

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

COPY

RICHARD PEREZ, individually and  
as co-successor-in-interest to  
Decedent RICHARD PEREZ III; and  
JULIE PEREZ, individually and as  
co-successor-in-interest to  
Decedent RICHARD PEREZ III,

Plaintiffs,

vs.

No. C15-00256 WHA

WALLACE JENSEN, individually and  
in his official capacity as  
Police Officer for the City of  
Richmond; and DOES 1-25,

Defendants.

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VIDEOTAPED DEPOSITION OF STEVEN MAURICE CLARK

Monday, August 10, 2015

9:48 a.m.

McNAMARA, NEY, BEATTY, SLATTERY, BORGES

& AMBACHER, LLP

1211 Newell Avenue

Walnut Creek, California 94596-1288

Melinda M. McDonald, CSR #5249

15-356MM



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1	P R O C E E D I N G S	09:48:40
2	THE VIDEOGRAPHER: This begins volume I,	09:48:40
3	videotape number one in the deposition of Steven	09:51:13
4	Clark in the matter of Richard Perez, Jr., et al.,	09:51:16
5	versus Wallace Jensen, et al., in the United States	09:51:19
6	District Court, Northern District of California,	09:51:21
7	case number C15-00256 WHA.	09:51:24
8	Today's date is August 10th, 2015. The	09:51:29
9	time on the monitor is 9:51 a.m. The video operator	09:51:32
10	today is Ilyse Zimmerman, a notary public contracted	09:51:36
11	by Landi Court Reporters of San Jose, California.	09:51:38
12	This deposition is taking place at the law	09:51:41
13	offices of McNamara, Ney, Beatty, Slattey, Borges &	09:51:43
14	Ambacher, 1211 Newell Avenue, Walnut Creek,	09:51:47
15	California and was noticed by the McNamara firm on	09:51:49
16	behalf of the defense.	09:51:51
17	Counsel, please identify yourselves for the	09:51:53
18	record and whom you represent.	09:51:54
19	MR. LACY: DeWitt Lacy for the plaintiffs,	09:51:56
20	Richard Perez, Jr. and Julie Perez.	09:51:59
21	MR. BLECHMAN: And Noah Blechman for	09:52:03
22	Officer Jensen.	09:52:04
23	THE VIDEOGRAPHER: Thank you. The court	09:52:04
24	reporter today is Melinda McDonald of Landi Court	09:52:06
25	Reporters. Would you please swear in the witness.	09:52:08

1	<b>STEVEN MAURICE CLARK,</b>	09:52:09
2	being first administered an oath by the Certified	09:52:09
3	Shorthand Reporter to tell the truth, the whole	09:52:09
4	truth and nothing but the truth, testified as	09:52:09
5	follows:	09:52:09
6	THE VIDEOGRAPHER: Thank you. Please	09:52:09
7	begin.	09:52:25
8	<b>EXAMINATION BY MR. BLECHMAN:</b>	09:52:25
9	Q. Good morning, Mr. Clark.	09:52:26
10	A. Good morning.	09:52:27
11	Q. All right. Would you please state and	09:52:29
12	spell your full name for the record?	09:52:31
13	A. Steven Maurice Clark, S-T-E-V-E-N	09:52:34
14	M-A-U-R-I-C-E C-L-A-R-K.	09:52:38
15	Q. Okay, Mr. Clark. I appreciate it. This is	09:52:42
16	a deposition. Have you ever had your deposition	09:52:45
17	taken before?	09:52:47
18	A. No, I haven't.	09:52:48
19	Q. Most people haven't, so let me just go over	09:52:49
20	some of the basic ground rules, kind of explain the	09:52:52
21	process to you. Okay?	09:52:55
22	The court reporter just administered you an	09:52:57
23	oath to tell the truth. And I will tell you that	09:52:58
24	even though this is an informal setting here, a	09:53:02
25	conference room in my office, this is still an	09:53:07

1 official legal proceeding. Do you understand that? 09:53:10

2 A. Yes, sir. 09:53:13

3 Q. Okay. Great. And the court reporter just 09:53:14

4 administered you the oath to tell the truth. You 09:53:16

5 understand that you're telling the truth today under 09:53:19

6 penalty of perjury as if you're testifying in court? 09:53:24

7 Do you understand that? 09:53:27

8 A. Yes, sir. 09:53:29

9 Q. Okay. I appreciate it. So the purpose of 09:53:29

10 a deposition is to get people's information under 09:53:31

11 oath, have them answer some questions if they have 09:53:36

12 some information that bears on a -- on a relevant 09:53:39

13 case. So I know you may have witnessed some events 09:53:41

14 that have brought you here today, so that's why we 09:53:45

15 brought you in to chat about some of that stuff. 09:53:49

16 So the court reporter -- because this is an 09:53:51

17 official legal proceeding, the court reporter is 09:53:55

18 typing up everything we're saying here on the record 09:53:57

19 so that she can maintain the official record of 09:54:01

20 these proceedings. 09:54:06

21 Because of that, it's important that you 09:54:07

22 answer my questions with audible words and phrases 09:54:10

23 of the English language and we try to stay away from 09:54:14

24 things that people do in normal conversation like 09:54:18

25 nods of the head, shrugs of the shoulders. Let's 09:54:20

1	stay away from the huh-uhs and the uh-huhs.	09:54:23
2	We don't want the court reporter to	09:54:26
3	interpret what you're saying. We just want her to	09:54:27
4	type down exactly what you're saying. Does that	09:54:30
5	make sense?	09:54:32
6	A. Yes, sir.	09:54:33
7	Q. Great. So I'm going to be asking you a	09:54:33
8	series of questions today. If you don't understand	09:54:37
9	one of my questions, and I'm sure that's going to	09:54:39
10	happen, just let me know and I'll rephrase it. I do	09:54:41
11	want you to understand my questions before you	09:54:46
12	respond. Okay?	09:54:49
13	A. Yes, sir.	09:54:50
14	Q. Great. There you go; right?	09:54:51
15	A. Yeah.	09:54:52
16	Q. You're catching on.	09:54:52
17	A. I got it.	09:54:54
18	Q. So if you do answer my question, I'm going	09:54:55
19	to assume that you understood it -- that you heard	09:54:57
20	it, you understood it and that you gave me your best	09:55:00
21	possible response. Is that fair?	09:55:03
22	A. Yes, sir.	09:55:05
23	Q. Great. From time to time, I might ask for	09:55:05
24	you to give me an estimate or approximation. And	09:55:09
25	the reason I do that is sometimes we just want to	09:55:13

1	get a sense from people about something.	09:55:17
2	You may have been present for, you know, a	09:55:19
3	Christmas party last year. And I asked you how many	09:55:22
4	people were there, you can give me an estimate or	09:55:25
5	approximation: You know, there was 20 of my	09:55:29
6	relatives there, approximately 20 or 25. You were	09:55:30
7	present, so that's a fair estimate or approximation.	09:55:33
8	It gives us a sense.	09:55:36
9	Similarly, if I were to ask you how many	09:55:39
10	people were present at the big Christmas party that	09:55:41
11	I went to last year, you'd be totally guessing,	09:55:44
12	speculating upon that, because you were not present.	09:55:48
13	So the purpose of this discussion is to let	09:55:51
14	you know it's okay to give us estimates or	09:55:54
15	approximations, if you have some personal knowledge	09:55:58
16	upon which to do that. But we just don't want you	09:56:01
17	to guess or speculate about something. Okay? Does	09:56:04
18	that make sense?	09:56:07
19	A. Yes, sir.	09:56:08
20	Q. Okay. Another example is if I were to ask	09:56:08
21	you to look at this table and give me an estimate as	09:56:11
22	to how -- how long it is, you'd be able to estimate	09:56:14
23	based upon your own experience it's approximately 12	09:56:16
24	to 15 feet long, let's say, approximately. Okay?	09:56:20
25	That's an estimate or approximation.	09:56:24



1	But if I were to ask you the length of the	09:56:26
2	dining room table in my house, you'd totally be	09:56:28
3	guessing about that, and that doesn't help the	09:56:31
4	process. Does make sense?	09:56:33
5	A. Is that assuming?	09:56:36
6	Q. That's -- yeah, that's an assumption.	09:56:37
7	That's a guess or a speculation, because you haven't	09:56:41
8	seen the dining room table at my house.	09:56:43
9	So that doesn't help the process. We want	09:56:46
10	to go on what you know, what you saw, estimates,	09:56:49
11	approximations, that type of thing. Okay?	09:56:53
12	A. Yes, sir.	09:56:56
13	Q. Great. You're also, you know, a little	09:56:56
14	soft-spoken, and we want to make sure, even though	09:57:00
15	you've got a microphone <on that the court reporter	09:57:01
16	can hear exactly what you're saying, Mr. Lacy and	09:57:04
17	myself, as well. So I know this is a little bit of	09:57:07
18	a different kind of a process, but if you can do	09:57:10
19	your best, try to keep your voice up, I think that	09:57:13
20	will move this thing along.	09:57:17
21	I am going to be asking you about things	09:57:20
22	that happened last year, September of 2014. You may	09:57:23
23	have some really strong memories about something you	09:57:28
24	saw or you may have some weaker memories, some vague	09:57:30
25	memories. But we're entitled to kind of probe your	09:57:35

1	memory and figure out what you did see, what you	09:57:38
2	heard, that type of thing.	09:57:42
3	From time to time, potentially Mr. Lacy or	09:57:45
4	myself, if he asks you questions, because there's no	09:57:49
5	judge here -- okay? Even though this is an official	09:57:52
6	legal proceeding, there is no judge here. So the	09:57:56
7	attorneys, we have to put stuff on the record. And	09:57:58
8	from time to time, he may make an objection to one	09:58:00
9	of my questions. He's putting something on the	09:58:03
10	record in case we need to talk to the judge about it	09:58:06
11	later.	09:58:08
12	But even though he's making an objection,	09:58:09
13	you can still answer my questions. Okay? I just	09:58:11
14	wanted to let you know about that so you're not	09:58:14
15	surprised if he makes an objection and not sure what	09:58:17
16	you need to do in relation to that. So the bottom	09:58:20
17	line is if he makes an objection, keep my question	09:58:23
18	in your mind, because you can still answer my	09:58:26
19	question. Okay?	09:58:28
20	A. So the both of you will be doing this?	09:58:30
21	Q. Well, I get the chance to ask some	09:58:32
22	questions because I subpoenaed you. He may have	09:58:35
23	some follow-up questions that he wants to ask you	09:58:37
24	and I may have some follow-up questions. At some	09:58:40
25	point, we'll be done questioning you and then you	09:58:43

1 can get on with your life. Okay? Does that make 09:58:45  
2 sense? 09:58:48  
3 A. Yes. 09:58:51  
4 Q. Great. You know, we're going to be here 09:58:51  
5 for a period of time, but this is not an endurance 09:58:53  
6 contest, Mr. Clark, to see how long we can ask you 09:58:55  
7 questions for. If you need to use the restroom, you 09:58:58  
8 know, telephone, whatever, get some more water, let 09:59:01  
9 us know and we'll take a break. 09:59:04  
10 And we'll be taking regular breaks. I 09:59:05  
11 don't anticipate this going past lunch at all. 09:59:08  
12 Okay? 09:59:10  
13 A. Okay. 09:59:11  
14 Q. Yeah. You got any questions for me about 09:59:12  
15 the process so far? 09:59:16  
16 A. No, let's go. 09:59:19  
17 Q. Okay. One other thing I want to tell you 09:59:20  
18 is after today's done, in a couple weeks, the court 09:59:22  
19 reporter types everything up in your transcript. 09:59:27  
20 Okay? It's a more official-looking document that 09:59:30  
21 shows the questions I asked, your answers, that type 09:59:34  
22 of thing, a booklet-type format. 09:59:37  
23 She'll send you a letter. I'll get your 09:59:41  
24 address or she'll get your address. She'll send you 09:59:42  
25 a letter saying you can come to their office and 09:59:45

1	review your testimony.	09:59:47
2	And you actually have the option. If you	09:59:48
3	want to, you can actually make changes. You can	09:59:50
4	hand-write some changes or type up some changes to	09:59:54
5	your testimony if you want to. Some people do, some	09:59:57
6	people don't.	10:00:00
7	But here's the thing: If you make any	10:00:01
8	changes to your testimony when your transcript comes	10:00:03
9	out in couple weeks, and they're important, okay, I	10:00:07
10	asked you a key question in the case, today you say	10:00:10
11	yes, a couple weeks down the road, you cross out the	10:00:14
12	yes and you write no, you know, if this case goes to	10:00:16
13	trial and you're called as a witness, any of the	10:00:20
14	parties and attorneys can comment upon your changes.	10:00:23
15	Those changes could affect your credibility.	10:00:26
16	I just wanted to let you know about that	10:00:29
17	process. Okay?	10:00:31
18	A. Do I get a copy of the transcript?	10:00:33
19	Q. You know, that's a good question. Those	10:00:35
20	usually cost money. Okay? So what the court	10:00:38
21	reporters do is I believe they send you a letter	10:00:41
22	saying you can come in their office and review it	10:00:43
23	there so you don't have to get a copy of it.	10:00:46
24	If down the road you're going to be a	10:00:48
25	witness at trial, we can find out about getting you	10:00:50

1	a copy of your transcript. Okay?	10:00:53
2	A. Okay, sir.	10:00:55
3	Q. So that's basically it for the ground	10:00:58
4	rules.	10:01:00
5	Here's a couple questions we ask everybody.	10:01:01
6	Are you currently taking any medication today that	10:01:04
7	you think may affect your ability to remember things	10:01:08
8	in the past?	10:01:11
9	A. No.	10:01:15
10	Q. Okay. Are you taking any medication or	10:01:16
11	anything that you think would affect your ability to	10:01:19
12	testify truthfully today?	10:01:22
13	A. No.	10:01:25
14	Q. Is there any reason you can think of why we	10:01:25
15	cannot get your best testimony today?	10:01:29
16	A. No.	10:01:32
17	Q. All right. What's your date of birth?	10:01:32
18	A. 9/29/55.	10:01:36
19	Q. And have you ever been convicted of any	10:01:40
20	felonies?	10:01:44
21	A. About 40 years ago.	10:01:47
22	Q. Okay.	10:01:51
23	A. It was a metal --	10:01:51
24	Q. A long time ago?	10:01:53
25	A. Yeah.	10:01:54

1	Q. You were in your twenties?	10:01:54
2	A. Selling scrap metal, yeah.	10:01:56
3	Q. Okay. It was like a theft issue?	10:02:00
4	A. Yeah. Dropped it to a misdemeanor, I	10:02:06
5	think.	10:02:08
6	Q. Okay. Anything in the last 10 years, any	10:02:09
7	felony conviction?	10:02:10
8	A. No, nothing like that.	10:02:12
9	Q. And we ask everybody those questions, so	10:02:12
10	I'm not picking on you, just so you know.	10:02:13
11	MR. LACY: You know, Counsel, if I can	10:02:17
12	before you go any further, I wanted to make sure I	10:02:19
13	represented to you that our investigator has talked	10:02:23
14	to Mr. Clark. When we spoke earlier, I was not	10:02:26
15	aware of that.	10:02:29
16	I don't have any audio recordings of the	10:02:30
17	conversation between Mr. Clark and our investigator.	10:02:35
18	But I'd be happy to talk -- talk with you, you know,	10:02:42
19	about it off line if we need to.	10:02:46
20	MR. BLECHMAN: All right.	10:02:48
21	BY MR. BLECHMAN:	10:02:51
22	Q. Is that true, Mr. Clark, that an	10:02:51
23	investigator for Mr. Lacy or Mr. Burris' office at	10:02:53
24	some point spoke to you about this incident?	10:02:57
25	A. Yeah. I think it was over the phone, some	10:03:00

1	guy. I don't know his name.	10:03:02
2	Q. Okay. And how long ago was that over the	10:03:03
3	phone?	10:03:05
4	A. Oh.	10:03:13
5	Q. Do you remember?	10:03:14
6	A. I'd say about three weeks after the	10:03:14
7	incident.	10:03:16
8	Q. Okay. Just so we're on the same page,	10:03:17
9	obviously, when we refer to the incident, we're	10:03:24
10	referring to the shooting that occurred right by	10:03:26
11	Uncle Sam's Liquors on September 14, 2014. Is that	10:03:34
12	your understanding?	10:03:39
13	A. Yes, sir.	10:03:39
14	Q. Okay. And from time to time, I may use	10:03:39
15	that date in one of my questions, saying the date of	10:03:40
16	the incident, day of the incident, the night of the	10:03:44
17	incident. I'm referring to that date, September	10:03:46
18	14th, 2014. Okay?	10:03:50
19	A. Okay.	10:03:51
20	Q. All right. So you're saying you spoke to	10:03:52
21	Mr. Lacy or Mr. Burris' investigator on the phone	10:03:56
22	approximately three weeks after the incident?	10:03:59
23	A. Yes, sir.	10:04:05
24	Q. Have you and I ever spoken before about	10:04:05
25	this incident?	10:04:07

1	A. No, sir.	10:04:09
2	Q. Have you ever spoken to an investigator	10:04:09
3	that you believe was working for the -- either	10:04:11
4	the -- you know, the officer or anything like that	10:04:13
5	following this incident? And I'm not talking about	10:04:18
6	when, you know, you were interviewed at the store or	10:04:21
7	you were interviewed at the police department --	10:04:23
8	A. Oh.	10:04:26
9	Q. -- on the day of. I'm talking about after	10:04:26
10	that. Have you had any contact with any	10:04:28
11	investigators you believe were associated with the	10:04:30
12	officer or the Richmond Police Department?	10:04:33
13	A. No. No, sir.	10:04:37
14	Q. Okay. Now, I saw -- before we started	10:04:38
15	today, I know you and Mr. Lacy had a discussion out	10:04:41
16	in front of my office; is that correct?	10:04:45
17	A. Yes, sir.	10:04:47
18	Q. Okay. It was about 10 minutes long; is	10:04:47
19	that right?	10:04:52
20	A. Yeah, about seven.	10:04:52
21	Q. Okay. And for those seven minutes, what	10:04:53
22	did you guys discuss?	10:04:55
23	A. We discussed some of the incident.	10:04:57
24	Q. What type of things were you guys talking	10:05:03
25	about?	10:05:05



1	A. I told him about my -- I told him about my	10:05:05
2	-- I told him my half of the incident, what I saw	10:05:08
3	and what had occurred to me right in front of me.	10:05:13
4	Q. Would you try to keep your voice up a	10:05:16
5	little bit? I'm having a hard time hearing you.	10:05:16
6	A. I can't. It's as loud as I talk, and --	10:05:21
7	unless you want to get me mad. That's about the	10:05:24
8	only time I talk that loud. Do you want me to put	10:05:28
9	this (indicating) closer somewhere to me?	10:05:29
10	Q. Well, I -- I don't have the earphones like	10:05:31
11	the court reporter does, so -- she's got earphones.	10:05:33
12	But I just need to be able to hear you as best I	10:05:35
13	can.	10:05:37
14	A. I'll talk at you.	10:05:38
15	Q. Thank you. I appreciate that. So you	10:05:39
16	talked to Mr. Lacy about what you saw in relation to	10:05:41
17	the incident?	10:05:45
18	A. Uh-huh. Yes, sir.	10:05:46
19	Q. And was he -- was he talking to you about	10:05:46
20	the incident at all?	10:05:48
21	A. No. I did all of the talking.	10:05:50
22	Q. Was he asking you questions --	10:05:53
23	A. No.	10:05:55
24	Q. -- about what you saw?	10:05:55
25	A. No.	10:05:56

1	Q. So are you saying you did all the talking	10:05:57
2	for those seven minutes?	10:05:59
3	A. Yes, sir. He just informed me, you know,	10:06:02
4	what's going to happen: You going to be asking me	10:06:03
5	questions and he's going to be asking me questions,	10:06:06
6	things like that. But I was telling him what I saw.	10:06:08
7	Q. Okay. Yeah. I mean, I was able to see a	10:06:13
8	little bit where you guys were talking from my	10:06:17
9	office, and it did look like Mr. Lacy was doing some	10:06:19
10	talking to you. Was he asking you any specific	10:06:23
11	questions about the incident?	10:06:27
12	A. No. Huh-uh.	10:06:29
13	Q. Did he tell you about anything he wanted	10:06:32
14	you to say today in your deposition?	10:06:33
15	A. Oh, no. Huh-uh.	10:06:36
16	Q. Did he tell you about his theory of the	10:06:40
17	case or anything like that about what happened out	10:06:41
18	there on the day of the incident?	10:06:44
19	A. No, huh-uh. He just informed me about the	10:06:47
20	format you guys are going to do.	10:06:50
21	Q. Okay. Gotcha.	10:06:52
22	A. And I was trying to get him to understand	10:06:57
23	that I didn't want to go through this situation	10:07:00
24	again, but I'm here.	10:07:01
25	Q. Yeah. Understood. I mean, you didn't	10:07:06

1	choose to be a witness that day. You just happened	10:07:10
2	to be there at that time, so -- and here we are in	10:07:12
3	this litigation.	10:07:17
4	So let me get a little background on you.	10:07:17
5	Do you still live at the same place, 381 South 35th	10:07:21
6	Street in Richmond?	10:07:27
7	A. Yes, sir.	10:07:29
8	Q. Okay. I know at the time you were	10:07:29
9	interviewed, you had a home number -- or sorry, you	10:07:29
10	had a cell number and a work number. Is your cell	10:07:32
11	number still the same?	10:07:36
12	A. No, it's changed.	10:07:37
13	Q. All right. What's your cell number?	10:07:38
14	A. I don't know myself. In fact, if I --	10:07:40
15	Q. Yeah. Go ahead and take a look.	10:07:45
16	A. It's a new phone. Okay. (510) 685-3239.	10:07:46
17	Q. Okay. Do you have a home number, as well?	10:08:16
18	A. No.	10:08:19
19	Q. Okay. Not many people do any more, right,	10:08:19
20	because of the cell phone stuff.	10:08:24
21	The place in Richmond, how long have you	10:08:26
22	lived there?	10:08:28
23	A. Ooh, going on like two years, a year.	10:08:30
24	Q. And you were living there on the day of the	10:08:35
25	incident?	10:08:37

1	A. Yes, sir.	10:08:38
2	Q. Okay. Now, it's my understanding that you	10:08:38
3	got off work that night at the House of Champions?	10:08:42
4	A. Yes.	10:08:47
5	Q. And what type of facility is that?	10:08:47
6	A. It's a adolescent boys group home.	10:08:51
7	Q. Say that again?	10:08:57
8	A. Adolescent boys group home.	10:08:59
9	Q. Okay. And you don't live in the home or	10:09:01
10	anything, do you?	10:09:02
11	A. Oh, no.	10:09:03
12	Q. And what type of work did you do at the	10:09:04
13	House of Champions?	10:09:05
14	A. I'm a counselor.	10:09:08
15	Q. What typically would your hours be at that	10:09:14
16	facility?	10:09:18
17	A. 3:30 till 11:30.	10:09:19
18	Q. Okay. 3:30 p.m.?	10:09:22
19	A. Uh-huh.	10:09:25
20	Q. Is that a yes?	10:09:25
21	A. Yes.	10:09:28
22	Q. All right.	10:09:28
23	A. Sundays, 11:30 to 7:30 in the morning.	10:09:29
24	Q. Sundays again? Sorry.	10:09:39
25	A. 11:30 at night to 7:30 in the morning.	10:09:40

1	Q. Okay. So sometimes you've got to stay over	10:09:45
2	for a while in the middle of the night?	10:09:48
3	A. That's the graveyard. That's the shift.	10:09:49
4	That's my shift.	10:09:51
5	Q. How long have you been working at the House	10:09:52
6	of Champions location?	10:09:56
7	A. About 10, 12 years.	10:09:59
8	Q. And what's the age range of the kids that	10:10:03
9	you work with over there?	10:10:06
10	A. From 12 to 21.	10:10:07
11	Q. All right. Now, I understand that your	10:10:17
12	normal practice was when you got off work around	10:10:23
13	11:30, you would go to Uncle Sam's Liquors to get a	10:10:26
14	couple things before you went home. Is that	10:10:30
15	accurate?	10:10:31
16	A. Yes, sir.	10:10:32
17	Q. So on the night of the incident, you get	10:10:32
18	off work around 11:30 and then you went over to the	10:10:35
19	store; is that right?	10:10:37
20	A. Yes, sir.	10:10:40
21	Q. What time do you think you got to Uncle	10:10:40
22	Sam's Liquor Store that night?	10:10:47
23	A. I'd say around 11:50. 11:45, 11:50.	10:10:48
24	Q. Okay. And what was your plan? What kind	10:10:53
25	of stuff did you need to get at the store?	10:10:56

1	A. A beer, probably a pack of cigarettes.	10:10:58
2	Q. Okay. I take it since you were working	10:11:04
3	that night from 3:30 to 11:30, you never ingested	10:11:07
4	any alcohol at that point that night; is that	10:11:12
5	correct?	10:11:15
6	A. Oh, no. No.	10:11:15
7	Q. Never took any drugs or anything?	10:11:16
8	A. No. No.	10:11:19
9	Q. Okay. You know, I understand that's going	10:11:19
10	to be your answer, but I've got to ask those	10:11:21
11	questions.	10:11:24
12	A. Uh-huh. Oh, okay.	10:11:25
13	Q. Stranger things have happened.	10:11:26
14	Now, I understand when you pull up, you got	10:11:28
15	your Explorer; is that correct?	10:11:31
16	A. Yes, sir.	10:11:34
17	Q. And where -- did you pull up right in front	10:11:34
18	of the liquor store, essentially?	10:11:38
19	A. Right in front of the liquor store. Right	10:11:39
20	in front of the door.	10:11:42
21	Q. All right. When was the first time -- I	10:11:43
22	guess the question is: Were you inside your car or	10:11:44
23	were you outside your car when you first see that	10:11:47
24	there was a police officer in front?	10:11:49
25	A. I had just got out of the car. Just got	10:11:52

1	out of my -- out of my car. But it was no police	10:11:56
2	officer, no cars and that.	10:11:59
3	Q. Right. Okay. Well, when you -- when you	10:12:03
4	first see somebody in uniform, let's say, is that	10:12:03
5	when you got out of your car?	10:12:06
6	A. No.	10:12:09
7	Q. Was that before you got out of your car?	10:12:09
8	A. I was just getting out of my car.	10:12:11
9	Q. Okay. And what did you see when you just	10:12:14
10	got out of your car?	10:12:16
11	A. I seen a guy, white guy, bald head, come	10:12:17
12	from behind and tackle this young Hispanic guy right	10:12:23
13	in front of the door.	10:12:28
14	Q. And at that point, you did not know if the	10:12:35
15	-- well, first of all, the white guy with the bald	10:12:40
16	head, did he -- was he wearing some sort of uniform?	10:12:42
17	A. Yeah. He was no Richmond police officer	10:12:46
18	uniform. It was a green -- like a green jumpsuit or	10:12:54
19	something. I didn't -- it was no -- no police	10:13:00
20	officer on it.	10:13:08
21	Q. Okay.	10:13:11
22	A. I couldn't see the front because he had his	10:13:12
23	face side down towards the guy that he had on the	10:13:18
24	ground. So actually, all I could see was his back.	10:13:22
25	Q. Okay. Isn't it true when you first saw	10:13:25

1	that person take the Hispanic person down, you	10:13
2	thought that the person who took him down was a	10:13
3	security guard or something; correct?	10:13:00
4	A. I thought they was fighting at first. I	10:13:00
5	thought it was a fight at first. But I didn't know	10:13:04
6	it till the other guy came up and the officer told	10:13:40
7	him to get away, get back.	10:13:50
8	Q. Is that when you realized that this person	10:13:50
9	was a police officer?	10:13:50
10	A. Yes, sir.	10:13:55
11	Q. Okay. Did you see what happened just	10:13:55
12	before this -- we now know was a police officer, so	10:14:05
13	we'll say police officer. Did you see what happened	10:14:10
14	just before the police officer tackled the Hispanic	10:14:12
15	male to the ground?	10:14:16
16	A. No.	10:14:18
17	Q. Okay. So you get out of your car, you look	10:14:18
18	over to the right --	10:14:21
19	A. As I'm going --	10:14:23
20	Q. -- look over your car, and that's when you	10:14:24
21	see the tackle?	10:14:25
22	A. The tackle, yeah.	10:14:27
23	Q. All right. And did you walk over then	10:14:31
24	around your car to go towards the store?	10:14:34
25	A. Yes, sir.	10:14:39



1	Q. Once you see the officer tackle this	10:14:39
2	Hispanic male person, what did you see between those	10:14:45
3	two next?	10:14:48
4	A. I seen the officer trying to handcuff --	10:14:50
5	trying to get the Hispanic guy hands behind his	10:14:54
6	back.	10:14:58
7	Q. And was the officer able to get the	10:15:02
8	male's -- Hispanic male's hands behind his back?	10:15:03
9	A. No. The Hispanic was jerking it, making it	10:15:07
10	difficult for him to put his handcuffs on him.	10:15:11
11	Q. Could you -- and you were watching this	10:15:20
12	struggle as you're approaching the front store (sic)	10:15:23
13	of the store?	10:15:27
14	A. Uh-huh.	10:15:29
15	Q. Yes?	10:15:29
16	A. Yes.	10:15:29
17	Q. That's all right. It's a little different	10:15:30
18	of a process, so no, you're doing fine.	10:15:32
19	I know at some point, you walked through	10:15:38
20	the front door of the store; correct?	10:15:40
21	A. Yes, sir.	10:15:43
22	Q. Okay. So here's where I want to ask for	10:15:43
23	your estimate. From the time you first see the	10:15:45
24	tackle to the time you think you walked into the	10:15:48
25	front of the store -- bless you -- how much time	10:15:52

1	between those two events? In other words, how long	10:15:56
2	were you watching this struggle on the ground occur	10:16:01
3	before you walked in the store?	10:16:04
4	A. I'd say a good 30 seconds.	10:16:06
5	Q. So you believe it's at least 30 seconds;	10:16:12
6	correct?	10:16:16
7	A. Uh-huh, yes.	10:16:16
8	MR. LACY: Objection. Misstates testimony.	10:16:18
9	BY MR. BLECHMAN:	10:16:19
10	Q. And it could have been a little more than	10:16:19
11	30 seconds, but that's your best estimate?	10:16:21
12	A. That's the closest estimate.	10:16:24
13	Q. And during the 30 seconds, did it appear to	10:16:26
14	you that the officer was attempting to control this	10:16:30
15	male to try to put handcuffs on the male?	10:16:34
16	A. Yes, sir.	10:16:38
17	Q. And did it appear to you that the male was	10:16:38
18	struggling and preventing the officer from doing	10:16:41
19	that the entire time you watched that struggle?	10:16:42
20	A. Yes.	10:16:48
21	Q. Did you ever see the officer, you know,	10:16:48
22	punch the male when he was on the ground?	10:16:55
23	A. No, sir.	10:17:05
24	Q. Did you ever hear the officer say anything	10:17:05
25	to the male during that 30-second time frame?	10:17:07

1	A. He said I believe it was "Stop struggling,	10:17:13
2	just stop struggling. Put your hands behind your	10:17:19
3	back."	10:17:24
4	Q. Did that -- those statements cause this	10:17:28
5	male to stop struggling?	10:17:31
6	A. No.	10:17:35
7	Q. Did it cause this male to put his hands	10:17:35
8	behind his back?	10:17:38
9	A. No. He already had his hands behind his	10:17:39
10	back.	10:17:43
11	Q. What do you mean by that?	10:17:43
12	A. He had one hand behind -- he had his	10:17:44
13	hand -- the police officer had his hand on Hispanic	10:17:46
14	guy's -- I think it was his left hand. I think he	10:17:51
15	was struggling with his right hand, struggling to	10:17:56
16	get his right hand behind his back.	10:18:00
17	Q. You know there's some video that relates to	10:18:03
18	the -- this incident that's been disseminated in the	10:18:05
19	press and whatnot. Are you aware about that?	10:18:10
20	A. No.	10:18:11
21	Q. Have you seen any video related to the	10:18:11
22	incident?	10:18:14
23	A. No.	10:18:15
24	Q. Okay. All right. So how was this male	10:18:15
25	positioned on the ground during this 30 seconds when	10:18:33

1	the officer was trying to handcuff the male? How	10:18:37
2	would you say the male was positioned?	10:18:40
3	A. He was face down.	10:18:41
4	Q. Face down being meaning on his stomach?	10:18:44
5	A. Yeah. He was on his stomach, face down.	10:18:46
6	Q. Was he on his stomach the whole time during	10:18:49
7	that 30-second time frame?	10:18:51
8	A. Yes, sir. The officer was -- had a knee in	10:18:53
9	his back.	10:18:54
10	Q. Now, you're sure this guy was on his	10:19:00
11	stomach the whole time that you saw the struggle,	10:19:02
12	the male?	10:19:05
13	A. Yeah, he was on his back. Sometime he'll	10:19:06
14	turn to the side. That's when the officer was	10:19:09
15	trying to get his hand -- his right hand behind his	10:19:12
16	back. And he was kind of turning to his right, his	10:19:14
17	right side.	10:19:19
18	Q. He being the male?	10:19:20
19	A. The Hispanic male.	10:19:22
20	Q. Okay. Isn't it true that the male was on	10:19:24
21	his back for a period of time and then he was	10:19:29
22	rolling over on one of his sides while the officer	10:19:32
23	was trying to get control of him?	10:19:36
24	MR. LACY: Objection. Vague and ambiguous,	10:19:38
25	lacks foundation, calls for speculation.	10:19:40

1	You can answer that, Mr. Clark, the best	10:19:43
2	you can.	10:19:46
3	THE WITNESS: The Hispanic was trying to	10:19:48
4	turn to his right.	10:19:50
5	BY MR. BLECHMAN:	10:19:52
6	Q. Yeah. Did it look to you that the male,	10:19:52
7	the Hispanic male was -- was rolling on his side	10:19:54
8	while the officer was trying to handcuff him?	10:19:58
9	A. It's the same, rolling over to his right.	10:20:00
10	Q. So his right side?	10:20:04
11	A. Because he was down, face down. He was	10:20:05
12	rolling over to his right, yeah. He was on his	10:20:09
13	stomach.	10:20:12
14	Q. Did you ever see this Hispanic male on his	10:20:15
15	back for those 30 seconds you saw the struggle	10:20:18
16	occur?	10:20:22
17	A. No. I didn't see that, no.	10:20:24
18	Q. Did you ever see the Hispanic male look	10:20:25
19	like he was on his right side, like his right hip	10:20:27
20	during the struggle?	10:20:30
21	A. No.	10:20:32
22	Q. What side -- did you ever see the Hispanic	10:20:34
23	male leaning towards one side or other during the	10:20:37
24	struggle?	10:20:40
25	A. The left side.	10:20:40

1	Q. The left side?	10:20:41
2	A. Yeah, and his right side was coming up.	10:20:43
3	Q. Did you -- during the time you were	10:20:47
4	watching this struggle occur between this police	10:20:53
5	officer and this Hispanic male, did you ever see the	10:20:56
6	Hispanic male's hand in or around the area where the	10:20:59
7	officer's firearm was?	10:21:04
8	A. His right hand, no.	10:21:06
9	Q. Did you ever see the suspect -- excuse me,	10:21:12
10	the Hispanic male with his hand on the officer's	10:21:16
11	firearm?	10:21:20
12	A. Oh, no.	10:21:21
13	Q. I'll represent to you, I'll tell you the	10:21:32
14	officer's right-handed. Okay? And the officer had	10:21:34
15	a holster that attached to his right hip a little	10:21:38
16	bit lower towards his right thigh area.	10:21:43
17	Did you ever see the Hispanic male with any	10:21:46
18	of his hand in or around the right hip or right	10:21:49
19	thigh area of that officer during the struggle?	10:21:53
20	A. No, but that was the side that his -- that	10:21:59
21	his -- that his hand could have been going up when	10:22:03
22	he was trying to put the handcuffs on him.	10:22:06
23	Q. So are you saying that the male did have	10:22:09
24	his hand or hands -- at least one of his hands in	10:22:11
25	the right side hip area of the officer during the	10:22:14

1	struggle?	10:22:18
2	A. No, no.	10:22:19
3	MR. LACY: Objection. Objection.	10:22:19
4	Misstates prior testimony.	10:22:20
5	MR. BLECHMAN: You can respond.	10:22:22
6	THE WITNESS: No.	10:22:25
7	BY MR. BLECHMAN:	10:22:26
8	Q. What did you mean by your last response?	10:22:26
9	A. The officer had that hand going -- going to	10:22:28
10	his back, putting the handcuffs on him (indicating).	10:22:31
11	Q. And when you say "that hand," you're	10:22:35
12	talking about the Hispanic male's hand?	10:22:36
13	A. Yes, sir.	10:22:38
14	Q. Now, you just demonstrated with your right	10:22:38
15	arm; is that correct?	10:22:40
16	A. Yes, sir.	10:22:42
17	Q. Okay. So the officer you're saying at some	10:22:42
18	point had the male's right hand behind the male's	10:22:45
19	back?	10:22:48
20	A. Yes, sir.	10:22:50
21	Q. Where was the left hand of the male at that	10:22:50
22	time?	10:22:52
23	A. Already in the cuff.	10:22:52
24	Q. Already in handcuffs?	10:22:56
25	A. He had -- he had -- he had his knee on	10:22:57

1	his hand. He had his knee on -- he had his knee on	10:23:01
2	his wrist. He had control of the left hand.	10:23:05
3	Q. How did he do that?	10:23:20
4	A. How did he do it?	10:23:12
5	Q. Yeah.	10:23:14
6	A. That I didn't see. He was already in his	10:23:15
7	back.	10:23:18
8	Q. Now, it's been -- it's been almost a year	10:23:22
9	since this incident occurred.	10:23:25
10	A. Too long.	10:23:29
11	Q. Right? You agree with that?	10:23:30
12	A. Yes, sir.	10:23:33
13	Q. All right. It's been about 11 months. And	10:23:33
14	is your memory today of what you saw out there --	10:23:37
15	has it gotten a little worse since the day of the	10:23:40
16	incident?	10:23:44
17	MR. LACY: Objection. Argumentative,	10:23:45
18	harassing.	10:23:47
19	You can answer.	10:23:48
20	THE WITNESS: No.	10:23:52
21	BY MR. BLECHMAN:	10:23:53
22	Q. When you had your discussions with police	10:23:53
23	officers or investigators on the day of the	10:23:56
24	incident --	10:23:58
25	A. Uh-huh.	10:23:59



1	Q. -- did you tell them the truth about what	10:23:59
2	you saw?	10:24:01
3	A. Yeah.	10:24:04
4	Q. Do you believe your memory was better on	10:24:04
5	the day of the incident when you were talking to the	10:24:07
6	police officers or detectives or investigators --	10:24:09
7	MR. LACY: Same objections.	10:24:13
8	THE WITNESS: No.	10:24:14
9	BY MR. BLECHMAN:	10:24:16
10	Q. -- than it is today?	10:24:16
11	MR. LACY: Same objections.	10:24:17
12	THE WITNESS: No.	10:24:17
13	BY MR. BLECHMAN:	10:24:18
14	Q. Okay. So Mr. Clark, you're saying your	10:24:18
15	memory today is just as strong as it was 11 months	10:24:19
16	ago?	10:24:22
17	A. Yes, sir.	10:24:23
18	Q. Okay. So you're saying the officer was	10:24:23
19	kneeling on the left hand of the Hispanic male at	10:24:33
20	the time he had the Hispanic male's right hand	10:24:36
21	behind his back?	10:24:40
22	A. His left hand was behind his back. He had	10:24:41
23	his knee in his back.	10:24:43
24	Q. Whose left hand was behind his back?	10:24:46
25	A. The Hispanic guy.	10:24:48

1	Q. I thought you said his right hand was	10:24:51
2	behind his back.	10:24:52
3	A. No. His right hand, he was trying to get.	10:24:53
4	He was struggling with his right hand.	10:24:55
5	Q. Okay. You're saying the male's right hand	10:24:58
6	was free?	10:25:02
7	A. Free.	10:25:03
8	Q. And the left hand was behind his back?	10:25:04
9	A. The left hand was behind his back already.	10:25:10
10	Q. Did you ever see any handcuffs on that	10:25:20
11	Hispanic male at any time that day outside of the	10:25:29
12	store?	10:25:34
13	A. No, sir.	10:25:37
14	Q. The whole time you watched the struggle,	10:25:37
15	you never saw the officer put either one hand in	10:25:39
16	handcuffs or both hands in handcuffs; is that	10:25:44
17	correct?	10:25:48
18	A. Right. Yes, sir.	10:25:49
19	Q. Okay. And the whole time you were watching	10:25:49
20	this struggle, did it appear to you that the officer	10:25:52
21	was trying to control the male -- both of the male's	10:25:54
22	hands?	10:25:57
23	A. Yes, he was.	10:25:58
24	Q. Did you see anything that the officer did	10:26:01
25	in that 30-second time frame that you yourself	10:26:05

1	thought was inappropriate?	10:26:07
2	A. Yes, sir.	10:26:13
3	Q. And what did you see?	10:26:13
4	A. He came up from behind him and not	10:26:15
5	announcing that he was a peace officer and he just	10:26:18
6	tackled the boy.	10:26:21
7	Q. Okay. Other than tackling the male right	10:26:22
8	as you got out of your car, did you see anything	10:26:25
9	else during the struggle that you thought the	10:26:30
10	officer did that was inappropriate?	10:26:32
11	A. No, sir.	10:26:37
12	MR. LACY: Can we agree to call him Pedie	10:26:37
13	Perez? We know his name.	10:26:40
14	MR. BLECHMAN: It's fine with me.	10:26:44
15	BY MR. BLECHMAN:	10:26:46
16	Q. So we now know that the Hispanic male was	10:26:46
17	Mr. Perez.	10:26:48
18	A. Yes, sir.	10:26:50
19	Q. Okay? And Mr. Lacy used the term Pedie	10:26:50
20	Perez. Did you ever hear anybody use the term Pedie	10:26:55
21	or anything of that nature to Mr. Perez during the	10:27:00
22	struggle?	10:27:06
23	A. Yes, sir.	10:27:07
24	Q. What did you hear in that regard?	10:27:07
25	A. That a Mexican guy coming up telling Pedie,	10:27:10

1	"Stop resisting."	10:27:15
2	Q. This is this other guy who appeared to be a	10:27:19
3	friend of Mr. Perez --	10:27:21
4	A. Mr. Perez, yes, sir.	10:27:24
5	Q. -- came up during the struggle --	10:27:25
6	A. Yes, sir.	10:27:28
7	Q. -- and told Pedie to stop struggling?	10:27:28
8	A. Yes, sir.	10:27:32
9	Q. Did he use the term Pedie?	10:27:32
10	A. Yes, sir.	10:27:34
11	Q. And that's what gave you the indication	10:27:34
12	that he knew him?	10:27:38
13	A. Yes, sir.	10:27:40
14	Q. Gotcha. Did the officer respond to when	10:27:40
15	that Mexican guy came up and used the term "Pedie,	10:27:43
16	stop resisting"?	10:27:46
17	A. Yes, sir.	10:27:48
18	Q. What did he do?	10:27:48
19	A. Pushed that guy away, told him to get back,	10:27:50
20	step back.	10:27:54
21	Q. Did the officer put hands on that Mexican	10:27:56
22	friend of Pedie?	10:27:58
23	A. Oh, no.	10:28:01
24	Q. He just told him to get back?	10:28:01
25	A. Yes.	10:28:04

1	Q. And did the guy get back?	10:28:04
2	A. Yes.	10:28:10
3	Q. How would you describe what that Mexican	10:28:10
4	gentleman looked like who came up and told his	10:28:14
5	friend Pedie to stop resisting? What did he look	10:28:17
6	like?	10:28:23
7	A. Didn't -- didn't pay no attention. Just	10:28:23
8	went on about my business then.	10:28:26
9	Q. Did Mr. Perez stop resisting when his	10:28:32
10	friend told him to stop resisting?	10:28:35
11	A. I went on about my business.	10:28:38
12	Q. Well, what did you see after you see the	10:28:40
13	friend tell Pedie to stop resisting? Did -- did	10:28:43
14	Mr. Perez then stop resisting?	10:28:45
15	A. I went on about my business. When the	10:28:48
16	officer told the guy to get back --	10:28:50
17	Q. What do you mean --	10:28:53
18	A. -- I got away.	10:28:54
19	Q. Okay. Is that when you went into the	10:28:55
20	store?	10:28:57
21	A. Yes.	10:28:58
22	Q. Okay. So that that would have been around	10:28:58
23	the end of this 30-second time frame?	10:29:04
24	A. Uh-huh.	10:29:07
25	Q. Correct?	10:29:07

1	A. Yes, sir.	10:29:09
2	Q. Okay. At that point in time when this	10:29:09
3	friend comes up and the officer tells him to get	10:29:19
4	back, could you tell that this person now dealing	10:29:22
5	with Mr. Perez was a police officer?	10:29:25
6	A. Yes, because of the gun on the side.	10:29:33
7	Q. At some point, did you see that the -- the	10:29:39
8	officer had a gun on his person?	10:29:42
9	A. He didn't have it not pointed at me --	10:29:48
10	Q. Right.	10:29:48
11	A. -- but on his side.	10:29:48
12	Q. On his side, right. He had it on his right	10:29:50
13	side; correct? Yes?	10:29:53
14	A. Right side (indicating).	10:29:56
15	Q. Okay. The -- Mr. Perez -- did you ever see	10:29:58
16	any of Mr. Perez's (sic) come anywhere near the	10:30:00
17	right hip/right side of the officer at any point in	10:30:04
18	time during the struggle?	10:30:08
19	MR. LACY: Objection. Vague and ambiguous.	10:30:11
20	THE WITNESS: I didn't see.	10:30:13
21	MR. LACY: It calls -- calls for	10:30:13
22	speculation, lacks foundation.	10:30:14
23	Go ahead.	10:30:16
24	MR. BLECHMAN: Go ahead, Mr. Clark.	10:30:16
25	THE WITNESS: No, he didn't -- I never see	10:30:18

1	that, no.	10:30:19
2	BY MR. BLECHMAN:	10:30:20
3	Q. Did it get anywhere near the officer -- the	10:30:20
4	hand or hands of Mr. Perex ever get anywhere near	10:30:24
5	the officer's firearm?	10:30:29
6	A. No, sir.	10:30:31
7	Q. The officer's holster?	10:30:31
8	A. I didn't see it, no, sir, not with my eyes.	10:30:35
9	Q. The officer's right hip area?	10:30:37
10	A. No, sir.	10:30:40
11	Q. So when you went into the store, isn't it	10:30:49
12	true that you -- when you walked through the front	10:30:51
13	door of the store, you were still watching what was	10:30:54
14	going on between the officer and Mr. Perez; correct?	10:30:58
15	A. No, sir.	10:31:02
16	Q. What happened once you walked in the store?	10:31:02
17	A. When I went into the store, I had to take	10:31:06
18	-- I had to make a left turn. By me going through	10:31:08
19	the -- the store doors, that put my back toward the	10:31:13
20	officer and Pedie.	10:31:17
21	Q. Did you know Pedie Perez?	10:31:26
22	A. No.	10:31:31
23	Q. Have you since the incident spoken at any	10:31:31
24	events, memorials or anything on behalf of him?	10:31:36
25	A. They had -- they had a -- some kind of --	10:31:42

1	what was that?	10:31:49
2	Q. Like a protest or a --	10:31:53
3	A. It was a protest or a march up at City	10:31:54
4	Hall.	10:31:57
5	Q. Okay. And did you speak at that?	10:31:57
6	A. I didn't speak at it, no, but I spoke to	10:31:59
7	the parents.	10:32:02
8	Q. And what did you discuss with the parents?	10:32:02
9	A. I told them that I was a -- I was a witness	10:32:04
10	there, gave them my phone number and everything.	10:32:07
11	Phone number and my address.	10:32:10
12	Q. Okay. And did those parents ever contact	10:32:12
13	you?	10:32:14
14	A. No.	10:32:16
15	Q. Did any investigator call you after that	10:32:16
16	that you believe was associated with the parents?	10:32:19
17	A. Yeah. He was at the -- he was at the --	10:32:25
18	the -- the gathering at the City -- at City Hall.	10:32:27
19	Q. Do you ever remember being interviewed by	10:32:34
20	-- this is after, long after the incident -- or not	10:32:37
21	long after, but not on the night of the incident,	10:32:39
22	being interviewed by three different guys asking you	10:32:42
23	some questions about what you saw?	10:32:45
24	A. Was it three? I think it was two. But the	10:32:47
25	same -- the same group of people.	10:32:52



1	Q. They were associated with the family of	10:32:54
2	Mr. Perez; correct?	10:32:57
3	A. Yes, sir.	10:32:59
4	MR. LACY: Objection. Calls for	10:32:59
5	speculation and lacks foundation.	10:33:00
6	BY MR. BLECHMAN:	10:33:02
7	Q. And was this before or after an	10:33:02
8	investigator from Mr. Lacy's office or Mr. Burris'	10:33:07
9	office contacted you about three weeks after the	10:33:10
10	incident?	10:33:12
11	A. Oh, yeah. It was way after.	10:33:13
12	Q. Way after? Is this something that occurred	10:33:15
13	pretty recently --	10:33:19
14	A. No.	10:33:21
15	Q. -- within the last couple months?	10:33:21
16	A. Oh, yes, I think one time.	10:33:22
17	Q. And where were you when that interview by	10:33:24
18	those two investigators occurred?	10:33:26
19	A. At the library and at the -- the cafe by	10:33:28
20	the store.	10:33:36
21	Q. By Uncle Sam's Liquors?	10:33:37
22	A. Uh-huh.	10:33:41
23	Q. Yes?	10:33:41
24	A. Yes, sir.	10:33:42
25	Q. Where were you located when Mr. Lacy's	10:33:43

1	investigator interviewed you? Where were you	10:33:44
2	located? Where were you? Were you at home, were	10:33:46
3	you -- oh, that was on the phone?	10:33:49
4	A. On the phone.	10:33:50
5	Q. And where were you located at the time?	10:33:51
6	A. When he called?	10:33:53
7	Q. Yeah. Where were you?	10:33:54
8	A. I think I was at the house.	10:33:55
9	Q. So when you said you were at the library	10:33:59
10	and then also at some other location by the store,	10:34:07
11	what was the other location?	10:34:13
12	A. The -- the food store right there on the	10:34:15
13	corner.	10:34:17
14	Q. Oh, the cafe. Is the library and the cafe	10:34:18
15	near each other?	10:34:22
16	A. No.	10:34:24
17	Q. So was there two different times you were	10:34:24
18	interviewed by these two investigators from the	10:34:25
19	family?	10:34:29
20	A. Yes, sir.	10:34:33
21	Q. Did they ever buy you any food or drink or	10:34:33
22	anything --	10:34:36
23	A. No.	10:34:38
24	Q. -- like that?	10:34:38
25	A. No.	10:34:41

1	Q. Once you went into the store, what if	10:34:41
2	anything did you see between the officer and	10:34:43
3	Mr. Perez?	10:34:47
4	A. When I walked in the store, I took two,	10:34:49
5	three steps to the left, glanced back out the	10:34:53
6	window. And the officer was backing up. So	10:34:58
7	therefore, he got off of Pedie.	10:35:04
8	Q. Okay.	10:35:08
9	A. That's when the gunshots went off.	10:35:08
10	Q. All right. Could you tell how many -- how	10:35:13
11	much distance the officer got from Pedie at the time	10:35:16
12	you first realized there's a gunshot?	10:35:18
13	A. Me to you. Three feet, two feet. Three	10:35:23
14	feet, four feet.	10:35:27
15	Q. Okay. So your best estimate is two to four	10:35:28
16	feet?	10:35:32
17	A. Yes, sir.	10:35:33
18	Q. So the officer and Mr. Perez were two to	10:35:33
19	four feet away at the time of the first gunshot?	10:35:37
20	A. Yes, sir.	10:35:45
21	Q. What was Pedie doing -- what was Mr. Perez	10:35:45
22	doing at the time the first gunshot occurred?	10:35:48
23	A. I never seen Mr. Perez. All I seen was the	10:35:51
24	officer backing up shooting and all I heard was the	10:35:57
25	shots while he was backing up.	10:36:00

1	Q. How many shots did you hear?	10:36:03
2	A. Three.	10:36:05
3	Q. And they were all in rapid succession?	10:36:06
4	A. Yes, sir.	10:36:12
5	Q. So from your position, how was it that you	10:36:12
6	were able to see the officer backing up and not see	10:36:20
7	Mr. Perez?	10:36:23
8	A. Because the officer was standing up. I	10:36:24
9	didn't see Pedie, so the officer had to get up off	10:36:29
10	of Pedie and start firing. I don't know if Pedie	10:36:35
11	was getting up at the time or what. I never seen	10:36:39
12	Pedie. All I seen was the officer (indicating).	10:36:43
13	Q. So you don't know what position Mr. Perez	10:36:47
14	was in at the time he was shot at, do you?	10:36:50
15	A. No.	10:36:56
16	Q. Okay. You don't know if he was on his	10:36:56
17	feet, you don't know if he was bent over --	10:36:58
18	A. Huh-uh.	10:37:01
19	Q. -- you don't know if he was laying on his	10:37:01
20	stomach or laying on his back; is that correct?	10:37:02
21	A. That's correct.	10:37:06
22	Q. And what happened after you hear those	10:37:07
23	three shots? Is that when you went farther into the	10:37:10
24	store?	10:37:14
25	A. No, I stayed right where I was.	10:37:15

1	Q. Okay. What happened next?	10:37:17
2	A. Pedie came to the door.	10:37:21
3	Q. And then what happened?	10:37:24
4	A. Came inside the store, walked one foot in	10:37:26
5	front of me, passed me, took two, three steps, fell	10:37:32
6	on the floor on his back.	10:37:40
7	Q. Did you ever hear Mr. Perez say anything at	10:37:44
8	any point in time when he was outside the store?	10:37:47
9	A. No.	10:37:51
10	Q. Did you ever hear him saying anything	10:37:51
11	either as he's coming in the store or when he's in	10:37:53
12	the store?	10:37:56
13	A. No.	10:37:58
14	Q. So you never heard him say anything that	10:37:58
15	night; is that correct?	10:38:08
16	A. He didn't say nothing.	10:38:02
17	Q. So when he came in the store and fell on	10:38:04
18	the floor on his back, what happened next?	10:38:11
19	A. He looked at me.	10:38:16
20	Q. Say that again?	10:38:18
21	A. He looked at me, I looked at him, he took a	10:38:19
22	deep breath and then he never moved again.	10:38:24
23	Q. Did the officer at some point then -- did	10:38:31
24	you see the officer go in the store or go close to	10:38:34
25	the front door after that?	10:38:36

1	A. He was at the front door.	10:38:37
2	Q. Did he say anything at that point in time?	10:38:39
3	A. He told me I couldn't leave.	10:38:41
4	Q. Did you hear the officer report that shots	10:38:46
5	had been fired?	10:38:49
6	A. Yes, sir. Yeah.	10:38:53
7	Q. All right. And then you were -- you had to	10:39:06
8	stay in the store for a period of time; is that	10:39:18
9	correct?	10:39:20
10	A. Yes, sir. Four hours.	10:39:21
11	Q. And then do you remember that at some	10:39:22
12	point, you were interviewed while you were inside	10:39:26
13	the store by an officer?	10:39:28
14	A. Yes.	10:39:31
15	Q. The officer asked you what happened and you	10:39:31
16	had a conversation with that officer?	10:39:32
17	A. I think so, yeah. That officer, yes.	10:39:34
18	Q. Okay. And then isn't it true that that	10:39:36
19	same officer you had a discussion with, he was the	10:39:38
20	one or she was the -- he was the one that then	10:39:40
21	transported you from the store to the police	10:39:44
22	station?	10:39:47
23	A. Yes, sir.	10:39:48
24	Q. And at the police station, you were	10:39:48
25	interviewed by two police personnel?	10:39:50

1	A. Investigators, yes, sir.	10:39:54
2	Q. Okay. So what did you tell the officer who	10:39:56
3	interviewed you at the store about what you saw?	10:40:01
4	A. Same thing as I told you. Pedie was on the	10:40:03
5	ground, the officer was going behind him, he was	10:40:07
6	struggling with Pedie. Pedie was trying to turn to	10:40:10
7	his side, evidently trying to get up or possibly get	10:40:12
8	up. If the officer had shot him, it was probably	10:40:16
9	because Pedie tried to take his gun.	10:40:26
10	After that, it was -- said it was an	10:40:30
11	assumption. Whoever the investigator said, "Is that	10:40:33
12	an assumption?" And I told him yes, because I	10:40:36
13	didn't see it with my eyes.	10:40:38
14	Q. Did you review your video interview with	10:40:41
15	those two detectives on the night of the incident?	10:40:44
16	Have you reviewed that since then?	10:40:46
17	A. No, sir.	10:40:49
18	Q. But you remember when you talked about in	10:40:49
19	your video -- well, when you talked to those two	10:40:52
20	detectives at the police station on the night of the	10:40:56
21	incident, you recall telling them several times that	10:40:58
22	when the officer got up, started backing away, Pedie	10:41:03
23	came at the officer. Do you remember telling them	10:41:07
24	that?	10:41:09
25	A. No, no, no. Because I never did see Pedie.	10:41:10

1	Q. Well, you told them that several times, and	10:41:13
2	then later in the interview, you said you assumed he	10:41:16
3	came at the officer at the time he got shot. Isn't	10:41:18
4	that what you told them?	10:41:22
5	A. I told them that was assumption, assumed,	10:41:23
6	yes, sir.	10:41:26
7	Q. Okay. Now, a minute or so ago, you said	10:41:27
8	something about he probably grabbed for the	10:41:31
9	officer's gun. What did you mean by that?	10:41:33
10	A. I told you that's what I told in my first	10:41:37
11	statement to the officer.	10:41:38
12	Q. In the store?	10:41:41
13	A. In the store and at the -- at the police	10:41:42
14	station.	10:41:45
15	Q. Okay.	10:41:46
16	A. That when he was tussling with Pedie, Pedie	10:41:46
17	was trying to raise up on his right hand.	10:41:49
18	Q. What do you mean, raise up on his right	10:41:52
19	hand?	10:41:54
20	A. Just raise up on his -- on his left side.	10:41:55
21	He didn't raise up on his right. His right hand	10:41:57
22	might have slid up against the officer gun or what.	10:41:57
23	I didn't know, because it was assumption. The	10:42:02
24	investigator say, you assuming this? And I say yes,	10:42:04
25	it's assumption. I didn't see it. It's assumption.	10:42:07



1	I'm assuming it because he shot the boy.	10:42:11
2	Q. And why did you -- you assumed that	10:42:14
3	because --	10:42:16
4	A. He shot him.	10:42:18
5	Q. -- you later saw the officer shoot	10:42:19
6	Mr. Perez?	10:42:21
7	A. Uh-huh.	10:42:25
8	Q. Yes?	10:42:25
9	A. Yes, sir.	10:42:27
10	Q. Did you yourself see anything that you can	10:42:27
11	recall during the struggle between the officer and	10:42:31
12	Mr. Perez where you thought Mr. Perez was escalating	10:42:35
13	the situation?	10:42:42
14	A. The officer couldn't get his hand behind	10:42:45
15	his back.	10:42:49
16	Q. Because of what Mr. Perez was doing?	10:42:49
17	A. Mr. Perez was moving.	10:42:53
18	Q. It appeared to you, did it not, that Mr.	10:42:55
19	Perez was trying to prevent himself from being	10:42:58
20	handcuffed; correct?	10:43:01
21	A. Yes, sir.	10:43:03
22	Q. He was moving his body around, he was	10:43:04
23	moving his hands around to what looked to you to be	10:43:06
24	to prevent him from being controlled by the officer?	10:43:09
25	A. Yes, sir.	10:43:18

1	Q. Now, I do have a report by the officer that	10:43:18
2	interviewed you in the store. He wrote a report,	10:43:22
3	and I'm going to read a couple portions of that to	10:43:27
4	you. Okay?	10:43:29
5	MR. BLECHMAN: Do you want a copy, Counsel?	10:43:32
6	MR. LACY: Yes. Sure. Thanks.	10:43:35
7	MR. BLECHMAN: Why don't I do this? I'll	10:43:37
8	make this an exhibit so you can have a copy to read	10:43:37
9	yourself, Mr. Clark. We'll make this 1.	10:43:40
10	(Whereupon, Defendant's Exhibit 1 was	10:43:43
11	marked for identification.)	10:44:06
12	MR. BLECHMAN: And then Mr. Lacy, why don't	10:44:07
13	we -- take a look at the front page of that, just	10:44:09
14	familiarize yourself with that, Mr. Clark, and then	10:44:11
15	there's a summary inside.	10:44:14
16	While he's doing that, let's try our best	10:44:15
17	to try to keep the exhibit numbers in this case for	10:44:16
18	all depositions numbered in sequence.	10:44:18
19	MR. LACY: Sure. I'm very aware of the	10:44:22
20	standing order of the court.	10:44:24
21	MR. BLECHMAN: Okay. Good. And it just	10:44:25
22	definitely makes things easier.	10:44:27
23	MR. LACY: Sure.	10:44:29
24	MR. BLECHMAN: All right. So you can help	10:44:30
25	me keep track of that.	10:44:32

1	BY MR. BLECHMAN:	10:44:35
2	Q. So Mr. Clark, I'll represent -- well, first	10:44:35
3	of all, on that first page at the top, that's your	10:44:38
4	name, Steven Maurice Clark; is that correct?	10:44:40
5	A. Yes, sir.	10:44:44
6	Q. And it's got your date of birth, September	10:44:44
7	29, 1955, is that accurate?	10:44:47
8	A. Yep. Yes, sir.	10:44:50
9	Q. It's got your driver's license number	10:44:52
10	listed there; is that right?	10:44:53
11	A. Yes, sir.	10:44:56
12	Q. It's got your address and your cell number;	10:44:56
13	is that correct?	10:44:59
14	A. Yes, sir.	10:44:59
15	Q. Okay. So inside is a summary I'll	10:44:59
16	represent to you of what this officer recalled about	10:45:05
17	your conversation with him inside the store.	10:45:11
18	He said he "returned to speak with one of	10:45:16
19	the patrons," and this is paragraph 4, "Steven	10:45:19
20	Clark. I asked Clark what happened, Clark told me	10:45:22
21	the following in summary." It says: "Clark had	10:45:25
22	arrived at Uncle Sam's to purchase a beer."	10:45:29
23	Is that accurate?	10:45:33
24	A. Yes, sir.	10:45:34
25	Q. And by the way, when you were talking to	10:45:34

1	this officer in the store, were you telling this	10:45:35
2	officer as best you could the truth about what you	10:45:40
3	saw?	10:45:43
4	A. Yes, sir.	10:45:45
5	Q. Okay. So it says: "Clark approached the	10:45:46
6	entrance to the store and observed a man in uniform	10:45:49
7	attempting to restrain another man by placing his	10:45:54
8	hands behind his back."	10:45:57
9	Is that what you saw in relation to the	10:45:59
10	incident?	10:46:01
11	A. Yes, but the man came from behind and	10:46:02
12	tackled him.	10:46:04
13	Q. Right. Okay. All right. So the first	10:46:05
14	thing you see when you're getting out of your car is	10:46:12
15	the tackle; correct?	10:46:15
16	A. Yes.	10:46:16
17	Q. And you don't know why the officer tackled	10:46:16
18	Mr. Perez, do you?	10:46:20
19	A. No, sir.	10:46:21
20	Q. Do you have any criticism of the officer	10:46:21
21	for tackling Mr. Perez?	10:46:23
22	A. I -- (Witness shakes head from side to	10:46:27
23	side.) No.	10:46:30
24	Q. Because you don't know what happened right	10:46:31
25	before that; right?	10:46:32

1	A. Right.	10:46:34
2	Q. All right. So after the tackle occurs, you	10:46:34
3	do see the officer attempting to restrain Mr. Perez	10:46:37
4	by putting his hands behind his back; correct?	10:46:42
5	A. Yes, sir.	10:46:46
6	Q. It says in here: "At first Clark believed	10:46:46
7	(Jensen) was a security guard but he quickly	10:46:49
8	realized that the patches on his shoulder stated	10:46:54
9	'Police.'"	10:46:58
10	Is that true of what you told this officer	10:46:58
11	inside the store?	10:47:01
12	A. Yes, sir.	10:47:02
13	Q. All right. It says: "Clark did not want	10:47:03
14	to get involved in the confrontation but continued	10:47:06
15	to observe the 'tussle' from inside the store."	10:47:09
16	Is that true of what you told this officer?	10:47:15
17	A. No, sir.	10:47:18
18	Q. And why not?	10:47:19
19	A. Because the tussle I seen was outside.	10:47:21
20	Q. Okay.	10:47:24
21	A. Once I got inside, I couldn't see the	10:47:24
22	tussle.	10:47:28
23	Q. All right. And when you say tussle, you	10:47:28
24	mean that there's a struggle going on between the	10:47:30
25	two men?	10:47:33

1	A. Yes, sir.	10:47:34
2	Q. Okay. You did not want to get involved in	10:47:34
3	that; right? You were minding your own business?	10:47:36
4	A. That's right.	10:47:39
5	Q. And when the officer told this other man	10:47:40
6	who approached and said, Pedie, stop -- stop what	10:47:41
7	you're doing or whatever he said, that's when you	10:47:45
8	said, all right, it's time for me to go in the store	10:47:47
9	and go about my business; correct?	10:47:49
10	A. Yes, sir.	10:47:52
11	Q. All right. You say -- it says in here that	10:47:52
12	you told this --	10:48:00
13	A. Excuse me.	10:48:02
14	Q. -- police officer that "Officer Jensen,"	10:48:03
15	you know, the officer, "had pushed Perez to the	10:48:07
16	ground and was giving multiple commands to 'stop	10:48:10
17	resisting' and to 'just stay down.'"	10:48:14
18	Is that what you told this police officer	10:48:18
19	in the store?	10:48:21
20	A. Yes, sir.	10:48:23
21	Q. So you heard the -- you heard Officer	10:48:24
22	Jensen giving commands to Mr. Perez to stop	10:48:28
23	resisting; correct?	10:48:32
24	A. Yes, sir.	10:48:33
25	Q. And you heard him tell Mr. Perez something	10:48:33

1	to the effect of just stay down; is that correct?	10:48:36
2	A. Yes, sir.	10:48:41
3	Q. But Mr. Perez continued to struggle with	10:48:43
4	the officer, despite those commands; correct?	10:48:46
5	A. Yes, sir.	10:48:50
6	Q. Now, it says in here: "Perez continued to	10:48:51
7	struggle with Jensen while on the ground and	10:48:54
8	grabbing his waistline and duty belt, pulling it	10:48:58
9	toward him."	10:49:03
10	Isn't that what you told this officer	10:49:03
11	when you were interviewed inside the store?	10:49:06
12	A. No, sir.	10:49:09
13	Q. And why is that not correct?	10:49:09
14	A. Because I never did see him pull or tussle	10:49:11
15	or grab the -- the officer by the hip or side.	10:49:16
16	Q. You never saw Mr. Perez grabbing the	10:49:19
17	waistline of the officer?	10:49:23
18	A. No, sir.	10:49:24
19	Q. You never saw Mr. Perez grabbing the duty	10:49:24
20	belt of the officer?	10:49:28
21	A. No, sir.	10:49:31
22	Q. It says in here, Mr. Clark, that: "Clark	10:49:31
23	stated at one point during the fight Perez grabbed	10:49:36
24	Officer Jensen's holstered firearm."	10:49:41
25	A. No.	10:49:44

1	Q. Do you see that?	10:49:44
2	A. No, sir.	10:49:46
3	Q. Hold on. Do you see that in here listed in	10:49:46
4	this report?	10:49:49
5	A. I wasn't even looking. I didn't see it.	10:49:49
6	Q. Okay. Let me represent to you, Mr. Clark,	10:49:53
7	this officer states in here: "Clark stated at one	10:49:54
8	point during the fight Perez grabbed Officer	10:49:58
9	Jensen's holstered firearm."	10:50:02
10	Isn't it true that's what you told this	10:50:04
11	police officer when you were interviewed inside the	10:50:06
12	store after this incident?	10:50:09
13	A. No, sir.	10:50:12
14	Q. Did you ever see Mr. Perez grab the	10:50:12
15	officer's holstered firearm?	10:50:16
16	A. No, sir.	10:50:20
17	Q. Did you ever see Mr. Perez get anywhere	10:50:20
18	near the holstered firearm of the officer during the	10:50:22
19	struggle?	10:50:27
20	A. When -- what I see -- what I seen was Pedie	10:50:35
21	raising up, the right hand behind his back, turning	10:50:42
22	towards the officer (indicating). That was the side	10:50:47
23	that the officer had his piece on, his side -- his	10:50:51
24	firearm on. And I told the investigators that.	10:50:55
25	Q. So you never told this officer that you saw	10:51:03



1	Mr. Perez grab the holstered firearm of Officer	10:51:07
2	Jensen, did you?	10:51:13
3	A. No.	10:51:14
4	Q. But did you ever tell this officer inside	10:51:14
5	the store here who is interviewing you that you saw	10:51:17
6	Mr. Perez's -- any of his hands get close to the	10:51:19
7	holstered firearm of the officer?	10:51:24
8	A. No, sir.	10:51:27
9	Q. Did you ever see that occur?	10:51:27
10	A. No, sir.	10:51:31
11	Q. It says in here then: "Officer Jensen then	10:51:31
12	released himself from Perez and pushed up and away,	10:51:35
13	getting up from the ground and stepping back."	10:51:39
14	That's true of what you saw; correct?	10:51:42
15	A. I didn't never see that man get up off of	10:51:45
16	Pedie.	10:51:48
17	Q. You didn't see the officer get up off and	10:51:49
18	start backing up?	10:51:52
19	A. No, sir. I was behind the potato chips. I	10:51:54
20	couldn't see it. The rack was body height, neck	10:51:56
21	high. All I seen was the officer standing. I	10:52:00
22	couldn't see Pedie get up.	10:52:04
23	Q. Well, this is actually talking about the	10:52:05
24	officer releasing himself from Mr. Perez, pushed up	10:52:09
25	and away, getting up from the ground and stepping	10:52:14

1	back. This is the officer. Did you ever see the	10:52:16
2	officer --	10:52:20
3	A. I didn't see it, no.	10:52:21
4	Q. Okay. You did at some point see the	10:52:22
5	officer, to the extent you could tell he was	10:52:23
6	standing up, because you could see him over the	10:52:26
7	potato chips?	10:52:29
8	A. Yes.	10:52:31
9	Q. And could you tell that the officer was	10:52:31
10	backing up, as well?	10:52:33
11	A. As he was backing up, he was shooting.	10:52:34
12	Q. Okay. And isn't it true that at the time	10:52:36
13	the officer's backing up, Mr. Perez had stood up, as	10:52:39
14	well?	10:52:45
15	A. After the shots, yes.	10:52:45
16	Q. And when Mr. Perez stood up, he started	10:52:48
17	coming towards the direction of the officer;	10:52:52
18	correct?	10:52:55
19	A. No. He came towards the store door.	10:52:55
20	Q. Well, wasn't the door between Mr. Perez and	10:53:00
21	the officer?	10:53:02
22	A. No. Both of them was outside the last time	10:53:05
23	I had seen them.	10:53:07
24	Q. Right. I understand. They're both outside	10:53:08
25	in front of the store; correct?	10:53:10

1	A. Yes, sir.	10:53:12
2	Q. And when you're inside the store, if you	10:53:12
3	were standing looking directly at the door inside	10:53:16
4	the store, the officer would be to your right and	10:53:18
5	Pedie would be to your left; correct?	10:53:22
6	A. The officer would be to my right, Pedie	10:53:24
7	would be to my left.	10:53:27
8	Q. Okay.	10:53:28
9	A. Actually, Pedie would be in front of me.	10:53:28
10	Q. Did you ever see Pedie make any moves	10:53:31
11	towards the front door or towards the direction of	10:53:35
12	the officer before any shots were fired?	10:53:38
13	A. No. I never did see Pedie.	10:53:42
14	Q. The first time you see Pedie on his feet,	10:53:47
15	was that after all three shots had been fired?	10:53:51
16	A. Yes, sir.	10:54:08
17	Q. And that's when Pedie walked into the	10:54:08
18	store, fell down on his back; is that correct?	10:54:11
19	A. Yes, sir.	10:54:21
20	Q. So did you tell this officer inside the	10:54:21
21	store after the incident that after the officer was	10:54:24
22	backing up or as he was backing up, Mr. Perez stood	10:54:30
23	up and charged towards the officer?	10:54:36
24	A. No, sir. I couldn't see that.	10:54:40
25	Q. Now, isn't it true that when you see the	10:55:09

1	struggle between the officer and Mr. Perez, that	10:55:06
2	Mr. Perez was getting the upper hand on the officer?	10:55:12
3	Isn't that true?	10:55:15
4	A. Yes, sir, because he couldn't get his hands	10:55:18
5	behind his back.	10:55:22
6	Q. Now, in your interview at the police	10:55:26
7	station, this was a couple hours after the incident;	10:55:43
8	correct?	10:55:48
9	A. Yes, sir.	10:55:48
10	Q. You had to wait for a period of time at the	10:55:49
11	police station until you were actually interviewed?	10:55:51
12	A. Yes, sir.	10:55:55
13	Q. Did you have an understanding that your	10:55:55
14	interview was being recorded?	10:55:56
15	A. Yes, sir.	10:56:00
16	Q. Okay. And did you believe those officers	10:56:00
17	who interviewed you were being fair to you in the	10:56:04
18	interview?	10:56:09
19	A. Yes, sir.	10:56:12
20	Q. Okay. And did you tell those officers the	10:56:13
21	truth about what you saw, what you heard about the	10:56:15
22	incident?	10:56:19
23	A. What I heard, no, but what I saw, yes.	10:56:19
24	Q. So let me -- I reviewed your interview this	10:56:36
25	morning, the video interview before your deposition	10:56:40

1	today to prepare for your deposition. So I will	10:56:43
2	tell you a couple things that I noticed from your	10:56:47
3	video interview, and then I'll ask you some	10:56:50
4	follow-up questions. Okay?	10:56:54
5	A. Yes, sir.	10:56:57
6	Q. Initially in there, you said that the	10:56:57
7	officer got up, he backs away, the guy started	10:57:00
8	coming at the officer and the officer shot three	10:57:04
9	times, and then the man comes in the store and hits	10:57:08
10	the ground. Okay?	10:57:11
11	About a minute later, you said that after	10:57:17
12	they got up, the man approaches the officer. He was	10:57:21
13	coming at the officer, the officer's backing up and	10:57:25
14	he shot the man. Okay?	10:57:29
15	Do you remember making those initial	10:57:32
16	statements in the interview, that Mr. Perez was	10:57:35
17	coming at the officer at the time he was shot?	10:57:37
18	A. No, sir.	10:57:46
19	Q. Were you -- in your interview, were you --	10:57:46
20	do you think you said things to these investigators	10:57:51
21	that you thought they would like to hear, or were	10:57:54
22	you trying to just tell them exactly what you	10:57:57
23	remembered seeing in the incident?	10:58:01
24	A. I was trying to let them know what I was	10:58:03
25	seeing.	10:58:06

1	Q. In the interview, you -- and we can go to	10:58:09
2	these. I got my computer. We can actually -- you	10:58:42
3	know, we can go to each of these little citations.	10:58:16
4	When the officer took down Mr. Perez, isn't	10:58:22
5	it true the officer was telling Mr. Perez numerous	10:58:26
6	times, "Stop resisting, stop resisting, stop	10:58:30
7	resisting"? Isn't that correct?	10:58:33
8	A. Yes, sir.	10:58:43
9	Q. You also told the investigators that during	10:58:43
10	the struggle, you saw Mr. Perez's hand go on the	10:58:50
11	side of the officer. You're not sure if the hand	10:59:01
12	accidentally touched the gun. Do you remember	10:59:07
13	saying that to them?	10:59:09
14	A. Yes, sir.	10:59:11
15	Q. Isn't that what you saw?	10:59:11
16	A. Yes.	10:59:14
17	Q. So you did see Mr. Perez's hand go on the	10:59:14
18	side of the officer, the gun side of the officer;	10:59:18
19	correct?	10:59:22
20	A. Yes, sir, but it was through a tuggle, when	10:59:22
21	he was trying to turn into his side. He was turning	10:59:25
22	around.	10:59:30
23	Q. And because of the quickness of the	10:59:31
24	struggle, you couldn't tell if during that time	10:59:32
25	frame Mr. Perez's hand may have come into contact	10:59:35

1	with the officer's gun; is that what you're saying?	10:59:39
2	A. Yes, sir.	10:59:42
3	MR. LACY: Objection. Calls for	10:59:42
4	speculation, lacks foundation.	10:59:43
5	MR. BLECHMAN: You can respond.	10:59:46
6	THE WITNESS: Yes, sir.	10:59:48
7	BY MR. BLECHMAN:	10:59:49
8	Q. Okay. Now, in your interview, Mr. Clark,	10:59:49
9	your video interview -- let's -- I'm going to	11:00:10
10	just -- I talked to plaintiffs' counsel about this	11:00:23
11	before. We're not going to attach the interview as	11:00:25
12	an exhibit. I will represent Mr. Clark's	11:00:29
13	deposition -- excuse me, his video interview was	11:00:34
14	produced in this case as RPD 231.	11:00:39
15	MR. LACY: And before you press Play, I'll	11:00:44
16	represent that that video has no audio portion.	11:00:45
17	There's definitely a video portion, but I definitely	11:00:48
18	haven't been able to hear the interview. So this	11:00:50
19	will be my first time, just for the record.	11:00:50
20	MR. BLECHMAN: I don't know why you can't	11:00:57
21	hear the interview, but my copy's all of audio,	11:01:00
22	so -- let me make sure I pinpoint some stuff here,	11:01:05
23	Mr. Clark, so that it's easier to go through this.	11:01:17
24	THE WITNESS: The restroom?	11:01:27
25	MR. BLECHMAN: You need to take a break?	11:01:28

1	THE WITNESS: Yes, sir.	11:01:30
2	MR. BLECHMAN: Let's do that before we get	11:01:31
3	started on this. We'll take a restroom break.	11:01:31
4	THE VIDEOGRAPHER: Going off the record.	11:01:33
5	The time is 11:01.	11:01:34
6	(Whereupon, a recess was taken.)	11:01:38
7	THE VIDEOGRAPHER: Back on the record. The	11:05:04
8	time is 11:05.	11:05:15
9	BY MR. BLECHMAN:	11:05:16
10	Q. Mr. Clark, I'm going to ask you to stay	11:05:16
11	right there, but I'm going to show you my laptop. I	11:05:22
12	have the video that's been produced in this case as	11:05:25
13	RPD 231.	11:05:29
14	Do you recognize yourself in this video, in	11:05:33
15	this stopped video portion? It's not easy to see,	11:05:38
16	but do you see yourself in the left-hand corner?	11:05:41
17	A. Yeah. Yeah.	11:05:46
18	Q. I think you were wearing like a sweatshirt	11:05:46
19	that said Marines on it?	11:05:49
20	A. Okay. Yeah.	11:05:50
21	Q. Is that right?	11:05:52
22	A. Yeah.	11:05:53
23	Q. Okay. And do you recognize the two other	11:05:53
24	gentlemen in this picture, this video snapshot here	11:05:55
25	as being the investigators that interviewed you?	11:05:58



1	A. The fat guy, yeah, but the other guy? I --	11:06:04
2	Q. Okay.	11:06:11
3	A. He was -- he had short red hair.	11:06:11
4	Q. All right. Well, this is black and white,	11:06:13
5	so we can't really tell hair color. But the	11:06:15
6	gentleman in the middle of this shot, you believe he	11:06:18
7	was definitely there; correct?	11:06:22
8	A. Yes.	11:06:24
9	Q. And then the gentleman on the way right,	11:06:24
10	you're not sure if he was there?	11:06:26
11	A. Not sure, huh-uh. He was -- looked like he	11:06:27
12	was a younger guy.	11:06:29
13	Q. Okay. Let's play a portion of this. And	11:06:31
14	it may tough to hear. I got my eight all the way	11:06:35
15	up, but let's see how good we can hear this or not.	11:06:38
16	We can manipulate it, so --	11:06:46
17	(Mr. Blechman plays video on laptop	11:06:50
18	computer.)	11:07:30
19	BY MR. BLECHMAN:	11:07:30
20	Q. Could you hear some of that discussion?	11:07:30
21	A. Play it again.	11:07:33
22	Q. Sure. Just for the record, I'm playing it	11:07:35
23	at -- there's a time frame on the bottom of the	11:07:37
24	video. I played it from 3 -- I think it was 3:00 --	11:07:42
25	excuse me, 3:07 and about 40 seconds I started the	11:07:48

1	last one, and I'll do this again. Let me bring it	11:07:51
2	closer to you so you can try to hear it a little bit	11:07:57
3	better.	11:07:59
4	(Mr. Blechman plays video on laptop	11:08:01
5	computer.)	11:08:47
6	BY MR. BLECHMAN:	11:08:47
7	Q. So did you hear that part of the interview?	11:08:47
8	A. Uh-huh, yes.	11:08:49
9	Q. Is that accurate for what you told in --	11:08:50
10	the investigators?	11:08:52
11	A. Yes, sir.	11:08:54
12	Q. Now, when you told these investigators	11:08:54
13	several times that once the officer got up, that Mr.	11:08:57
14	Perez started coming towards the officer, why did	11:09:03
15	you tell the investigators that?	11:09:07
16	A. You do -- it's on the video. I say he must	11:09:10
17	have.	11:09:16
18	Q. Okay. And you assumed that because of --	11:09:16
19	A. That's -- that's what they just told me. I	11:09:18
20	got to assume. And that's what I told them. They	11:09:22
21	should be on the -- on the interview.	11:09:24
22	Q. Yeah. It is on the interview, but that's	11:09:26
23	at the end. I'll tell you that -- let me count this	11:09:29
24	for a second. Hold on.	11:09:31
25	At least five times in your interview,	11:10:17

1	Mr. Clark, you told these investigators that when	11:10:19
2	the officer got up and started backing away, Mr.	11:10:26
3	Perez started coming at the officer at the time	11:10:30
4	shots were fired. Those five times were before you	11:10:34
5	told the investigators that you assumed that the	11:10:39
6	suspect came at the officer.	11:10:43
7	A. No, I didn't. I never told the	11:10:46
8	investigators that. They told me that I assumed,	11:10:48
9	and I said yes.	11:10:51
10	Q. Okay. So -- and now we're trying to sort	11:10:54
11	all this out.	11:10:57
12	A. Okay.	11:10:58
13	Q. So we're trying to figure out exactly what	11:10:59
14	you remember seeing.	11:11:01
15	A. Yeah.	11:11:03
16	Q. You don't ever remember -- do you remember	11:11:03
17	seeing Mr. Perez coming at -- coming towards the	11:11:05
18	officer, whether it be taking a step, making a	11:11:07
19	movement, anything like that, before the officer	11:11:10
20	fired his first shot at Mr. Perez?	11:11:13
21	A. No, sir.	11:11:17
22	Q. Could you see the upper body of Mr. Perez	11:11:17
23	over the potato chip display?	11:11:19
24	A. No, sir.	11:11:24
25	Q. Okay. But -- so you assumed because you're	11:11:24

1	focused on the officer backing up that because he	11:11:31
2	fired shots at Mr. Perez, you assume Mr. Perez must	11:11:34
3	have been starting to come at or coming at the	11:11:39
4	officer?	11:11:42
5	A. Yes, sir.	11:11:43
6	Q. And you're basing that on your observations	11:11:43
7	of the police officer?	11:11:46
8	A. Yes, sir.	11:11:49
9	Q. Because in your mind, if Mr. Perez stood up	11:11:49
10	and stayed still, you don't think the officer should	11:11:53
11	have shot him; is that correct?	11:11:58
12	A. Yes, sir.	11:12:00
13	Q. And if he stood up and instead of standing	11:12:00
14	still, he started to run in the other direction, you	11:12:04
15	don't think the officer should have shot him at that	11:12:08
16	point; correct?	11:12:10
17	A. No, sir.	11:12:12
18	Q. Okay. Now, if -- if after this struggle,	11:12:12
19	assuming Mr. Perez did -- when he stood up, he	11:12:17
20	started to come towards the officer -- so this is a	11:12:21
21	hypothetical. Okay? Assuming once he did stand up,	11:12:24
22	he started to come towards the officer, do you	11:12:29
23	believe that the officer should have been entitled	11:12:32
24	to fire at Mr. Perez?	11:12:35
25	MR. LACY: Objection. Improper and	11:12:38

1	incomplete hypothetical, lacks foundation, calls for	11:12:39
2	speculation and also calls for testimony that is I	11:12:42
3	guess improperly eliciting expert testimony, and	11:12:47
4	also calls for a legal conclusion.	11:12:51
5	MR. BLECHMAN: You can respond.	11:12:53
6	THE WITNESS: In that -- in the store, I	11:12:57
7	was saying he should have shot him in the leg. But	11:12:58
8	as close as he was, he should have tased him. He	11:13:02
9	didn't have to shoot him.	11:13:06
10	BY MR. BLECHMAN:	11:13:09
11	Q. And why do you say that?	11:13:09
12	A. Because the young man didn't have no	11:13:11
13	weapons on him or nothing. He didn't come at him	11:13:13
14	with any weapons or anything. There was no weapons	11:13:15
15	around for that -- for the young guy, for Pedie.	11:13:18
16	Q. But --	11:13:22
17	A. I mean, they're not trained to do that, so	11:13:42
18	I know.	11:13:27
19	Q. Well, you're saying -- that last answer,	11:13:29
20	Mr. Clark, is -- you're saying that because you	11:13:30
21	obviously feel some sympathy for Mr. Perez, who lost	11:13:34
22	his life; correct?	11:13:38
23	A. I'm still puzzled on that part of the	11:13:42
24	incident.	11:13:52
25	Q. You feel some sympathy for the parents of	11:13:53

1	Mr. Perez, who lost their son that -- that night?	11:13:55
2	A. No.	11:14:02
3	Q. Okay. Are you trying to call it like you	11:14:02
4	see it in terms of your testimony here today, tell	11:14:05
5	us what you saw accurately?	11:14:09
6	A. Yes.	11:14:11
7	Q. Okay.	11:14:11
8	A. What I seen with my eyes --	11:14:15
9	Q. Right.	11:14:17
10	A. -- simply only what I can tell you.	11:14:18
11	Q. So your estimate is that Mr. Perez and the	11:14:20
12	officer were about two to four feet away at the time	11:14:32
13	the first shot is fired; is that correct?	11:14:38
14	A. I couldn't see Mr. Perez. That's what I	11:14:40
15	was trying to tell the investigators. I -- I never	11:14:45
16	did see -- as I'm walking through the store, I never	11:14:48
17	did see Mr. Perez no more. All I seen was the	11:14:52
18	officer standing up.	11:14:56
19	Q. The last time you saw Mr. Perez, how was he	11:14:57
20	positioned?	11:15:01
21	A. Face down. Face down. The officer got his	11:15:01
22	knee in his back.	11:15:06
23	Q. And then that's the last time you saw	11:15:08
24	Mr. Perez until after the shots were fired?	11:15:11
25	A. Yes.	11:15:14

1 Q. And that's true in terms of any part of Mr. 11:15:14  
2 Perez? In other words, did you ever see his head, 11:15:17  
3 so you knew at that point, he must be on his feet 11:15:21  
4 before the -- 11:15:25  
5 A. The only time I -- that's when I assume he 11:15:26  
6 was getting on his feet, is when the officer's 11:15:29  
7 backing up. Because the last time I seen him, the 11:15:32  
8 officer was on top of him. Pedie was face down. 11:15:35  
9 When I get behind the potato chips, the officer is 11:15:40  
10 up, so then the shots starts firing. 11:15:43  
11 Q. Okay. 11:15:50  
12 A. Now, I don't know if he was coming at him, 11:15:50  
13 getting up at the time or what. I -- I didn't see 11:15:52  
14 that. All I seen was the officer standing up at 11:15:55  
15 that time. 11:15:58  
16 Q. Once you went inside the store after you 11:15:58  
17 had seen the struggle occurring, did you ever make 11:16:01  
18 any observations that Mr. Perez had gotten up off 11:16:05  
19 the ground? 11:16:10  
20 A. No. 11:16:12  
21 Q. In other words, you never saw his head 11:16:15  
22 until after the shots had been fired? 11:16:18  
23 A. Yes, sir. He stumbled to -- he came -- he 11:16:22  
24 stumbled to the door. Even when he came to the 11:16:25  
25 door, I couldn't see him. 11:16:27

1	Q. Now, do you remember telling these	11:16:29
2	investigators at the police station that the officer	11:16:30
3	was just doing his job and that the dude threatened	11:16:35
4	his life, meaning Mr. Perez threatened the officer's	11:16:41
5	life? Do you remember telling the investigators	11:16:44
6	that?	11:16:47
7	A. I told them he must have threatened his	11:16:47
8	life.	11:16:51
9	Q. Do you remember telling the investigators	11:16:51
10	that Mr. Perez tried to get that man's gun, that's	11:16:53
11	what it was?	11:16:58
12	A. Oh, no.	11:17:00
13	Q. Do you remember telling investigators --	11:17:02
14	A. I didn't see that, no.	11:17:03
15	Q. Okay. Mr. Clark, do you remember telling	11:17:05
16	investigators that the officer had no choice,	11:17:07
17	Mr. Perez came at him and the officer had no choice?	11:17:10
18	A. No, sir.	11:17:16
19	Q. All right. Let me -- and I do apologize.	11:17:16
20	The audio is not easy to hear. You're a soft-spoken	11:17:24
21	gentleman, and so the audio is not easy to pick up	11:17:29
22	for these. But let me play it anyway and see if we	11:17:33
23	can listen to this.	11:17:37
24	I'm going to start this at 3:00 -- 3:25 and	11:17:38
25	29 seconds. So take a look as best you can and hear	11:17:43



1	what we'll play right here, Mr. Clark.	11:17:49
2	(Mr. Blechman plays video on laptop	11:17:53
3	computer.)	11:18:55
4	BY MR. BLECHMAN:	11:18:55
5	Q. Is that your statement to those	11:18:55
6	investigators --	11:18:58
7	A. Yes, sir.	11:19:00
8	Q. -- at the end of that interview?	11:19:00
9	And what did you mean by that, that he had	11:19:01
10	no choice, he came at him and he had no choice?	11:19:03
11	A. He must have came at him. He had no	11:19:07
12	choice.	11:19:11
13	Q. Did you ever hear the officer say anything	11:19:24
14	once you realized the officer was on his feet	11:19:28
15	towards Mr. Perez? Do you ever remember him say	11:19:31
16	anything at that time?	11:19:34
17	A. No, just the gunshots.	11:19:36
18	Q. Let me show you now a different video.	11:19:42
19	There's store surveillance video I want to show you,	11:20:02
20	actually.	11:20:06
21	MR. LACY: If you could give me a second, I	11:20:07
22	have a call. It's something I think I've got to	11:20:09
23	take. This is the second time I've gotten this	11:20:09
24	phone. So can we go on a break for just a little	11:20:13
25	bit?	11:20:15

1	MR. BLECHMAN: Sure.	11:20:16
2	THE VIDEOGRAPHER: Going off the record.	11:20:16
3	The time is 11:20.	11:20:19
4	(Whereupon, a recess was taken.)	11:20:29
5	THE VIDEOGRAPHER: Back on the record. The	11:24:32
6	time is 11:24.	11:24:51
7	BY MR. BLECHMAN:	11:24:55
8	Q. Okay. Mr. Clark, I mentioned as we were	11:24:55
9	off the record briefly that I was going to show you	11:24:58
10	a couple other videos. The first one I'm going to	11:25:00
11	show you is some cell phone video taken of the	11:25:03
12	struggle.	11:25:08
13	And this is from RPD 216 produced in this	11:25:09
14	case. So let me turn this towards you and play this	11:25:15
15	for you. I'll represent it's about a 10-second	11:25:19
16	video. First of all, do you recognize this area	11:25:22
17	that's depicted in this video here?	11:25:27
18	A. Yes, the door.	11:25:31
19	Q. Does that appear to be the front of Uncle	11:25:33
20	Sam's Liquor?	11:25:40
21	A. From here? Hmm. Taken -- okay. Yeah.	11:25:41
22	Q. Okay. You do recognize that as the front	11:25:48
23	area?	11:25:50
24	A. Yes.	11:25:51
25	Q. All right. Now, you'll see an officer and	11:25:51

1	Mr. Perez -- who you now know is a police officer	11:25:56
2	and you now know Mr. Perez struggling in the front	11:25:59
3	of this store here area. So let me play that for	11:26:02
4	you, and then I'll ask you some questions about it.	11:26:06
5	MR. LACY: I'm going to need to move,	11:26:10
6	Counsel, so I can see this, as well. Okay?	11:26:12
7	MR. BLECHMAN: Sure.	11:26:14
8	(Mr. Blechman plays video on laptop	11:26:19
9	computer.)	11:26:34
10	THE WITNESS: Yes. Turning, yeah.	11:26:34
11	MR. BLECHMAN: Okay. And let me play it	11:26:37
12	again. It's such a short video, let me play it	11:26:38
13	again for you.	11:26:41
14	(Mr. Blechman plays video on laptop	11:26:43
15	computer.)	11:26:50
16	BY MR. BLECHMAN:	11:26:51
17	Q. That -- do you recognize that as the two	11:26:51
18	men struggling?	11:26:53
19	A. No, that -- that had to be after, because	11:26:55
20	the car right -- where that car is right there,	11:26:57
21	that's where I was parked. That's where my green	11:27:00
22	truck was parked. So they had to come after I got	11:27:03
23	in the store, because my green truck was parked	11:27:07
24	right there (indicating).	11:27:13
25	Q. Well, let's assume that your car was parked	11:27:14

1 either maybe right ahead of them or right behind 11:27:18  
2 them or something in close proximity. But do you 11:27:20  
3 recognize that as the officer and Mr. Perez 11:27:24  
4 struggling before the shooting? 11:27:27  
5 A. Yes, sir. 11:27:29  
6 Q. Okay. And did you believe what you just 11:27:29  
7 saw, that 10-second video -- do you believe that you 11:27:34  
8 actually witnessed that portion of the struggle when 11:27:37  
9 you were stranding outside in front of the liquor 11:27:40  
10 store that night? 11:27:43  
11 A. No. 11:27:44  
12 MR. LACY: Objection. Asked and answered. 11:27:44  
13 Go ahead, Mr. Clark. 11:27:45  
14 THE WITNESS: No. 11:27:47  
15 MR. BLECHMAN: Okay. 11:27:48  
16 THE WITNESS: But almost at the end, 11:27:50  
17 because he was turning -- he was about to turn to 11:27:50  
18 the side. 11:27:53  
19 BY MR. BLECHMAN: 11:27:55  
20 Q. Who was about to turn to the side? 11:27:56  
21 A. Pedie. 11:27:58  
22 Q. Okay. You saw him -- 11:27:58  
23 A. And the off -- yeah. 11:28:01  
24 Q. -- turning on his side during that video? 11:28:01  
25 A. Yeah. 11:28:04

1 Q. Is that correct? 11:28:04  
2 A. Yes, sir. 11:28:05  
3 Q. And do you remember seeing him doing that 11:28:05  
4 turning maneuver on the night of the incident? 11:28:07  
5 A. Yes, sir. 11:28:11  
6 Q. He being Mr. Perez? 11:28:11  
7 A. But all the way, sir. He turned all the 11:28:12  
8 way. 11:28:15  
9 Q. Okay. All the way from -- you mean -- when 11:28:15  
10 you say, "all the way," what do you mean by that? 11:28:18  
11 A. He turned all the way towards the left 11:28:20  
12 side, bringing his right side up. 11:28:21  
13 THE VIDEOGRAPHER: Noah, I'm sorry. I need 11:28:34  
14 to fix his microphone. 11:28:34  
15 THE WITNESS: Okay? 11:28:34  
16 THE VIDEOGRAPHER: Better, thank you. 11:28:36  
17 MR. BLECHMAN: There we go. Thank you. 11:28:38  
18 BY MR. BLECHMAN: 11:28:40  
19 Q. All right. So the next video I'm going to 11:28:40  
20 show you is in-store surveillance video that shows 11:28:42  
21 when you -- when you arrive at the store and walk 11:28:46  
22 into the store. And I'm going to fast forward it. 11:28:56  
23 This is -- RPD 218 is the surveillance video. 11:28:59  
24 I will show you that to you in just a 11:29:06  
25 second. Let me cue it up so we're not wasting 11:29:11

1	anybody's time here. I'm going to start playing it	11:29:15
2	at -- there's a time stamp on the top. I don't	11:29:19
3	believe it's -- I think it's like an hour off, but	11:29:25
4	the time stamp on the top is 1:06 and 14 seconds in	11:29:27
5	the morning, a.m. Okay?	11:29:33
6	So let me start it there. First of all, do	11:29:35
7	you recognize this stopped photograph of this video	11:29:38
8	or this stopped part of the video as the inside of	11:29:42
9	Uncle Sam's Liquors?	11:29:52
10	A. Yes, sir.	11:29:56
11	Q. Okay.	11:29:56
12	(Mr. Blechman plays video on laptop	11:29:57
13	computer.)	11:29:58
14	BY MR. BLECHMAN:	11:29:59
15	Q. We're playing the video now. The person	11:29:59
16	that you see over there by the front door, do you	11:30:00
17	recognize that person as an employee of the store?	11:30:03
18	A. Yes. It's the old man, yeah, the guy.	11:30:06
19	Q. Okay. Do you remember seeing him that	11:30:08
20	night?	11:30:10
21	A. Yes, sir.	11:30:11
22	Q. Okay.	11:30:11
23	A. Right there.	11:30:28
24	Q. All right. Let me just stop it. Stopped	11:30:34
25	it at 1:06:53. You saw yourself come in the store	11:30:38

1	there; is that correct?	11:30:42
2	A. Yes, sir.	11:30:44
3	Q. And it looks like when you were outside,	11:30:44
4	you kind of walked around a little bit, took a	11:30:47
5	little circular route to get to the front door	11:30:52
6	because the struggle was going on --	11:30:54
7	A. Yes.	11:30:56
8	Q. -- close to the front door?	11:30:56
9	A. Yes, sir.	11:30:58
10	Q. Let me just back it up to 1:06:33 and keep	11:30:58
11	going forward now.	11:31:10
12	(Mr. Blechman plays video on laptop	11:31:11
13	computer.)	11:31:17
14	BY MR. BLECHMAN:	11:31:17
15	Q. I stopped it at --	11:31:17
16	A. Yeah.	11:31:18
17	Q. -- 1:06:41. That's you at the front door?	11:31:18
18	A. That the last time I looked down.	11:31:21
19	Q. Okay. And when you're standing at the	11:31:23
20	threshold -- around the threshold of the door there,	11:31:24
21	how far were you away from these two men struggling?	11:31:28
22	A couple feet away?	11:31:31
23	A. About two or three feet.	11:31:33
24	(Mr. Blechman plays video on laptop	11:31:34
25	computer.)	11:31:34

1	BY MR. BLECHMAN:	11:31:34
2	Q. Okay. So then you go in the store. It	11:31:34
3	looks like you're still looking at -- I stopped it	11:31:39
4	at 1:06:44. You're still looking at the two men	11:31:42
5	struggling when you enter; correct?	11:31:46
6	A. Uh-huh. Yes, sir. Then I turned away.	11:31:48
7	Q. Right. You turned away and you started	11:31:51
8	walking towards the aisle --	11:31:53
9	A. Yes.	11:31:55
10	Q. -- area?	11:31:55
11	A. And right where the potato chips are.	11:31:56
12	Q. Okay. And so you're -- as you walk farther	11:31:59
13	down that aisle and sort of behind the old man,	11:32:01
14	that's the potato chip area?	11:32:04
15	A. Yeah. Yep. That's when I couldn't see	11:32:08
16	nobody but the officer. Right there.	11:32:09
17	Q. Okay. So you and him both start heading	11:32:12
18	down the aisle; is that correct?	11:32:15
19	A. I don't know about him. I was walking	11:32:17
20	around.	11:32:21
21	Q. Can you see the shadow or the -- do you see	11:32:21
22	the officer in the doorway there at that point when	11:32:23
23	you start walking back?	11:32:26
24	A. Right, but he's not at -- he's not at	11:32:29
25	the -- the door. He's way far past the door.	11:32:29



1	Q. Did you start moving away once you heard	11:32:33
2	the gunfire, or did you start moving away once you	11:32:36
3	see the officer on his feet?	11:32:40
4	A. When the gunfire started, I started getting	11:32:41
5	closer to the window, going that way.	11:32:41
6	Q. All right. Let's back it up a little bit,	11:32:47
7	because it's too hard if I stop it and don't give	11:32:50
8	you a chance to see the whole part of that. So I'm	11:32:55
9	playing it now 1:06:34.	11:32:58
10	(Mr. Blechman plays video on laptop	11:33:01
11	computer.)	11:33:21
12	BY MR. BLECHMAN:	11:33:21
13	Q. All right. Isn't it true that when you	11:33:23
14	went in the store and you started to kind of turn,	11:33:23
15	when you and that older gentleman who worked there,	11:33:28
16	the other clerk, sort of flinch and then both start	11:33:32
17	going down the path, it's because of the gunfire;	11:33:36
18	correct?	11:33:40
19	A. Yes.	11:33:40
20	MR. LACY: Objection. Misrepresentation,	11:33:40
21	calls for speculation, lacks foundation.	11:33:42
22	BY MR. BLECHMAN:	11:33:45
23	Q. All right. I think your response was yes;	11:33:45
24	is that correct?	11:33:50
25	A. Yes.	11:33:50

1	Q. And when Mr. Perez was shot, isn't it true	11:33:50
2	that shortly thereafter, he walked into the store?	11:33:54
3	A. Yes.	11:34:00
4	Q. Okay. All right. Thank you for looking at	11:34:00
5	those video parts. Does the video help you remember	11:34:08
6	a little bit what you saw that night, any of these	11:34:16
7	videos?	11:34:19
8	A. Same thing: Guy dropped dead in front of	11:34:22
9	me. And I -- I don't remember the -- the guy	11:34:27
10	standing next to me, but that girl that was at	11:34:33
11	the -- the register, I remember her being there.	11:34:36
12	Q. When -- when you see Mr. Perez come in the	11:34:57
13	store, you could tell he had some blood on his upper	11:35:01
14	body; is that correct?	11:35:04
15	A. Not actually at first, because I was hoping	11:35:06
16	he had shot him in the leg. But then when he starts	11:35:09
17	slumping down, I could see the blood on his chest --	11:35:16
18	on his chest.	11:35:21
19	THE VIDEOGRAPHER: Can I fix that, please?	11:35:25
20	It really just -- go off the record.	11:35:29
21	MR. BLECHMAN: Sure. She's going to help	11:35:29
22	you with that.	11:35:32
23	THE VIDEOGRAPHER: Don't touch it.	11:35:39
24	MR. BLECHMAN: Don't worry. She tells me	11:35:39
25	the same thing when I do this. So --	11:35:48

1	BY MR. BLECHMAN:	11:35:53
2	Q. Now, when you say you were hoping he got	11:35:53
3	shot in the leg, what did you mean by that?	11:35:56
4	A. It -- I -- (Witness shakes head from side	11:35:59
5	to side.) Just my speculation, because they were so	11:36:03
6	close. It wasn't like he was running from him.	11:36:07
7	Q. You also said something earlier in the	11:36:15
8	deposition about, you know, asking why the officer	11:36:17
9	did not use the Taser. Do you remember saying that?	11:36:22
10	A. Yeah. Yeah. Yes, sir.	11:36:26
11	Q. Was that something that you -- you came up	11:36:27
12	with that thought on your own, or did somebody put	11:36:32
13	that thought in your head at some point following	11:36:34
14	this incident?	11:36:37
15	A. That's TV.	11:36:38
16	Q. Okay.	11:36:40
17	A. That's TV I've been watching.	11:36:40
18	Q. Okay. Gotcha. I mean, did you ever see --	11:36:42
19	did you ever see this officer have an opportunity	11:36:46
20	that you saw to pat search Mr. Perez for weapons?	11:36:49
21	Did you see him have an opportunity to do that?	11:36:56
22	A. No.	11:37:02
23	MR. BLECHMAN: All right. I don't think I	11:37:02
24	have any more questions at this point. So Mr. Lacy	11:37:07
25	may have some questions. I may have some follow-up.	11:37:11

1	But thank you very much, Mr. Clark.	11:37:13
2	THE WITNESS: Thank you.	11:37:15
3	MR. LACY: Are we going to switch positions	11:37:16
4	here?	11:37:18
5	MR. BLECHMAN: Sure. Let's go off the	11:37:20
6	record.	11:37:21
7	THE VIDEOGRAPHER: I'm going to change	11:37:22
8	tapes. This marks the end of videotape number one	11:37:24
9	in the deposition of Steven Clark. We're going off	11:37:26
10	the record. The time is 11:37.	11:37:30
11	(Whereupon, a recess was taken.)	11:37:36
12	THE VIDEOGRAPHER: This begins volume I,	11:41:33
13	videotape number two in the deposition of Steven	11:41:35
14	Clark. We are back on the record. The time is	11:41:38
15	11:41.	11:41:39
16		11:41:43
17	<b>EXAMINATION BY MR. LACY:</b>	11:41:43
18	Q. Hello, Mr. Clark.	11:41:43
19	A. Hello, sir.	11:41:45
20	Q. My name is DeWitt Lacy. I'm the attorney	11:41:46
21	for the plaintiffs in this action, the family of	11:41:48
22	Pedie Perez. Do you understand that?	11:41:52
23	A. Yes, sir.	11:41:55
24	Q. Before we go forward, I'll let you know	11:41:56
25	that all the rules that Mr. Blechman talked with you	11:41:59

1	about still apply. Okay?	11:42:04
2	A. Yes, sir.	11:42:06
3	Q. You're still under oath, and we still want	11:42:06
4	you to give verbal responses for the sake of a	11:42:09
5	written record to be produced later. Okay?	11:42:14
6	A. Yes, sir.	11:42:18
7	Q. I won't be long, but I do have a couple	11:42:18
8	questions in regards to some of the things that	11:42:20
9	Mr. Blechman asked you about.	11:42:24
10	You testified a little bit earlier that --	11:42:30
11	or you estimated that the time of the struggle could	11:42:33
12	have been 30 seconds, it could have been more. Is	11:42:40
13	that fair to say?	11:42:43
14	A. Yes, sir.	11:42:46
15	Q. Could it have been less than 30 seconds?	11:42:49
16	A. No, sir.	11:42:53
17	Q. Okay. I'll ask you this. When you parked	11:42:53
18	your car on the day of the incident, okay --	11:43:00
19	A. Uh-huh. Yes, sir.	11:43:04
20	Q. -- and you began to walk to the store, get	11:43:05
21	out of your Explorer; is that right?	11:43:08
22	A. Yes, sir.	11:43:13
23	Q. When you were getting out, that's the first	11:43:13
24	time you noticed someone taking somebody else to the	11:43:16
25	ground. Is that fair to say?	11:43:21

1	A. Yes, sir.	11:43:23
2	Q. You didn't know at that time that this	11:43:23
3	individual that was taking somebody to the ground	11:43:25
4	was Officer Jensen; is that correct?	11:43:28
5	A. No. No, I didn't.	11:43:30
6	Q. You didn't know he was an officer at all;	11:43:31
7	is that fair to say?	11:43:34
8	A. Yes, sir.	11:43:36
9	Q. As you got out your car, did you stand at	11:43:36
10	the door for a second and watch this tussle go on,	11:43:38
11	or did you get out and just start moving towards the	11:43:43
12	door?	11:43:46
13	A. I started moving towards the door once I	11:43:46
14	got out.	11:43:49
15	Q. Okay.	11:43:50
16	A. I hesitated when I got to the front of the	11:43:50
17	truck, though.	11:43:53
18	Q. Okay. Why did you do that?	11:43:54
19	A. Because I didn't know what was going on,	11:43:56
20	was they fighting or what. I didn't know.	11:43:59
21	Q. Okay. So you walked towards the front of	11:44:01
22	-- the front of the truck after you got out of the	11:44:04
23	front door?	11:44:06
24	A. Yes, sir.	11:44:07
25	Q. Closed the car -- closed the truck door and	11:44:07

1	walked towards the front of the truck; is that	11:44:10
2	right?	11:44:12
3	A. Yes.	11:44:13
4	Q. And walked around the front of the truck?	11:44:13
5	A. Yes, sir.	11:44:15
6	Q. And you said you hesitated at the front of	11:44:15
7	the truck because you didn't know if it was a fight	11:44:18
8	or something else that was going on?	11:44:20
9	A. Yes, sir.	11:44:22
10	Q. Do you have any recollection or	11:44:22
11	understanding of how long you hesitated?	11:44:24
12	A. About four seconds.	11:44:29
13	Q. About four seconds? What makes you think	11:44:31
14	it was four?	11:44:34
15	A. Because I wanted to get into the store.	11:44:35
16	And I seen that -- the other guy coming. I don't	11:44:37
17	know if he was Pedie friend or who, but he was	11:44:41
18	coming from the opposite way.	11:44:44
19	Q. The opposite way of where you were?	11:44:45
20	A. Yes.	11:44:48
21	Q. Okay. Which is where? Is that -- was he	11:44:48
22	somewhere in front of the store or where was he at?	11:44:50
23	A. No, he was coming from -- like from behind	11:44:52
24	me, but he was over here on the sidewalk.	11:44:54
25	Q. Okay. He was already on the sidewalk. You	11:44:56

1	weren't on the sidewalk at this time?	11:44:58
2	A. No.	11:44:59
3	Q. You were in the actual lot where the cars	11:44:59
4	park?	11:45:01
5	A. I'm right in the front, right in front of	11:45:02
6	the door.	11:45:04
7	Q. Okay.	11:45:05
8	A. My -- my truck is in the front.	11:45:05
9	Q. Okay.	11:45:07
10	A. And maybe a little to your left, back	11:45:07
11	towards the railroad tracks way.	11:45:13
12	Q. Okay.	11:45:48
13	A. Maybe two feet back.	11:45:48
14	Q. I'll ask you this. When you took that	11:45:18
15	brief pause when you got to the front of your truck,	11:45:21
16	can you estimate how far you were from the front	11:45:25
17	door of Uncle Sam's Liquor Store? I mean --	11:45:29
18	A. From the curb to the door?	11:45:34
19	Q. Is there something in this room that you	11:45:37
20	could point to that would be equal to the distance	11:45:39
21	you were from the front door when you paused at the	11:45:43
22	front of your truck?	11:45:45
23	A. To the corner. Oh, can you hear me? To	11:45:50
24	the corner (indicating).	11:45:54
25	Q. You're talking about --	11:45:55



1	A. The corner of this wall (indicating).	11:45:55
2	Q. Okay. The corner of this wall?	11:45:57
3	A. Yeah.	11:45:59
4	Q. That's about how far you were?	11:45:59
5	A. Yes, sir.	11:46:01
6	Q. Okay. How far would you estimate, or do	11:46:01
7	you know how -- could you estimate how far that is,	11:46:05
8	this corner of the wall? How far would you say that	11:46:07
9	is?	11:46:08
10	A. Say six feet.	11:46:09
11	Q. About six feet? Okay. When you were	11:46:10
12	standing at that -- that point where you took a	11:46:19
13	brief pause, how far would you estimate -- well,	11:46:23
14	I'll ask you this.	11:46:29
15	Can you point to something in the room that	11:46:30
16	we're sitting in here today that would be the same	11:46:34
17	distance that Mr. Perez and Mr. Jensen were from you	11:46:36
18	when you took that brief pause?	11:46:42
19	A. Where she is (indicating). Three -- three	11:46:44
20	feet? Four feet?	11:46:46
21	Q. Okay. Where she is. And you're talking	11:46:48
22	about the videographer; is that right?	11:46:50
23	A. Yes, sir.	11:46:53
24	Q. And you estimate that to be about three or	11:46:53
25	four feet?	11:46:55

1	A. Yes, sir.	11:46:57
2	Q. Okay. And you said you stopped because you	11:46:57
3	saw this other fellow begin to walk towards Officer	11:47:06
4	Jensen and Pedie Perez; is that right?	11:47:09
5	A. Yes, sir.	11:47:15
6	Q. Did this guy that you saw approach the	11:47:15
7	officer and Pedie run towards them?	11:47:18
8	A. No, sir.	11:47:22
9	Q. How did he approach?	11:47:23
10	A. He approached them walking, because the	11:47:25
11	officer already had stopped Pedie. He had hold of	11:47:28
12	Pedie.	11:47:33
13	Q. Okay. So when this -- this guy was	11:47:33
14	approaching, you saw him walking towards the	11:47:37
15	officer --	11:47:40
16	A. Yes, sir.	11:47:40
17	Q. -- and Pedie?	11:47:40
18	A. Yes, sir.	11:47:42
19	Q. And at this time, you said -- and I want to	11:47:42
20	make sure I got your testimony right.	11:47:45
21	A. Uh-huh.	11:47:48
22	Q. The officer was kind of on top of Pedie,	11:47:48
23	with his knee in Pedie's back; is that right?	11:47:52
24	A. Yes, sir.	11:47:56
25	Q. And you say that his knee was also on top	11:47:56

1	of Pedie's left hand and/or wrist; is that right?	11:47:58
2	A. Left arm.	11:48:02
3	Q. So the left -- Pedie's left arm -- at the	11:48:03
4	time you saw this young man begin to approach the	11:48:05
5	officer and Pedie, Pedie's left arm was behind his	11:48:08
6	back; is that right?	11:48:11
7	A. Yes, sir.	11:48:13
8	Q. And he was face down on the ground; is that	11:48:13
9	right?	11:48:15
10	A. Yes, sir.	11:48:16
11	Q. And the officer's knee was on --	11:48:16
12	A. On top of Pedie.	11:48:19
13	Q. Where was it?	11:48:21
14	A. He was on top of Pedie.	11:48:22
15	Q. He was on top of Pedie?	11:48:23
16	A. Uh-huh.	11:48:25
17	Q. But the knee seemed to you as if it was	11:48:25
18	holding --	11:48:28
19	A. His left arm.	11:48:28
20	Q. -- his left arm in place? Okay.	11:48:30
21	But you saw the right arm. You described	11:48:33
22	it a little bit earlier, and you said it as being	11:48:34
23	free.	11:48:38
24	A. Yes. It was the hand that the officer	11:48:41
25	could get -- get a hold to, because Pedie was	11:48:44

1	moving.	11:48:47
2	Q. Okay. And when he was moving it, was he	11:48:48
3	pulling it away from the officer or pushing the	11:48:49
4	officer with his --	11:48:52
5	A. He's pulling away from the officer.	11:48:53
6	Q. So he was pulling away from the officer as	11:48:54
7	the officer was trying to grab Pedie's hand?	11:48:57
8	A. Yes, sir.	11:49:02
9	Q. And you didn't see Pedie at this time reach	11:49:02
10	for the officer's gun or anything, did you?	11:49:05
11	A. No, sir.	11:49:08
12	Q. You didn't see Pedie's hand reach for the	11:49:08
13	officer's waist or anything, did you?	11:49:14
14	A. No, sir.	11:49:17
15	Q. Okay. So after the four-second pause when	11:49:17
16	you see this -- this young man approach this officer	11:49:26
17	and Pedie, you began to walk towards the store; is	11:49:29
18	that fair?	11:49:36
19	A. Yes, sir.	11:49:36
20	Q. At a regular pace?	11:49:37
21	A. Yes, sir. A little slower, that's all.	11:49:39
22	Q. A little slower? Why is that?	11:49:42
23	A. Because I didn't know what was going on.	11:49:44
24	Q. Okay. You still hadn't figured out what	11:49:46
25	was going on at this time?	11:49:47

1	A. Yes. By now, the other guy has kneeled	11:49:49
2	down next to Pedie and the officer.	11:49:52
3	Q. Okay. So you see this young guy kneel down	11:49:54
4	next to Pedie and the officer?	11:49:58
5	A. Yes, sir.	11:49:59
6	Q. Could you hear what -- if anything was	11:49:59
7	being said?	11:50:00
8	A. He was telling Pedie not to -- "Stop	11:50:02
9	resisting, stop resisting. Pedie, stop resisting."	11:50:04
10	Q. Okay. So you heard this guy telling Pedie	11:50:09
11	to stop resisting or stop fighting, don't struggle?	11:50:12
12	A. Yes.	11:50:18
13	Q. What happens after you hear that?	11:50:18
14	A. The officer tells the guy to -- the young	11:50:20
15	man to back up, get away, back up.	11:50:23
16	Q. Okay. Did you see how he did that?	11:50:25
17	A. He turned to him and looked at him and told	11:50:30
18	him.	11:50:32
19	Q. Okay. Did he point in any direction?	11:50:33
20	A. No. Just told him to back up.	11:50:36
21	Q. Okay. At this time, was his knee still on	11:50:38
22	Pedie's back?	11:50:40
23	A. Yes, sir.	11:50:42
24	Q. Was it still holding Pedie's left arm in	11:50:42
25	place?	11:50:46

1	A. Yes, sir.	11:50:47
2	Q. And the officer at this time was still	11:50:47
3	struggling with Pedie's right arm?	11:50:50
4	A. Yes.	11:50:53
5	Q. And you say at this time, you saw Pedie	11:50:53
6	kind of turning with his right shoulder, kind of	11:50:54
7	trying to turn over?	11:51:02
8	A. Turn up, yeah.	11:51:04
9	Q. When you say "turn up," do you mean like --	11:51:05
10	A. He was turning up.	11:51:06
11	Q. -- attempting to turn over? At least,	11:51:07
12	that's what it looked like to you?	11:51:11
13	A. Yes.	11:51:13
14	Q. All right. And then you continued on to	11:51:13
15	the store; is that right?	11:51:16
16	A. Yes, sir.	11:51:18
17	Q. And you would estimate that took you about	11:51:18
18	30 seconds to make that walk?	11:51:21
19	A. Yes, sir.	11:51:23
20	Q. Okay. Once you got in the store -- all	11:51:23
21	right. We saw a little bit of a video --	11:51:31
22	A. Uh-huh.	11:51:36
23	Q. -- a little bit ago. And you began to turn	11:51:36
24	your body to walk down the aisle.	11:51:40
25	A. Yes, sir.	11:51:43

1	Q. Counsel described it as a flinch. Is that	11:51:43
2	how you describe it? You flinched when you turned	11:51:47
3	to walk down the aisle?	11:51:51
4	A. Yeah.	11:51:55
5	Q. Yeah?	11:51:55
6	A. Yes.	11:51:56
7	Q. Why did you flinch when you turned to walk	11:51:56
8	down the aisle?	11:51:59
9	A. Because there's a gun going off --	11:52:00
10	Q. Okay.	11:52:02
11	A. -- two or three feet from me.	11:52:02
12	Q. Okay. So you heard -- you heard the gun	11:52:03
13	going off as you turned?	11:52:05
14	A. Yes, sir.	11:52:07
15	Q. Is that right?	11:52:08
16	A. Yes.	11:52:09
17	Q. Did you turn because you heard the gun	11:52:09
18	going off or did -- were you turning already? Had	11:52:10
19	you already made the decision to turn and walk down	11:52:12
20	the aisle --	11:52:14
21	A. Well --	11:52:14
22	Q. -- before -- before the gun?	11:52:14
23	MR. BLECHMAN: I think there's like three	11:52:17
24	questions in there. Compound.	11:52:18
25	BY MR. LACY:	11:52:20

1	Q. Okay. Do you understand my question? I'll	11:52:20
2	put it to you again.	11:52:22
3	A. Yes.	11:52:24
4	Q. My question is this, Mr. Clark. When you	11:52:24
5	turned to walk down the aisle -- and you said you	11:52:27
6	flinched because you heard a gunshot; is that right?	11:52:31
7	A. Yes, sir.	11:52:35
8	Q. Before you turned, did you make the	11:52:35
9	decision to turn and walk down the aisle because you	11:52:38
10	heard gunshots, or did you make the decision to turn	11:52:41
11	down the aisle for some other reason?	11:52:45
12	A. I turned down the aisle, but I also was	11:52:49
13	about to be nosy and look what -- outside and see	11:52:53
14	what was -- what was happening.	11:52:56
15	Q. Okay. So it was simultaneously as you were	11:52:57
16	turning down the aisle, you began to hear these	11:53:00
17	gunshots?	11:53:02
18	A. Uh-huh, gunshots.	11:53:03
19	Q. Is that right?	11:53:04
20	A. Yes, sir.	11:53:08
21	Q. Did you ever talk to the old man that you	11:53:08
22	described that was sitting in -- or standing in the	11:53:11
23	front door that we saw in the video on that evening?	11:53:14
24	A. Yeah.	11:53:20
25	Q. When did you talk to him on that evening?	11:53:21



1           A. About let's say 30 minutes afterwards. 11:53:23

2           Q. Okay. Did he tell you -- did he tell you 11:53:29

3 that he flinched, too? 11:53:30

4           A. No. We didn't talk about that. We didn't 11:53:34

5 talk about the incident there. 11:53:36

6           Q. Okay. So you don't know what the old man 11:53:37

7 was doing when he turned down the aisle? 11:53:39

8           A. No. 11:53:42

9           Q. You didn't talk to him about that? 11:53:42

10          A. Huh-uh. 11:53:44

11          Q. All right. I want to talk a little bit 11:53:47

12 about -- you said that you had to stay at -- stay 11:53:52

13 there for four hours; is that right? 11:53:59

14          A. Three or four hours, yes, sir. 11:54:01

15          Q. When you said stay there, do you mean stay 11:54:03

16 at the liquor store? 11:54:04

17          A. Yes, stay right there. 11:54:07

18          Q. Okay. So after this officer told you to 11:54:08

19 stay right there, you waited there for four hours 11:54:10

20 before somebody came to talk to you? 11:54:12

21          A. Yep. And we went down to the station. 11:54:15

22 They came and got us at the station. 11:54:17

23          Q. Okay. But somebody did talk to you in the 11:54:19

24 store? 11:54:21

25          A. Yes, sir. 11:54:23

1	Q. Is that right?	11:54:23
2	A. Yes, sir.	11:54:25
3	Q. Do you -- do you remember if this person --	11:54:25
4	do you remember if this person recorded any --	11:54:31
5	anything that you were talking about?	11:54:46
6	A. No, sir.	11:54:51
7	Q. Do you recall if had this person was	11:54:51
8	writing any notes when you talked to this person?	11:54:52
9	A. Yes, he was writing -- he was writing	11:54:54
10	something on a pad.	11:54:55
11	Q. Okay. Did he show you what he was writing?	11:54:56
12	A. No. No, sir.	11:54:59
13	Q. Did you sign any documents --	11:54:59
14	A. No, sir.	11:55:02
15	Q. -- when you were talking to this guy?	11:55:02
16	A. No, sir.	11:55:12
17	Q. Did he ever tell you that he was going to	11:55:12
18	write a summary of what you said?	11:55:13
19	A. No, sir.	11:55:16
20	Q. Did you have an understanding why he wanted	11:55:16
21	to talk to you?	11:55:18
22	A. No, sir.	11:55:23
23	Q. But then after that, you say you got taken	11:55:23
24	down to the station; is that right?	11:55:28
25	A. Yes, sir.	11:55:30

1	Q. All right. Now, there's been some talk	11:55:30
2	about some of the statements that you gave, or at	11:55:32
3	least I'll say we have talked. And you talked with	11:55:37
4	Mr. Blechman about some of the statements that you	11:55:40
5	gave while you were at the -- the station; is that	11:55:43
6	right?	11:55:47
7	A. Yes, sir.	11:55:48
8	Q. I'm going to talk about those a little bit.	11:55:48
9	Okay?	11:55:50
10	A. (Witness nods head up and down.)	11:55:51
11	Q. You've noted here, and I believe I heard it	11:55:52
12	during the recording, that you said that Pedie must	11:55:56
13	have been going for a gun or going after the	11:56:08
14	officer; is that right?	11:56:10
15	A. Yes, sir.	11:56:15
16	Q. Is it fair to say, Mr. Clark, this was a	11:56:15
17	pretty traumatic event?	11:56:17
18	A. Yes, sir.	11:56:21
19	Q. I mean, I'll ask you this. We met shortly	11:56:21
20	before coming in this very room today; is that	11:56:26
21	right?	11:56:30
22	A. Uh-huh.	11:56:31
23	Q. Had you ever seen me before today?	11:56:31
24	A. No.	11:56:32
25	Q. Had you ever talked to me before today?	11:56:32

1	A. No.	11:56:36
2	Q. But before we came into this room, we spoke	11:56:36
3	briefly outside; is that right?	11:56:39
4	A. Yes. Yes, sir.	11:56:41
5	Q. Did you reveal to me that this was tough	11:56:42
6	for you to talk about?	11:56:45
7	A. Yes, sir.	11:56:48
8	Q. Why? Why did you reveal that to me?	11:56:48
9	A. I never seen a person die in front of me.	11:56:50
10	Q. Was that shocking?	11:56:53
11	A. Yes, sir. I'm 61 years old. I ain't never	11:56:59
12	seen nobody get shot or die; right? Not two or	11:57:03
13	three feet in front of me.	11:57:07
14	Q. Is it fair to say that that -- this	11:57:10
15	incident had a pretty lasting effect on you?	11:57:12
16	A. It does.	11:57:15
17	Q. Did it make sense to you when you saw it?	11:57:17
18	A. No, not at all.	11:57:20
19	Q. I'll ask you, Mr. Clark. In the recording	11:57:23
20	when you say, well, Pedie must have been trying to	11:57:28
21	get that man's gun, he must have came at him, is	11:57:33
22	that your way of rationalizing what you saw or	11:57:36
23	heard?	11:57:40
24	A. No.	11:57:41
25	MR. BLECHMAN: Hold on a second, Mr. Clark.	11:57:41

1	THE WITNESS: Okay.	11:57:43
2	MR. BLECHMAN: Argumentative, calls for	11:57:44
3	speculation, misstates the witness' testimony.	11:57:45
4	You can respond.	11:57:47
5	THE WITNESS: No. I said his hand must	11:57:48
6	have slid up against it.	11:57:51
7	BY MR. LACY:	11:57:53
8	Q. Okay. When you say it must have, what do	11:57:53
9	you mean? Is that -- when I hear you say "must	11:57:55
10	have," that to me suggests that that's not	11:57:57
11	necessarily what you saw. Is that fair to say?	11:58:00
12	A. Yes. I said I assume.	11:58:03
13	Q. Okay. And why did you assume that?	11:58:04
14	A. Because the man shot him in close range.	11:58:08
15	Q. Do you think officers are supposed to shot	11:58:15
16	people if their lives are not in danger?	11:58:18
17	A. No.	11:58:22
18	MR. BLECHMAN: Calls for speculation, calls	11:58:22
19	for a legal conclusion, incomplete hypothetical,	11:58:22
20	lacks foundation.	11:58:24
21	BY MR. LACY:	11:58:25
22	Q. Do you think the officers are supposed to	11:58:25
23	shoot people if the public's not in danger?	11:58:26
24	A. No, sir.	11:58:30
25	MR. BLECHMAN: Same objections.	11:58:30

1	BY MR. LACY:	11:58:30
2	Q. Well, I'll ask you this. On the night in	11:58:30
3	question we're talking about, right, you saw this	11:58:32
4	young man on the ground. Did you feel threatened by	11:58:36
5	him?	11:58:38
6	A. No, sir.	11:58:40
7	Q. Did you feel that you were unsafe?	11:58:40
8	A. No, sir.	11:58:42
9	Q. Did you ever tell the officer that you felt	11:58:42
10	unsafe?	11:58:44
11	A. No, sir.	11:58:45
12	Q. Did you hear anybody else communicate that	11:58:45
13	to the officer?	11:58:48
14	A. No, sir. Not even the people that was	11:58:54
15	already in the store.	11:58:56
16	Q. So when you told these investigators at the	11:58:58
17	station that Pedie must have put a -- put his hand	11:59:07
18	near a gun or reached for the officer's gun, that	11:59:14
19	was you assuming?	11:59:19
20	A. Yes, sir.	11:59:21
21	Q. And you assumed that because you understand	11:59:21
22	officers aren't supposed to shoot people if their	11:59:25
23	life isn't being threatened; is that right?	11:59:28
24	A. Yes, sir. But also, Pedie was struggling	11:59:31
25	in a -- in a way for his hand to possibly slide up	11:59:35

1	the officer's side, because he was turning that way	11:59:39
2	and towards that side.	11:59:44
3	Q. Okay. So the way you thought about it is	11:59:46
4	that maybe that was something that happened and gave	11:59:49
5	the officer reason to shoot?	11:59:51
6	A. To shoot, yes, sir.	11:59:53
7	Q. But you did not see that happen, actually?	11:59:54
8	A. No. No. That's assume -- assume.	11:59:57
9	Q. Okay. Did you ever talk to anybody that's	11:59:59
10	told you that they saw that happen?	12:00:01
11	A. No, sir.	12:00:04
12	Q. Did you ever see any videos that showed	12:00:04
13	Pedie reaching for Officer Jensen's gun or anything	12:00:09
14	like that?	12:00:15
15	A. No, sir.	12:00:16
16	Q. Did you ever see Pedie try to strike or	12:00:16
17	attempt to strike Officer Jensen?	12:00:20
18	A. No, sir.	12:00:26
19	Q. Did he appear -- and when I say he, I mean	12:00:26
20	Pedie. Did he appear intoxicated to you?	12:00:28
21	MR. BLECHMAN: Calls for speculation.	12:00:33
22	You can respond.	12:00:33
23	THE WITNESS: No.	12:00:35
24	BY MR. LACY:	12:00:36
25	Q. Had you seen --	12:00:36

1	A. Well, I mean, I didn't know him.	12:00:37
2	Q. Okay.	12:00:39
3	A. I wouldn't know.	12:00:39
4	Q. You wouldn't know. But do you know what a	12:00:41
5	drunk person looks like?	12:00:43
6	A. Yes.	12:00:45
7	Q. You've seen a drunk person before?	12:00:45
8	A. Yes, sir.	12:00:47
9	Q. But from what you viewed as you approached	12:00:47
10	the store, you couldn't tell whether or not Pedie	12:00:51
11	was drunk or not?	12:01:01
12	A. He wasn't staggering, no.	12:00:54
13	Q. Okay. All right. Give me a second.	12:00:57
14	All right. The narrative that we read a	12:01:30
15	little bit earlier, Mr. Clark, that Mr. Blechman	12:01:40
16	marked as Defense Exhibit 1, had you seen this	12:01:42
17	before this day?	12:01:47
18	A. No, sir.	12:01:50
19	Q. You definitely didn't prepare this, did	12:01:50
20	you?	12:01:53
21	A. No, sir.	12:01:55
22	Q. Did anybody ever come to you and confirm	12:01:55
23	that this was accurate or correct with what you told	12:01:57
24	this officer inside the store?	12:02:01
25	A. No, sir.	12:02:04



1	Q. In fact, I believe you testified that many	12:02:04
2	of the things in here are inaccurate; is that right?	12:02:06
3	A. Yes, sir.	12:02:09
4	Q. Okay.	12:02:09
5	MR. BLECHMAN: Misstates the witness'	12:02:11
6	testimony.	12:02:12
7	MR. LACY: I'm done.	12:02:15
8		12:02:17
9	<b>FURTHER EXAMINATION BY MR. BLECHMAN:</b>	12:02:17
10	Q. I do have some follow-up questions. I	12:02:17
11	think we can try to do it from this position. Just	12:02:19
12	do me a favor, Mr. Clark. You don't need to look at	12:02:22
13	me in your responses. You can look at Mr. Lacy or	12:02:24
14	the camera, and we move forward with this.	12:02:27
15	From your familiarity with Uncle Sam's	12:02:32
16	Liquors, isn't there like a sidewalk in front, and	12:02:36
17	then once you get closer to the store, there is sort	12:02:39
18	of a reddish painted portion of the sidewalk right	12:02:43
19	before you get into the store? Do you know what I'm	12:02:48
20	talking about?	12:02:50
21	A. Right, but it's farther down. It goes	12:02:51
22	farther down.	12:02:51
23	Q. Okay. And I'm showing you here what we	12:02:55
24	previously represented was Exhibit 216 (sic), the	12:02:58
25	Key cell phone video, which is file IMG3699. It's	12:03:03

1	stopped right here. And the area where these two	12:03:09
2	are located, this is right in front of the front	12:03:16
3	door of the store; correct?	12:03:19
4	A. Yes, sir.	12:03:20
5	Q. I mean, pretty close to the front door;	12:03:21
6	right?	12:03:24
7	A. Yes, sir.	12:03:24
8	Q. And this is the area where you saw these	12:03:24
9	two men struggling; correct?	12:03:26
10	A. Yes, sir.	12:03:29
11	Q. All right. Now, I want to play this a	12:03:29
12	little bit for you again here.	12:03:31
13	(Mr. Blechman plays video on laptop	12:03:35
14	computer.)	12:03:36
15	BY MR. BLECHMAN:	12:03:36
16	Q. Here you see Pedie. I stopped it at three	12:03:36
17	seconds into this video. He's on his -- Mr. Perez	12:03:39
18	is on his back. Would you agree with that?	12:03:44
19	A. Yes, sir.	12:03:46
20	Q. And if I can continue playing it, he is	12:03:46
21	still on his back at five seconds; correct?	12:03:49
22	A. Yes, sir.	12:03:52
23	Q. And then he sort of is rolling on his side	12:03:52
24	a little bit now at eight seconds --	12:03:56
25	A. Yes, sir.	12:03:59

1	Q. -- correct?	12:03:59
2	In this video that I just played you the	12:04:00
3	whole portion of -- and I'll play it again, because	12:04:03
4	it's a short video.	12:04:05
5	(Mr. Blechman plays video on laptop	12:04:08
6	computer.)	12:04:09
7	BY MR. BLECHMAN:	12:04:09
8	Q. I'm playing it now. In this video, I just	12:04:09
9	played it again for you, do you ever see Mr. Perez	12:04:15
10	on his stomach?	12:04:18
11	A. He ain't on his stomach because the guy had	12:04:19
12	came. You see the guy come up.	12:04:22
13	Q. Okay.	12:04:24
14	A. That's when the guy came up, his friend or	12:04:24
15	whoever he was.	12:04:26
16	Q. When his friend comes -- right. In this	12:04:28
17	video, you never see him on his stomach; correct?	12:04:30
18	A. No.	12:04:34
19	Q. Okay. He's on either on his back or on his	12:04:34
20	side?	12:04:37
21	A. Yes.	12:04:37
22	Q. The gentleman you saw come to the scene,	12:04:37
23	was that guy wearing a hat? Do you remember him	12:04:49
24	wearing a hat?	12:04:51
25	A. Was he wearing a hat?	12:04:54

1	Q. Let me call up that video. There's a	12:04:58
2	person that comes in shortly before the shooting,	12:05:00
3	and I want to ask you if you believe that that's the	12:05:04
4	man you saw.	12:05:07
5	(Mr. Blechman plays video on laptop	12:05:09
6	computer.)	12:05:09
7	MR. BLECHMAN: So I'm playing this video	12:05:09
8	now again, which is RPD 218. We're at 1:06:10.	12:05:10
9	Actually, I have to back it up further. 1:05:47.	12:05:29
10	(Mr. Blechman plays video on laptop	12:05:37
11	computer.)	12:05:38
12	BY MR. BLECHMAN:	12:05:38
13	Q. You'll see a gentleman come in the front	12:05:38
14	door briefly right here. I stopped it at 1:05:54,	12:05:40
15	showing Mr. Lacy. Is that individual that's coming	12:05:48
16	in the black shirt, looks like a hat -- is that the	12:05:52
17	individual you saw who you believe was friends with	12:05:55
18	Mr. Perez?	12:05:58
19	A. I didn't see him come in the store.	12:06:01
20	Q. Right. But is this individual who's now	12:06:03
21	walking into the store the same individual you saw	12:06:05
22	kneeling down next to the struggle?	12:06:08
23	A. I don't think so. I don't think he had a	12:06:10
24	hat on.	12:06:13
25	Q. Okay. That's fine. Just to be fair to	12:06:14

1	you, I'm going to back it up a little bit more and	12:06:17
2	play it and let it roll so you can see what this	12:06:17
3	gentleman looks like. Starting it again, 1:05:46.	12:06:20
4	(Mr. Blechman plays video on laptop	12:06:25
5	computer.)	12:06:34
6	BY MR. BLECHMAN:	12:06:34
7	Q. Do you see that gentleman come in the store	12:06:34
8	briefly, turn around and go back outside?	12:06:36
9	A. Yes, sir.	12:06:39
10	Q. Do you believe that's the same friend of	12:06:39
11	Mr. Perez or not, or you just don't know?	12:06:41
12	A. No, I wouldn't know. I don't think he had	12:06:45
13	a hat on.	12:06:47
14	Q. All right. When you say that Mr. Perez was	12:06:48
15	struggling in a way as his hand could have possibly	12:06:54
16	slid up the officer's side when Mr. Lacy was asking	12:06:56
17	you questions, you did see Mr. Perez's hand close to	12:07:01
18	the gun side of the officer, the right side of the	12:07:07
19	officer; is that correct?	12:07:12
20	A. No, sir.	12:07:17
21	Q. Well, did you see in that cell phone video	12:07:17
22	that we just showed?	12:07:19
23	A. No, sir.	12:07:22
24	MR. BLECHMAN: All right. I don't have any	12:07:22
25	further questions. Anything further?	12:07:25



1 I, Melinda M. McDonald, CSR #5249,  
2 Certified shorthand Reporter for the State of  
3 California, do hereby certify:

4 That the Witness in the foregoing  
5 deposition was by me first administered an oath to  
6 tell the truth, the whole truth and nothing but the  
7 truth;

8 That said deposition was taken down by me,  
9 a Certified Shorthand Reporter, at the time and  
10 place therein named and thereafter reduced to  
11 typewriting;

12 And that the Witness was given an  
13 opportunity to read and, if necessary, correct said  
14 deposition and to subscribe the same.

15 I further certify that I am not of Counsel  
16 or Attorney for either or any of the parties in the  
17 foregoing deposition and caption named, or in any  
18 way interested in the outcome of the cause named in  
19 said caption.  
20  
21

22 Dated: August 14, 2015

23   
24 \_\_\_\_\_  
25 Melinda M. McDonald, CSR #5249

Exhibit

1



Richmond Police Department Involved Subjects Supplement	DATE/TIME WRITTEN 9/14/2014 05:18	CASE# 2014-00013481
	REPORTING OFFICER THERRIAULT, BENJAMIN #1527	

INVOLVEMENT <b>WITNESS</b>	NAME <b>CLARK, STEVEN MAURICE</b>		DOB 09/29/1955	AGE 58
RACE <b>BLACK</b>	SEX <b>M</b>	HEIGHT/RANGE <b>5' 10</b>	WEIGHT/RANGE <b>200 -</b>	HAIR <b>BLK</b>
EYES <b>BRO</b>			DRIVERS LICENSE NO. <b>N4002604 - CA</b>	
ALIAS			OTHER ID	
RESIDENCE ADDRESS <b>381 S 35TH ST. RICHMOND, CA 94804</b>			PRIMARY PH HOME <b>(510)730-6748</b>	
EMAIL ADDRESS			OTHER PH	
CLOTHING DESCRIPTION	EMPLOYER/SCHOOL TYPE	EMPLOYER/SCHOOL NAME	OCCUPATION -	
	EMPLOYER/SCHOOL ADDRESS		EMPLOYER/SCHOOL PH -	

INVOLVEMENT	NAME		DOB	AGE
RACE	SEX	HEIGHT/RANGE	WEIGHT/RANGE	HAIR
EYES			DRIVERS LICENSE NO.	
ALIAS			OTHER ID	
RESIDENCE ADDRESS			PRIMARY PH	
EMAIL ADDRESS			OTHER PH	
CLOTHING DESCRIPTION	EMPLOYER/SCHOOL TYPE	EMPLOYER/SCHOOL NAME	OCCUPATION -	
	EMPLOYER/SCHOOL ADDRESS		EMPLOYER/SCHOOL PH -	

INVOLVEMENT	NAME		DOB	AGE
RACE	SEX	HEIGHT/RANGE	WEIGHT/RANGE	HAIR
EYES			DRIVERS LICENSE NO.	
ALIAS			OTHER ID	
RESIDENCE ADDRESS			PRIMARY PH	
EMAIL ADDRESS			OTHER PH	
CLOTHING DESCRIPTION	EMPLOYER/SCHOOL TYPE	EMPLOYER/SCHOOL NAME	OCCUPATION -	
	EMPLOYER/SCHOOL ADDRESS		EMPLOYER/SCHOOL PH -	

INVOLVEMENT	NAME		DOB	AGE
RACE	SEX	HEIGHT/RANGE	WEIGHT/RANGE	HAIR
EYES			DRIVERS LICENSE NO.	
ALIAS			OTHER ID	
RESIDENCE ADDRESS			PRIMARY PH	
EMAIL ADDRESS			OTHER PH	
CLOTHING DESCRIPTION	EMPLOYER/SCHOOL TYPE	EMPLOYER/SCHOOL NAME	OCCUPATION -	
	EMPLOYER/SCHOOL ADDRESS		EMPLOYER/SCHOOL PH -	

DEFENDANT'S  
EXHIBIT  
**1**  
CLARK 8/10/15

INVOLVEMENT	NAME		CHIEF:	CAPT/AD:	LT/CIS:	LT/SIS:	TRAFF:	AGE
RACE	SEX	HEIGHT/RANGE	DC/SSD	PGU/IA	HCM	DRIVERS LICENSE NO.	STATE:	STATE
ALIAS			DC/PB	COD ENF:	ROBB	PAROLE	ANALYSIS:	
RESIDENCE ADDRESS			CAPT/N	CRIM PRV:	DSVU	NARC	FILE	
EMAIL ADDRESS			CAPT/C	SRO	P.C.U	PRIMARY PH	TOTAL	
CLOTHING DESCRIPTION			CAPT/S	YCU	DA	CITY ATT	ASSIGN	LOW
	EMPLOYER/SCHOOL TYPE	EMPLOYER/SCHOOL NAME	SGT: N. LONSO #1428					
	EMPLOYER/SCHOOL ADDRESS		EMPLOYER/SCHOOL PH -					

RPD-00032

## Supplemental Narrative

REPORTING OFFICER  
THERRIault, BENJAMIN #1527

On 9/14/14, 0016hrs, I was operating a fully marked Richmond Police vehicle and dressed in a fully marked Richmond Police uniform. I had a Richmond Police Officer star affixed to the upper left portion of my uniform and Richmond Police patches affixed to my shoulders. I was clearly identifiable as a Richmond Police officer.

I was detailed to cover 1K3, Ofc. Jensen who was on a 1059 of 3322 Cutting Blvd, Uncle Sam's Liquor. Shortly after being assigned to cover Ofc. Jensen, I heard "shots fired" via RPD Channel 1 from Jensen. I responded to his location code 3, parking on the southwest curb line of Stege Ave & Cutting Blvd.

At the scene I observed Ofc. Jensen, Ofc. Nguyen and Sgt. Lonso in front of the store. I entered the store and observed a HMA, later identified as Richard Perez, laying motionless and bleeding to the left of the entrance. I observed two clerks behind the store counter and two patrons in front of the counter.

I proceeded to the rear of the store (which I was familiar with) to check for additional suspects or witnesses. After clearing the rest of the store I returned to speak with one of the patrons, Steven Clark. I asked Clark what happened, Clark told me the following in summary.

Clark had arrived at Uncle Sam's to purchase a beer. Clark approached the entrance to the store and observed a man in uniform (Jensen) attempting to restrain another man by placing his hands behind his back. At first Clark believed (Jensen) was a security guard but he quickly realized that the patches on his shoulder stated "Police." Clark did not want to get involved in the confrontation but continued to observe the "tussle" from inside the store. Clark stated Ofc. Jensen had pushed Perez to the ground and was giving multiple commands to "stop resisting" and to "just stay down." Perez continued to struggle with Jensen while on the ground and grabbing his waistline and duty belt, pulling it towards him. Clark stated at one point during the fight Perez grabbed Ofc. Jensen's holstered firearm. Ofc. Jensen then released himself from Perez and pushed up and away, getting up from the ground and stepping back. Perez stood up and charged towards Ofc. Jensen. Clark told me he heard 3 shots as Ofc. Jensen fired at Perez, who stumbled into the store and collapsed.

Clark added that during the initial physical confrontation, an unknown probably AMA, 5'8, slender build with glasses, black hat, black hooded sweatshirt and black pants and an red T-shirt tried to assist Ofc. Jensen. Ofc. Jensen told the unknown male to back up while he was struggling with Perez.

I logged Clark's 1993 green Ford Explorer 6 M X P 8 7 9 that was found IFO 3322 Cutting Blvd. I transported Clark to RPD for Homicide detectives until relieved by Ofc. Platzner.



## Landi Court Reporters and Video Services

August 17, 2015

Steven Clark  
381 South 35<sup>th</sup> Street  
Richmond, CA 94804

IN RE: Richard Perez vs. Wallace Jensen  
JOB #: 15-356MM

Dear Mr. Clark,

Your deposition, taken in the above-entitled matter on August 10, 2015 has now been transcribed and will be available for your review for 30 days from the date of this notice or until time of trial if trial is scheduled within the 30 days.

Our office hours are Monday through Friday, 9:00 a.m. to 5:00 p.m.

If you wish to review your original transcript, kindly contact us to schedule an appointment.

Sincerely,

Laura Jacques  
Office Assistant

cc: to all parties

**FILE COPY**