

1 THE WITNESS: Thank you.

2 THE COURT: All right. I think it's
3 time for us to take a lunch break and we will do that
4 and come back at 1:15 and carry on. See you then.

5 (WHEREUPON, a brief recess was had for
6 (lunch, after which the proceedings
7 (continued as follows:)

8 MS. VASQUEZ-GARDNER: State calls Juan
9 Hernandez.

10 -----

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 JUAN HERNANDEZ,
2 the witness, after first being duly cautioned and
3 sworn to tell the truth, the whole truth, and nothing
4 but the truth, testified upon oath as follows:

5 THE COURT: All right, Mr. Hernandez,
6 the rule is invoked here meaning that you should not
7 discuss the testimony you have given with anyone else
8 who is a witness in the case. And don't have a
9 conversation about your testimony in front of anybody
10 else who is a witness.

11 THE WITNESS: All right.

12 DIRECT EXAMINATION

13 BY MS. VASQUEZ-GARDNER:

14 Q. Please tell the Jury your full name.

15 A. Juan Antonio Hernandez.

16 Q. Do you also go by John or Jesse?

17 A. Yes.

18 Q. How old are you?

19 A. 26.

20 Q. Do you live here in San Antonio?

21 A. Yes.

22 Q. Are you working right now?

23 A. Yes.

24 Q. What do you do for a living?

25 A. Construction.

1 Q. Do you know the defendant, James Legate?

2 A. Yes.

3 Q. Do you see him in the courtroom today?

4 A. Yes.

5 Q. Please point to him and describe something
6 he's wearing.

7 A. Black suit.

8 MS. VASQUEZ-GARDNER: Please let the
9 record reflect the witness has identified-- where is
10 he sitting in relation to the other people?

11 THE WITNESS: In the middle.

12 MS. VASQUEZ-GARDNER: Please let the
13 record reflect the witness has identified the
14 defendant.

15 BY MS. VASQUEZ-GARDNER:

16 Q. How do you know James Legate, the defendant?

17 A. Friend. He's a friend of mine. Met him
18 where he used to work.

19 Q. Where did he used to work?

20 A. Car lot.

21 Q. Do you remember the name of it?

22 A. Advantage.

23 Q. What?

24 A. Advantage.

25 Q. Where was Advantage located?

1 A. On Nakoma.

2 Q. How long have you known him?

3 A. Couple of years.

4 Q. You say that you met him there. Did you
5 work there as well?

6 A. No.

7 Q. Okay. So, how is it that you met him there?

8 A. I used to go over there and hang around.

9 Q. Why?

10 A. Because they were friends and just-- I used
11 to go over there and hang around with everybody.

12 Q. What did the defendant do for a living
13 there?

14 A. Car salesman.

15 Q. Did you ever help him out in any way?

16 A. Sometimes.

17 Q. How?

18 A. Getting customers and stuff.

19 Q. Would you receive any fees or referral fees
20 for that?

21 A. If the deal would come through, yes.

22 Q. Then what would you get?

23 A. Maybe 100, 150 towards my bill. They would
24 credit me the money towards my bill.

25 Q. What bill?

1 A. My car bill.

2 Q. Had you bought a car there at Advantage?

3 A. A couple.

4 Q. A couple?

5 A. Uh-huh.

6 Q. Now, you said that you knew him for a couple
7 of years. Did you ever have an occasion to meet
8 another individual named Pedro Zamora?

9 A. Yes.

10 Q. How did you meet Pedro Zamora?

11 A. Through a friend of mine.

12 Q. What friend?

13 A. Gilbert DeHoyos.

14 Q. And how long have you known Pedro Zamora?

15 A. About three months, four months, something
16 like that.

17 Q. Three months or four months, what, before
18 the killing?

19 A. Uh-huh. Yes.

20 Q. And how or where did Gilbert introduce you
21 to?

22 A. We went to the club.

23 Q. Which club?

24 A. Mexico Que Nice.

25 Q. Where is that located?

1 A. Wurzbach.

2 Q. And did you become a regular customer there?

3 A. Yes.

4 Q. Did you have-- What kind of relationship did
5 you have with Pedro Zamora?

6 A. Well, it was more like friends and partners
7 in a couple of deals.

8 Q. Okay. And when you say friends and partners
9 in a couple of deals, what kind of deals?

10 A. Drug deals.

11 Q. So, you and Pedro would do drug deals?

12 A. Yes.

13 Q. Out of that club, Mexico Que Nice?

14 A. Not out of that club but somewhere else.

15 Q. Were any of the customers ever-- any of the
16 drug customers ever customers there from the
17 restaurant or from the bar, Mexico Que Nice?

18 A. No. Well, there were never deals happened
19 there, just talk.

20 Q. And was there ever a point in time when the
21 defendant was introduced to Pedro Zamora?

22 A. Come again?

23 Q. Was there ever a point in time when the
24 defendant was introduced to Pedro Zamora?

25 A. What do you mean?

1 Q. Him, Legate. Was he ever introduced to
2 Pedro Zamora?

3 A. Uh-huh, yes.

4 Q. When was that?

5 A. I don't know exactly. I don't know the
6 date, but it was like probably a month or more or less
7 than prior to the killing.

8 Q. So, did you introduce them, Juan?

9 A. Yes.

10 Q. What was the purpose of the introduction?

11 A. Well, first, it was just like Pedro wanted
12 to get a car and then Pedro also needed protection.
13 And at the time he was hurting for money, so he could
14 use extra money.

15 Q. Hold it. I can't hear you. I didn't
16 understand you. Pedro needed protection and what?

17 A. And also he was needing for the money.

18 Q. Who was needed for the money?

19 A. Legate.

20 Q. What do you mean?

21 A. Well, I mean he wasn't making enough at his
22 regular day job, so--

23 Q. Oh, so the defendant wasn't making enough
24 money at the job so he was going to help Pedro out?

25 A. Obviously, yes.

1 Q. When you say "protection", what do you mean
2 by that?

3 A. Like a bodyguard.

4 Q. And did he start going to the club? Did the
5 defendant start going to the club, Mexico Que Nice?

6 A. A couple of times.

7 Q. And protection from who? Bodyguard from
8 who?

9 A. Enemies, his lawyer and stuff.

10 Q. Whose lawyer?

11 A. Pedro's lawyer.

12 Q. And do you know who the lawyer was that you
13 refer to?

14 A. No.

15 Q. Was there ever-- Did you ever see-- Did you
16 ever see the defendant with a gun?

17 A. See him?

18 Q. Yes, with a gun.

19 A. Never seen him carrying it.

20 Q. Did he ask you if you could get a gun for
21 him?

22 MR. BERCHELMANN: Your Honor, I'm going
23 to object to her leading the witness.

24 THE COURT: Overruled.

25 BY MS. VASQUEZ-GARDNER:

1 Q. Did he ask you if you could get a gun for
2 him?

3 A. He asked me if I had one or could get one
4 and I said yes.

5 Q. How long after he started being Pedro's
6 bodyguard did he ask you for a gun?

7 A. Probably around the time they met. I don't
8 know if it was prior before they met or if it was
9 after. I don't recall.

10 Q. But you are saying it was sometime around
11 the murder of Eddie Garcia that the defendant had
12 asked you for a gun?

13 A. Yes.

14 Q. Where were y'all when he asked you for the
15 gun?

16 A. I was at my house.

17 Q. Did he tell you why he needed a gun?

18 A. Protection.

19 Q. Protection. Did he say from who?

20 A. I guess from whoever he needed it for. He
21 didn't-- I didn't want to know. I just told him here
22 it is. I don't want to know.

23 Q. When you gave it to him, was it loaded?

24 A. No.

25 Q. What type of gun was it?

1 A. A small revolver.

2 (WHEREUPON, the instrument referred to
3 (was here marked "State's Exhibit No. 7"
4 (for identification purposes.)

5 BY MS. VASQUEZ-GARDNER:

6 Q. I'm going to hand you what's been marked
7 State's Exhibit No. 7. Do you recognize that?

8 A. No, not with the tape and all.

9 Q. Okay. Is that a photograph?

10 A. Yes, it is.

11 Q. Of a gun?

12 A. Yes.

13 MR. BERCHELMANN: Your Honor, excuse
14 me, I'm going to object to them testifying about
15 what's in a picture that's not even introduced in
16 evidence yet.

17 THE COURT: Overruled.

18 BY MS. VASQUEZ-GARDNER:

19 Q. Other than the tape that you just mentioned
20 that's on the gun, does that look similar to the gun
21 that you provided to the defendant?

22 A. Yes, very.

23 MS. VASQUEZ-GARDNER: At this time I
24 would like to offer into evidence State's Exhibit 7.
25 Tender to defense counsel for inspection and

1 objection, if any.

2 MR. BERCHELMANN: Can I take the
3 witness on voir dire?

4 THE COURT: Do you have an objection?

5 MR. BERCHELMANN: Yes. I'm going to
6 object because he said he's not sure if this is the
7 gun. The proper predicate hasn't been laid for it, so
8 I'm going to object to it.

9 THE COURT: Sustained.

10 BY MS. VASQUEZ-GARDNER:

11 Q. When the defendant asked you for the gun,
12 did he say anything about-- what else did he say
13 besides protection?

14 A. That's it.

15 Q. Did he mention Pedro's name?

16 A. Yes.

17 Q. What did he say?

18 A. He was going to do some part-time for him,
19 nights, hang around him, watch his back.

20 Q. Now, you mentioned earlier that you had
21 some-- that you heard some conversations between the
22 defendant and Pedro talking about a lawyer?

23 A. Yes.

24 Q. What were the-- Where would these
25 conversations take place?

1 A. On the patio.

2 Q. Patio where?

3 A. At the club.

4 Q. And what was said?

5 MR. BERCHELMANN: Excuse me, Your
6 Honor, I would object to any hearsay that might be
7 elicited. Anything that someone else might have said
8 I'm going to object to.

9 MS. VASQUEZ-GARDNER: Your Honor, they
10 are non-hearsay. They're statements made in
11 furtherance of a conspiracy.

12 MR. BERCHELMANN: Your Honor, again,
13 I'm going to object to that comment because there's
14 been no evidence of any conspiracy whatsoever. So, I
15 ask the Jury to disregard that last comment of the
16 district attorney.

17 THE COURT: I guess I'm going to have
18 to hear this before I can rule on it, so why don't you
19 take the Jury to the Jury room for a minute.

20 (WHEREUPON, the following proceedings
21 (were had outside the presence of the
22 (Jury:))

23 THE COURT: All right. Go ahead and
24 ask the question. There was a conversation between
25 the defendant and who?

1 BY MS. VASQUEZ-GARDNER:

2 Q. And Pedro Zamora. And you said it happened
3 out on the patio?

4 A. Yes.

5 Q. And what was said, Juan?

6 A. What was what?

7 Q. What was said?

8 A. Well, I didn't really hear much, like I told
9 you already. I would just walk away because I didn't
10 want to hear anything. They needed protection. They
11 were bothering him. They were bothering Pedro.

12 Q. Who was bothering Pedro?

13 A. His lawyer and whoever worked for his
14 lawyer. You know, like they were going to like try to
15 hurt him. That's what he had mentioned. They were
16 going to hurt Pedro. That's why he needed protection.
17 Now, I don't know if they come to an understanding or
18 what because, like I said, I would walk away and--

19 Q. And when they said this about the lawyer,
20 did they ever talk about where this lawyer was or
21 where he could be located?

22 A. To a place called Players, just around
23 there. I don't know any address or anything, just
24 some--

25 MS. VASQUEZ-GARDNER: That's what we

1 have, Your Honor.

2 THE COURT: Well, I don't see how that
3 is related to the case. That they want to hurt some
4 lawyer.

5 MS. VASQUEZ-GARDNER: Judge, I
6 understand that there isn't any evidence that Eddie
7 Garcia was a lawyer, but it goes to the weight and not
8 the admissibility. If in Pedro's mind or if the Jury
9 believes that in Pedro's mind or in the defendant's
10 mind they believed that Eddie Garcia was a lawyer,
11 then that's an issue for them to decide.

12 THE COURT: I'm really not seeing this
13 as admissible. You need to flesh this out more for it
14 to make any sense at all.

15 BY MS. VASQUEZ-GARDNER:

16 Q. Juan, before you would walk away, you
17 indicated that you would hear Pedro talking. And was
18 Pedro talking to the defendant?

19 A. Yes.

20 Q. Okay. And what was he telling the
21 defendant?

22 A. That he needed protection, that maybe they
23 want to hurt the lawyer. I don't know. Like I said,
24 I don't want to-- I don't recall very much. You know
25 what I mean? Most of the time when I was there I was

1 very drunk.

2 Q. Now, did you ever hear Pedro Zamora saying
3 anything about the trouble that this person, that this
4 lawyer was giving him there at the club?

5 A. Something about the club, because--

6 Q. What about the club, Juan?

7 A. That he was-- That he was part owner and
8 probably going to lose his share with the club or
9 whatever.

10 Q. That he was going to what?

11 A. He was going to lose his part of the club or
12 something like that, I mean.

13 Q. That Pedro was going to lose his part of the
14 club?

15 A. Something like that, yes.

16 Q. And so what did he want the defendant to do?

17 A. Take care-- To take care, you know, his
18 protection and, you know, maybe pay this lawyer off of
19 his or something like that.

20 Q. And pay his lawyer a visit and do what,
21 Juan?

22 A. Maybe hurt him. I don't know. Like I say,
23 I don't know much about that part. Like I said, that
24 was none of my business and I would walk away.

25 Q. So, Pedro was scared that this lawyer or who

1 he thought was a lawyer was trying to buy his share of
2 the club?

3 A. Something like that.

4 Q. And did he tell the defendant where the
5 lawyer had his office?

6 MR. BERCHELMANN: Your Honor, again, I
7 apologize. Juanita. I'm going to object to her
8 continuing to lead the witness.

9 THE COURT: Overruled.

10 BY MS. VASQUEZ-GARDNER:

11 Q. Did he tell-- Did Pedro Zamora tell the
12 defendant where the lawyer had an office?

13 A. I don't know. I heard him say it was close
14 by Players. That's all. In my mind I was thinking it
15 was the Players on Fredericksburg. I didn't have
16 no-- When we were talking about it, it was just the
17 Players.

18 Q. He just said Players?

19 A. Yes.

20 Q. He didn't say Fredericksburg?

21 A. That's where I thought it was. He didn't
22 say that.

23 Q. And what did the defendant say he was going
24 to do?

25 A. Try to work for him.

1 Q. Try to what?

2 A. To work for him.

3 Q. Did he say that he would do what Pedro
4 wanted him to do?

5 A. He didn't tell me.

6 Q. Did you hear him say that to Pedro?

7 A. No.

8 Q. When they were talking, were they talking in
9 English or Spanish?

10 A. Spanish.

11 Q. Do you understand Spanish?

12 A. Yes, I do.

13 Q. And when Pedro would say lawyer, did he use
14 the word lawyer or did he-- exactly what was the term
15 that he used to describe this person that had the club
16 by Players?

17 A. He would call him his "abogado".

18 Q. And did he say anything about what this
19 "abogado" did there at the club?

20 A. Did-- He never--

21 Q. Are you familiar, Juan, with the term
22 "abogado" in Mexico being used very loosely as a term
23 to describe somebody that can draw up different kinds
24 of documents or help somebody out?

25 MR. BERCHELMANN: Again, I'm going to

1 object to that form of the question. She's
2 testifying, giving him a definition of what abogado
3 means. He's already testified, so I'm going to object
4 to her leading the witness through her definition of
5 what "abogado" is.

6 THE COURT: All right. Well, if he's
7 not familiar with it all he has to say is he's not.
8 Can you answer her question?

9 THE WITNESS: Can you repeat that
10 question again?

11 BY MS. VASQUEZ-GARDNER:

12 Q. Are you familiar with the term "abogado" in
13 Mexico being used loosely to describe somebody that
14 helps somebody out in matters pertaining to documents
15 and things that have to be filed or things that have
16 to be--

17 A. Yes, probably.

18 MS. VASQUEZ-GARDNER: That's what we
19 have, Your Honor.

20 THE COURT: All right. And your
21 objection to this is what?

22 MR. BERCHELMANN: Your Honor, I object
23 on hearsay, also relevancy under-- I don't see the
24 relevance of this testimony. I don't think it comes
25 in under any exception to the hearsay rule. It's

1 hearsay. No question about it. Anything that someone
2 else might have said is certainly hearsay. I don't
3 think she's reached any exception to the hearsay rule.
4 Even if she had under 403, I think the probative value
5 isn't outweighed by the prejudicial value. I think
6 the prejudicial value outweighs any probative value.
7 And, therefore, I think that the relevancy because of
8 hearsay is-- I would object to it. He says "abogado".
9 There's been no testimony about any "abogado" in this
10 case.

11 THE COURT: All right. And your theory
12 of the admissibility of this conversation is what?

13 MS. VASQUEZ-GARDNER: Basically, it's
14 an admission by a party opponent, Your Honor. First
15 of all, it's an admission by a party opponent or it's
16 statements made in furtherance of a conspiracy by
17 these two people that are seeking protection from this
18 person that has a club over there by Players and then
19 has-- I mean, an office over there by Players.

20 Mr. Rodriguez already indicated that
21 what Eddie Garcia wanted to do was to buy out Pedro's
22 share of the club and to get rid of Pedro, which is
23 exactly what this witness is testifying to, that the
24 "abogado" was trying to buy him and his share out.
25 And I think that it goes to the weight that the Jury

1 can give to it and not to its admissibility.

2 MR. BERCHELMANN: Your Honor, again,
3 talking about "abogado", there's plenty of lawyers out
4 here that-- in San Antonio, and I would submit to you
5 that probably a lot of people would like to hurt a lot
6 of lawyers for whatever reason. But as far as
7 relevance in this case, I just don't see it. I don't
8 think it should be admitted. I think it's highly
9 prejudicial.

10 THE COURT: Well, if it's highly
11 prejudicial, then it's certainly relevant.

12 MR. BERCHELMANN: It's inference is
13 what she's trying to get around. There's been no--
14 It's hearsay, first of all, and there's no exception
15 to the hearsay rule that's been established by any of
16 this guy's testimony. If it does come in, it's going
17 to leave an inference with the Jury which I think is
18 improper.

19 THE COURT: All right. Well, based on
20 what I've heard here, I'm going to allow him to
21 testify to this. It's my conclusion that it's either
22 an admission by a party opponent, in which case it is
23 not hearsay or, assuming that it can be tried up
24 later, a statement by a co-conspirator during the
25 course and in the furtherance of a conspiracy to hurt

1 copy only

cia.

So, at the very least it's an admission
party opponent. I'm going to allow that

4 testimony, so let's have the Jury in here.

5 (WHEREUPON, the Jury here joined the
6 (proceedings.)

7 BY MS. VASQUEZ-GARDNER:

8 Q. I think, Mr. Hernandez, before the Jury left
9 you said that you heard some conversations between the
10 defendant and Pedro Zamora when they were out on
11 where?

12 A. The patio.

13 Q. On the patio. And what did you hear the
14 defendant and Mr. Zamora talking about?

15 A. That Pedro needed protection from his lawyer
16 and from his lawyer's people, whatever, his enemies.

17 Q. And when he would refer to the lawyer, what
18 did he say about the lawyer?

19 A. That the lawyer was trying to take over the
20 ownership of the place.

21 Q. When you heard these conversations between
22 the defendant and Pedro Zamora, were they in English
23 or in Spanish?

24 A. Spanish.

25 Q. Did Pedro Zamora-- where was he from? Do

1 you know?

2 A. Mexico.

3 Q. He's from Mexico. Would you say that
4 English or Spanish is his primary language?

5 A. Spanish.

6 Q. Do you understand Spanish?

7 A. Yes.

8 Q. And you said-- Are you familiar with the
9 term-- how lawyer is used in Spanish?

10 A. Come again?

11 Q. Okay. Is the term lawyer when it's said in
12 Spanish, is it used loosely to describe people that do
13 things for you in Mexico?

14 A. In Mexico, yes.

15 Q. Okay. And when he said-- when Pedro said
16 that they were trying to buy him out, did he say that?
17 What did you say that they said about that?

18 A. Come again?

19 Q. What was Pedro saying to the defendant about
20 the club? Specifically about the club?

21 A. That he was going to lose his part.

22 Q. That he was going to what?

23 A. That he was going to lose his part of the
24 club.

25 Q. Because of what? Because of who?

1 A. Because of the abogado, like he called him.

2 Q. And so what? What else did you hear him
3 saying?

4 A. That they needed to go hurt this guy.

5 Q. That they needed to what?

6 A. They were going to, you know, try to hurt
7 this guy.

8 Q. And did they say how they were going to hurt
9 the guy?

10 A. No.

11 Q. And did they say-- Did Pedro Zamora tell the
12 defendant where the "abogado" was?

13 MR. BERCHELMANN: Excuse me, Judge.

14 I'm going to object to her leading the witness.

15 THE COURT: Let the witness testify.

16 BY MS. VASQUEZ-GARDNER:

17 Q. Where did they say the abogado was?

18 A. He had an office close by a place called
19 Players.

20 Q. That's all you heard?

21 A. That was it because I would walk away. I
22 wouldn't stick around. It's none of my business.

23 Q. What did the defendant say when Pedro Zamora
24 told him they needed to hurt this guy and told him
25 where he was located?

1 A. I don't know what he said.

2 MS. VASQUEZ-GARDNER: May I have just a
3 moment, Judge?

4 THE COURT: Uh-huh.

5 (WHEREUPON, there was a brief pause in
6 (the proceedings.)

7 BY MS. VASQUEZ-GARDNER:

8 Q. Did you ever go to a club called Players?

9 A. No.

10 Q. And how long after these conversations was
11 Mr. Garcia killed?

12 A. About a couple of weeks.

13 Q. Excuse me?

14 A. A couple of weeks.

15 Q. Did you stay in touch with the defendant or
16 Pedro Zamora after the fact, after it happened?

17 A. Yes.

18 Q. For what purpose?

19 A. Well, he would call me from jail.

20 Q. Who did?

21 A. The defendant. And Pedro was-- well, he was
22 my partner on drug deals and he owed me some money and
23 which he never paid me, so he just left.

24 Q. Who just left?

25 A. Pedro. He just left.

1 Q. Did the defendant's wife or girlfriend ever
2 contact you?

3 A. Yes.

4 Q. After the defendant was arrested?

5 A. Yes.

6 Q. For what?

7 A. They were my friends.

8 Q. And what did she want?

9 A. What do you mean, "what did she want"?

10 Q. Why did she contact you? Did you ever loan
11 them money or loan her money?

12 A. Yes, I loaned her money.

13 Q. Do you know why she needed the money?

14 A. Well, she needed money for the rent and
15 needed money for bills and also to get some
16 representation for Legate, but it was a deal between
17 me and her.

18 Q. Okay. How much money was it?

19 A. Two grand.

20 Q. What?

21 A. 2,000.

22 MS. VASQUEZ-GARDNER: We have nothing
23 further. Pass the Witness.

24 CROSS-EXAMINATION

25 BY MR. BERCHELMANN:

1 Q. Did you ever get your money back?

2 A. No.

3 Q. Okay. How do you feel about that?

4 A. I can't do nothing about it. I was angry.

5 Q. You were angry about not getting your money
6 back, weren't you?

7 A. I was angry.

8 Q. You were angry at Mr. Legate here, weren't
9 you?

10 A. No.

11 Q. You were angry at his girlfriend, weren't
12 you?

13 A. No. I don't even contact them.

14 Q. You are an admitted drug dealer. Is that
15 correct?

16 A. Excuse me?

17 Q. You are an admitted drug dealer. Is that
18 correct?

19 A. Yes.

20 Q. You were doing drug deals with Pedro Zamora.
21 Is that correct?

22 A. We were doing it together.

23 Q. Okay. Now, you currently have charges
24 pending against you, don't you, for drugs?

25 A. Yes.

1 Q. Okay. Do you know Detective Albright?

2 A. Yes.

3 Q. Okay. Who is he?

4 A. Detective?

5 Q. Uh-huh.

6 A. I just know him because I've talked to him
7 when he interviewed me.

8 Q. Okay. Why did he interview you?

9 A. Because he wanted to find out about the
10 case.

11 Q. Okay. And you told him you didn't know
12 anything about the case. Isn't that correct?

13 A. That was at that time.

14 Q. Okay. You lied to him about it, right?

15 A. You can say that.

16 Q. Okay. When did you change your story?

17 A. When I decided to tell the truth.

18 Q. And when was that?

19 A. When I went in front of the Grand Jury.

20 Q. Okay. Do you know what immunity is?

21 A. Yes.

22 Q. And what is that?

23 A. You can tell the truth without getting in
24 trouble.

25 Q. And that's what happened to you, correct?

1 A. Yes.

2 Q. You didn't want to tell the truth until you
3 were given immunity. Isn't that correct?

4 A. I didn't say much, let's put it that way.
5 They weren't satisfied with my testimony at the
6 beginning. And I-- I guess, I didn't have
7 representation at the moment when they interviewed me.

8 Q. But you lied until they gave you immunity.
9 Is that correct?

10 A. I lied a little bit, yes.

11 Q. You're lying today, too, aren't you?

12 A. No, I'm not.

13 Q. How did you meet Pedro Zamora?

14 A. Through a friend.

15 Q. Who was the friend?

16 A. Gilbert DeHoyos.

17 Q. Gilbert who?

18 A. DeHoyos.

19 Q. He was a friend of Zamora's or what?

20 A. Yes.

21 Q. Okay. And how did y'all come to meet?

22 Where were you when you met Mr. Zamora?

23 A. At the club. He would come to the coffee
24 shop-- my friend's coffee shop.

25 Q. Were you introduced to him because he wanted

1 drugs or what?

2 A. Who?

3 Q. Well, Mr. DeHoyos or Mr. Zamora.

4 A. Mr. DeHoyos introduced me to Zamora.

5 Q. Mr. Legate wasn't there when you were
6 introduced, was he?

7 A. Excuse me?

8 Q. Was Mr. Legate there when you were first
9 introduced to Mr. Zamora?

10 A. No.

11 Q. As a matter of fact, you knew Mr. Zamora
12 before Legate ever did. Isn't that correct?

13 A. Yes.

14 Q. He only talked to Mr. Zamora twice. Isn't
15 that correct?

16 A. More than twice.

17 Q. Okay. And he was in the car business.
18 Isn't that correct?

19 A. Yes.

20 Q. And you testified that Mr. Zamora was
21 looking for a car. Isn't that correct?

22 A. At the time.

23 Q. And that's the reason Mr. Legate was talking
24 to Pedro Zamora about getting him a car. Isn't that
25 right?

1 A. One thing lead to another.

2 Q. Okay. You know Bobby Ohlenbach?

3 A. Yes, I do.

4 Q. Who is he?

5 A. He's a guy from New Braunfels. I don't know
6 him very well, but he purchased drugs from me.

7 Q. You got a gun from him, didn't you?

8 A. As a collateral, yes.

9 Q. Okay. And that was the gun that was used in
10 this case. Isn't that correct?

11 A. Very possible, yes.

12 Q. So, you admitted that you had the gun
13 involved in this case. Isn't that correct?

14 A. I had it.

15 Q. Now, at this so-called meeting with
16 Mr. Zamora and Mr. Legate, you said you were present.
17 Is that correct?

18 A. Excuse me?

19 Q. You were there, right?

20 A. Sometimes.

21 Q. Well--

22 A. Yes. At the introduction, yes, I was.

23 Q. Where did this meeting take place?

24 A. At the club.

25 Q. Who else was there?

1 A. Probably my friend, Robert, and some other
2 people.

3 Q. Robert who?

4 A. Montez.

5 Q. Who is he?

6 A. He's a friend. He was helping at
7 Mr. Zamora's other club.

8 Q. Did he put some money into the club?

9 A. Robert?

10 Q. Yes.

11 A. No.

12 Q. Who else was there?

13 A. That I know?

14 Q. Uh-huh.

15 A. No, not many people.

16 Q. Well, who was at the meeting, in that
17 particular meeting? We have Mr. Zamora. You said
18 Mr. Legate was there, Robert Montez. Who else?

19 A. Gilbert.

20 Q. Gilbert who?

21 A. DeHoyos.

22 Q. That was your buddy, right?

23 A. My friend.

24 Q. Where is he?

25 A. At his place.

1 Q. Pardon?

2 A. He's at his place.

3 Q. Okay. Had you been drinking that day?

4 A. Yes.

5 Q. How much had you had to drink?

6 A. Quite a bit.

7 Q. Were you drunk?

8 A. Yeah.

9 Q. Okay. And you weren't listening to the
10 whole conversation, were you?

11 A. No.

12 Q. You kept walking in and walking out. Is
13 that correct?

14 A. Yes.

15 Q. You didn't want to hear what was going on.
16 Is that right?

17 A. Exactly.

18 Q. But now that you've been given immunity,
19 you're up here telling what the State wants you to
20 say. Is that correct?

21 A. I'm just telling the truth.

22 Q. You didn't tell the truth with Mr. Albright,
23 did you?

24 A. I had no representation. He didn't want to
25 let me go. He kept insisting, so I had to come up

1 with something.

2 Q. But you lied to him. Is that correct?

3 A. Yes, I did.

4 Q. Did Detective Albright, did he ever tell you
5 you were a suspect in this case?

6 A. No.

7 Q. Okay. Did he threaten you with charges that
8 if you didn't cooperate you were going to be filed on
9 for this case?

10 A. No, not that I remember.

11 Q. When is the last time you talked to Pedro
12 Zamora?

13 A. A while ago. It was like back in September,
14 I think.

15 Q. Back on September the 3rd, wasn't it?

16 A. I don't know exactly the date. I mean, I
17 don't have a diary or anything.

18 Q. Did you know Eddie Garcia?

19 A. No, sir.

20 Q. Okay. Well, you said that you heard about
21 the shooting. Is that correct?

22 A. Yes, I heard.

23 Q. Okay. And did you call Pedro Zamora the day
24 of the shooting?

25 A. I would talk to him every day.

1 Q. So, you did talk to him the day of the
2 shooting. Is that correct?

3 A. I talked to him. Yes, I did.

4 Q. Okay. When is the last time you saw
5 Mr. Legate prior to the shooting?

6 A. Probably a couple of days, like three days
7 before.

8 Q. And you never saw him carry a gun, did you?

9 A. No.

10 Q. Okay. Do you know he was in the business of
11 repossessing cars?

12 A. It's part of his job.

13 Q. Okay. And so it wouldn't be unusual for him
14 to go around looking for cars to be repossessed, would
15 it?

16 A. I guess.

17 Q. Do you know Ali Kahlil?

18 A. I met him once.

19 Q. Who is he?

20 A. He's a car salesman.

21 Q. Isn't that who Mr. Legate worked for?

22 A. No. He worked before.

23 Q. How about Mr. Walker?

24 A. Walker?

25 Q. Yeah. Do you know him?

1 A. Yes, I do.

2 Q. Who is he?

3 A. It was his boss.

4 Q. That was Mr. Legate's boss. Isn't that
5 correct?

6 A. Yes.

7 Q. Did you talk to Mr. Legate after this
8 shooting took place?

9 A. He called me on the phone.

10 Q. He told you he didn't do it, didn't he?

11 A. That night he called me and just said that
12 he was arrested for warrants and he was being accused
13 of killing somebody and that was it. He wanted me to
14 go let his girlfriend know that he was in jail.

15 Q. Do you remember him telling you that he
16 didn't do it?

17 A. Yes.

18 Q. Huh? He told you that, didn't he?

19 A. Yes.

20 MR. BERCHELMANN: Could I have just one
21 second, please?

22 (WHEREUPON, there was a brief pause in
23 (the proceedings.)

24 MR. BERCHELMANN: I'll pass the
25 Witness.

REDIRECT EXAMINATION

1
2 BY MS. VASQUEZ-GARDNER:

3 Q. Jesse, did you give the gun to the defendant
4 with it all taped up?

5 A. No.

6 Q. Was it in working condition?

7 A. I wouldn't know because I didn't use it. I
8 didn't try it.

9 Q. How long before the murder did you give the
10 gun to the defendant?

11 A. About a month or two weeks, something like
12 that.

13 Q. Did you ever see the gun after that?

14 A. No.

15 MS. VASQUEZ-GRDNER: Nothing further.

16 MR. BERCHELMANN: That's all I have,
17 Your Honor.

18 THE COURT: All right. Thank you,
19 Mr. Hernandez.

20 MS. VASQUEZ-GARDNER: State calls
21 Office Frank Garcia.

22
23
24
25