

1 VIRGINIA:

2 IN THE GENERAL DISTRICT COURT OF THE COUNTY OF STAFFORD

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4 COMMONWEALTH OF VIRGINIA :

5 vs.

6 JOSE SANTOS PORTILLO-CHICOS :

7 and

8 DANIEL ALBERTO BONILLA-DELCID :

9 and

10 LUIS ANTONI SERRANO-GUTIERREZ :

11 -----

12 Complete TRANSCRIPT of all the evidence and
13 other incidents of the preliminary hearing in the above
14 styled case, when heard on October 20, 2006, at 2:20
15 p.m., before Honorable Gordon F. Willis, Judge.

16

17 APPEARANCES:

18 Mr. James D. Peterson, Attorney at Law
19 Mr. P. Michael Hardiman, Attorney at Law
20 Mr. George P. Elsasser, Attorney at Law
1300 Courthouse Road, Stafford, Virginia 22555-0066
Assistant Commonwealth's Attorney;

21

Reported by: Melonie J. Martie

1 Mr. Allen F. Bareford, Public Defender
Mr. Terance J. Patton, Assistant Public Defender
2 2300 Fall Hill Avenue, Suite 300
Fredericksburg, Virginia 22401
3 Counsel for the Defendant Portillo-Chicos

4 Ms. Denise M. Rafferty, Attorney at Law
49 Vista Woods Road, Stafford, Virginia 22556
5 Counsel for the Defendant Bonilla-Delcid;

6 Ms. Stacey T. Garcia, Attorney at Law
Woodbridge, Ventura & Kelly
7 406 Amelia Street
Fredericksburg, Virginia 22404
8 Counsel for the Defendant Serrano-Gutierrez;

9 The Defendants in Person.

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cross - Brian Storm

1 identified.

2 MS. RAFFERTY: No other questions.

3 THE COURT: Ms. Garcia.

4

5 CROSS EXAMINATION

6 BY MS. GARCIA:

7 Q I just wanted to be clear about one
8 thing. Was Mr. Menjivar, the fellow that's known as
9 Droopy, was he one of the people charged with that stab-
10 bing incident?

11 A He was not charged, no.

12 Q But he was involved is that what the --

13 A Yes.

14 MS. GARCIA: No further questions.

15 THE COURT: All right. Thank you,
16 detective. I assume there's no redirect?

17 MR. HARDIMAN: No redirect, sir.

18 THE COURT: All right, sir. Step
19 down. You're free to leave.

20

WITNESS STOOD ASIDE

21

1 MR. ELSASSER: Apparently he
2 thought he had more time than he did, sir; he
3 went to the restroom.

4 THE COURT: Come forward, sir.
5 Raise your right hand, please. Do you swear to
6 tell the truth, the whole truth, and nothing but
7 the truth, so help you God?

8 MR. FARRELL: I do.

9 THE COURT: Have a seat right
10 there, please.

11
12 JOHN FARRELL, a witness, being
13 called for examination by the Commonwealth,
14 first being duly sworn, testified as follows:

15

16 DIRECT EXAMINATION

17 BY MR. ELSASSER:

18 Q Sir, can you identify yourself for the
19 record, please.

20 A Yes. I'm Detective John Farrell from
21 the Fairfax County Police Department.

direct - John Farrell

1 Q And what are you your duties?

2 A **I'm** currently assigned to the Northern
3 Virginia Gang Task Force.

4 Q And how long have you been assigned
5 there?

6 A Since March of 2005.

7 Q And how long have you been a police
8 officer?

9 A Since January of 2000.

10 Q And how much -- Have you been working
11 with gang activity issues and working on gang cases --
12 gang related cases your entire -- since you've been a
13 police officer?

14 A Yes, I have.

15 Q What kind of training have you
16 received?

17 A **I've** received the basic law enforcement
18 training through Fairfax County. **I've** also received
19 advanced investigator training. **I've** been to the basic
20 gangs school and various gang conferences.

21 Q Okay. And have you ever taught gang

direct - John Farrell

1 training to other law enforcement officers?

2 A Yes, I have.

3 Q And what kind of training has that been
4 and where at?

5 A I taught at the Fairfax County Academy
6 for patrol officers.

7 Q Okay. And how many -- How many inves-
8 tigations would you say you've been involved in since
9 you've been a law enforcement officer that involved --
10 separate investigations involving gang activity?

11 A I would estimate somewhere in the
12 neighborhood of a hundred investigations.

13 Q Okay. And about how much of your
14 activity that you're involved in involves MS-13?

15 A Reference to gang investigations, I
16 would say about ninety percent of my investigations
17 involve MS-13.

18 MR. ELSASSER: Okay. Sir, I'd
19 like to move that Detective Farrell be recog-
20 nized as an expert and qualified as an expert
21 and qualified as an expert in gang activities,

direct - John Farrell

1 specifically MS-13 activity in the Northern
2 Virginia area.

3 THE COURT: Any objection, Mr.
4 Bareford?

5 MR. BAREFORD: No, Your Honor.

6 THE COURT: Ms. Rafferty?

7 MS. RAFFERTY: (shaking head) .

8 THE COURT: Ms. Garcia?

9 MS. GARCIA: No objection.

10 THE COURT: All right. The
11 detective will be so recognized.

12 Q Okay. Sir, during the course of your
13 investigation in some of these one hundred or so inves-
14 tigations involving MS-13 that you involved yourself --
15 that you were involved in, was one of those Brenda Paz
16 case?

17 A Yes, it was.

18 Q And can you tell us just very briefly
19 what that case was about?

20 A Brenda Paz was an informant for local
21 law enforcement and the Federal Government and she was

direct - John Farrell

1 murdered by MS-13.

2 Q Okay. And was she a witness against
3 certain MS-13 members?

4 A Yes. She was a witness against Dennis
5 Rivera, who was a member of MS-13.

6 Q And in that underlying case, what was
7 he charged with?

8 A He was charged with a homicide that
9 occurred on Dangerfield Island.

10 Q Okay. And that was Federal property up
11 in Alexandria?

12 A Yes, sir, it was.

13 Q And, so, it was a Federal case?

14 A Yes, it was.

15 Q And Ms. Paz then was -- I believe you
16 said a witness in the Federal case?

17 A Yes, she was.

18 Q And she was murdered?

19 A Yes, she was.

20 Q And she was murdered while a cooperat-
21 ing witness?

direct - John Farrell

1 A Yes, she was.

2 Q And you were involved in the investiga-
3 tion of her murder?

4 A To a limited extent, yes, I was.

5 Q And certain individuals were prosecuted
6 for that?

7 A Yes, they were.

8 Q Prosecuted in Federal District Court in
9 the Eastern District of Virginia?

10 A Yes, they were.

11 Q And were certain individuals convicted
12 for that?

13 A Yes, there were convictions.

14 Q Who was convicted?

15 A One of the individuals was Cisneros and
16 the second individual was -- I'm sorry -- was Oscar
17 Grande.

18 Q Okay. Judge, I have -- Okay. I'm
19 going to give you a copy of what's been marked
20 Commonwealth's Exhibit Number Fourteen. And can you
21 identify what those are, please.

direct - John Farrell

1 MS. GARCIA: (shaking head) .

2 THE COURT: All right. So
3 received as Commonwealth's Fourteen.

4 MR. ELSASSER: Thank you, Your
5 Honor.

6 NOTE: The above referred to
7 documents are now being marked and filed by the
8 Court collectively as Commonwealth's Exhibit
9 Fourteen.

10 Q Now, sir, I also have here something
11 that's been marked Commonwealth's Exhibit Fifteen, and
12 it's a group exhibit. I'd like you to just go through --
13 and I'll go through that with you -- we can briefly --
14 Tell me if these are individuals -- these are conviction
15 orders from Fairfax County Court. And I'd like for you
16 to tell us -- to identify the defendant, tell us if this
17 was a conviction resulting from a MS-13 related crime --
18 or -- I'm sorry -- if these defendants were MS-13 and if
19 the crime involved -- related to gang activity in
20 Northern Virginia.

21 A Reference the certified conviction of

direct - John Farrell

1 Oscar Omar Ramos Hernandez, he was convicted of capital
2 murder, abduction, and rape. This was the Diana Garcia
3 case that occurred in 2001.

4 Q She was the victim?

5 A Yes. Yes, Sir, she was.

6 Q Okay. And basically what did that
7 involve?

8 A Oscar Hernandez and Omar Guzman, which
9 is a second certified conviction in this pile, and a
10 third subject, who has not been arrested at this point,
11 observed Ms. Garcia walking down the street. One of the
12 subjects believed that she was a chavala, which means a
13 member of a rival gang -- gang member. Based on that
14 information, a decision was made to take action against
15 her. She was dragged off the road behind an apartment
16 complex where she was raped and murdered by being struck
17 in the back of the head.

18 Q Okay. And that was by Oscar Hernandez
19 and Omar Guzman?

20 A Yes, sir.

21 Q Both MS-13 members?

direct - John Farrell

1 A Yes.

2 Q And simply because she was a member of
3 a rival gang?

4 A They believed her to be.

5 Q Believed her to be a member of a rival
6 gang?

7 A Yes, sir.

8 Q All right. Can we look at -- Let's
9 see. We have Mr. Melendez, Jose Cruz Melendez.

10 A Yes, sir. That was --

11 Q Is that a MS-13 -- Was Mr. Jose Cruz
12 Melendez an MS-13 major -- member?

13 A Yes, he was.

14 Q Okay. And what did that attack
15 involve?

16 A This was a case involving -- a second
17 member was also convicted -- I don't see the conviction
18 here -- Cristobal Madrono. This was a machete attack on
19 Edsel Road where a rival gang member had initially
20 pursued some members of MS-13 to where they were having a
21 party on foot. The members ran out and they captured the

direct - John Farrell

1 other gang member and they mutilated his hands with a
2 machete.

3 Q Okay. And what gang was the other
4 person from?

5 A South Side Locos.

6 Q Okay. Any reason for that that carne
7 out of that investigation and that trial other than the
8 fact that this was a rival gang member, which is what
9 prompted the attack?

10 A He was a rival gang member that had
11 initiated, according to the defendants, initiated the
12 problem by chasing them.

13 Q Cesar Rodriguez, that's in there also,
14 is that an MS-13 member?

15 A Yes.

16 Q Convicted of criminal street gang
17 participation?

18 A Yes.

19 Q And just very briefly what did that
20 involve, sir?

21 A That was a machete, also, a machete

direct - John Farrell

1 cutting on a subject coming out of a practice for a Sweet
2 15 birthday party. They were having a practice for a
3 dance, and Mr. Hernandez assaulted one of the individuals
4 after throwing up MS-13 gang hand signs.

5 Q Okay. And, sir, let me just -- Let me
6 just so we can maybe move this along, I'm going to read
7 out the rest of the names here. Wilber Rivera, Joaquin
8 Carbello-Castro, Garcad Omar Diaz-Hernandez, Cristobal
9 Zelaya-Madrono, Cesar Jonathan Rodriguez, Joaquin
10 Carbello-Castro. MS-13 members case convictions --

11 A Yes.

12 Q -- and orders that you've provided our
13 office in preparation for --

14 A (interjecting) The only cases I'm not
15 familiar with are the Castro and the Hernandez cases. I
16 don't know the particulars on those, but I do know those
17 two subjects to be gang members, and the other cases I'm
18 familiar with either having assisted in the investigation
19 or having spoken with an officer investigating those
20 cases.

21 Q Thank you, sir.

direct - John Farrell

1 A These are all MS-13 gang members, yes,
2 sir.

3 MR. ELSASSER: Okay, sir. Thank
4 you. Appreciate that. Your Honor, I'd like to
5 go ahead and offer these as Commonwealth's
6 Exhibit Number Fifteen.

7 THE COURT: Any objection?

8 MR. BAREFORD: No.

9 THE COURT: It will be so
10 received.

11 NOTE: The above referred to
12 documents are now being marked and filed by the
13 Court as Commonwealth's Exhibit Fifteen.

14 MR. ELSASSER: Thank you. I have
15 nothing further, Your Honor. Oh, I'm sorry.
16 I'm sorry, Judge. One more question.

17 BY MR. ELSASSER: (continuing)

18 Q Did you come across, during your
19 investigations, an individual by the MS-13 name of -
20 nickname of Crimen?

21 A Yes, sir, I did.

direct - John Farrell

1 Q What do you know his real name to be?

2 A Luis Serrano-Gutierrez.

3 Q And is that -- is that the Luis
4 Serrano-Gutierrez right over there at counsel -- sitting
5 next to counsel?

6 A Yes, sir, it is.

7 Q Known to you as Crimen?

8 A Yes, sir.

9 MR. ELSASSER: All right. Judge,
10 I'd ask that the record reflect that the witness
11 identified Crimen or Mr. Gutierrez.

12 THE COURT: The record will so
13 reflect.

14 Q Tell me about the conversation you had
15 with him concerning -- Well, did you ever -- Did he make
16 statements to you at some point in time about Brenda Paz?

17 A Yes, he did.

18 Q And when -- Give us a time frame for
19 when the statements were made and --

20 A This was in the course of this inves-
21 tigation.

direct - John Farrell

1 Q The investigation we're here for today?

2 A Yes, sir.

3 Q And what did he say to you about the
4 Brenda Paz killing?

5 A He indicated that members of his clique
6 had been involved in that homicide, and the subsequent
7 prosecution had eliminated many members of his clique.

8 Q So they were practically wiped out
9 because of the -- the aftermath of having killed Brenda
10 Paz?

11 A Yes.

12 Q And what clique was that?

13 A That was CLS, which stands for
14 Centrales Locos de Salvatrucha.

15 MR. ELSASSER: Thank you, Sir. No
16 further questions. No further questions.

17

18 CROSS EXAMINATION

19 BY MR. BAREFORD:

20 Q Do you recall when you became actively
21 involved in the investigation of the death of Ms.

cross - John Farrell

1 Angeles?

2 A I believe it was within a week of when
3 her body was found.

4 Q So prior to that time had you conducted
5 any investigation of the NLS clique of MS-13?

6 A I had conducted investigations dealing
7 with members of that clique. However, I wasn't actively
8 investigating NLS for any specific reason at that portion
9 -- at that time.

10 Q So did you have intelligence as to
11 structure or hierarchy within the NLS clique?

12 A As an investigative body, we did.
13 Personally I can't speak to what the structure of NLS was
14 prior to this investigation.

15 Q So during the course of this investi-
16 gation, did you receive information about the hierarchy?

17 A Yes. At that point I began to famili-
18 arize myself more with that clique and the hierarchy.

19 Q Did you get that information from other
20 police officers or what was your source?

21 A In the course of the investigation, I

cross - John Farrell

1 received information from other police officers who had
2 been more actively investigating NLS for crimes and also
3 from subjects involved in the case, defendants today.

4 Q Can you identify the officers that you
5 got that information from?

6 A One of the officers I spoke with was
7 Detective Storm.

8 Q And, so, who else would have provided
9 you with information about the hierarchy of NLS?

10 A There were other detectives from the
11 Fairfax gang unit that had dealt with NLS more actively
12 than I had. Primarily, I remember Detective Storm. I
13 can't be sure who else I had spoken to reference the
14 hierarchy.

15 Q Did any gang member, alleged gang
16 member, give you information about the hierarchy within
17 NLS?

18 A Yes, Mr. Portillo-Chicos spoke to me
19 about NLS.

20 Q And when was it you spoke to Mr.
21 Portillo-Chicos?

cross - John Farrell

- 1 A That was the day after his arrest.
- 2 Q Where did that interview take place?
- 3 A At the Rappahannock Regional Detention
4 Center.
- 5 Q Did you record that statement?
- 6 A Yes, it was recorded.
- 7 Q Does the Commonwealth have a copy of
8 that?
- 9 A Yes. I don't know if the Commonwealth
10 does. Detective McDermott was provided a copy of that
11 statement.
- 12 Q So you provided a copy to Detective
13 McDermott?
- 14 A Yes, sir.
- 15 Q And, so, who was present for that
16 interview?
- 17 A Myself and Detective Claudia Saa from
18 the gang task force.
- 19 Q And did you take statements from any of
20 the other co-defendants?
- 21 A Reference the hierarchy or --

cross - John Farrell

1 Q Well, reference this investigation.

2 A In the course of the investigation, I
3 spoke with Mr. Delcid and I also spoke with Mr. Serrano-
4 Gutierrez and also -- I had conversations with Mr. Perez
5 also that was assisting Detective McDermott as a
6 translator.

7 Q And, so, were your interviews with Mr.
8 Delcid and Mr. Gutierrez recorded?

9 A The interview, I believe -- I'm not
10 sure if those interviews were recorded. They weren't
11 conducted at a Fairfax County facility, so I'm not sure
12 what technology was employed for those interviews. I do
13 believe that those interviews were recorded though.

14 Q And does that include then your
15 interviews with Mr. Perez?

16 A Once again, I believe that that inter-
17 view was recorded, but I'm not certain. And with the
18 interview with Mr. Perez, my role was as a translator, so
19 I wasn't responsible for setting up interview equipment
20 or for --

21 MR. BAREFORD: Thank you. That's

1 all I have.

2 THE COURT: Ms. Rafferty?

3 MS. RAFFERTY: No questions for
4 the detective.

5 THE COURT: Ms. Garcia?

6 MS. GARCIA: No questions.

7 THE COURT: Any redirect?

8 MR. ELSASSER: No, sir. The
9 Commonwealth rests for --

10 THE COURT: Thank you. You can
11 step down, Sir.

12 -----

13 WITNESS STOOD ASIDE

14 MR. ELSASSER: The Commonwealth
15 rests for purposes of probable cause, sir.

16 THE COURT: Mr. Bareford, anything
17 you wish to present on behalf of your client at
18 this juncture?

19 MR. BAREFORD: Judge, I have no
20 evidence at this time.

21 THE COURT: All right. Ms.

1 Rafferty, anything you wish to present on behalf
2 of your client at this juncture?

3 MS. RAFFERTY: No, Your Honor.

4 THE COURT: Ms. Garcia?

5 MS. GARCIA: No evidence. Only
6 argument.

7 THE COURT: All right. Argument.

8 MR. PETERSON: Yes, sir. Just
9 very briefly. I'm cognizant of the hour.

10 THE COURT: That's all right.
11 Take your time.

12 MR. PETERSON: I would suggest
13 that the Commonwealth has shown today a lot more
14 than probable cause as to all defendants. I
15 think what's clear from what the evidence shows
16 today is this is an MS-13 gang, gang participa-
17 tion, with many, many -- I think we only need to
18 show one predicate act -- we've probably shown
19 more than two dozen predicate acts; most of them
20 murders, rapes, all violent crimes as required
21 by the statute.

1 CERTIFICATE OF COURT REPORTER

2

3 I, Melonie J. Martie, hereby certify that I,
4 first being duly sworn, was the Court Reporter in the
5 General District Court of the County of Stafford,
6 Virginia, on October 20, 2006, at the time of the hearing
7 herein.

8 I further certify that the foregoing transcript
9 is a true and accurate record of the proceedings herein.

10 Given under my hand this 14th day of November,
11 2006.

12

13

MELONIE J. MARTIE
Court Reporter

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21 **FILE:** POI02006MM

