is on the north side of the business and a dirt alleyway which runs behind the business on the east side. Rd. 68 runs along the west side of the business and Ave 306 runs along the south side of the business.

Narrative:

6-30-01/1434 hrs.,

I was dispatched to 30602 Rd. 68, V-3 USA Market, regarding an armed robbery in progress inside the market. I was advised that two subjects were inside the market holding the clerk at gunpoint.

1439hrs.,

I arrived on scene along with Deputy John McMahon who was riding in my unit. We cleared the market and insured it was clear. I then directed Deputy McMahon to place crime scene tape around the market to preserve the crime scene while I contacted the clerk V-1 mike Alrhimi.

V-1 Mike Alrhimi's statement:

V-1 Mike stated that he was inside the store helping customers at the check stand. V-1 Mike stated that his younger brother Arafat Alrhimi was also inside the store standing by the front doors. V-1 Mike stated that he observed S-1 standing by the payphone on the south side of the market parking lot. V-1 Mike stated that he also saw S-2 standing behind to the side of S-1.

V-1 Mike stated that he had helped the last customer in line and when the store was empty he started cleaning the around his counter. V-1 Mike stated that S-1 entered the store and pulled a red bandanna over his face. S-1 pointed an unknown type black handgun out and pointed it at V-1 Mike. V-1 Mike was ordered to open the store cash register at which time he opened the drawer.

V-1 Mike stated that he did not see S-2 enter the store but as he opened the cash register drawer S-2 came up behind him and held a gun to his head and ordered him to prone out on the floor. V-1 Mike stated as he got down on the floor S-1 came around the opposite side of the counter and placed his foot on V-1 Mike's neck as he held the handgun to the side of his head. S-2 then removed around $1600.00 in cash from the cash register.

V-1 Mike stated that S-1 demanded that he be given the video surveillance video. V-1 Mike stated that he tried to act like he didn't know what S-1 was talking about. S-1 stated " Don't fucking play stupid with me, If you don't tell me I'll blow your brains all over the store." V-1 Mike stated that he pointed to the location where the VCR was located and S-1 removed the video tape from the recorder.

S-1 started looking through other cabinets in the store and removed a box containing 26 cartoons of cigarettes he had just purchased for the store. S-1 took the video and placed it in the box of cigarettes. S-1 then order V-1 Mike to give him all his jewelry. V-1 Mike stated that he gave S-1 his gold wedding ring which had eight small diamonds and a fake gold watch he was wearing. S-1 also removed V-1 Mike's wallet from his right rear pocket and 8 one hundred dollar bills that V-1 Mike had in his right front pocket.

V-1 Mike stated that S-2 observed a customer, V-2 David Vargo, start to walk to the front door at which time V-1 Mike was ordered to the rear of the store and again proned out in the rear of the store. V-1 Mike stated that he heard the subjects yell at V-2 Vargo bu t was unable to see what was going on. V-1 mike stated that he heard S-1 and S-2 run from the building at which point he ran to the counter and hit his 211 alarm.

V-1 Mike looked around the store and found the cash from the register, the cigarettes, the video tape and a .380 semi-auto handgun was taken from the store in addition to his personal items taken. V-1 Mike stated that V-2 Vargo stated that he had cash taken from him also. (Refer to Deputy McMahon's supplement for V-2 Vargo's statement).

V-1 mike stated that he has seen S-1 around the store in the past but does not know a

name. V-1 Mike stated that he would be able to identify S-1 if he saw him again. V-1 Mike described S-1 as being a Hispanic male 25-29 yrs. of age with a shaved head. S-1 was 6-0 and around 160 lbs with brown eyes. S-1 was wearing a black shirt and black hat with a red bandanna covering his face. S-2 was a white male around 20-25 yrs. of age whit a shaved head. S-2 was 5-3 to 5-5 and around 140-150 lbs and green eyes. S-2 was wearing black hat, black shirt, blue jeans and also had a red bandanna over his face.

V-1 Mike stated the he believed that S-2 was carrying some type of shotgun but later stated that he believed the rifle was a .22 cal. rifle or possible a pellet gun.

V-1 mike stated that the S-1 and S-2 were inside the market for about 4 minutes. V-1 Mike stated that they had left he market about 3 minutes prior to my arrival at the store.

Investigation:

Deputy McMahon and Deputy Mark Webb checked around area and found several shoe tracks leading to the store from the south and also the same tracks going through the alleyway which V-2 Vargo last saw S-1 and S-2 running to. I briefed Sgt. McElhaney of the situation at which point he requested crime lab and Detective Winslow respond. I then preserved the scene until crime lab arrived.

During the course of waiting for crime lab the surveillance tape was located in the rear alleyway. Deputy McMahon and Deputy Webb contacted several subjects in the area and took witness statements. (Refer to both supplements).

I attempted to locate any weapons registered to V-1 Mike to obtain a serial number for the handgun taken. V-1 Mike stated that the weapon was not in his name but was either in his dads, Abdula Alrhimi DOB 12-29-54, or Ahemede Alrhimi. Dispatch was unable to locate the weapon under Abdula name and was unable to check Ahemede since he had no known date of birth. V-1 Mike stated that Ahemede was in Saudi Arabia and he would be unable to contact him to get a DOB.

Witness statements:

I contacted W-2 Arafat Alrhimi who stated that he was in the store standing next to the front doors. W-2 Arafat stated that he saw S-1 standing by the payphone. W-2 Arafat stated that when the last of the customers left the store S-1 and S-2 entered the store and pulled masks over there faces and pulled out guns. W-2 Arafat stated that he immediately ran out of the store and ran to his residence and called 911. W-2 Arafat stated that he then stayed inside his residence until we contacted him.

REPORTING DEPUTY:
Deputy John Lee
DATE/TIME: July 1, 2001 (9:26AM)

REVIEWED BY:

I turned the scene over to Detective Galavez from crime lab and briefed Detective Winslow on what I had found. I then cleared the call.

Case Status: Active

Copy to Detective Doug Winslow (N/E Property Detectives)

REPORTING DEPUTY:
Deputy John Lee
DATE/TIME: July 1, 2001 (9:26AM)

REVIEWED BY:

VICTIM:

(V1) U.S.A. Market
30602 Road 68, Goshen, CA
651-3361

(V2) Alrhimi, Mike
DOB: 10/05/77
30602 Road 68, Goshen
651-3361

(V3) Vargo, David
DOB: 09/23/63
2734 W. Caldwell, Visalia
732-6522

SUSPECT:

(S1) Palafox, Leo Camarena
DOB: 08/03/69
Hispanic male adult, 6'3", 140, black hair, brown eyes

(S2) Thatcher, David
DOB: 07/13/80
White male adult, 5'10", 135, brown hair, hazel eyes

PERSONS CONTACTED:

(1) Dep. John Lee
Tulare County Sheriff's Office (TCSO) Head Quarters Patrol

(2) Det. Chris Galvez
TCSO Crime Lab Unit

(3) Alrhimi, Arafat
DOB: 08/09/89
30602 Road 68, Goshen, CA
651-3919

(4) Reynolds, James
DOB: 09/28/40
6844 Ave. 306, Goshen
651-2628

(5) Stillwell, Doug
DOB: 07/07/65
6868 Ave. 306, Goshen
651-0221

(6) Little, Raymond
DOB: 04/10/80
6868 Ave. 306, Goshen
651-0221

(7) Atilano, Verna
DOB: 08/23/69
2734 W. Caldwell Ave., Visalia
732-6522

(8) Agent Alan Whiteman
Visalia Police Department

(9) Guerra, Anita
DOB: 04/11/63
916 W. Sonora, Tulare, CA

(10) Ortiz, David
DOB: 03/28/59
916 W. Sonora, Tulare, CA

NARRATIVE:

06/30/01 – 1445 Hours:

I received a phone call from Tulare County Dispatch advising me a 211 P.C. had occurred at 1430 hours, this date, at the U.S.A. Market located at 30602 Road 68, Goshen. I was advised a white male adult and a Hispanic male adult armed with a shotgun and a pistol entered the market and robbed the clerk taking the amount of $2,400.00. I was advised the suspects also took cartons of cigarettes and the victim shopkeeper's .380 chrome semi-automatic handgun.

I recognized the suspects description to be consistent with a series of robberies occurring in the Visalia and the county areas during the past two weeks. Suspects Leo Palafox and David Thatcher had previously been identified as the subjects responsible for these armed robberies. Reference TCSO Case # 01- 9813.

06/30/06 – 1555 Hours:

I arrived on scene at the U.S.A. Market and I contacted Dep. John Lee. Dep. Lee stated store clerk, Mike Alrhimi and his brother Arafat Alrhimi were in the store alone when a Hispanic male adult and a white male adult entered the store, both wearing red bandana's covering their face, armed with a shotgun and a black handgun.

Dep. Lee stated Arafat Alrhimi ran out of the store and called 911 from his home. Dep. Lee stated Mike Alrhimi was ordered down on the floor and was ordered to disclose the location of the store VHS recording system and where his own personal handgun was located. Dep. Lee stated the suspects took the video cassette from the VHS recording system and the victim's .380 chrome handgun located under the counter below the cash register.

Dep. Lee stated the suspects also took Mike Alrhimi's personal jewelry and $740.00 dollars of cash from his pocket. He stated they also took a store money bag and cash from the register for a total cash loss of approximately $2,400.00.

Dep. Lee stated customer David Vargo entered the store during the robbery and was ordered down on the floor. Dep Lee stated the suspects took approximately $28.00 from Vargo's pants pockets. Dep. Lee stated the suspects then left the market. Dep. Lee stated Vargo attempted to follow the suspect in his vehicle and believed he observed them running north bound through an alley located behind the store.

Dep. Lee stated Mike Alrhimi located the VHS video was lying on the corner of Ave. 306 and Road 68. Dep. Lee stated shoe tracks were located in the alley and in front of the store market near the payphone where the subjects were believed to have been loitering prior to entering the store. Dep. Lee stated the alley had been taped off for evidence preservation. Dep. Lee stated Mike Alrhimi recovered the video and it has since been released to Dep. Galvez with the Crime Lab Unit.

Dep. Lee stated Det. Galvez had arrived prior to my arrival and has begun processing the interior of the store for evidence. Dep. Lee stated the store was closed down upon his arrival and no customers have been in the store since.

06/30/01 – 1615 Hours:

I contacted Det. Galvez inside the store. Det. Galvez stated prior to my arrival, she collected the video from Mike Alrhimi which he reported to her that he had found near the intersection of Ave. 306 and Road 68. Dep. Galvez stated she has photographed the interior and exterior of the store, including the register and the VCR. Det. Galvez states she also collected a second VHS tape located on a grocery shelf on north side of the store. Det. Galvez stated victim, Mike Alrhimi stated one of the suspects placed the video on the shelf.

Det. Galvez and I began processing the exterior of the business for physical evidence. Det. Galvez dusted the phone booth located on the south side of the parking lot. Det. Galvez and I then located a cluster of shoe tracks of two different patterns located several feet south of the payphone next to a chainlink fence. Det. Galvez and I observed both sets of she tracks traveling two directions. Det. Galvez and I followed the tracks to the intersection of Ave. 306 and Road 68. Det. Galvez and I then continued following the shoe tracks east along the north side of Ave. 306. Det. Galvez and I observed the shoe tracks turn north into the alley located behind the market. Det. Galvez and I observed though out the entire trail, two sets of shoe tracks traveling in opposing directions. Det. Galvez photographed numerous shoe tracks with a 1 to 1 track camera, a 35 mm camera, and a digital camera. (Refer to Det. Galvez's report for further.)

06/30/01 – 1755 Hours:

I conducted the following taped interview with Arafat Alrhimi in the front seat of my car. Arafat Alrhimi stated he is currently 11 years of age and he attends Goshen School and he is the 6th grade. Arafat stated he and his family live in a house attached to the rear of the U.S.A. Market. Arafat stated Mike Alrhimi is his older brother.

Arafat stated this afternoon, he and his sister, Summer, were playing in the parking lot of the market. Arafat stated Summer wanted to go into the house and she went to the house by first going through the front yard gate and then into the house. Arafat stated that Summer did not see any of the events that transpired afterward.

Arafat stated he observed two subjects standing near the payphone. Arafat stated the one subject was a Hispanic male adult wearing black jeans, a black shirt and a red bandana was tied around his neck. Arafat stated the subject had a moustache and short brown hair. Arafat stated the second subject was a white male adult who was leaning on the chainlink fence approximately five feet south of the payphone. Arafat could not describe the subject's clothing, however, he recalled him wearing a white bandana on his head. Arafat stated the subject kept looking down at the ground.

Arafat stated he went inside the store to get some water and observed that only he and his brother, Mike, were in the store. Arafat stated he was standing at the doorway when both subjects came walking into the store. Arafat stated both subjects had pulled their bandanas over their noses and mouths concealing most of their faces. Arafat stated both of the subjects had guns. Arafat stated the Hispanic male was carrying a black revolver pistol. Arafat stated the white male was carrying a three foot long rifle with a small hole in the end of the barrel. Arafat stated he was uncertain if the rifle was BB gun or a rifle.

Arafat stated both subjects pointed their guns at Mike who was standing behind the cash register. Arafat stated the Hispanic male told Mike to open the cash register and he recalled Mike replying, "Okay". Arafat stated Mike then raised his hands above his head.

Arafat stated he immediately became scared for his safety and the safety of his brother Mike. Arafat stated he knew the subjects were robbing the store and he immediately ran out the front door. Arafat stated he ran through the front yard gate and into his home where he called "911". Arafat stated he remained inside the house until the Sheriff's Deputies arrived.

06/30/01 – 1818 Hours:

I contacted Emma Martinez who arrived at the U.S.A. Market and stated she believed she had seen part of the robbery and agreed to provide the following taped statement. Martinez stated she was visiting her sister, who lives across the street from the U.S.A. Market at 30607 Road 68.

Martinez stated this afternoon she was at her sister's house visiting. Martinez stated she was in the front yard playing with her two year old brother and her three year old nephew.

Martinez stated all three of them were playing with a water hose. Martinez stated occasionally while playing with the two boys, she looked up and across the street and she observed a large semi-tractor trailer parked in front of the U.S.A. Market blocking the front of the parking lot. Martinez stated she could, however, see the payphone located on the south side of the parking lot and the chainlink fence extending south from the parking lot along Road 68.

Martinez stated she observed two male subjects loitering near the payphone. Martinez stated one subject of an unknown race was using the payphone and th second subject was a white male adult in his early 30's leaning against the chainlink fence approximately five feet south of the payphone. Martinez stated the subject at the phone picked up and put down the phone several times over a three to five minute period.

Martinez stated she observed a neighborhood boy whom she identified as Raymond, approximately age 16, walking west bound on Ave. 306 and turned north of Road 68. Martinez stated she observed Raymond speaking to the white male briefly. Martinez stated she did not know if Raymond recognized either of the two subjects.

Martinez stated she was not paying attention during this period and she did not think anything of the activity she had witnessed.

Martinez stated approximately two minutes later, she looked across the street and saw Raymond had gone. Martinez stated she observed both subjects who were previously standing near the phone booth running south on Road 68. Martinez stated she observed the white male carrying a box and the second subject whom she had previously seen at the payphone was running behind him with a mask covering his face. Martinez stated she observed this subject carrying an object which appeared to be a bat in his left hand. Martinez stated she observed both subjects turn south on Road 68 and turn east on Ave. 306 and disappear down the street.

Martinez stated several minutes later, deputy sheriff's arrived on scene. Martinez stated she also observed Raymond return to the store, remain there for several minutes, then leave. I requested Martinez to take me to the residence of Raymond. Martinez directed me to the residence of 6868 Ave. 308 stating this was Raymond's home.

6/30/01 – 1843 Hours:

I contacted Arafat Alrhimi for a second taped statement.

I advised Arafat Alrhimi that I would like to have him review some photographs for possible suspect identification. I read to Alrhimi the photographic line up instructions. I then presented to Arafat Alrhimi the Visalia Police Department photo line up number A containing a photograph of David Thatcher and line up number B containing a photograph of Leo Palafox. Arafat reviewed both the photo line ups and identified photo number 4 in line up number B of Leo Palafox stating this is the subject he observed standing at the payphone with the white male adult and who came in the store with the handgun. Arafat made no selection on line up page number A.

6/30/01 – 1847 Hours:

I contacted Mike Alrhimi and we conducted the following taped interview in the front seat of my car.

Alrhimi stated this afternoon he was working at the U.S.A. Market which is owned by his father. Mike stated his 10 year old brother Arafat was also at the store with him. Alrhimi stated he was standing behind the counter in front of the register. Alrhimi stated the counter area is elevated approximately 10 inches above the level of the market floor allowing him a better view outside. Alrhimi stated he was looking through the front window and he observed a semi tractor trailer parked in front of the store parking lot. Alrhimi stated he observed a black male truck driver talking on the payphone while a Hispanic male waited nearby at the payphone.

Alrhimi stated he recognized the Hispanic male, later identified as Leo Palafox as a customer he saw approximately two weeks ago. Alrhimi stated Palafox came to the store approximately two weeks ago. Mike stated he had not seen Palafox as a customer in the store in approximately three months prior and during that time two weeks ago, he briefly talked to Palafox asking him how he had been. Mike stated Palafox purchased a package of cigarettes. Mike Alrhimi stated Palafox drove to the market in a faded blue, four door, Cadillac type Sedan vehicle. Mike stated Palafox was accompanied by a white male adult with a shaved head and two other people who remained in the car and he could not see them. Mike stated he has not seen Palafox or the white male subject or the vehicle since that day approximately two weeks ago.

I presented to Mike Alrhimi a photograph of Freddie Patino's blue, 1985 Buick Parkway, license number 4NXP697. Mike reviewed the photo and stated he believed this was the same vehicle he saw Palafox with at the store two weeks ago.

Mike Alrhimi and I then refocused our interview on the events that transpired today. Alrhimi

stated he has always been suspicious of Palafox, although he has never known him by name. Alrhimi stated he observed the black truck driver hang up the phone and walk to his rig and drive away. Alrhimi stated he had very few customers at the store at the time. Alrhimi stated Palafox went to the phone and picked it up indicating he was making a phone call. Alrhimi described Palafox's appearance today as a tall, bald shaved head, skinny with an approximate weight of 160 pounds, with a wrinkled face and numerous acne pock marks. Alrhimi stated Palafox was wearing a black cap, a black T-shirt and a red bandana tied around his neck.

Alrhimi stated after the last customer left the store he decided to remove a drip pan from the deli display which contained hot dogs and burritos. Alrhimi stated he touched the pan and realized it was too hot to handle and then returned to the cash register to get a towel. Alrhimi stated at that time he observed the Hispanic male adult identified as Palafox and a second subject, a white male adult, enter into the store carrying fire arms. Alrhimi stated Palafox was carrying a black pistol and his bandana previously around his neck had now been pulled up covering his mouth and nose. Alrhimi stated the second subject, the white male adult, was approximately 5'3", 140 pounds, bald shaved head, green or blue eyes, wearing a red bandana pulled up around his face covering his mouth and nose. Alrhimi stated the white male adult was carrying what he believed to be a cut down sawed off shotgun.

Alrhimi stated when he saw the subjects he was standing behind the cash register. Alrhimi stated Palafox pointed his handgun at him and told him to open the cash register. Mike stated the he touched the N/S button (no sale) and the register drawer opened. Alrhimi stated Palafox told him "put your hands up and turn around" and he complied. Alrhimi stated the white male subject lifted up the swing up counter and stepped up behind the counter with him. Alrhimi stated Palafox walked around to the other side of the counter and came through a swinging door. Alrhimi stated the white male told him to lie down on the floor or he would shoot him. Alrhimi stated he got down on his knees and then laid flat down on the floor. Alrhimi stated Palafox approached him and placed one of his feet on the back of his neck pressing him into the floor.

Alrhimi stated he could feel Palafox place the barrel of his gun to the back of his head. Alrhimi stated Palafox told him "Tell me where the video tape is or I will shoot you." Alrhimi stated he initially denied to Palafox that there was any video tape. Alrhimi stated Palafox told him he was lying and at that time Alrhimi pointed to the VCR cabinet located at the North end of the counter. Alrhimi stated he remained lying on the ground as the white male subject stood over him with a shotgun. Alrhimi stated Palafox went to the cabinet located under the counter, opened the door and removed the VHS tape from the VCR. Alrhimi stated Palafox also discovered a box containing approximately 20 cartons of cigarettes under the counter

and he picked that up.

Alrhimi stated Palafox returned to him and bent down placing his knee or his foot on the center of Alrhimi's back. Alrhimi stated Palafox began searching him and he located $740.00, consisting seven $100.00 bills and two $20.00 bills in his right front pocket. Alrhimi stated Palafox took the money from his pocket. Alrhimi stated Palafox then located his wallet in the right rear pocket and took it also. Alrhimi stated his wallet contained no cash, only his social security card, drivers license and personal photos. Alrhimi stated Palafox demanded him to give him his watch. Alrhimi stated he lifted his left hand off the ground and Palafox unbuckled his watch and took it. Alrhimi stated Palafox then tried to remove his wedding band off of his left hand ring finger. Alrhimi stated Palafox was having difficulty so he removed it from his hand and gave it to Palafox. Alrhimi stated during this period he could hear the white male behind him emptying the money from the cash register.
Alrhimi stated Palafox then demanded to know where his gun was located. Alrhimi stated he initially denied, stating he had no gun. Alrhimi stated he realized he had a chrome 380 handgun located on the shelf below the cash register in plain view and he believed Palafox or his partner would find it. Alrhimi stated he then told Palafox the gun was under the counter. Alrhimi stated Palafox had difficulty locating the gun and then again demanded to know where it was. Alrhimi stated he turned his head around and pointed directly to a location under the counter several feet behind him. Alrhimi stated at that time he observed the white male adult standing over him pointing his cut down rifle or shotgun at his head from a distance of approximately one foot. Alrhimi stated he realized the white male was not carrying a shotgun instead possibly a BB gun or a small caliber rifle. Alrhimi stated the barrel had a small diameter hole.

Alrhimi stated Palafox located the chrome 380 semi automatic handgun under the counter and he took it. Alrhimi stated Palafox also located a blue Bank of America money bag under the counter containing all the earning from Friday, 6/29/01.

Alrhimi stated moments later he heard a vehicle pulling in front of the market. Alrhimi stated Palafox then grabbed him up and ordered him to go to the rear Northeast corner of the market and lie down. Alrhimi stated Palafox asked him if he had anything else on his person, and Palafox began to search him a second time.

Alrhimi stated meanwhile, the white male adult remained at the front of the store and he heard him confront a customer walking in the front door. Alrhimi stated he heard the white male subject telling the customer to get down on the floor. Alrhimi stated he could not see because several display isles were blocking his view.

Alrhimi stated after Palafox completed searching him and Palafox left him. Alrhimi stated he waited a short while, he did not hear either suspect in the store anymore and he then got up. Alrhimi stated the customer told him the subjects had run South. Alrhimi stated the customer and his wife then got into their van and they drove South around the block looking for the suspects. Alrhimi stated several moments later the customer victim (later identified as David Vargo) returned to the market stating the suspects ran into an alley behind the market. Alrhimi stated he then pushed the panic alarm button and then made a follow up telephone call to 911 to report the robbery.

Alrhimi stated he estimated the cash lost from the cash register and the money bag to be approximately $1300.00 cash and $400.00 worth of checks. Alrhimi stated this loss was the total earning of the market for Friday, 6/29/01, and Saturday, 6/30/01.

6/30/01 – 1944 Hours:

Alrhimi stated he believed he could identify the Hispanic male subject he saw loitering outside the market at the payphone and moments later enter the store carrying a black handgun.

I read to Alrhimi the photographic line up instructions. I then presented to Alrhimi the Visalia Police Department photo line ups number A and B. Alrhimi reviewed photo line up number A and made no selection. Alrhimi reviewed photo line up number B and selected photo number 4 of Leo Palafox. Alrhimi stated Palafox was the subject whom he observed loitering near the payphone outside the market. Alrhimi stated Palafox then entered the market carrying a black revolver and robbed him.

6/30/01 – 1955 Hours:

I contacted James Reynolds at his residence of 6844 Avenue 306, Goshen, California. I identified myself to Reynolds as a detective with Tulare County Sheriff's Office and I was conducting an investigation of a robbery occurring at the USA Market.

Reynolds stated this afternoon he walked to the market located approximately one block from his residence. Reynolds stated as he was walking west on Avenue 306, he observed a gray or silver, early 1980's Dodge four door sedan parked on the south side of Avenue 306 approximately 30 to 50 feet east of Road 68. Reynolds stated he observed two subjects sitting in the front seat of the vehicle in the passenger seat and the middle seat, however nobody was sitting behind the drivers wheel. Reynolds stated he could not see the occupants faces or even attempt to identify them. Reynolds stated he continued walking on to the store where he made a purchase. Reynolds stated approximately five minutes later

he began walking home the same route he took. Reynolds stated he observed the gray or silver sedan still sitting on the south side of Avenue 306 and the occupants were still inside the front seat passenger and center seats. Reynolds stated he passed the car thinking nothing of it and returned home.

Reynolds stated approximately 20 to 30 minutes later he saw Sheriffs Deputies placing crime scene tape across the alley located between his home and Road 68. Reynolds stated he was uncertain if the vehicle was involved with the robbery occurring at the market.

6/30/01 – 1955 Hours:

I contacted Doug Stillwell at his residence of 6868 Avenue 306. I identified myself to Stillwell as a detective with Tulare County Sheriffs Office. I advised Stillwell I was conducting an investigation of a robbery occurring at the USA Market. I advised Stillwell that I was looking for a boy named Raymond reported to live at this residence. Stillwell identified Raymond as his stepson Raymond Little, age 17.

Stillwell stated Little was taken by his mother, Tina Stillwell to the Roller Towne skating rink this evening so he could attend an all night skating party. Stillwell stated I could contact Little at Roller Towne tonight.

6/30/01 – 2040 Hours:

I contacted Raymond Little at the Visalia Roller Towne skating rink. I identified myself to Little as a detective with the Tulare County Sheriff Office. I advised Little I was conducting a robbery investigation occurring at the USA Market. Little stated he knew the USA Market had been robbed this afternoon.

Little stated he walked from his home to the USA Market sometime between 1300 and 1400 hours today. Little stated he was accompanied by a 10 year old boy named Caleb who spent last night at his house. Little stated Caleb's parents are good friends of his stepfather and his mother and they agreed to babysit him this weekend.

Little stated he and Caleb went into the market and they purchased chocolate ice cream bars. Little stated as he left the market he passed a male subject of an unknown race standing at the payphone. Little stated the subject was approximately 30 years old and 5'9. Little stated he could not recall the subjects clothing and he did not stop to talk with him. Little stated he and Caleb continued walking south along Road 68 and turned east on his street Avenue 306.

Little stated as he was passing the alley that runs behind the market he contacted a guy he knows as Dave who works at the trailer manufacturing plant located at the south/east corner of Avenue 306 and Road 68. Little stated he regularly sees Dave walking to the market on a daily basis to make a purchase during his break. Little stated he and Dave stopped and briefly said hello to each other and how they were doing. Little stated he and Caleb continued walking home and Dave continued walking towards the market.

Little stated he did not know who was responsible for committing the robbery at the USA Market. Little stated he had no role in the robbery of the USA Market and he did not believe Dave had any role in the USA Market robbery.

I presented to Little Visalia photo lineups A & B. Little reviewed the lineups and stated he did not recognize any of the photos as the subject he saw loitering the payphone from the market.

I directed Little's attention to a photo of David Thatcher and asked him if this was the subject he knows as "Dave" who works at the trailer manufacturing plant. Little reviewed the photo and stated this was not the subject he knows as Dave.

6/30/01 – 2145 Hours:

I contacted David Vargo at his residence of 2734 W. Caldwell Avenue, Visalia, California. I identified myself to Vargo as a detective with the Tulare County Sheriff's Office. I advised Vargo I was conducting a criminal investigation regarding the robbery of the USA Market and I understood that he also was a victim of a robbery at the market.

Vargo stated that he and his girlfriend, Verna Atilano, and their two year old son attended his company picnic at Gangnail Panel Division which is located in Goshen. Vargo stated he and his wife and son left the company picnic at approximately 1430 hours. Vargo stated he decided to go to the USA Market and he drove his passenger van with his wife in the front seat and son in the back to the market. Vargo stated he arrived at the USA Market and observed no vehicles in front except the owner's car. Vargo stated he regularly goes to the USA Market during his lunch break at Gangnail Panel Division. Vargo stated he knows the owner Mike and when he arrived he saw Mike's green Thunderbird parked in front of the market. Vargo stated nothing appeared abnormal and he went inside the market leaving his wife and son in the van.

Vargo stated as he walked into the market he observed one of the front double doors to be open and the other closed. Vargo stated when he walked in he did not see anything abnormal at first. Vargo stated suddenly he realized he had walked in on a robbery. Vargo

stated he observed a White male adult with a bald head wearing a black baseball cap and a red and white bandana around his face. Vargo stated he observed the White male carrying a shotgun. Vargo stated the White male was shoving unknown objects into a cardboard box next to the counter. Vargo stated he observed a Hispanic male adult holding a revolver against Mike Alrhimi behind the counter.

Vargo stated the White male suspect told him to get on the ground and he immediately complied. Vargo stated the White male subject stood on top of his head while pointing the shotgun directly at his head. Vargo stated he could feel the barrel of the shotgun against the back of his head. Vargo stated the White male adult demanded to have his wallet. Vargo stated he told him he did not have a wallet. Vargo stated the suspect asked him where was his money and Vargo stated it was in his pocket. Vargo stated the White male subject attempted to remove it, however he was unable. Vargo stated he then removed his money consisting of approximately $28.00 from his pocket and gave it to the White male suspect.

Vargo stated after giving the suspect his money the White male told him, "Don't turn around or I'll blow your fuckin head off". Vargo stated he also heard both subjects telling Mike Alrhimi not to get up or they would kill him too. Vargo stated he waited lying down on the floor until Verna Atilano came inside carrying his son. Vargo stated at that time he knew the suspects had left. Vargo stated he was very mad, Vargo stated he and Atilano and their son got back in the van and they drove around the block looking for the suspects. Vargo stated he stopped on Avenue 306 and looked at the alley located behind the market and observed a cloud of dust traveling northbound approximately 150 yards north of Avenue 306. Vargo stated for a moment he thought he saw the suspects running into the cloud of dust, however he was uncertain. Vargo stated he believed the cloud of dust was created by a car.

Vargo stated Atilano asked him if Mike was okay. Vargo stated he and Atilano then drove back to the store where they contacted Mike Alrhimi and found him uninjured.

Vargo stated he would not be able to identify either subject because he saw both of them wearing bandanas covering most of their face leaving open only their eyes.

6/30/01 – 2157 Hours:

I contacted Verna Atilano at her residence of 2734 W. Caldwell Avenue. I identified myself to Atilano as a detective with Tulare County Sheriffs Office and I advised her I was conducting follow up investigation regarding the robbery occurring at the USA Market today.

Atilano stated she, David Vargo and their two year old son attended David's company picnic

at Gangnail Panel Division located in Goshen. Atilano stated she, Vargo and their son left the picnic at approximately 1430 hours and needing a soda, they drove to the USA Market. Atilano stated Vargo drove, she rode in the front seat passenger and their son rode in the back.

Atilano stated Vargo parked the van directly in front of the store. Vargo stated the only vehicle she observed parked in front of the market was Mike Alrhimi's green T-bird. Atilano stated she did not observe any other subjects loitering in front of the market. Atilano stated Vargo got out of the van and went into the front doors to the store. Atilano stated she waited in the van with her son. Atilano stated the baby dropped a toy under the back seat and began whining for it. Atilano stated she was unable to reach the toy so she got out of the van and opened the side panel door and began searching for the toy under the seat.

Atilano stated within several minutes of arriving she observed Hispanic male adult walking out of the store. Atilano stated she observed the subject wearing a dark black hat and a red and white bandana across his face. Atilano stated she observed the subject trying to shove a black revolver handgun into a cardboard box he was carrying. Atilano stated her first impression of what she saw was to think it was a joke. Atilano stated she observed the Hispanic male suspect walk and stop momentarily in front of Mike Alrhimi's Thunderbird parked at the south end of the parking lot. Atilano stated she observed the subject make eye contact with her and then proceed to a payphone where he waited.

Atilano stated moments later she saw a White male adult walking out of the store wearing a dark hat and a red and white bandana across his face. Atilano stated she observed this subject carrying a sawed-off shotgun and he was attempting to shove the shotgun into a cardboard box he was carrying. Atilano stated the White male adult briefly looked at her and walked directly to the payphone where he contacted the Hispanic male who was waiting for him. Atilano stated when both subjects met at the payphone they immediately turned, ran south on Road 68 and turned east on Avenue 306.

Atilano stated at that time she realized the store had been robbed. Atilano stated she took the baby and walked inside the store where she observed Vargo lying prone on the floor. Atilano stated David got up and together they went back to the van. Atilano stated David drove the van and she rode as passenger. They drove around the block looking for the suspects. Atilano stated they followed the route she last saw the suspects running. Atilano stated they stopped at the alley on Avenue 306 located directly behind the market. Atilano stated northbound through the alley approximately 150 yards she observed a cloud of dust. Atilano stated Vargo told her he thought he saw the suspects running into the dust cloud. Atilano stated she never saw the suspects in the alley.

Atilano stated they saw no vehicle in the area. Atilano stated she asked Vargo what happened to Mike and they decided to go back to the store to see if he was okay. Atilano stated they returned to the store and they found Mike Alrhimi uninjured.

Atilano stated she would not be able to identify either suspect because she saw both of them wearing bandanas covering most of their face.

06/30/01 – 2230 Hours:

I contacted TCSO Dispatch and provided them an update of information for B.O.L. requesting an 836 P.C./211 P.C. on David Thatcher (DOB: 7/13/80) and Leo Palafox (DOB: 8/3/69).

I contacted Visalia Police Department Dispatch and provided them the same B.O.L. information.

06/30/01 – 2235 Hours:

I contacted Special Agent Alan Whiteman of the Visalia Police Department by telephone. I advised Agent Whiteman of the robbery occurring at the U.S.A. Market and that I had a positive identification of Leo Palafox and I believed the second suspect was David Thatcher

Agent Whiteman stated the Visalia PD had checked numerous residences throughout the Visalia area where Palafox and Thatcher were known to associate. Agent Whiteman suggested I check the Marco Polo Motel for the red Labaron Convertible or the grey/silver 1980's model Dodge Sedan.

06/30/01 – 2305 Hours:

I arrived at the Marco Polo Motel located at 4545 W. Noble. I observed a 1983 grey Oldsmobile (License #2ADM663) parked in front of Room 146 located on the south side of the motel. Dispatch advised the vehicle was registered to Anita Guerra and Lorane Nunez (address: 916 W. Sonora, Tulare, CA).

06/30/01 – 2310 Hours:

I contacted the night manager, Sandee Ansel at the Marco Polo office. Ansel checked the register and advised Anita Guerra checked into Room 146 this afternoon renting it for one

night.

06/30/01 – 2320 Hours:

I contacted Head Quarters Patrol Sgt John Weller by telephone. I advised Sgt. Weller I wanted to make contact with the occupants at Room 146 at the Marco Polo Inn. Sgt. Weller advised he would notify additional deputies and they would meet me in front of the Roller Towne Skating rink.

06/30/01 – 2335 Hours:

While waiting for Sgt. Weller and additional deputies, I received a page from TCSO Dispatch advising me a 211 P.C. had occurred at 2300 hours at the Cutler Food Mart at 40312 Road 128, Cutler, CA. Realizing the suspects were not at the Marco polo Motel, I left.

07/01/01 – 0230 Hours:

I completed the investigation of the 211 P.C. occurring at the Cutler Food Mart and returned to Visalia Head Quarters. I contacted Sgt. Weller and additional deputies. I briefed on wanting to make contact with the subjects in Room 146 at the Marco Polo Motel.

07/01/01 – 0245 Hours:

Myself, Sgt. Weller, and TCSO deputies arrived at the Marco Polo Inn and made contact with the occupants of Room 146. I contacted Anita Guerra (DOB: 4/11/63) and her husband David Ortiz (DOB: 3/28/59). Ortiz and Guerra stated they reside in Tulare and wanted to get way from their kids for the night. Ortiz and Guerra stated they left the children with their grandparents and came to the Marco Polo Hotel to swim and spend the night together.

07/01/01 – 0330 Hours:

I went off duty.

07/02/01 – 1130 Hours:

I received information the Visalia PD had located Leo Palafox during a traffic stop and took him into custody.

07/02/01 – 1520 Hours:

I arrived at the Visalia PD where I joined Det. Lopez who was conducting an interview with Leo Palafox. I identified myself as a detective with the Tulare County Sheriff's Office. During the interview, I observed Palafox state he was currently unemployed living with his mother and his sister and he does odd jobs. Palafox denied any recent drug use and stated he did not carry any weapons recently.

Det. Lopez and I then began to focus the interview, advising Palafox we wanted to speak with him regarding a series of recent 211 P.C.'s occurring to recycle centers and convenience stores in the Visalia and outline county areas.

07/02/01 – 1530 Hours:

Leo Palafox requested to speak with his attorney and our interview was terminated.

07/02/01 – 1535 Hours:

I collected the following clothing items from Leo Palafox:

#1: (1) pair of white socks
#2: (1) pair of black jeans
#3: (1) black T-shirt
#4: (1) pair of white Nike tennis shoes

I compared the white Nike tennis shoes to the photograph of a shoe track obtained outside the U.S.A. Market. I observed the Nike tennis shoe to have s similar matching tread pattern as to the tread pattern in the photograph.

I obtained a complete set of finger prints from Palafox.

I latter secured the seized clothing into TCSO Main Evidence.

07/02/01:

Det. Lopez stated this morning he received information that David Thatcher and Leo Palafox were possibly staying at a Visalia area motel. Det. Lopez stated when he and the other detectives arrived at the Marco Polo Motel. Det. Lopez stated he checked the motel

registration and found Barbara Wilborne was listed on the register for Rooms 268 and 269. Det. Lopez stated Barbara Wilborne is a known associate of Palafox and Thatcher.

Det. Lopez stated when he and the other detectives attempted to make contact at Room 268 and 269, they observed Barbara Wilborne driving off in a red Labaron Convertible (License 3JWT789). Det. Lopez stated the also observed Leo Palafox in the vehicle with two other females.

Det. Lopez stated a traffic stop was initiated on the vehicle at Noble Ave. and Watson and Palafox was taken into custody without incident. Det. Lopez stated the two additional female passengers were Heather Parks and Michelle Ibarra.

Det. Lopez stated Heather Parks and Michelle Ibarra were taken into custody for active warrants. Det. Lopez stated Barbara Wilborne was taken into custody for investigation of 32 P.C. and release per 849 (b) P.C. (For further, refer to Det. Lopez's report.)

7-3-01/ 0953 hours

I contacted Det. Chris Galvez at te TCSO crime lab. I released to Det. Galvez the finger print card of Leo Palafox and requested her to compare them to any latent prints recovered from the video cassettes or the USA Market.

I advised Det. Galvez I believed the Nike shoes seized from Palafox matched one of the shoe track patterns we found at the scene. I requested Det. Galvez to compare the shoes to the photographs taken at the scene.

Det. Galvez and I reviewed the USA Market video. I observed two subjects enter into the store. I observed both subjects wearing black t-shirts and bandanas over their face. I observed one subject carrying a black handgun and the other subject carrying a short rifle or shotgun. I observed Mike Alrhimi open the register and ly down on the floor. I observed one subject removing money from the register. I observed the video go blank.

I observed the video display an incorrect date and time in 1996.

At this time David Thatcher has not been located and an active 836 PC/ 211 PC has been placed on him.

FORWARD TO D.A. OFFICE REQUESTING LEO PALAFOX BE CHARGED WITH ONE COUNT OF 211 P.C. OF THE U.S.A. MARKET.

CASE STATUS: ACTIVE.

REPORTED BY:	DATE/TIME:	TYPED BY:	REVIEWED BY:	DATE:
Det. Doug Winslow	7/3/01	GL/BD/RN		

TULARE COUNTY SHERIFF'S OFFICE - 5400
SUPPLEMENT - FOLLOW-UP REPORT

CASE NO. 01-10229

CODE SECTION	CRIME	CLASSIFICATION
211 PC	ROBBERY	FELONY

VICTIMS NAME [last-first-middle]	ADDRESS	PHONE NO.
USA MARKET	30602 RD 68 GOSHEN	—

DATE/TIME: 6-30-01 / 1500 HRS I CONTACTED JAMES REYNOLDS [ ] BY PHONE

[X] IN PERSON - AT AVE 306 & RD 68 [ ] NO FURTHER INFO. [X] THE FOLLOWING:

REYNOLDS, JAMES 9-28-40 W/M/A

6844 AVE 306, GOSHEN 651-2628

JENNINGS-SLATE, GLORY B/F/A

30628 COMMERCIAL, GOSHEN NO PHONE

6-30-01 / 1445 HRS I RESPONDED TO THE USA MARKET 30602 RD 68, GOSHEN REGARDING A ROBBERY. UPON ARRIVAL I WAS ADVISED BY DEP. MCMAHON THERE WERE FRESH SHOE TRACKS IN THE ALLEY EAST OF THE MARKET. I CHECKED THE ALLEY AND LOCATED SHOE TRACKS EAST OF ROAD 68 AND NORTH OF AVE 306. I SECURED THE AREA FOR DETECTIVES.

1500 HRS. JAMES REYNOLDS APPROACHED ME INQUIRING WHAT HAD HAPPENED IN THE ALLEY. I ADVISED REYNOLDS THE USA MARKET HAD BEEN ROBBED AND IT WAS BELIEVED THE SUSPECTS RAN THROUGH THE ALLEY. HE ADVISED AT APPROXIMATELY 1430 HRS. HE OBSERVED A EARLY '80'S SILVER/GRAY DODGE, FOUR DOOR SEDAN PARKED FACING EAST ON AVE 306 BETWEEN RD 68 AND THE ALLEY. HE OBSERVED TWO PEOPLE IN THE CAR, BUT COULDN'T SEE IF THEY WERE MALE OR FEMALE, THEIR RACE OR AGE. HE HAD NO FURTHER INFORMATION.

1510 HRS. GLORY SLATE APPROACHED ME INQUIRING WHAT HAD HAPPENED.

CASE STATUS: [X] ACTIVE [ ] INACTIVE [ ] CLOSED

COPIES TO: [X] DETECTIVES [ ] JUVENILE [ ] D.A. [ ] OTHER:

REPORT BY	DATE/TIME	TYPED BY	REVIEWED BY	DATE
M. WEBB #8880	7-5-01 / 1700		Sgt. Jennifer McElhaney	7-09-01

SD 235B [REVISED 2-81]

TULARE COUNTY SHERIFF'S OFFICE - 5400
CONTINUATION REPORT

CASE NO. 01-10229

PAGE NO: 2

CODE SECTION 211 PC

I ADVISED HER THE USA MARKET HAD BEEN ROBBED. SHE ADVISED AT 1430 HRS. SHE WAS RIDING HER BIKE ON AVE 306. SHE OBSERVED A WHITE MALE ADULT AND HISPANIC MALE ADULT WALKING SOUTH OUT OF THE ALLEY ONTO 306. THEY THEN GOT IN A EARLY '80'S CHEVY TYPE GREY/BLUE FOUR DOOR SEDAN. THEY LEFT EAST ON AVE 306. SHE ADVISED THE WHITE MALE WAS IN HIS MID 20'S, BALD, HAD A WHITE BANDANA ON HIS HEAD, BLUE SHIRT AND BLUE PANTS. THE HISPANIC MALE WAS IN HIS MID 20'S BLACK SHORT HAIR, RED BANDANA AROUND HIS NECK, BLACK SHIRT AND BLACK PANTS. SHE HAD NO FURTHER INFORMATION.

REPORT BY		DATE/TIME	TYPED BY	REVIEWED BY	DATE
M. WEBB	W8890	7-5-01/1700		SCMC	7-09-01

SD 235 B [REVISED 2-81]

VPD# 56

F. HAGER

VISALIA POLICE DEPARTMENT (TCSO)

LIVE LINE-UP INSTRUCTIONS

You are about to be shown a group of people. Before you view these people, please read the following carefully:

1. Because a police officer is showing you a group of people, this should not influence your judgement in any way.

2. The person who committed the crime may or may not be in the group of people.

3. You are in no way obligated to identify anyone.

4. Study each person carefully before making any comments. Consider that hair styles change and that persons can alter their identity by growing or shaving facial hair.

5. SPECIAL INSTRUCTIONS: _____

_____

_____

_____

DATE: 7-11-01

I declare that no other instructions about the people in the line-up, the defendant or procedures were given to me before viewing the line-up.

x MIKE ALPHIN

Person Viewing Live Line-Up

F. HAGER #H-3092 READ AT 1329

Officer Showing Live Line-Up

#4 | 7-11-01 | 1355

Person Selected | Date | Time

COMMENTS: "NUMBER 4 IS THE ONE HE DID IT."

_____

_____

_____

_____

App. 2096

VPD# 56

F HAGER

VISALIA POLICE DEPARTMENT (TCSO)

LIVE LINE-UP INSTRUCTIONS

You are about to be shown a group of people. Before you view these people, please read the following carefully:

1. Because a police officer is showing you a group of people, this should not influence your judgement in any way.

2. The person who committed the crime may or may not be in the group of people.

3. You are in no way obligated to identify anyone.

4. Study each person carefully before making any comments. Consider that hair styles change and that persons can alter their identity by growing or shaving facial hair.

5. SPECIAL INSTRUCTIONS: _____

_____

_____

_____

DATE: 7-11-01

I declare that no other instructions about the people in the line-up, the defendant or procedures were given to me before viewing the line-up.

x MIKE ALFARO

Person Viewing Live Line-Up

F. HAGER

Officer Showing Live Line-Up

0

Person Selected

7-11-01

Date

1335

Time

COMMENTS: "I DON'T RECOGNIZE ANYONE. NUMBER 4 LOOKS FAMILIAR."

VISALIA POLICE DEPARTMEN 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. G01-09239
CODE SECTION	CRIME	CLASSIFICATION
211 PC, 182 PC	ARMED ROBBERY, CONSPIRACY	FELONY
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.
RECYCLE CENTERS IN VISALIA		

SUSPECT INFORMATION:

#1 **PATINO, FREDDY**
DOB: 6/21/82

#2 **PALAFOX, LEO**
DOB: 8/3/69

#3 **THATCHER, DAVID**
DOB: 7/13/80

EVIDENCE:

#1 Both 35mm photographs of S/THATCHER and S/PALAFOX in live lineups at the Tulare County Pretrial Facility on 7/11/01. Additionally Polaroid photographs of the above were also taken in support of the 35mm photographs obtained. The photographs were taken Crime Lab Technician Bob Douglas, the Polaroid photographs were taken by Detective Earl Grimes and Detective Feller. Those photographs will be maintained by the Visalia Police Department, marked, dated, sealed, and secured pending their development and later use by the Tulare County District Attorney's Office as evidence.

WITNESS INFORMATION:

#1 Attorney Tim Donahue
Conflict Attorney

#2 Attorney Michelle Lippard
Tulare County Public Defenders Office

#3 Detective Floyd Hagar
TCSO

#4 Detective Mark Feller

#5 Detective Jason Salazar

#6 Detective Earl Grimes

REPORTING/RECORDING OFFICER	TYPED BY	DATE
LOPEZ, M I88	TDN 126	7/11/01

FURTHER ACTION	COPIES TO		REVIEWED_____
( ) YES	( ) DETECTIVE	( ) T-BOLT	
( ) NO	(X) DISTRICT ATTORNEY	( ) OTHER_____	
	7-12-01 SM	( ) JUVENILE	

App. 2098

VISALIA POLICE DEPARTMEI 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. G01-09239
CODE SECTION	CRIME	CLASSIFICATION
211 PC, 182 PC	ARMED ROBBERY, CONSPIRACY	FELONY
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.
RECYCLE CENTERS IN VISALIA		

CIVILIAN WITNESSES:

#1 Ortega, Francisco J.
(Case #01-09239)

#2 Lopez, Domingo
(Case #01-09750)

7/11/01 approx. 1145 hrs:

I made contact with Civilian Witness #1 Ortega and Witness #2 Lopez at the Recycling Center located at 1845 N. Dinuba Blvd. in Visalia. In preparation for this live lineup, I advised the gentlemen that I wished to transport them to a facility where they would have the opportunity to look at some individuals.

I then transported these individuals with this Detective, to a Carls Jr. located at Ben Maddox and Center St. in Visalia. At that location I obtained food for the 15 similars that were being utilized by Detectives in this live lineup. I furthermore provided food for the witnesses and transported those items and witnesses to the Pretrial Facility located in Visalia.

At the Facility I made contact with Deputy District Attorney Melinda Aiello, as well as Attorney Tim Donahue. I furthermore made contact with Det. Salazar, Det. Feller, and Det. Grimes and ascertained the preparations and arrangements had been made for these live lineups.

After being so prepared and apprised, each of the defendants had the opportunity to speak with their attorney's. The live lineup process began shortly thereafter. Prior to commencing with the live lineup, I provided both W/Domingo Lopez and W/Francisco Ortega with instructions per the Visalia Police Department live lineup instruction sheet. Those instructions were given to them in Spanish and translated by this Detective. Prior to entering the room and independent of each other the witnesses were asked to view a group of individuals. Those individuals were prepared within the Tulare County Sheriff's Department's live lineup room located at the Pretrial Facility. The first group of individuals in this lineup were the individuals with S/DAVID THATCHER. In lineup instruction sheet A, I began with W/Lopez.

REPORTING/RECORDING OFFICER		TYPED BY	DATE
LOPEZ, M I88		TDN 126	7/11/01
FURTHER ACTION ( ) YES ( ) NO	COPIES TO ( ) DETECTIVE (X) DISTRICT ATTORNEY	( ) T-BOLT ( ) OTHER_____ ( ) JUVENILE	REVIEWED_____

App. 2099

VISALIA POLICE DEPARTMEI 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. G01-09239
CODE SECTION	CRIME	CLASSIFICATION
211 PC, 182 PC	ARMED ROBBERY, CONSPIRACY	FELONY
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.
RECYCLE CENTERS IN VISALIA		

Approx. 1335 hrs:

Mr. Lopez was escorted into the room that had Deputy District Attorney Aiello and Conflict Attorney Donahue. W/Lopez was able to view both the front and each side of the defendants and chose S5. In that position I noted that it was DAVID THATCHER and later documented that on the lineup instruction sheet. Mr. Lopez, in Spanish, stated "five, it looks the most like the person" and furthermore stated "he looks a little shorter in this room". Deputy Floyd Hagar then proceeded with his live lineup instruction sheet with his witness, followed by an additional viewing of the suspects in this lineup by W/Francisco Ortega.

Approx. 1344 hrs:

Francisco Ortega entered the live lineup room and was unable to identify anyone in this live lineup.

Subsequently thereafter, Michelle Lippard of the Tulare County Public Defenders office entered the room with Ms. Aiello and live lineup B commenced. The lineup included S/PALAFOX with a group of other men.

Approx. 1400 hrs:

With the same admonishment, Domingo Lopez was unable to identify anyone and shortly thereafter at approximately 1410 hours, Francisco Ortega was not able to identify anyone as well. However, Deputy Hagar noted, as did I, that his victim was able to positively identify Mr. PALAFOX in position #4 of that live lineup.

After obtaining the positive identification of both THATCHER and PALAFOX on robberies, all of the men were excused from the live lineup room. Each of the men were provided with a hamburger, french fries and some candy, paid for by Visalia Police Department funds. CSI Bob Douglas, at various locations within the live lineup room, was able to photograph each of the individuals present for this lineup together and separately.

Within in the lobby of the Pretrial Facility I showed photo lineup D to both V/Ortega and V/Lopez with negative results.

Photo lineup D was subsequently provided to Deputy Floyd Hagar in the hopes of using that lineup for additional investigation into the robberies that he has pending with the Tulare County Sheriff's Department.

REPORTING/RECORDING OFFICER		TYPED BY	DATE
LOPEZ, M I88		TDN 126	7/11/01
FURTHER ACTION ( ) YES ( ) NO	COPIES TO ( ) DETECTIVE (X) DISTRICT ATTORNEY	( ) T-BOLT ( ) OTHER_____ ( ) JUVENILE	REVIEWED_____

VISALIA POLICE DEPARTMEI 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. G01-09239
CODE SECTION	CRIME	CLASSIFICATION
211 PC, 182 PC	ARMED ROBBERY, CONSPIRACY	FELONY
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.
RECYCLE CENTERS IN VISALIA		

RECOMMENDATIONS:

Based on the positive identification of S/THATCHER as well as PALAFOX again, the suspects should be charged additionally by the Tulare County District Attorney's Office for additional counts of armed robbery.

On this date the S/THATCHER was arrested by this Detective and additional charges placed on his booking sheet with the Tulare County Sheriff's Department.

End of Report.

REPORTING/RECORDING OFFICER	TYPED BY	DATE
LOPEZ, M I88	TDN 126	7/11/01

FURTHER ACTION	COPIES TO		
( ) YES	( ) DETECTIVE	( ) T-BOLT	REVIEWED_____
( ) NO	(X) DISTRICT ATTORNEY	( ) OTHER_____	
		( ) JUVENILE	

App. 2101

VISALIA POLICE DEPARTMENT

LIVE LINE-UP INSTRUCTIONS

You are about to be shown a group of people. Before you view these people, please read the following carefully:

1. Because a police officer is showing you a group of people, this should not influence your judgement in any way.

2. The person who committed the crime may or may not be in the group of people.

3. You are in no way obligated to identify anyone.

4. Study each person carefully before making any comments. Consider that hair styles change and that persons can alter their identity by growing or shaving facial hair.

5. SPECIAL INSTRUCTIONS: LINE UP; VPD "D" 01-9239.

DATE: _____

I declare that no other instructions about the people in the line-up, the defendant or procedures were given to me before viewing the line-up.

X _____
Person Viewing Live Line-Up

FLOYD HAGER
Officer Showing Live Line-Up

_____ 7-11-01 1530
Person Selected Date Time

COMMENTS: "NOTHING FAMILIAR"

VICTIM:
Alrhimi, Mike DOB:10-05-77
30602 Rd. 68
Goshen #651-3361

SUSPECT:
1. Palafox, Leo DOB: 08-03-69
2. Thatcher, David DOB: 07-13-80

NARRATIVE:

07-11-01 / 1250 Hrs., I traveled to the TCSO Pre-Trial Facility, where I contacted victim Mike Alrhimi. I advised Alrhimi that he would be observing two live line-ups. I had Alrhimi read and sign two live line-up instruction sheets.

I contacted Detective Mark Lopez of the Visalia Police Department, who had two victims who were also observing the live line-ups.

I observed the two live line-ups to consist of suspect David Thatcher in position #5, in the first line-up, and suspect Leo Palafox to be located in position #4, of the second line-up.

VPD Crime Scene Technician Bob Douglas took 35mm photographs of each of the subjects used in the line-up, as well as overall photos of the subjects as a group in the line-ups.

DA Melinda Aiello arrived at the facility along with Public Defender Tim Donahue, and they observed the line-up from the viewing room.

07-11-01 / 1335 Hrs., Det. Lopez conducted the first line-up with suspect David Thatcher. I asked victim Alrhimi to enter the viewing room, where after several moments, victim Alrhimi was not able to identify anyone from the live line-up, stating, "I don't recognize anyone. Number #4 looks familiar."

07-11-01 / 1355 Hrs., Det Lopez conducted the second live line-up. DA Aiello and Public Defender Michelle Lipperd were present in the viewing room during the line- up.

I asked victim Alrhimi to enter the viewing room, where after a few moments, victim Alrhimi stated, "Number #4 is the one. He did it."

The live line-ups were then concluded.

I contacted Det. Lopez for a briefing and Det. Lopez stated he also had another photographic line-up, marked Line-Up "D", VPD Case 01-9239. Det. Lopez asked that victim Alrhimi view the photographic line-up, to determine if he could possibly recognize any of the subjects in it.

Victim Alrhimi had already left the Pre-Trial Facility, so I drove to the USA Supermarket, 30602 Rd. 68, Goshen, where I re-contacted victim Alrhimi.

I had Alrhimi read and sign a photographic line-up instruction sheet. Alrhimi viewed the photo line-up, and stated "Nothing looks familiar."

Case to DA Aiello.

TULARE COUNTY SHERIFF'S DEPARTMENT	*CASE NUMBER*
SUPPLEMENT - FOLLOW-UP REPORT	01-10299
CRIME: 211 PC	***CLASSIFICATION:*** Robbery
VICTIMS NAME: USA Supermarket	***ADDRESS:*** 30602 Rd. 68 Goshen

DATE/TIME: *07-09-01 / 1003 Hrs.,* ***I CONTACTED*** *David Thatcher*
[ ] BY PHONE ***[X] IN PERSON AT:*** *Bob Wiley Detention Facility*
[ ] NO FURTHER INFO ***[X] THE FOLLOWING:***

On the above date and time, I traveled to the Bob Wiley Detention Facility where I contacted inmate David Thatcher. I was conducting a follow up investigation in regards to Detective D. Winslow's cases #01-10299 and #01-9813.

I contacted David Thatcher in Visiting, where I conducted a taped interview. I read Thatcher his rights as per Miranda at 1008 Hrs. Thatcher stated he understood his rights and he did not wish to talk to me without a lawyer.

I also gave Thatcher an admonishment that he would be involved in a live line-up, this Wednesday, and I advised Thatcher to not alter his current appearance.

Thatcher stated, "Lets say I don't want to stand in that line-up."

I observed Thatcher to have short, shaved brown hair, about a 1/4" grown out. I observed Thatcher to have a thin brown moustache, and a full dark brown goatee, with about a weeks growth beard around the goatee.

I ended my interview with Thatcher at 1010 Hrs.

REPORTING DEPUTY: REVIEWED BY:
F.Hager
DATE/TIME: July 12, 2001 (6:37am)

TULARE COUNTY DISTRICT ATTORNEY
221 S. MOONEY BLVD., ROOM 224
VISALIA, CALIFORNIA 93291
Telephone: (559) 733-6411

ATTORNEY FOR PLAINTIFF

FILED
TULARE COUNTY
SUPERIOR COURT
JUL 12 2001
LARAYNE CLEEK, CLERK
BY:

TULARE COUNTY SUPERIOR COURTS DISTRICT

VISALIA DIVISION, STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff

v.

LIONEL PALAFOX,
AKA: LEO PALAFOX
FREDDY PATINO,

Defendant(s)

CRT. No. CMF-01-76881
Case No. F-01-34220-2

FELONY COMPLAINT

FELONY
AMENDED

The undersigned is informed and believes that:

COUNT 1

On or about the 18th day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by LIONEL PALAFOX and FREDDY PATINO, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of F.O..

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

SPECIAL ALLEGATION--ARMED WITH A FIREARM

It is further alleged as to counts 1 that in the commission and attempted commission of the above offense a principal in said offense was armed with a firearm, to wit: HANDGUN, said arming not being an element of the above offense, within the meaning of Penal Code section 12022(a)(1).

COUNT 2

On or about the 20th day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by LIONEL PALAFOX, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of M.G..

ID-Palafox

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

SPECIAL ALLEGATION--PERSONAL USE OF A FIREARM

It is further alleged as to counts 2 that said defednant personally used a firearm, a HANDGUN, within the meaning of Penal Code sections 12022.5(a)(1) and 12022.53(b).

COUNT 3

On or about the 20th day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by FREDDY PATINO, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of M.G..

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

App. 2107

SPECIAL ALLEGATION--ARMED WITH A FIREARM

It is further alleged as to counts 3 that in the commission and attempted commission of the above offense a principal in said offense was armed with a firearm, to wit: HANDGUN, said arming not being an element of the above offense, within the meaning of Penal Code section 12022(a)(1).

COUNT 4

On or about the 22nd day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by LIONEL PALAFOX, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of E.P..

ID'ed

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

SPECIAL ALLEGATION--USE OF DEADLY WEAPON

It is further alleged as to counts 4 that in the commission and attempted commission of the above offense, the said DEFENDANT personally used a deadly and dangerous weapon(s), to wit: KNIFE, said use not being an element of the above offense, within the meaning of Penal Code Section 12022(b)(1) and causing the above offense to be a serious felony within the meaning of Penal Code Section 1192.7(c)(23).

COUNT 5

On or about the 22nd day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by FREDDY PATINO, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of E.P..

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

App. 2108

SPECIAL ALLEGATION--USE OF DEADLY WEAPON

It is further alleged as to counts 5 that in the commission and attempted commission of the above offense, the said DEFENDANT personally used a deadly and dangerous weapon(s), to wit: KNIFE, said use not being an element of the above offense, within the meaning of Penal Code Section 12022(b)(1) and causing the above offense to be a serious felony within the meaning of Penal Code Section 1192.7(c)(23).

COUNT 6

On or about the 30th day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by LIONEL PALAFOX, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of M.A..

ID'd Palafox

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

SPECIAL ALLEGATION--PERSONAL USE OF A FIREARM

It is further alleged as to counts 6 that said defendant personally used a firearm, a HANDGUN, within the meaning of Penal Code sections 12022.5(a)(1) and 12022.53(b).

COUNT 7

On or about the 30th day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by LIONEL PALAFOX, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of D.V..

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

SPECIAL ALLEGATION--PERSONAL USE OF A FIREARM

It is further alleged as to counts 7 that said defendant personally used a firearm, a HANDGUN, within the meaning of Penal Code sections 12022.5(a)(1) and 12022.53(b).

COUNT 8

On or about the 27th day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by LIONEL PALAFOX, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of D.L..

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

SPECIAL ALLEGATION--USE OF DEADLY WEAPON

It is further alleged as to counts 8 that in the commission and attempted commission of the above offense, the said DEFENDANT personally used a deadly and dangerous weapon(s), to wit: KNIFE, said use not being an element of the above offense, within the meaning of Penal Code Section 12022(b)(1) and causing the above offense to be a serious felony within the meaning of Penal Code Section 1192.7(c)(23).

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency which the undersigned believes establish probable cause for the arrest of defendant(s)
LIONEL PALAFOX,
AKA: LEO PALAFOX
FREDDY PATINO,
for the above-listed crimes.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT CONSISTS OF 8 COUNTS.

Executed at Visalia, California, on July 12, 2001.

DECLARANT

AGENCY: VPD

Defendant Name
LIONEL PALAFOX,
FREDDY PATINO,

Cite Date:

Complaint Processed by: LC

App. 2111

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF TULARE

The People of The State of California
Plaintiff

vs

Lionel Palafox
Defendant

Visalia, California February 11, 2002

No. 77196 Dept. No. 5

Judge, Hon. JOHN P MORAN

Clerk Regina Watkins

Reporter Amber Ford

Bailiff Janet Silva

NATURE OF HEARING (V) **PRETRIAL** (V) **CHANGE OF PLEA** ( )12101 ( )12100

Attorney for the people: Melinda Aiello, Deputy District Attorney

Attorney for the Defendant: James Huesdens

Defendant: (V)Present ( )Not Present Interpreter

( ) Continued to ( ) Trial date confirmed

Plea Agreement:

(V)Indicated sentence 15 yrs on Ct 4 and 1 year c/s on 3 other counts for a total of 18 years

(V)Defendant advised and understands the maximum penalties,, consequences of his plea, the possible defenses ( )consequences of violation of probation ( ) possible deportation if not a citizen of the United Stated ( ) driver's license will be suspended.

( )Court inquired and finds that no drugs or alcohol have been used within twenty-four hours and there have been no threats or promises made.

(V)Defendant advised by the court of the right to a trial, the right of silence, the right to confront and cross-examine witnesses and the right to subpena witnesses in his behalf; defendant waived each of these rights.

(V)Stipulation as to the factual basis for the plea.

(V)The court finds a ( )written (V)oral knowing, intelligent, voluntary, understanding and explicit waiver of constitutional rights and a factual basis for the plea.

(V)Nature of the charges stated by the court.

(V)Defendant withdraws **NOT GUILTY** plea and enters a plea of ( )**GUILTY** (V)**NOLO CONTENDERE** to the charge of Ct. 3PC211, PC12022(a)(1), CT 4PC211, PC12022.53(b), CT 6 PC211, PC1192.7(C)(23), CT 7 PC211, CT 9PC211, PC12022.53, CT 10 PC211, PC12022.53(B), CT 12 PC487(D)

(V)pursuant to People v. West ( ) with Harvey Waiver

ORDER: (V)Matter is referred to the Probation officer for report and recommendation.

(V)Judgment Proceedings (V)Motion to dismiss remaining count set for 4-15-02 at 8:30 a.m. in Department 5

(V)Trial date of 3-4-02 is vacated.

Defendant status:
(V)Remanded ( )Bail ( )OR

Regina Watkins
Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF TULARE

The People of the State of California Plaintiff vs Lionel Palafox Defendant	Visalia, California April 22 2002 No. 77196 Dept. 5 Judge, Hon. JOHN P MORAN Clerk Regina Watkins Bailiff Janet Silva Reporter Amber Ford

Nature of Hearing: **JUDGMENT PROCEEDINGS**
( ) FOLLOWING VIOLATION OF PROBATION

Counsel for the People: Melinda Aiello, Deputy District Attorney
Counsel for the Defendant: James Heusden

Defendant: (✓) present ( ) not present (✓) formal arraignment for judgment waived

Court finds offense(s) to be:
Count 3-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022.(a)(1)
Count 4-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022.53(b)
Count 6-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022(a)
Count 7-Felony to wit: Penal Code Section 211-2nd degree robbery.
Count 9-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022.53(b)
Count 10-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022.53(b)
Count 12-Felony to wit: Penal Code Section 487(d)-grand theft firearm.

ORDERS:
Probation (✓) denied ( ) granted for a period of subject to the following terms and conditions
( ) additional terms and conditions on page two (Imposition of sentence suspended during this term.)

Defendant committed to (✓) State Prison; ( ) California youth Authority; ( ) Tulare County Jail for a term as follows:

Count 4-Upper term of 5 years plus 10 years for PC12022.53(b)=15 years
Count 3-1 year(1/3 midterm) plus 4 months for PC12022(a)(1) c/s to Count 4
Count 6-1 year(1/3 midterm) plus 4 months for PC12022(a)
c/s to Count 3
Count 7-3 years Midterm c/c to Count 4-same credits
Count 9-5 years Upper term plus 10 years for PC12022.53(b) c/c to Count 4-same credits
Count 10-3 years Midterm plus 10 years for PC12022.53(b)=13 years c/c to Count 4-same credits
Count 12-2 years Midterm c/c to Count 4-same credits

Defendant given credit for 278 days actual time plus 49 days conduct credit for
a total of 327 days served awaiting sentence.

(✓) Defendant shall pay a restitution fine in the sum of $200 pursuant to 1202.4P.C.
(✓) Defendant shall pay an additional restitution fine in the sum of $200 pursuant to 1202.45P.C.
which shall be STAYED pending successful completion of parole.

(✓) The defendant participate in a counseling or education program, with a substance abuse component, while imprisoned, pursuant to Section 1203.096 of the Penal code.

(✓) Restitution to be paid to the victims in the amount of $6,167.75, jointly and severally with co-defendant David Thatcher, to be collected and disbursed by the California Department of Corrections, as follows:

Francisco Ortega-$240.00

Domingo Lopez-$40.00

David Vargo-$29.00

B&C Recycling-$1400.00
2245 W. Perez Court
Visalia, Ca 93291

A.D. Recycling-$300.00
11171 Mountain View
Selma, CA 93662

USA Market-$4158.75
P O BOX 927
Goshen, CA 93227

Defendant advised of ( ) appeal rights; ( ) parole obligation upon release from prison; ( ) consequences of violation of probation.

Court finds the defendant ( ) does not ( ) does have the ability to pay attorney fees in the sum of $.

(✓) Remaining counts dismissed
(✓) Defendant remanded
( ) Bail Bond/Cash Bail Exonerated
( ) Defendant released on probation/OR
cc: (✓) PO (✓) DA ( ) PD (✓) TCSO (✓) DOC (✓) R
Cc: Atty

Regina Watkins
Clerk

ABSTRACT OF JUDGMENT—PRISON COMMITMENT—DETERMINATE

[NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-290 ATTACHED]

CR-290

☑ SUPERIOR ☐ MUNICIPAL — COURT OF CALIFORNIA, COUNTY OF: TULARE; BRANCH OR JUDICIAL DISTRICT: VISALIA

FILED
TULARE COUNTY
SUPERIOR COURT
APR 29 2002
LARAYNE CLEEK, CLERK
BY: Regina Watkins

PEOPLE OF THE STATE OF CALIFORNIA vs.
DEFENDANT: LIONEL CAMARENA PALAFOX — DOB: 8-3-69
AKA:
CII#:
BOOKING #: ☐ NOT PRESENT

77196 -A
-B
-C
-D

COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT ☐ AMENDED ABSTRACT

DATE OF HEARING	DEPT. NO.	JUDGE
4-22-02	5	JOHN P MORAN

CLERK	REPORTER	PROBATION NO. OR PROBATION OFFICER
REGINA WATKINS	AMBER FORD	PA-3724

COUNSEL FOR PEOPLE	COUNSEL FOR DEFENDANT
MELINDA AIELLO, DEPUTY DISTRICT ATTORNEY	JAMES HEUSDEN ☐ APPTD.

1. Defendant was convicted of the commission of the following felonies:
☐ Additional counts are listed on attachment
_____ (number of pages attached)

CNT.	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY: JURY	COURT	PLEA	TERM (L, M, U)	CONCURRENT	CONSECUTIVE 1/3 VIOLENT	CONSECUTIVE 1/3 NON-VIOLENT	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCE (refer to Item 5)	654 STAY	PRINCIPAL OR CONSECUTIVE TIME IMPOSED: YRS.	MOS.
4	PC	211	2ND DEGREE ROBBERY	2001	02 / 11 / 02			✔	U							5	0
3	PC	211	2ND DEGREE ROBBERY	2001	02 / 11 / 02			✔	M			✔				1	0
6	PC	211	2ND DEGREE ROBBERY	2001	02 / 11 / 02			✔	M			✔				1	0
7	PC	211	2ND DEGREE ROBBERY	2001	02 / 11 / 02			✔	M	✔						3	0
9	PC	211	2ND DEGREE ROBBERY	2001	02 / 11 / 02			✔	U	✔						5	0
10	PC	211	2ND DEGREE ROBBERY	2001	02 / 11 / 02			✔	M	✔						3	0

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST enhancements stricken under PC 1385.

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL	
4	PC12022.53(B)	10							10	0
3	PC12022(A)(1)	4MO								4
6	PC12022(A)(1)	4MO								4
9	PC12022.53(B)	10							10	0
10	PC12022.53(B)	10							10	0

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST enhancements stricken under PC 1385.

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL	

4. ☐ Defendant was sentenced pursuant to PC 667(b)-(i) or PC 1170.12 (two-strikes).

5. INCOMPLETED SENTENCE(S) CONSECUTIVE

COUNTY	CASE NUMBER

6. TOTAL TIME ON ATTACHED PAGES:

7. ☐ Additional indeterminate term (see CR-292).

8. TOTAL TIME: 17 8

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document.

(Continued on reverse)

ABSTRACT OF JUDGMENT—PRISON COMMITMENT ATTACHMENT PAGE

CR-290-A

PEOPLE OF THE STATE OF CALIFORNIA vs.
DEFENDANT: LIONEL PALAFOX

77196 -A	-B	-C	-D

1. Defendant was convicted of the commission of the following felonies:
This attachment page number: 2

CNT.	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY: JURY	CONVICTED BY: COURT	CONVICTED BY: PLEA	TERM (L, M, U)	CONCURRENT	CONSECUTIVE 1/3 VIOLENT	CONSECUTIVE 1/3 NON-VIOLENT	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCE (refer to item 5)	654 STAY	PRINCIPAL OR CONSECUTIVE TIME IMPOSED: YRS.	PRINCIPAL OR CONSECUTIVE TIME IMPOSED: MOS.
12	PC	487(D)	GRAND THEFT FIREARM	2001	02 / 11 / 02			✔	M	✔						2	0
					/ /												
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					/ /												
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					/ /												
TOTAL																	

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series) for counts listed on first page.

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL	
TOTAL										

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series).

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL	

4. TOTAL TIME IMPOSED ON THIS ATTACHMENT PAGE:		

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: LIONEL CAMARENA PALAFOX			
77196 -A	-B	-C	-D

9. FINANCIAL OBLIGATIONS (including any applicable penalty assessments):
   a. RESTITUTION FINE of: $ 200 per PC 1202.4(b) forthwith per PC 2085.5.
   b. RESTITUTION FINE of: $ 200 per PC 1202.45 suspended unless parole is revoked.
   c. RESTITUTION of: $ _____ per PC 1202.4(f) to ☐ victim(s)* ☐ Restitution Fund
      (*List victim name(s) if known and amount breakdown in item 11, below.)
      (1) ☐ Amount to be determined.
      (2) ☐ Interest rate of: _____% (not to exceed 10% per PC 1204.4(f)(3)(F)).
   d. ☐ LAB FEE of: $ _____ for counts: _____ per H&SC 11372.5(a).
   e. ☐ DRUG PROGRAM FEE of $150 per H&SC 11372.7(a).
   f. ☐ FINE of: $ _____ per PC 1202.5.

10. TESTING
   a. ☐ AIDS pursuant to ☐ PC 1202.1 ☐ other *(specify)*:
   b. ☐ DNA pursuant to ☐ PC 290.2 ☐ other *(specify)*:

11. Other orders *(specify)*:

DEFT IS TO PARTICIPATE IN A COUNSELING OR EDUCATION PROGRAM, WITH A SUBSTANCE ABUSE COMPONENT, WHILE IMPRISONED, PURS TO PC1203.096.) Restitution to be paid to the victims in the amount of $6,167.75, jointly and severally with co-defendant DavidThatcher, to be collected and disbursed by the California Department of Corrections, as follows:Francisco Ortega-$240.00,Domingo Lopez-$40.00,David Vargo $29.00, B&C Recycling-$1400.00, 2245 W. Perez Court, Visalia, CA 93291, A.D. Recycling $300.00, 11171 Mountain View, Selma, CA 93662, USA Market-$4158.75, PO Box 927, Goshen, CA 93227

12. Execution of sentence imposed
   a. ☑ at initial sentencing hearing.
   b. ☐ at resentencing per decision on appeal.
   c. ☐ after revocation of probation.
   d. ☐ at resentencing per recall of commitment. (PC 1170(d).)
   e. ☐ other *(specify)*:

13. CREDIT FOR TIME SERVED

CASE NUMBER	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT
77196 -A	327	278	49 ☐ 4019 ☑ 2933.1
-B			☐ 4019 ☐ 2933.1
-C			☐ 4019 ☐ 2933.1
-D			☐ 4019 ☐ 2933.1
DATE SENTENCE PRONOUNCED: 4-22-02	SERVED TIME IN STATE INSTITUTION: ☐ DMH ☐ CDC ☐ CRC		

14. The defendant is remanded to the custody of the sheriff ☑ forthwith ☐ after 48 hours excluding Saturdays, Sundays, and holidays.

To be delivered to ☑ the reception center designated by the director of the California Department of Corrections.
☐ other *(specify)*:

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE	DATE
Regina Davis	4-29-02

SUPERIOR COURT TULARE COUNTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF TULARE

The People of the State of California Plaintiff vs Lionel Palafox Defendant	Visalia, California April 22 2002 No. 77196 Dept. 5 Judge, Hon. JOHN P MORAN Clerk Regina Watkins Bailiff Janet Silva Reporter Amber Ford

Nature of Hearing: **JUDGMENT PROCEEDINGS**
( ) FOLLOWING VIOLATION OF PROBATION

Counsel for the People: Melinda Aiello, Deputy District Attorney
Counsel for the Defendant: James Heusden

Defendant: (✓) present ( ) not present (✓) formal arraignment for judgment waived

Court finds offense(s) to be:
Count 3-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022.(a)(1)
Count 4-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022.53(b)
Count 6-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022(a)
Count 7-Felony to wit: Penal Code Section 211-2nd degree robbery.
Count 9-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022.53(b)
Count 10-Felony to wit: Penal Code Section 211-2nd degree robbery. PC12022.53(b)
Count 12-Felony to wit: Penal Code Section 487(d)-grand theft firearm.

ORDERS:
Probation (✓) denied ( ) granted for a period of subject to the following terms and conditions
( ) additional terms and conditions on page two (Imposition of sentence suspended during this term.)

Defendant committed to (✓) State Prison; ( ) California youth Authority; ( ) Tulare County Jail for a term as follows:

Count 4-Upper term of 5 years plus 10 years for PC12022.53(b)=15 years
Count 3-1 year(1/3 midterm) plus 4 months for PC12022(a)(1) c/s to Count 4
Count 6-1 year(1/3 midterm) plus 4 months for PC12022(a)
c/s to Count 3
Count 7-3 years Midterm c/c to Count 4-same credits
Count 9-5 years Upper term plus 10 years for PC12022.53(b) c/c to Count 4-same credits
Count 10-3 years Midterm plus 10 years for PC12022.53(b)=13 years c/c to Count 4-same credits
Count 12-2 years Midterm c/c to Count 4-same credits

Defendant given credit for 278 days actual time plus 49 days conduct credit for a total of 327 days served awaiting sentence.

(✓) Defendant shall pay a restitution fine in the sum of $200 pursuant to 1202.4P.C.
(✓) Defendant shall pay an additional restitution fine in the sum of $200 pursuant to 1202.45P.C. which shall be STAYED pending successful completion of parole.

(✓) The defendant participate in a counseling or education program, with a substance abuse component, while imprisoned, pursuant to Section 1203.096 of the Penal code.

TULARE COUNTY DISTRICT ATTORNEY
221 S. MOONEY BLVD., ROOM 224
VISALIA, CALIFORNIA 93291
Telephone: (559) 733-6411

ATTORNEY FOR PLAINTIFF

FILED
TULARE COUNTY
SUPERIOR COURT
JUL 19 2001
LARAYNE CLEEK, CLERK
BY:

TULARE COUNTY SUPERIOR COURTS DISTRICT

VISALIA DIVISION, STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff	CRT. No CRF01-7416 Case No. F-01-34078-1
v.	
	FELONY COMPLAINT
FREDDY PATINO, Defendant(s)	FELONY

The undersigned is informed and believes that:

COUNT 1

On or about the 18th day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by FREDDY PATINO, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of FRANCISCO ORTEGA (FAIRWAY MARKET RECYCLING).

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

SPECIAL ALLEGATION--ARMED WITH FIREARM

It is further alleged as to counts 1 that in the commission and attempted commission of the above offense a principal in said offense was armed with a firearm(s), to wit,REVOLVER, said arming not being an element of the above offense, within the meaning of Penal Code Section 12022(a)(1).

COUNT 2

On or about the 20th day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by FREDDY PATINO, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of E. PONCE (AD RECYCLING).

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

COUNT 3

On or about the 22nd day of June, 2001, in the above named Judicial District, the crime of 2ND DEGREE ROBBERY, in violation of Penal Code Section PC211, a FELONY, was committed by FREDDY PATINO, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of M. GAMBOA (B&C RECYCLING).

NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c).

SPECIAL ALLEGATION--ARMED WITH FIREARM

It is further alleged as to counts 3 that in the commission and attempted commission of the above offense a principal in said offense was armed with a firearm(s), to wit, REVOLVER, said arming not being an element of the above offense, within the meaning of Penal Code Section 12022(a)(1).

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency which the undersigned believes establish probable cause for the arrest of defendant(s)
FREDDY PATINO,
for the above-listed crimes.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT CONSISTS OF 3 COUNTS.

Executed at Visalia, California, on July 3, 2001.

DECLARANT

AGENCY: TCSO

Defendant Name
FREDDY PATINO,

Cite Date:

Complaint Processed by: LC

App. 2121

ORIGINAL

10.9
#12

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF TULARE

HON RONN M. COUILLARD, JUDGE

DEPARTMENT 12

TULARE COUNTY
SUPERIOR COURT

OCT 09 2001

LARRY NEES, CLERK

Tracy Hutchins

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

FREDDY PATINO,

Defendant.

NO. 77416

Visalia, California Friday, August 24, 2001

REPORTER'S TRANSCRIPT

OF

FELONY PLEA

ANNETTE MOORE, C.S.R. 2648

APPEARANCE OF COUNSEL:

For the Plaintiff:

PHILLIP J. CLINE
Tulare County District Attorney
2350 Burrel Avenue, Room 224
Visalia, California 93291-4593
BY: MELINDA AIELLO, Deputy

For the Defendant:

ANTONIO REYES
Attorney at Law
2031 South Court Street
Visalia, California 93277

THE COURT: We're in chambers with Freddy Patino and his attorney, Mr. Reyes, and the deputy DA and the court staff. This is in relation to the charges against Mr. Patino that have arisen from June of this year, 2001. I have three counts of robbery. I'm referring to case number 77416, which is the case we'll work off of.

I do understand Mr. Patino has the same charges filed against him in another case, 76881, but it's a duplicate filing. Doesn't matter which file we work with. But we are dealing with a 211, armed robbery, from June 18 of 2000 involving Francisco Ortega. There is another June 20 211 which involves a party by the name of E. Ponce. The third one is a June 22, 2001, 211 with a victim by the name of M. Gamboa.

There's been some discussion regarding a potential disposition as to this defendant. The two of you want to put on the record what you decided, what's been discussed so far.

MS. AIELLO: Basically, the People have indicated that they are not willing to make an offer in this situation. There have been some discussions as to whether or not Mr. Patino will ultimately testify in the trials against Mr. Thatcher and Mr. Palafox. My request is that the court proceed with the plea and set a sentencing date. With that said, I'll turn to Mr.

Reyes.

MR. REYES: Your Honor, my client at this point wants to resolve his case because of the indicated sentence by the court. The DA is making no offer. Technically, he's pleading to what he's charged with. I discussed with him the situation regarding testifying at the trial. He indicated to me that he would be willing to testify, of course, truthfully. He's given a full statement. He has cooperated fully with the police and intends on continuing to do so.

The indicated sentence, as we understood it from the court, was going to be a four-year lid. Because of the situation with him testifying, we were going to ask the court to continue the sentencing to a date beyond -- or some date when the court can consider the situation with him testifying at the time of sentencing.

I realize the court is making no other commitment than the four-year lid. However, at the same time, I think it would be fair to Mr. Patino, I think it's fair and just and appropriate for the court to consider whether or not he testifies and how he testifies as part of the sentencing.

THE COURT: That's basically where we left it. Mr. Patino, what I did indicate to both counsel, based upon my understanding of your involvement in these

cases and your lack of record and the fact that you basically terminated yourself from the other two defendants before all these other armed robberies were committed, I indicated it would be a lid, that means a maximum time of four years in state prison.

As Mr. Reyes says, I also indicated that if you did testify, I'm not saying you have to or even if the opportunity would arise, if in fact it did arise and you did testify in a trial involving the other two defendants, should they actually go to trial, then I certainly would take that into consideration in imposing a sentence on you. But in no event could it be more than the four year state prison sentence. Do you understand that so far?

THE DEFENDANT: Yes.

THE COURT: The other problem here with this type of a disposition, it's not a problem today, but it could be a problem in the future, is that based upon the nature of these cases, you will have three strikes on your record. What this means for the future is that if you are ever arrested and convicted in the future, that is after you've entered these pleas and are sentenced, if you are ever arrested and convicted of a felony violation, then you are looking at a minimum state prison sentence of twenty-five years to life. That's the dynamics of these type of charges for future

considerations.

You are subjecting yourself to up to a ten thousand dollar fine. If there is any restitution to any of these victims on these three matters you were involved in, of course, you would be liable for any of the restitution.

MS. AIELLO: Just for the record, there is actual restitution to be paid.

THE COURT: By restitution, we're talking about loss to the victims. Whatever they lost, you, being convicted of these charges, would be liable to repay the victims in the future for their losses. If you did go to prison, you at some period of time would be released on parole. That parole can last for three years, with a return to prison for one year if you violate any parole condition. Do you have any question about any of these consequences that we've just been discussing?

THE DEFENDANT: No.

THE COURT: Have any promises been made to you, other than what we talked about here in chambers?

THE DEFENDANT: No.

THE COURT: Before I can accept a plea in a case like this, you have to understand and give up certain rights. First of all, you do have the right to have a preliminary hearing. That hearing was just about

to begin. Do you give up your right to have that preliminary hearing so you can enter into this plea agreement?

THE DEFENDANT: Yes, your Honor.

THE COURT: Another right you have is the right to have a jury trial. Do you know what a jury trial is?

THE DEFENDANT: No.

THE COURT: Let me explain. A jury trial is a trial where your attorney and the DA would select twelve people from the community here at large. Those twelve people would sit in that jury box that's out there in the courtroom. They would listen to all the evidence in the case. After all the evidence was present the on both sides, then those twelve people would decide if you were guilty or not guilty. If they were to find you guilty, they all twelve would have to agree that in fact you were guilty. Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: You do have a right to have a trial like that. Are you giving up your right to have that trial so you can enter into this agreement?

THE DEFENDANT: Yes, your Honor.

THE COURT: Some other rights you would have would be the rights to have the witnesses who would testify against you come in to court, testify in front

of you and be questioned or cross-examined by your attorney. In addition to that, you would have the right to have witnesses on your side come in to court, testify on your side. If you wanted to, you could testify for yourself. Do you understand those rights?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you give up each of those so you can enter into this agreement?

THE DEFENDANT: Yes, your Honor.

THE COURT: Last thing is your right to remain silent. That means you don't have to say anything about any of these charges. It would also mean you do not have to plead either guilty or no contest plea and enter into this agreement. Do you understand the right to remain silent?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you give up that right so you can enter into the agreement we've been discussing?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you have any questions you need to ask Mr. Reyes or myself before we formally get into taking these pleas?

THE DEFENDANT: No.

THE COURT: In Count 1 it's alleged that on the 18th of June of this year you committed a felony violation of 211, that's otherwise known as a second

degree robbery. This is of the Fairway Market Recycling with a party by the name of Francisco Ortega as the victim. It's further alleged that a principal, that is a co-defendant in your case, was armed with a firearm pursuant to 12022(a)(1) of the Penal Code. To that charge involving the Francisco Ortega 211 as I read it to you, how do you plead at this time, is it guilty, not guilty or no contest?

THE DEFENDANT: No contest, your Honor.

THE COURT: The second count here is a case from June the 20th, 2001, that likewise is a second degree robbery, violation of Penal Code Section 211. This one has to do with a victim by the name of AD Recycling, the individual's name is E. Ponce. To that Count 2, how do you plead?

THE DEFENDANT: No contest, your Honor.

THE COURT: Count 3 is a case from the 22nd of June, 2001, again a second degree robbery, violation of 211 of the Penal Code, again the allegation pursuant to Penal Code Section 12022(a)(1), that is a co-defendant or principal in the case was armed with a firearm. This case involves the victim known as B & C Recycling, and an individual with the name of M. Gamboa. As to Count 3, are you also entering a plea of no contest?

MR. REYES: Let me have a moment, your Honor. I thought there was only one count where the gun was

used.

MS. AIELLO: We did correct it this morning. There was the two.

THE COURT: I can work the four years into it.

MR. REYES: Someone was armed with a knife, not a revolver, that's what I remember.

MS. AIELLO: If we go off the complaint that's filed in 76881, there are in fact two principal arming allegations. But there is arming of a knife, which would not apply to Mr. Patino. It is consistent between the two cases he's charged with arming allegations on two.

THE COURT: I'm looking at the other file, which is a double filing because these defendants were brought in at a different time. It looks like Count 1 is the Ortega matter. That does have a handgun involved. Count 3 is the M. Gamboa case from -- this says the 20th of June, the other one says the 22nd.

I'll tell you what, why don't we have him enter the plea. It could be no worse than the four years with the two armed allegations. I think by the time he comes back for sentencing, because we'll put this over so far, it may develop that one of these armed allegations may not be correct. If that's the case, it would -- it would have an effect on the sentencing.

MR. REYES: My understanding is he's going to

admit as charged right now, with the understanding at the time of sentencing if it was a knife versus a gun, we could clear it up at the time of sentencing.

THE COURT: Right, I would dismiss the allegation. At this time we may know after we get through with the allegations on the other defendants here. It's no contest plea, Mr. Patino?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you understand a no contest plea is the same as a guilty plea as far as the court's ability to sentence you and the effect it has as conviction on your record? Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: I'm going to make the finding of a knowing waiver, knowledge of the consequences, voluntary entry of the plea, there is a factual basis for the plea. We're going to continue sentencing down the road so that we can accommodate anything that might develop with him as a potential witness. I'm not saying he has to be, but that could develop.

We're going to hold a prelim today, the 24th for the other two defendants, if held to answer, they'd be around the 7th of September. Sixty days from that for their trial date would be sometime in early November.

Why don't I have Mr. Patino come back here

on the 2nd of November. In the meantime, I'll order that he contact probation, make the appointment for an interview, keep the appointment, then be back here on the 2nd of November. He's waiving time for sentencing?

MR. REYES: So waived, your Honor.

MS. AIELLO: I would just like it understood that if in fact Mr. Patino for any reason fails to appear at the time of sentencing, that the indicated sentence is off.

THE COURT: That's true. If you fail to appear as ordered, not only would your bail be forfeited, but I would not be held to the plea bargain. I could back out of this and start all over again.

MR. REYES: He's in the National Guard. He does have dates where he has weekend training.

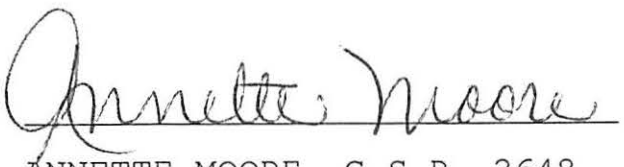
THE COURT: What you need to do is get this paperwork we're going to give you, go up to the second floor, to the probation department, make an appointment for an interview. They need a report. The only way they can get that report is to interview you. Keep that appointment. We'll see you back here on the 2nd of November. Hopefully, we'll know where we are at that point.

STATE OF CALIFORNIA)
) SS
COUNTY OF TULARE)

I, ANNETTE MOORE, Certified Shorthand Reporter, DO HEREBY CERTIFY:

That I was present at the time of the examination in the case as entitled on the title page thereof; that I took down in shorthand all of the testimony given and proceedings had; and I further certify that the foregoing and annexed pages comprise a full, true and correct transcript of my said shorthand notes:

DATED: October 5, 2001, at Visalia, California.



ANNETTE MOORE, C.S.R. 2648

TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION

ASE NUMBER: CR-F -01-007716-2 DATE: April 26, 2002

ONN COUILLARD , JUDGE

EOPLE OF THE STATE OF CALIFORNIA CLERK: ~~Maria Gonzales~~ Kris Inman
REPORTER: Annette Moore
INTERPRETER: _____

VS

ATINO, FREDDY
OB:6/21/82

ATURE OF PROCEEDINGS: FELONY SENTENCING

ttorney for the People: DISTRICT ATTORNEY Melinda Aiello
ttorney for the Defendant: CONFLICT COUNSEL/REYES ANTONIO
)Defendant present ( )not present ( )In Custody (✓)with/~~without~~ Attorney
)Court finds no lawful justification for absence.
)Defendant to be arrested at counter ( )Certified Interpreter waived.
)Bench Warrant to issue with bail fixed at $_____ ( )Bail forfeited.
)Release on own recognizance revoked ( )Warrant stayed to _____
)Formal arraignment for judgment waived. (✓)No legal cause.

OURT FINDS OFFENSE TO BE:
:T 1 FELONY TO WIT: PENAL CODE 211 SECOND DEGREE ROBBERY w/SPECIAL ALLEG. 12022(a)(1)PC
:T 2 FELONY TO WIT: PENAL CODE 211 SECOND DEGREE ROBBERY
:T 3 FELONY TO WIT: PENAL CODE 211 SECOND DEGREE ROBBERY w/SPECIAL ALLEG. 12022(a)(1)PC

RDER: Probation ( )denied (X)granted for a period of 5 years,
subject to the following terms and conditions (X)additional terms
and conditions on page two.
(Imposition of sentence suspended during this term) 4 yr Prison suspended
Defendant committed to ( )State Prison ( )California Youth Authority
( )Tulare County Jail for the term as follows:

:T 1 Low term 2 yrs - CT 2 1/3 mid term 1 yr cons. CT 3 1/3 mid term 1 yr consec
:NHANCEMENT - Stayed. of 1365 days ENHANCEMENT - Stayed -

Defendant given credit for 5 day actual time plus 0 days
conduct credit for a total of 5 days served awaiting sentence.
(X) Stay of execution granted until 6-3-02 at 7am.
(X) BWDF ( )TCCC. ( )SWAP / MONITOR DENIED.

(X) Defendant shall pay a restitution fine in the sum of $200 pursuant after restitution
to PC 1202.4 ( )Defendant shall pay a restitution fine in the sum of $_____
pursuant to PC 1202.45 ( )stayed during term of probation/parole after which
time it shall become permanent.
(X) Defendant advised of (X)appeal rights; ( )parole obligation upon release from
prison; (X)consequences of violation of probation.
(X) Court finds the defendant (X)does not have the ability to pay attorney fees;
( )has the ability to pay attorney fees in the sum of $_____.
( ) Remaining counts/special allegation(s) dismissed.
( ) Defendant remanded. (✓)Bail Bond ( )~~Cash Bail~~ Exonerated.
( ) Defendant released on probation. (X)Pay $ 97.76 Booking Fee by CIVIL JUDGMENT
(X) Defendant pay restitution to the victims as follows: F.O. $240.00, E.P. $60.00
A & D Recycling $300.00, A & D Recycling $600.00. — $75 pr mo - 30 days after release
Said amount to be paid jointly and severally with co-defendants Palafox and Thatcher.
~~Amounts to be collected and disbursed by the California Department of Corrections.~~
Def. did co-operate with prosecution in trial of co-def -

Pay restitution to probation accounting who will pay victims.

( ) Continued to _____ on _____ Dept. _____.
( ) _____.

TERMS AND CONDITIONS OR PROBATION:
(X) Defendant shall obey all federal, state and local laws.
(X) Defendant shall report to the Probation Officer of Tulare County immediately upon release at 3305 S. Fairway, Visalia, CA and provide whatever information the Probation Officer requests and/or requires.
(X) Defendant to contact Probation Accounting Services, County Civic Center, Room 204, Visalia, for financial obligations.
(X) Defendant shall reside in the State of California, County of Tulare ( )or _____ unless permission is granted in writing to reside elsewhere.
(X) Defendant shall ~~( )~~submit to a search of (X)person ~~( )~~automobile ~~( )~~residence without a search warrant, by a Peace/Probation Officer at reasonable time during the term of probation ( )submit to ( )narcotic ( )chemical detection test at the direction of the Probation Officer ( )participate in ( )alcohol ( )substance abuse ( )mental health counseling ( )at his/her own expense at the direction of the Probation Officer.
( ) Defendant shall abstain from the use of ( )alcohol ( )any drug or narcotic unless prescribed by a licensed physician.
( ) Not frequent a place where alcohol is the primary beverage sold.
( ) Attend AA/NA meetings _____ per week as directed by the Probation Officer.
( ) Defendant shall register as a ( )narcotic offender purs. to 11590 H&S ( )sex offender purs. to 290 of the Penal
( ) Defendant to receive AIDS counseling as mandated pursuant to 1001.10 PC
(X) Defendant shall seek and maintain employment pursuant to 1203.1 of the Penal Code.
(X) Defendant shall not possess any firearm or other concealable weapon during the term of probation.
( ) Defendant shall participate in _____ hours volunteer service under the direction of the Probation Officer. To be completed by _____.
( ) Defendant shall make restitution in the amount of $_____ payable as recommended in the Probation Officer's report.
( ) Defendant shall pay a fine in the amount of $_____plus penalty assessment of $_____payable as directed by the Probation Officer.

FURTHER ORDERS:
( ) Defendant shall pay all or part of the costs associated with being tested, based on the defendant's ability to pay such costs. (These amounts are be paid to the Probation Officer who is to deposit such amounts with the Tulare County Treasurer.
( ) Defendant shall pay the laboratory analysis fee in the amount of $_____ payable as directed by the Probation Officer.
( ) Pursuant to 1203.1b PC defendant to pay $_____ for the cost of preparation of presentence investigation report, payable to the Probation Officer who shall such amounts as received with the Tulare County Treasurer.
( ) Restitution to remain open.

DATE:_____ DEFENDANT: Freddy A. Patis

SS# :_____ ADDRESS :_____

DOB :_____ _____ ZIP _____

DISTRIBUTION: DA PD DEF JAIL ATTY PROB CITY ATTY

VISALIA POLICE DEPARTMENT 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. A01-09239 01-09336 01-09750
CODE SECTION	CRIME	CLASSIFICATION
211 PC	ARMED ROBBERY	
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.

SUSPECT INFORMATION:

1. **THATCHER, DAVID**
   DOB 07/13/80

2. **PALAFOX, LEO**
   DOB: 08/03/69

3. **PATINO, FREDDY**
   DOB: 06/21/82
   ARRESTED: Yes

PERSON'S INTERVIEWED BY THIS OFFICER ON 06/28/01:

David Segura
DOB: 01/12/79
3005 E. Duran
Visalia, CA
625-9446

At approximately 1700 hours, 06/28/01:

I began assisting Det. M. Lopez, I88, Officer J. Pree, A104, and Det. Winslow of the Tulare County Sheriff's Office in the investigation of a series of armed robberies of Recycle Truck both in the Visalia and Tulare County area.

At approximately 2045 hours,

I escorted a David Segura, DOB: 01/12/79 into my office at the Visalia Police Department. It should be noted that Segura was with S/PATINO at the time PATINO was asked if he would come down to the Visalia Police Department. Segura provided me with the following statement. Segura states that he knows PATINO, because he works with him. Segura explained that there is a job site at Linwood and Cypress, where there are several laborers building a retirement home. Segura stated that he personally does drywall while FREDDY does general labor. Segura further explained that although they work for different people, he sees FREDDY at the job site almost everyday. Segura also stated

REPORTING/RECORDING OFFICER S. PUDER, S55	TYPED BY / COMPUTER # MG/125	DATE 06/30/01

FURTHER ACTION	COPIES TO		REVIEWED____
( ) YES	( ) DETECTIVE	( )T-BOLT	
( ) NO	(A) DISTRICT ATTORNEY	( )OTHER_____	
	7-2-01 SM	( ) JUVENILE	

VISALIA POLICE DEPARTMENT 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. A01-09239 01-09336 01-09750
CODE SECTION 211 PC	CRIME ARMED ROBBERY	CLASSIFICATION
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.

that he as known for FREDDY for approximately 3 to 4 months, that FREDDY generally works Monday through Friday 0630 to 1600 hours, while he works Monday through Friday 0700 to 1530 hours.

I asked Segura if PATINO had told him about a situation involving his vehicle. Segura stated that PATINO had. According to Segura, PATINO stated that on Monday 06/25/01 between 11 a.m. and 11:30 a.m., these two individuals known to David Segura only as Leo and David Thatcher came to the job site at Linwood and Cypress. Segura went on to state that he could tell they were pressuring PATINO to borrow his vehicle and although PATINO didn't really want to give them his vehicle, he buckled under the pressure and allowed them to take the vehicle. According to Segura, he told Leo and David Thatcher to be back by 1530 hours to pick him up. However, they did not return.

According to Segura, he and FREDDY got a ride to his sister's house where they used the phone and then FREDDY's brother picked them up and took them home. Segura stated that FREDDY's mom took them to the gym on Monday night and his [FREDDY's] mom said that she would take FREDDY to work tomorrow.

According to Segura, FREDDY complained the rest of the week about being afraid of these guys and that one of them was carrying a gun and in fact stopped by Wal-Mart to get bullets for his gun, and he was scared of this particular individual.

According to Segura, on the following Tuesday, 06/26/01, FREDDY was at the work site all day and that the [Segura] left at about 1530 hours and FREDDY was still there. According to Segura, that night, FREDDY's mom took them to the gym. Segura went on to state that on Wednesday, 06/27/01, FREDDY's mom took FREDDY to work that FREDDY was at the job site all day and that later that evening FREDDY's mom took both Segura and FREDDY to the gym.

Segura went on to state that on Thursday, 06/28/01, he was at work and an individual by the name of Marty Layer told him to go to the store to get some ice and some sodas between 7:30 a.m. and 8:00 a.m. According to Segura, he walked to the Beacon Station, at which time on the south side of the Marco Polo he observed FREDDY PATINO's vehicle. When Segura got back to the job site he told FREDDY PATINO that his vehicle was at Marco Polo and that he better call the cops and go pick it up. According to Segura, FREDDY PATINO went right to Marco Polo and got the vehicle.

REPORTING/RECORDING OFFICER S. PUDER, S55		TYPED BY / COMPUTER # MG/125	DATE 06/30/01
FURTHER ACTION ( ) YES ( ) NO	COPIES TO ( ) DETECTIVE (X) DISTRICT ATTORNEY	( )T-BOLT ( )OTHER_____ ( ) JUVENILE	REVIEWED_____

VISALIA POLICE DEPARTMENT 303 S. JOHNSON STREET VISALIA, CALIF. 93291		CASE NO. A01-09239 01-09336 01-09750
CODE SECTION	CRIME	CLASSIFICATION
211 PC	ARMED ROBBERY	
VICTIM (S) NAMES (S)	ADDRESS	PHONE NO.

I then began Segura in regards to the week prior, which would be the week of June 18th through the 22nd. According to Segura, he stated he seemed like these two individuals Leo and David Thatcher had showed up one time and borrowed FREDDY's vehicle while he was there. According to Segura, he knew FREDDY was using Crank on this particular week, because he appeared to be under the influence while at work. Segura stated that he knew this because at one time he was a drug user himself, and it was apparent to him. According to Segura, he also heard PATINO's boss identified only as Bill, chewing him out about coming to work late and leaving early.

Segura did state that it seemed like PATINO missed at least one day in this particular week and again as far as Segura could remember, he believed that PATINO did not put in a full 8 hours of work each day. He felt that he could have been missing some of those times.

I asked Segura if FREDDY PATINO ever mentioned to him anything that these individuals Leo and David Thatcher were involved in. According to Segura, he recalls PATINO stating that they were pressuring him for money to pay the rent, however they never mentioned being involved in any robberies. Segura did state that PATINO told him that he was driving around with these two individuals last week around 2 a.m. and one of the individuals talked about wanting to pull a robbery, however, according to PATINO they did not pull a robbery. Segura stated that he had no further information in regards to this investigation. Segura made no further statement.

Recommendation: Forward a copy of this report along with the other reports related to this investigation to the Tulare County District Attorney's Office as PATINO is in custody. No further information.

REPORTING/RECORDING OFFICER S. PUDER, S55		TYPED BY / COMPUTER # MG/125	DATE 06/30/01
FURTHER ACTION ( ) YES ( ) NO	COPIES TO ( ) DETECTIVE (X) DISTRICT ATTORNEY	( )T-BOLT ( )OTHER_____ ( ) JUVENILE	REVIEWED_____

15172

TIME CARD
E. KENT HALVORSON, INC.

Employee Name: Freddy Pena Week Ending Date: 4/29/2001

Job Number	Cost Code	Type of Work Done	SUN Reg	SUN OT	MON Reg	MON OT	TUE Reg	TUE OT	WED Reg	WED OT	THUR Reg	THUR OT	FRI Reg	FRI OT	SAT Reg	SAT OT	TOTAL Reg	TOTAL OT
29163	01711.0	Cleanup/Debris			8.0		4.0		8.0		3.0		8.0				31.0	
	30087.0	Repairing Gutters Bays																
	01711.0	Cleanup/Debris Drywall					4.0		3.0		4.0		4.0				14.0	
		Cleanup/Debris/Floor																
	01711.0	Cleanup/DR									2.0						2.0	
	01711.0	Cleanup/DR					1.0		1.0		1.0		1.0				4.0	
	01711.0	Debris/Glass Board							8.0								8.0	
		Rear Hallway Drywall																
EMPLOYEE #		Total Reg. Hrs.	-	-	-	8.0	-	8.0	-	8.0	-	8.0	-	-	-	-	57.0	-
		Total OT Hrs.	-	-	-	-	1.0	-	1.0	-	1.0	-	1.0	-	-	-	-	4.0
		Total Hrs.			8.0	1.0	8.0	1.0	8.0	1.0	8.0	1.0					57.0	4.0

Note: Both employee and supervisor are required to sign the time card to allow for proper payroll processing.

36

I certify that for the period covered by this Time Card my hours are recorded correctly and I am injury free or I have reported any injuries to my supervisor.

Employee Signature: Freddy L. Pena

Approved by: [signature]

Approved by:

Description of injury or comments:

JUL 02 01 08:20a E KENT HALVORSON (WHITE COPY - MAIN OFFICE YELLOW COPY - JOBSITE) 858-530-0005 p.4

15172

TIME CARD
E. KENT HALVORSON, INC.

Employee Name: Frankie Taylor

Week Ending Date: 6/30/2007

Job Planned	Cost Code	Type of Work Done	SUN		MON		TUE		WED		THU		FRI		SAT		TOTAL	
			Reg	OT	Reg	OT	Reg	OT	Reg	OT	Reg	OT	Reg	OT	Reg	OT	Reg	OT
20108	01711.0	Clean up/set Kodak			4.0		4.0		4.0		4.0		6.0				18.0	
	01711.0	Measure Down Exam																
	01711.0	Clean up/Clayton Const			4.0		4.0		4.0		4.0						16.0	
		Clean up/Clayton Road																
		Clean up/SDE																
	01711.0	Travel to					1.0		1.0		1.0		1.0				4.0	
		Day(s) Inclement Weather																
		Travel Hours Overtime																
EMPLOYEE #		Total Reg. Hrs.			8.0		8.0		8.0		8.0		7.0				39.0	
		Total OT Hrs.					1.0		1.0		1.0		1.0					4.0
		Total Hrs.			8.0	1.0	9.0		9.0	1.0	9.0	1.0	8.0	1.0			39.0	4.0

36

Note: Both employee and supervisor are required to sign the time card to allow for proper payroll processing.

I certify that for the period covered by this Time Card my hours are recorded correctly and I am injury free or I have reported any injuries to my supervisor.

Employee Signature: NOT to Sign Dup 7/2

Approved by:

Approved by:

Description of injury or comments:

(WHITE COPY - MAIN OFFICE YELLOW COPY - JOBSITE)

SUPPLEMENT REPORT #2

VICTIM:

(V1) U.S.A. Market
30602 Road 68, Goshen, CA
651-3361

(V2) Alrhimi, Mike
DOB: 10/5/77
30602 Road 68, Goshen, CA
651-3361

(V3) Vargo, David
DOB: 9/23/63
2734 W. Caldwell Ave., Visalia
732-6522

SUSPECT:

(S1) Palafox, Leo Camarena
DOB: 8/3/69
Hispanic male adult, 6'3", 140, black hair, brown eyes

(S2) Thatcher, David
DOB: 7/13/80
White male adult, 5'10", 135, brown hair, hazel eyes

PERSONS CONTACTED:

(1) Dep. John Lee
Tulare County Sheriff's Office Head Quarters Patrol

(2) Slayton, Glory Victoria (Maiden name: Jennings)
DOB: 12/4/62
Green trailer located at 30543 Road 69, Goshen, CA
P.O. Box 723, Goshen, CA 93227

NARRATIVE:

06/30/01:

I responded to the U.S.A. Market to investigate a robbery occurring at 1430 hours.

I attempted to locate Glory Slayton for an interview regarding a statement she had provided earlier that day to Dep. Webb. I attempted to contact Slayton at the address of 30623 Commercial Drive, Goshen. I contacted Thomas Mitchell who stated Slayton had not lived at this residence for the previous four years and he did not know why she gave Dep. Webb this address. Mr. Mitchell said Slayton lives at various residences throughout the Goshen area and he did not know where she was staying at this time. Refer to Deputy Webb's report.

07/23/01 – 1020 Hours:

I received a telephone call from Dep. John Lee who stated he located Glory Slayton and he was with her in the alley west of the intersection of Effie Drive and Ave. 306, Goshen.

07/23/01 – 1045 Hours:

I contacted Dep. John Lee and Glory Slayton in the alley west of Ave. 306 and Effie Drive. I identified myself to Slayton as a detective with the Tulare County Sheriff's Office. I advised Slayton I was conducting the investigation of the robbery of the U.S.A. Market occurring on 6/30/01. I advised Slayton she was a possible witness to the suspects responsible for the robbery.

Slayton agreed to provide the following taped statement. Slayton said on Saturday, 6/30/01, she went to the U.S.A. Market during the early afternoon hours. Slayton said it was a very hot day, in excess of 100 degrees. Slayton said she wanted to buy a beer and some deli chicken.

Slayton said she rode her bike to the market traveling west bound on Ave. 306. Slayton stated as she was approaching Ivy Road, she observed two subjects, a white male adult and a Hispanic male adult walking south, emerging from the alley located behind the market. Slayton said from a distance, she observed the two subjects cross the street, (Ave. 306) and get in to a four-door dark blue Chevy vehicle parked along the south side of Ave. 306 between Road 68 and the alley. Slayton said the vehicle was facing east bound and parked along the chain link fence of the factory.

Slayton stated as she passed the vehicle, she observed both subjects sitting very low in the vehicle. Slayton said she looked at the subjects and did not recognize either one of them. She stated she knew the subjects were not local Goshen residents. Slayton stated she continued toward the market, turned north on Road 68 and went to the market.

Slayton stated while at the store she bought a beer and deli chicken. Slayton said she also talked several moments to the owner, Mike Alrhimi. She stated as she left the market, she recalls seeing a semi-tractor trailer truck park in front of the U.S.A. Market. Slayton said she was contacted by a truck driver whom she described as a black male who asked her for directions to Dinuba.

Slayton stated she then got on her bicycle and began to ride home carrying her beer and chicken.

Slayton stated she rode south on Road 68 and then turned east on Ave. 306. Slayton stated when she turned on Ave. 306, she observed the blue Sedan vehicle was now gone. Slayton stated from a distance, she recognized the same two subjects, the Hispanic male adult and the white male adult standing on the north side of Ave. 306 at the intersection of Ivy Road. Slayton stated she thought it was strange that the subject's vehicle was gone, however, they had returned.

Slayton stated she approached the subjects and observed the following physical description. Slayton described the Hispanic male adult as tall, skinny, with a "sucked up" appearance, indicating he was a drug user. Slayton stated the subject was wearing a white and black bandana around his neck. Slayton stated the subject wore blues jeans, a black T-shirt, with a white T-shirt underneath. Slayton said the subject was wearing a black baseball cap, black boots, with tattoos on both arms.

Slayton described the second subject as a white male adult wearing blue jeans, white tennis shoes, and a faded blue/grey T-shirt with a white T-shirt underneath. Slayton stated she observed the white male to have a shaved head, and he was sweating profusely and constantly wiping his forehead with a white and black colored bandana.

Slayton stated she had been attempting to eat her chicken while riding her bicycle and she was having difficulty so she stopped next to the two subjects and began to make conversation. Slayton stated the white male said "Hello" to her and told her it was very hot. Slayton stated she asked both subjects where they were going and the white male stated they were going to the store to get a beer. Slayton stated she observed this subject to be sweating profusely and she commented to him, "No wonder you're hot, you're wearing two

shirts."

Slayton stated the white male then asked her where her daughter was at. Slayton stated she replied to him, "Do I know you?", and he replied she did not know him.

Slayton stated throughout the conversation, she became increasingly suspicious of the behavior of the two subject. Slayton stated the Hispanic subject appeared to very "cool and calm", however, the white male subject appeared to be very nervous, constantly looking around and sweating profusely.

Slayton stated she thought it was very strange that both subjects would be wearing two T-shirts on a day with the temperature in the excess of 100 degrees. Slayton stated she thought it to be suspicious that she had previously moments prior seen both subjects in the blue Chevy, however, now it was gone and they were still in the area. Slayton stated she asked the subjects what they did with their car and the white male told her they never had a car. Slayton stated jokingly to the subjects, "You better not be going over there and robbing my store." Slayton stated the white male subject looked at her very concerned, however, the Hispanic male spoke up and stated, "No, no we got money, see." Slayton stated that the Hispanic male subject pulled a $10.00 bill out of his pocket and held it up.

Slayton stated she then rode off on her bicycle east bound on Ave. 306. Slayton stated she last saw both subjects walking west on Ave. 306. Slayton stated when she looked back, she saw both subjects were gone.

07/23/01 – 1113 Hours:

I read to Slayton the photographic line-up instructions and she stated she understood the instructions. I then presented to Slayton Visalia Police Department photo line-ups #A and #B, both consisting of six black and white photos.

Slayton initially viewed photo line-up #A and stated she did not recognize anybody. She then went to photo line-up #B and selected photo #4 (Leo Palafox) and stated this was the Hispanic male subject she spoke with.

Slayton then viewed photo line-up #A, a second time. I observed her place her fingers across the forehead of photo #5 of David Thatcher. Slayton stated the subject in photo #5 looked like the white male she had spoken to, however, the subject had a shaved head on that day and the photo shows him with a short hair cut. Slayton said she was 60% certain the subject in photo #5 was the white male she spoke with on 6/30/01.

Slayton then asked me, "Is this David?" I asked Slayton how she knew this subject's name to be David. Slayton stated the white male subject she spoke with on 6/30/01 was David Thatcher.

Slayton stated she has known David Thatcher approximately five years. Slayton stated she met David Thatcher approximately five years ago while she was living in Visalia and he was a teenager. Slayton stated she had not see Thatcher in several years until he arrived at the home she was staying at in January or February of 2001 located on Effie Drive, Goshen. Slayton stated Thatcher told her he had just gotten out of prison. Slayton stated she observed Thatcher to have a very muscular build and when she asked him, he told her he had been working out with weights while in prison.

Slayton stated Thatcher came by a second time to her residence on Effie Drive this spring, her best estimate being April 2001. Slayton stated Thatcher was accompanied by Billy Windsburg. She stated Billy and Thatcher told her they were looking for her daughter Victoria Jennings.

Slayton stated the third time she had seen Thatcher occurred on the afternoon of 6/30/01 on Ave. 306 when Thatcher was accompanied by the subject identified as Leo Palafox. Slayton stated she was initially taken aback when she saw Thatcher because his head was shaved bald and he had lost a lot of his weight including his physical muscle mass. Slayton stated she was initially uncertain if she was speaking with Thatcher, however, she did not want to embarrass herself by asking. Slayton stated eventually during the conversation she asked Thatcher if she knew him and he replied she he did not know her. Slayton stated she knew at that time Thatcher was lying to her because they both knew each other. Slayton stated Thatcher was acting very strange with her that day including his denial of knowing her, wearing two T-shirts , sweating very profusely, acting very nervous, and the car she had seen he and Leo Palafox in minutes prior was now gone and both denied it ever existed.

I asked Slayton if she was certain the person she spoke with on 6/30/01 was in fact David Thatcher. Slayton stated she was certain she had spoken to David Thatcher on Ave. 306 on 6/30/01. Slayton stated she was having difficulty selecting the photo of Thatcher in the line-up today because in the photo he has approximately a ½ inch of hair and on 6/30/01, he was shaved bald.

Forward to the D.A. Office requesting David Thatcher and Leo Palafox be charged with 211 P.C. of the U.S.A. Market.

CASE STATUS: ACTIVE.

REQUESTING AGENCY CASE NO
01-10226
01-10229

CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF FORENSIC SERVICES
FRESNO REGIONAL CRIMINALISTICS LABORATORY
6014 N. Cedar Ave. Fresno, CA 93710
Phone No. (559) 278-2982 FAX No. (559) 297-3544

BFS CASE NUMBER
FR-01-003794

ATTN: Detective Winslow
Tulare County Sheriffs Office
County Civic Center
Visalia, CA 93291

COPIES:

PHYSICAL EVIDENCE EXAMINATION REPORT

SUSPECT: THATCHER, DAVID AND PALAFOX, LEO OFFENSE: 664/211 P.C.

VICTIM: ROMO, JOSE OFFENSE DATE: JUNE 30, 2001

I, the undersigned, if called as a witness, would testify that I: (1) am employed by the State of California Department of Justice, (2) conducted an examination of, and (3) formed conclusions as stated in this report. I, the undersigned, declare this information is true and correct under penalty of perjury.

SUMMARY:

The submitted pair of Nike athletic shoes (item # 2) did not make any of the questioned shoe impressions (items # CG-1 and CG-10).

EVIDENCE:

M. Flores of the Tulare County Sheriff's Office submitted the following evidence to the Laboratory on August 2, 2001:

Item #	Description
2	One pair of Nike athletic shoes
CG-1	Two negatives of partial shoe impressions submitted under agency case # 01-10226
CG-10	Four negatives of two shoe prints

DISPOSITION:

Evidence is stored in the Laboratory pending release to the submitting agency.

EXAMINED BY: _____
IQBAL S. SEKHON
Senior Criminalist

Date of Report: October 22, 2001

Technical review by: _____ Date: 10-23-01
Administrative review by: _____ Date: 10/23/01
ISS : jg

BFS 6

< RETURN TO SEARCH

Search Result for Name - David Charles Thatcher

Name	CDCR Number	Age	Admission Date	Current Location	Commitment County
THATCHER, DAVID CHARLES	K81267	44	Jan 03 2002	Sierra Conservation Center	Kings, Tulare

Items per page: 20 1-1 of 1

Can't find the person you are looking for? TRY OTHER SITES

Conditions of Use

Privacy Policy

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Sierra Conservation Center (SCC)

Main Phone: (209) 984-5291

Physical Address: 5100 O'Byrnes Ferry Road, Jamestown, CA 95327 (Directions (https://www.google.com/maps/place/5100+Obyrnes+Ferry+Rd,+Jamestown,+CA+95327/@37.8914639,-120.5390627,15.75z/data=!4m5!3m4!1s0x8090e82368279aa7:0xde9f517d0b723518!8m2!3d37.8935429!4d-120.5381767))

Mailing Addresses +

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About the Warden -

Joshua Prudhel has been serving as acting Warden at Sierra Conservation Center since February 2024.

Mr. Prudhel began his career at San Quentin State Prison in 2003 as a Correctional Officer. In December 2005, he promoted to Correctional Sergeant serving at the Correctional Training Facility, Deuel Vocational Institution, and California State Prison (CSP)- Corcoran. In July 2011, he promoted to the rank of Correctional Lieutenant, serving at CSP- Corcoran and the California Health Care Facility (CHCF). In July of 2017 he promoted to Captain at CHCF. Mr. Prudhel conducted a second tour at CSP- Corcoran starting when he promoted to Associate Warden in April of 2020. He also conducted a second tour at the Correctional Training Facility as acting Chief Deputy Warden in August of 2021 before

being assigned to CSP- Sacramento as acting Chief Deputy Warden in March of 2022, where he was appointed in June 2022.

About the Health Care CEO

Statewide Inmate Family Council

DECLARATION OF ANDREA R. ST. JULIAN

I, ANDREA RENEE ST. JULIAN, declare as follows:

1. I am an attorney licensed to practice law in the State of California, and I am admitted to practice before the United States Court of Appeals for the Ninth Circuit.

2. On September 3, 2016, petitioner, David Charles Thatcher, filed an Application for Leave to File a Second or Successive Habeas Corpus Petition with the Ninth Circuit Court of Appeals. In filing that Application, Mr. Thatcher requested that the Court appoint counsel to represent him. The case number in that proceeding is 15-72750.

3. In his Application, case number 15-72750, Mr. Thatcher seeks leave to file a habeas petition in the U.S. Eastern District of California challenging the judgment and convictions rendered against him in Tulare County superior court case number 01-77196.

APPOINTMENT OF COUNSEL BY THE NINTH CIRCUIT COURT OF APPEALS

4. On February 8, 2016, the Ninth Circuit Court of Appeals appointed me to represent Mr. Thatcher in that Court with respect to his Application for Leave to File a Second or

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San Diego, CA 92130

Successive Habeas Corpus Petition. In so doing, the Ninth Circuit gave Mr. Thatcher leave to file an amended Application.

5. The Ninth Circuit Court of Appeals' appoint was, by its very nature, limited to representing Mr. Thatcher before that Court.

LIMITED SCOPE OF PRO BONO OBLIGATIONS

6. In or about mid-August 2016, I realized that for Mr. Thatcher to receive the relief he sought, it would be best for him to file a new habeas petition with the Tulare County Superior Court. This petition would have to be prepared by counsel to be most effective. Because Mr. Thatcher had no funds with which to hire habeas counsel, I agreed to prepare a habeas petition on Mr. Thatcher's behalf on a pro bono basis.

7. Although I agreed to act as Mr. Thatcher's pro bono counsel, the scope of that representation is limited. In this regard, I have agreed only to file the habeas petition. Upon this court's grant of an order to show cause, I will withdraw as counsel. In this regard, the fact that my office is located in San Diego and that I cannot financially afford to represent Mr. Thatcher at any further proceedings, such as an evidentiary hearing, will preclude me from continuing as pro bono counsel.

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8. Because Mr. Thatcher will no longer have counsel following this Court's issuance of an order to show cause, Mr. Thatcher requests, pursuant to California Rules of Court, Rule 4.551 subdivision (c)(2), that this Court issue an order appointing him counsel. In this regard, Rule 4.551 subdivision (c) states, "On issuing an order to show cause, the court must appoint counsel for any unrepresented petitioner who desires but cannot afford counsel."

DILIGENCE OF APPOINTED COUNSEL IN GATHERING RECORD AND NEW EVIDENCE

9. Mr. Thatcher's judgment of conviction arising from Tulare County superior court case number 01-77196 took place over 15 years ago. The proceeding involved not only the three robberies of which Mr. Thatcher was convicted but also two related robberies. There were two co-defendants, Leonel Palafox and Freddy Patino.

10. Following Mr. Thatcher's 2001 convictions, he filed an appeal and a petition for review with the California Supreme Court. Appointed appellate counsel assisted Mr. Thatcher with both of these filings.

11. Following the denial of Mr. Thatcher's petition for review, he filled 16 petitions for a writ of habeas corpus in the Tulare County superior court, the Fifth Circuit Court of Appeals, the

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California Supreme Court, the U.S. District Court for the Eastern District of California, and the Ninth Circuit Court of Appeals. He also filed two Applications for Leave to File a Second or Successive Habeas Corpus Petition with the Ninth Circuit Court of Appeals.

12. In order to prepare the amended Application on which I was appointed, I needed to gather all of the documents relevant to the original conviction as well as all the documents relevant to the writ petitions and applications Mr. Thatcher has filed over the last 15 years.

13. In an attempt to obtain the record filed in Mr. Thatcher's appeal and the trial file from below, I contacted Jerome Wallingford on or about February 12, 2016. (This was four days after my appointment in the matter.) Mr. Wallingford represented Mr. Thatcher on appeal. On that same date, I contacted the California Central Appellate Project (CCAP), the organization that administered Mr. Wallingford's appointment. Both Mr. Wallingford and CCAP informed me that they did not have any portion of Mr. Thatcher's record nor could they obtain it. I also spoke with my client, Mr. Thatcher, regarding the record. He informed me that, although he has portions of his record, he did not have a complete record because portions of it have been destroyed by prison staff.

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14. The trial attorney who represented Mr. Thatcher in the superior court in the matter at hand was Paul Storey. Mr. Story has retired from practice. Thus, I had some difficulty locating him. I eventually did locate him and he indicated that he did not have any of Mr. Thatcher's files. Mr. Storey also indicated that he remembered nothing of Mr. Thatcher's case. Thus, he had no recollection as to why he did not investigate any of Mr. Thatcher's alibi witnesses or why he failed to put on a defense for Mr. Thatcher.

15. On February 16, 2016, I contacted the California Court of Appeal to obtain what documents it had. The Court of Appeal informed me that it would provide me with all of the filings made in that Court. The Court of Appeal expected that it would be able to provide me with those records within a couple of weeks of my contact. That Court, however, did not provide me with its documents until April 20, 2016.

16. On February 22, 2016, I contacted the California Supreme Court to obtain copies of the filings made in its court. The California Supreme Court provided me with portions of the filings made in its Court, and it informed me that there were some earlier filings that it did not have, but that I could, get through the California State Archives. On or about February 23, 2016, I contacted the State Archives to obtain the remaining Supreme Court materials. The State Archives provided me with its records April 1, 2016.

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17. After reading the materials obtained from the various courts and the California State Archives, I determined that there were still portions of the record missing. I thus contacted counsel for the respondent in this matter on July18, 2016 in an effort to obtain all of the relevant documents. In response, opposing counsel informed me that his office had finished digitizing the appellate clerk's and reporter's transcripts that day and, as a courtesy, he would provide it to me.

18. After reading the record provided to me by opposing counsel, it was clear that certain necessary documents were still missing, including many of the police reports prepared of the robberies. I concluded that, in order to appropriately prepare an amended application in the Ninth Circuit matter, I would need to obtain the police files regarding the robberies underlying Mr. Thatcher's convictions.

19. In an attempt to obtain the necessary police documents that were missing, I attempted to contact the trial attorney for the two co-defendants. Mr. Patino's trial attorney indicated to me that he did not have Mr. Patino's file. Mr. Palafox's trial attorney is deceased.

20. On August 31, 2016, I contacted the current opposing counsel, to request that, as a courtesy, it facilitate the provision of the police files regarding the robberies that resulted in the convictions in this matter. That office sent me

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the following email response. "It is presumed there is nothing to look into. The judgment is final, there has been ample opportunity to research post conviction claims, and your client indeed already pursued post conviction federal relief. While there was no problem extending professional courtesy by sending you the appellate record, in this office's view the litigation should already be over and there is no interest in assisting your client in investigating a matter in which he is guilty just because he prefers not to accept that litigation should end. ¶ So, respectfully, that is my final word on the matter of assistance. . . ."

21. In evaluating opposing counsel's response, it must be noted that Mr. Thatcher has never had counsel to represent him in any of the habeas petitions he has filed regarding his convictions.

22. Because opposing counsel would not assist me in obtaining the needed police documents, I had to request copies of the police files through a California Public Records Act (CPRA) request. The underlying robberies were investigated by three law enforcement agencies: the Tulare County Sheriff's Department, the Farmersville Police Department, and the Visalia Police Department. The bulk of the documents needed were maintained by the Visalia Police Department.

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23. I sent the Tulare County Sheriff's Department and the Visalia Police Department CPRA requests on September 1 and 11, 2016. I sent the Farmersville Police Department a CPRA request on September 8, 2016.

24. Although the CPRA requires that government agencies respond to a request within ten days, I did not obtain all the responses within that time period. The Farmersville Police Department replied to my CPRA request on September 14, 2016. The Sheriff's Department provided me with its records on September 24, 2016. The Visalia Police Department did not provide me with its files until November 14, 2016. That entity provided me with approximately 774 pages of documents.

25. In mid-August 2016, as a result of the review of the documents I had received, I began to believe that Mr. Thatcher would need to file a new petition for a writ of habeas corpus in the Tulare County superior court with the assistance of counsel. In order to conduct the needed investigation, I would need the assistance of an investigator.

26. In order to obtain an investigator, the Ninth Circuit Court of Appeal required that I request permission. I requested permission on August 18, 2016 and obtained that permission on August 23, 2016.

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27. The retained investigator learned that one of the witnesses, Glory Slayton, no longer lives in California. Consequently, to interview and obtain her declaration, I needed to ask the Ninth Circuit Court of Appeal for permission to obtain a second investigator located out of state. I made this request on September 20, 2016 and received permission from the Court on October 5, 2016.

28. From October 5, 2016 through December 3, 2016, my out-of-state investigator worked diligently to contact and interview Ms. Slayton. In this regard, I am informed and believe that the investigator was unable to make contact with Mr. Slayton until November 10, 2016. This was in large part due to Ms. Slayton's unavailability. Even after having contacted Ms. Slayton, my investigator was unable to obtain Ms. Slayton's declaration until December 3, 2016. Again, this was due to Ms. Slayton's unavailability.

29. From the date of my appointment in the Ninth Circuit Court to Appeals, I have diligently worked to represent Mr. Thatcher in the Ninth Circuit Court of Appeals under my appointment by that Court. My consideration to act as Mr. Thatcher's pro bono counsel with respect to the instant matter did not begin until mid-August 2016. I did not nor could I have gathered all of the materials and newly discovered evidence on which this habeas petition is based until December 6, 2016, the date on which I received Glory

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Slayton's declaration.

ATTACHED EXHIBITS

30. Attached to this declaration is a true and correct copy of the Fifth District, Court of Appeal opinion filed in this matter. It is attached as Exhibit D-1

31. Attached to this declaration are true and correct copies of the following documents I received from Visalia Police Department pursuant to a California Public Records Act Request.

a.	Exhibit D-2	6-18-01 VDP Report of robbery
b.	Exhibit D-3	6-20-01 VPD Report of robbery of that date
c.	Exhibit D-4	VPD supplemental report of 6-22-01 Robbery
d.	Exhibit D-5	6-27-01 VDP report of robbery of that date
e.	Exhibit D-6	6-28-01 photographic line up Domingo Lopes
f.	Exhibit D-7	6-28-01 photographic line up Francisco Ortega
g.	Exhibit D-8	6-28-01 VDP report of Segura Interview
h.	Exhibit D-9	6-28-01 VDP report
i.	Exhibit D-10	7-11-01 Line up Lopes and Ortega
j.	Exhibit D-11	7-11-01 Live line up report Lopez

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		and Ortega
k.	Exhibit D-12	VPD 7-12-01 report regarding David's Arrest
l.	Exhibit D-13	Drawings of locations
m.	Exhibit D-14	Palafox taped statement
n.	Exhibit D-15	Portion of Barbara Wilborn taped statement
o.	Exhibit D-16	Taped statement of Freddy Patino
p.	Exhibit D-17	Taped statement of Heather Parks
q.	Exhibit D-18	Taped Statement of David Thatcher

32. Attached to this declaration is a true and correct copy of the following document I received from Farmersville Police Department pursuant to a California Public Records Act Request.

a.	Exhibit D-19	Farmersville PD Narrative 6-25-2001

33. Attached to this declaration are true and correct copies of the following documents I received from Tulare County Superior Court pursuant to a California Public Records Act Request.

a.	Exhibit D-20	Thatcher Probation Report
b.	Exhibit D-21	6-22-01 Lee police report of same date
c.	Exhibit D-22	6-29-01 report of A & D robbery by Winslow
d.	Exhibit D-23	Police report re interview with David

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		Segura
e.	Exhibit D-24	7-1-01 McMahan Police report of USA robbery
f.	Exhibit D-25	7-1-01 Police report of USA Market robbery
g.	Exhibit D-26	-25 7-1-01 Winslow report of USA Market robbery
h.	Exhibit D-27	7-5-01 report of USA Market
i.	Exhibit D-28	7-11-01 Live Line up report USA Market Palafox
j.	Exhibit D-29	7-11-01 Live Line up report USA Market
k.	Exhibit D-30	7-11-01 Live line up report
l.	Exhibit D-31	7-11-01 Live line up
m.	Exhibit D-32	7-12-01 Hagar report re USA Robbery
n.	Exhibit D-33	7-12-01 Hagar report
o.	Exhibit D-34	Palafox complaint
p.	Exhibit D-35	Palafox no lo plea
q.	Exhibit D-36	Palafox judgment
r.	Exhibit D-37	Palafox abstract of judgment
s.	Exhibit D-38	Patino complaint
t.	Exhibit D-39	Patino felony plea transcript
u.	Exhibit D-40	April 26 2002 Patino Judgment
v.	Exhibit D-41	Police report re Interview with David Segura
w.	Exhibit D-42	Thatcher Amended Judgment

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I declare under penalty of perjury under the laws of the State of California as well as the laws of the United States that the foregoing is true and correct and that this declaration was executed on December 6, 2016 at San Diego, California.

Andrea R. St. Julian
Declarant

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Attorney at law
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SECOND DECLARATION OF ANDREA R. ST. JULIAN

I, ANDREA RENEE ST. JULIAN, declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am admitted to practice before the United States Court of Appeals for the Ninth Circuit, and I am admitted to practice before the United States Supreme Court.

2. I represent Mr. Thatcher in the instant proceeding.

3. The attorney who represented Mr. Thatcher in the superior court trial where he was convicted of the offenses at hand was Paul Storey. Early in my appointment in this matter, I contacted Mr. Storey to discuss his representation of Mr. Thatcher. Mr. Storey indicated that he remembered nothing of Mr. Thatcher's case. Thus, he had no recollection as to why he did not investigate any of Mr. Thatcher's alibi witnesses, why he did not impeach Mr. Patino with the statements made during his interrogation, or why he failed to put on a defense for Mr. Thatcher.

4. Attached to the appendix in this matter are true and correct copies of the following documents with the corresponding appendix page number:

Clerk's Transcript on Appeal 1

Reporter's Transcript, Trial Days 1 and 2, November 5 and 6, 2001. 308

Reporter's Transcript, Trial Day 3, November 7, 2001. 546

Reporter's Transcript, Trial Day 4, November 8, 2001 775

Reporter's Transcript, Sentencing, December 4 and 18, 2001 . . . 902

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United States Court of Appeals for the Ninth Circuit, Court-ordered Amended Motion for Authorization to File a Second or Successive Petition under 28 U.S.C. § 2254 958

United States Court of Appeals for the Ninth Circuit, Memorandum on Application for Leave to File Second or Successive Petition. 1073

Superior Court of the State of California in and for the County of Tulare, Ruling on Petition for Writ of Habeas Corpus, February 3, 2017. 1077

Court of Appeal of the State of California, Fifth Appellate District, Order, November 6, 2017. 1084

Return to Petition for Writ of Habeas Corpus 1086

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Reporter's Transcript, Evidentiary Hearing, July 31, 2019 1104

Reporter's Transcript, Evidentiary Hearing, August 28, 2019 . 1147

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Reporter's Transcript, Evidentiary Hearing, September 20, 2019 1176

Reporter's Transcript, Evidentiary Hearing, September 23, 2019 1180

Superior Court of the State of California in and for the County of Tulare, Statement of Decision 1223

Court of Appeal of the State of California, Fifth Appellate District, Order, December 17, 2020 1233

Supreme Court of the State of California, Petition for Writ of Habeas Corpus 1234

Supreme Court of the State of California, Order denying Petition for Writ of Habeas Corpus 1544

District Court for the Eastern District of California, May 26, 2005 Transfer Order 1545

District Court for the Eastern District of California, May 16, 2007, Petition under 28 § 2254 for Writ of Habeas Corpus by a Person in State Custody 1547

District Court for the Eastern District of California, December 20, 2007, Order Dismissing Action 1654

United States Court of Appeals for the Ninth Circuit, June 9, 2008, Dismissal Order 1657

United States Court of Appeals for the Ninth Circuit, February 25, 2013, Denial of Application for Authorization to File a Second or Successive Petition 1659

Superior Court of the State of California in and for the County of Tulare, Ruling on Petition for Writ of Habeas Corpus, March 12, 2004. 1661

Court of Appeal of the State of California, Fifth Appellate District, Denial of Habeas Petition, January 26, 2006 1662

California Supreme Court's Denial of the Petition for Review, February 7, 2007 1663

Superior Court of the State of California in and for the County of Tulare, Ruling on Petition for Writ of Habeas Corpus, April 17, 2007 1664

Court of Appeal of the State of California, Fifth Appellate District, Denial of Habeas Petition, June 14, 2007 1666

California Supreme Court's Denial of the Petition for Review, April 9, 2008. 1667

California Supreme Court's Denial of the Petition for Review, April 16, 2008. 1668

Superior Court of the State of California in and for the County of Tulare, Ruling re: Petition for Writ of Habeas Corpus, March 6, 2012. 1669

Court of Appeal of the State of California, Fifth Appellate District, Denial of Habeas Petition, June 11, 2012 1670

California Supreme Court's Denial of the Petition for Review, November 14, 2012 1671

Court of Appeal of the State of California, Fifth Appellate District, Denial of Habeas Petition, July 24, 2014 1672

Superior Court of the State of California in and for the County of Tulare, Ruling on Petition for Writ of Habeas Corpus, February 6, 2015. 1673

Court of Appeal of the State of California, Fifth Appellate District, Denial of Habeas Petition, April 3, 2015. 1674

California Supreme Court's Denial of the Petition for Review, July 15, 2015 1675

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Thatcher Probation Report 2037

6-22-01 Lee Police Report 2052

6-29-01 Report of A & D Robbery by Winslow 2057

Police Report re Interview with David Segura 2066

7-1-01 McMahan Police Report of USA Robbery 2069

7-1-01 Police Report of USA Market Robbery 2071

7-1-01 Winslow Report of USA Market Robbery 2075

7-5-01 Report of USA Market 2094

7-11-01 Live Line up Report USA Market Palafox 2096

7-11-01 Live Line up Report USA Market Thatcher 2097

7-11-01 Live line Up Report 2098

7-11-01 Live Line up 2102

7-12-01 Hagar Report re USA Robbery 2103

7-12-01 Hagar Report 2105

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Tulare County Sheriff's Department's Supplemental Report . . 2142

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California Incarcerated Records and Information search 2148

Sierra Conservation Center, Warden Information 2150

Declaration of Andrea R. St. Julian 2152

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on December 2, 2024 at San Diego, California.

Andrea St. Julian

Andrea R. St. Julian
Declarant

RELEVANT CONSTITUTIONAL PROVISIONS

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. Const. amend. VI

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. Const. amend. VIII

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend. XIV, § 1

United States Code Annotated
Title 28. Judiciary and Judicial Procedure (Refs & Annos)
Part VI. Particular Proceedings
Chapter 153. Habeas Corpus (Refs & Annos)

28 U.S.C.A. § 2241

§ 2241. Power to grant writ

Effective: January 28, 2008
Currentness

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) The Supreme Court, any justice thereof, and any circuit judge may decline to entertain an application for a writ of habeas corpus and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

(c) The writ of habeas corpus shall not extend to a prisoner unless--

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or

(3) He is in custody in violation of the Constitution or laws or treaties of the United States; or

(4) He, being a citizen of a foreign state and domiciled therein is in custody for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, order or sanction of any foreign state, or under color thereof, the validity and effect of which depend upon the law of nations; or

(5) It is necessary to bring him into court to testify or for trial.

(d) Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

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(e)(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 964; May 24, 1949, c. 139, § 112, 63 Stat. 105; Pub.L. 89-590, Sept. 19, 1966, 80 Stat. 811; Pub.L. 109-148, Div. A, Title X, § 1005(e)(1), Dec. 30, 2005, 119 Stat. 2741; Pub.L. 109-163, Div. A, Title XIV, § 1405(e)(1), Jan. 6, 2006, 119 Stat. 3477; Pub.L. 109-366, § 7(a), Oct. 17, 2006, 120 Stat. 2635; Pub.L. 110-181, Div. A, Title X, § 1063(f), Jan. 28, 2008, 122 Stat. 323.)

28 U.S.C.A. § 2241, 28 USCA § 2241
Current through P.L. 118-106. Some statute sections may be more current, see credits for details.

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United States Code Annotated
Title 28. Judiciary and Judicial Procedure (Refs & Annos)
Part VI. Particular Proceedings
Chapter 153. Habeas Corpus (Refs & Annos)

28 U.S.C.A. § 2242

§ 2242. Application

Currentness

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.

It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.

If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which the applicant is held.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 965.)

28 U.S.C.A. § 2242, 28 USCA § 2242
Current through P.L. 118-106. Some statute sections may be more current, see credits for details.

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Part VI. Particular Proceedings
Chapter 153. Habeas Corpus (Refs & Annos)

28 U.S.C.A. § 2244

§ 2244. Finality of determination

Effective: April 24, 1996
Currentness

(a) No circuit or district judge shall be required to entertain an application for a writ of habeas corpus to inquire into the detention of a person pursuant to a judgment of a court of the United States if it appears that the legality of such detention has been determined by a judge or court of the United States on a prior application for a writ of habeas corpus, except as provided in section 2255.

(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless--

(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

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(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.

(c) In a habeas corpus proceeding brought in behalf of a person in custody pursuant to the judgment of a State court, a prior judgment of the Supreme Court of the United States on an appeal or review by a writ of certiorari at the instance of the prisoner of the decision of such State court, shall be conclusive as to all issues of fact or law with respect to an asserted denial of a Federal right which constitutes ground for discharge in a habeas corpus proceeding, actually adjudicated by the Supreme Court therein, unless the applicant for the writ of habeas corpus shall plead and the court shall find the existence of a material and controlling fact which did not appear in the record of the proceeding in the Supreme Court and the court shall further find that the applicant for the writ of habeas corpus could not have caused such fact to appear in such record by the exercise of reasonable diligence.

(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of--

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 965; Pub.L. 89-711, § 1, Nov. 2, 1966, 80 Stat. 1104; Pub.L. 104-132, Title I, §§ 101, 106, Apr. 24, 1996, 110 Stat. 1217, 1220.)

28 U.S.C.A. § 2244, 28 USCA § 2244

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United States Code Annotated
Title 28. Judiciary and Judicial Procedure (Refs & Annos)
Part VI. Particular Proceedings
Chapter 153. Habeas Corpus (Refs & Annos)

28 U.S.C.A. § 2254

§ 2254. State custody; remedies in Federal courts [Statutory Text & Notes of Decisions subdivisions I to XIV]

Effective: April 24, 1996
Currentness

<Notes of Decisions for 28 USCA § 2254 are displayed in multiple documents.>

(a) The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.

(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that--

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B)(i) there is an absence of available State corrective process; or

(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.

(c) An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim--

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(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that--

(A) the claim relies on--

(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(f) If the applicant challenges the sufficiency of the evidence adduced in such State court proceeding to support the State court's determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall direct the State to do so by order directed to an appropriate State official. If the State cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the State court's factual determination.

(g) A copy of the official records of the State court, duly certified by the clerk of such court to be a true and correct copy of a finding, judicial opinion, or other reliable written indicia showing such a factual determination by the State court shall be admissible in the Federal court proceeding.

(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

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(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 967; Pub.L. 89-711, § 2, Nov. 2, 1966, 80 Stat. 1105; Pub.L. 104-132, Title I, § 104, Apr. 24, 1996, 110 Stat. 1218.)

28 U.S.C.A. § 2254, 28 USCA § 2254
Current through P.L. 118-106. Some statute sections may be more current, see credits for details.

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