

JAMES S. GIRDLESTONE
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272 Q- Could you please read into the record the entry for twenty-one twenty (21:20), which would last about... right up to twenty-one thirty (21:30)? Could you read into the record the events of that ten (10) minutes, please?

A- "Twenty-one twenty hours (21:20) I waited for sign; about two (2) minutes later Flan signals and I hear Barry yelling. I run down lane and see Barry struggling with female. The truck comes mobile towards me and I have to jump to the side. It turns to corner and Flan is prone in rear, wrestling with a person. I try and jump on truck and miss. The truck goes down the second street."

273 Q- Looking now...

A- Did you...

274 Q- ... interruption...

A- Did you want...

275 Q- The second street, just identify the second street on this chart. Which one is it? Which picture?

A- Picture number 10.

276 Q- Picture number 10.

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A- And also... where's picture 11, 12... it's identified as picture 13, 14, 15 and 16. That's all it...

277 Q- 13, 14, 15 and 16 is the street where the truck is headed away from you, is that correct? 5

A- And also 17, 18 and 19. It's all the same street.

278 Q- Do you know the name of that street?

A- No.

279 Q- Okay. Let's continue the reading of the events of that ten (10) minutes. 10

A- "I run and arrest Alain next to ditch and he's yelling, 'What's going on, Barry?' I wrestle him out to the road and yell for Amaresrit. At the corner I see the truck stopped two hundred feet (200 ft) away and a large hulk goes over side. I yell, 'Flan'. Truck pulls away, lights are on. I can see the tail lights going away. I drain Alain and yell at Barry that Flan is down. We drag our prisoners towards the Buddhist Temple and Amaresrit's men arrive. The technician takes Alain at this point, breaks free 15 20 25

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during exchange and runs away. We both give chase and the technician pulls gun. I yell, 'Shoot'."

280 Q- Stop. When you yell "shoot", who were you asking to shoot and who do you want the shot to be taken at? 5

A- I yell "shoot".

281 Q- But who are you asking...

A- I didn't ask anybody to shoot, I just yelled "shoot".

282 Q- Why did you yell "shoot"? 10

A- Because the Thai technician or the Thai surveillance person... I had no... at that moment, split second, I didn't know if he could understand English, but I knew Alain Olivier could understand English and I wanted him to stop. 15

283 Q- So, the purpose of yelling "shoot" was to have Alain Olivier hear that you wanted a shot to be taken at him?

A- Words to that effect, yes.

284 Q- And the person who you were directing that voice of yelling "shoot" was a Thai police officer who was armed? 20

A- Yes.

285 Q- And was your life threatened at that moment?

A- My particular...

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286 Q- By Alain Olivier.

A- No.

287 Q- And was the life of the Thai police officer threatened at that moment, when you yell at him to shoot?

A- I can't speak for him.

288 Q- Well, you saw what was happening. Was his life in jeopardy as regards the behaviour of Alain Olivier when you're asking him to shoot at Alain Olivier?

A- That's difficult to answer because I don't know how many other people were involved that I didn't know about, so I can't answer for him.

289 Q- What you saw, what you knew of the moment between the hours of twenty ten twenty-one ten (21:10) and twenty-one thirty (21:30), at the moment you're calling upon a Thai police officer to shoot at Alain Olivier, was your perception of the police officer's security in danger?

A- I can't answer that.

290 Q- You don't know?

A- I can't answer that.

291 Q- Was any other member of the public in your immediate vicinity had their life in danger by reason of the behaviour of Alain Olivier?

A- There was other people in the area.

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- 292 Q- You're a constable at that time?
- A- Yes.
- 293 Q- How many years' experience at that time?
- A- Twelve (12).
- 294 Q- My question to you, with twelve (12) years' 5
experience at that time, on the night of February
the nineteenth (19th), nineteen eighty-nine (1989),
at approximately nine twenty P.M. (9:20), when Alain
Olivier is attempting to run away and you yell
"shoot", calling upon a Thai police officer to shoot 10
his revolver... is that correct? Or was it a rifle?
What kind of arm did he have?
- A- A revolver.
- 295 Q- A revolver. You're asking him to shoot. What 15
distance was Alain Olivier from you when you gave
that... when you yelled "shoot"? Approximately.
- A- Ten to fifteen meters (10 to 15 m), and running
away.
- 296 Q- And were you shackled or held down in any way?
- A- No. 20
- 297 Q- And was the police officer shackled or held down in
any way?
- A- No.
- 298 Q- And was there any arms visible to you in the hands
of Alain Olivier?

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A- Don't know.

299 Q- Did he ever show you any arms, a gun?

A- No.

300 Q- Did you, in your mind, feel that Alain Olivier was a threat to your life at that moment?

A- To me, no.

301 Q- Then what is the purpose of asking the officer to shoot Alain Olivier? Was that a purpose to physically stop him?

A- Yes.

302 Q- Now, would you continue the reading of that segment, right up until your entry for twenty-one thirty (21:30)?

A- "Alain stops and puts hands in air, I subdue him and I drag him back to the point where Barry and the female are. We turn them over to the BMNU, I run down lane yelling for Flan. I find him on side of roadway, lots of blood, his eyes were open and still no movement, slight heart rate and pulse. I'm yelling for people to call ambulance and police. Barry arrives and we begin mouth-to-mouth, restore breathing, eyes still not

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moving, wide open. Short time later, a mini truck arrives and Barry and I load Flan, with the help of other males, we keep AR going until hospital."

5

303 Q- The letters "BMNU" that you've just referred to, that would be the Bangkok Municipal Narcotics Unit?

A- Correct.

304 Q- And you state Alain Olivier steps and puts his hands in the air. You recognize that when he put his hands in the air, he was acquiescing to being arrested?

10

A- He was giving up.

305 Q- To be detained? He was giving up?

A- Giving up.

15

306 Q- Okay. So, why do you use the words that you subdued him? Did you actually push him to the ground?

A- No, I just subdued him and grabbed his arms and held them behind his back.

307 Q- And who cuffed him?

20

A- The Bangkok Thai policeman.

308 Q- How much time elapsed between the time you had him under your physical control to the time the Bangkok policeman cuffed him?

A- Seconds.

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309 Q- So, there was a Bangkok policeman right there and you... The events that you just read into the record appear to have transpired over ten (10) minutes; is it your statement that from the moment you physically had control of Alain Olivier to the moment a Thai police officer was by your side was a couple of seconds? 5

A- Yes.

310 Q- How much time elapsed between the time you yelled to that same police... was it the same police officer who you yelled to shoot? 10

A- Yes.

311 Q- So, how much time elapsed between the time that you yelled to the police officer "shoot" and the time elapsed that Mr. Olivier put his hands in the air? 15

A- Seconds.

OFF RECORD

Me REEVIN PEARL: 20

312 Q- Mr. Girdlestone, did you prepare a sketch of the Royal Grand Hotel, the streets where it's located and the streets where the events that occurred between twenty-one twenty (21:20) and twenty-one thirty (21:30) occurred, the events that you just 25

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read into the record from your personal notebook?

A- Yes, I did.

313 Q- Would you produce this sketch into the record as JG-8?

Exhibit JG-8

Me DAVID LUCAS:

You're going to be producing a blow-up, I presume?

A- This is the original.

Me REEVIN PEARL:

Would you please produce the original? We'll work with a blow-up.

Me DAVID LUCAS:

We need a photocopy.

Me REEVIN PEARL:

Yes. We'll produce a photocopy of it. May I borrow it? I'll just get a photocopy of it.

OFF RECORD

Me REEVIN PEARL:

314 Q- So, we're identifying as Exhibit JG-8 a photocopy of a sketch. Can you tell the Court when you prepared this sketch, Mr. Girdlestone?

A- I prepared this sketch back at the Chaing Mai Orchid

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Hotel when I got back there after visiting the hospital.

315 Q- That would be on February the twentieth (20th),
eighty-nine ('89)?

A- Correct. 5

316 Q- To your knowledge, did any of the other members of
your unit prepare a sketch?

Me DAVID LUCAS:

Excuse me, February twentieth (20th)?

Me REEVIN PEARL: 10

Twentieth (20th), eighty-nine ('89).

Me DAVID LUCAS:

Or the nineteenth (19th)?

A- Nineteenth (19th), the evening of the nineteenth
(19th). 15

317 Q- Because it's after the hospital.

Me REEVIN PEARL:

Okay.

318 Q- So...

A- It would have been roughly eleven o'clock (11:00) on
the nineteenth (19th). 20

319 Q- Eleven o'clock (11:00). Okay. Let's go through
your sketch for a moment and try and understand the
handwritten notes.

A- Would it be easier for you if I went through the 25

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photographs as well to show you?

320 Q- Why don't we keep the photographs open so that you
can co-relate your comments to the photographs?
We'll pull out JG-1 and JG-2 to continue the
identification process.

5

So, there are seven (7) handwritten entries,
and on the sketch we see numbers 1 through 10. Are
there three (3) other entries written somewhere?

A- Yes, they're right after number 7; 8, 9 and 10.

321 Q- 8, 9 and 10. Okay, it's because... I'm looking for
number 9. All right, let's go through each one of
those entries. Number 1 is Royal Grand Hotel, that
is number 1 on the pictures, on the...

10

A- It's not the Royal Grand, it's the Royal Orchid.

322 Q- I'm sorry, the Royal Orchid Hotel. Fair enough.
That's the same as number 1 on your picture?

15

A- Yes.

323 Q- Do we see the Royal Orchid in any other of those
pictures?

A- Yes, we see it in number 2.

20

324 Q- And you're showing me the top right corner of the
picture.

A- More the centre.

325 Q- All right, centre top. Okay. This picture bears
the words "Bus stop (pick-up point)"?

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- A- Correct, which is number 2 on the map.
- 326 Q- So, now we go to entry number 2, and you have the words, quote...
- A- "Half bench seat truck pick-up with Barry, Alain and female." 5
- That's picture number 2.
- 327 Q- Is the truck in that picture the location where they were picked up?
- A- The location is where that truck is, not the particular truck, but it's what's referred to as a baht truck. 10
- 328 Q- B-O-T?
- A- B-A-H-T.
- 329 Q- B-A-H-T. It's sort of a taxi form of truck or a...
- A- A good depiction is in photograph number 15, that's what a baht truck looks like, with a canopy. 15
- 330 Q- Fair enough.
- A- Has bench seats in the back. It's like a little mini bus.
- 331 Q- Okay. So, looking at your pictures, you arrive at drop-off, number 3. Do we see the drop-off point in your pictorial display? 20
- A- Yes, number 3 and number 4.
- 332 Q- Pictures number... in JG-1, number 3 and number 4. I wonder if you can put an "X" right on the picture 25

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of what you call the drop-off. And who was dropped off? Barry, Alain and the female?

A- And myself.

333 Q- And yourself. Why didn't you write that down in your entry number 2 on the sketch? 5

A- Because I'm writing it.

334 Q- Okay. So, there's four (4) of you that are picked up and you're going to put an "X" on the picture itself as to where you're dropped off.

A- He was dropped off in this particular area, at the entrance to the mall, because this is a thoroughfare, the bus... 10

335 Q- You're pointing to picture number 4 and showing you're dropped off at the entrance to the mall. Okay, we'll move on. Your handwritten entry on JG-8 states, and I quote: 15

"Meet Flan..."

That means mean Flanagan?

A- Yes.

336 Q- *"... in J6910 grey Nissan with Alain and U.K. driving."* 20

A- That means unknown.

337 Q- Okay. So, that number I just read is the license number of the grey Nissan?

A- Yes.

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338 Q- And was it a man or a woman driving?

A- Male.

339 Q- And is it one of the persons that were ultimately arrested?

A- Yes. 5

340 Q- And number 4 on your sketch occurs at around what time in this sequence of events? You're looking at your notes.

A- Sometime between eight thirty-five P.M. (8:35) and... between eight thirty-five (8:35) and nine P.M. (9:00). 10

341 Q- Do you have an entry in your notes that say when it occurs?

A- No, I don't.

342 Q- So, are you saying that approximately twenty-five (25) minutes would elapse that you're at this point, number 4, entry number 4, where you meet Flanagan in the Nissan truck with Alain and unknown driver? 15

A- To help you a little bit, at twenty thirty-five (20:35), or approximately, Alain Olivier arrives back at the hotel area, and I had a discussion with Jack Dop about the money, which took a few moments, and then whatever length of time it would take to have those discussions, and then leave the hotel, get onto the mini bus, drive and get dropped off 20 25

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here and arrive at that phone booth would have...

343 Q- The witness is pointing from picture number 2 to picture number 4, and then to a phone booth in picture...

A- 5.

5

344 Q- ... number 5.

A- Which depicts number 4 on the sketch map. Your question was how much time elapsed or when it was. I'm saying that at twenty thirty-five hours (20:35), when I had a discussion with Jack Dop with the money at the hotel, from that time to the time that I saw the truck would have been no more than seven (7) to ten (10) minutes.

10

345 Q- Is it the same truck that... in location number 7 on your sketch?

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A- No, a better depiction... are you talking about where I first saw the truck?

346 Q- No, I'm looking at your sketch and I'm asking you, the depiction of a truck in between numbers 4 and 3...

20

A- Yes.

347 Q- ... is it the same truck that you then located beside number 7 and then at number 10 in your sketch?

A- Yes, the same truck.

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348 Q- Okay. So, in your entry, handwritten entry, on the sketch you then mark the words:

*"Walked with Barry to follow truck,
while Flan tests dope."*

Closed quote. From what point to what point do you walk with Barry Bennett? 5

A- When I first saw the truck, it was by this phone booth in picture number 5.

349 Q- Using your sketch, where would that be, the phone booth? 10

A- Number 4.

350 Q- So, there's a phone booth at number 4?

A- Yes.

351 Q- Okay.

A- Yes, that phone booth right there, and number 5, picture 5. 15

352 Q- I'm asking you, you "walk with Barry to follow truck, while Flanagan tests dope". So, you walk from where to where with Barry Bennett?

A- In your hand sketch... 20

353 Q- Yes.

A- ... I walk from number 4 to number 5.

354 Q- And how long was that walk?

A- A couple of minutes. Moments.

355 Q- And where is Alain when you make this walk? 25

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A- I don't know.

356 Q- Okay. And you have the money with you when you're making this walk?

A- Yes.

357 Q- And Barry Bennett is with you? 5

A- Yes.

358 Q- And neither you nor Bennett are carrying any guns?

A- No.

359 Q- Who in the group was carrying a gun?

A- Derek Flanagan. 10

360 Q- Only Derek Flanagan?

A- Yes. Plus the Thai policemen.

361 Q- Right. And you're still the cover, or you're the operator at this moment?

A- Subject to interpretation, could be both. Once you have involvement with an accused, you would become an operator, but my responsibility was to protect Flanagan and Bennett. But because I had the money, I would be referred to as the money man as well. So, that's where the roles begin to change, as I explained earlier. 15 20

362 Q- So, you then write the next entry on your sketch, which says, quote:

"When the truck is in number 7..."

That's at location number 7, you mean, correct? 20

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A- Yes.

363 Q- I'll continue the quote:

"... Barry, Flan, Alain and female
are out in lane. Truck lights on
and off."

5

Closed quote. In which lane are you talking about?
Are you talking about the lane that's located
between the number 4 and the building that's
immediately opposite number 4 on your sketch?

A- No, I'm referring to the lane where number 7 is.

10

OFF RECORD

A- Mr. Pearl, if I can help you a little bit...

Me REEVIN PEARL:

15

364 Q- Yes.

A- ... picture number 8...

365 Q- You're looking at JG-1, picture number 8, which
bears the title "Area Behind Mall".

A- And it depicts a picture of a small, little temple.
That is number 5.

20

366 Q- It looks like a little booth where they collect
money at a parking lot, right?

A- It's a temple.

367 Q- Okay. That's what you're calling the temple, fair

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enough.

A- It's number 5 in the handwritten sketch.

368 Q- Thank you, right.

A- So, the lane that I'm referring to, where the truck is parked, number 7, which you just quoted as number 6, the truck is parked in position number 7, which is depicted in picture number 10 on the... 5

369 Q- You're showing a picture that bears the title "Corner of Side Street"?

A- Side street. The side street is depicted by the green side. The street that comes off of that side street is what I'm referring to as the lane, which is where number 7 is. 10

370 Q- Go back to that picture you were just talking about, and we see that there's a telephone pole at the corner. 15

A- Yes.

371 Q- And you're looking towards the telephone pole to take that picture, correct?

A- Obviously. 20

372 Q- And there are trees behind the telephone pole or to the left of it, correct?

A- Yes.

373 Q- Are you saying that the truck is in the area from where you are looking, or is it in the area from

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where there's some shadow behind the trees?

- A- No, it's from the area where I'm standing, taking photographs.
- 374 Q- Are you standing at the location where the truck would be? 5
- A- No.
- 375 Q- Okay. Well, at least I understand now...
- A- If you can just bear with me for a moment, this side street here depicted in picture number 8...
- 376 Q- We don't see it as a side street in picture number 8, it looks more like a parking lot, doesn't it? 10
- A- Well, trust me, this is a roadway, it goes out to the main...
- 377 Q- And the witness is making his finger go along the extreme right side of picture number 8, which bears the title "Area Behind Mall". And so, there's a lane in the area behind the mall. 15
- A- This street, a paved street...
- 378 Q- It's a paved street, okay.
- A- ... runs perpendicular to the main street where we were dropped off in the mini bus. This street, number 3. 20
- 379 Q- You don't know the name of that street?
- A- I don't know.
- 380 Q- Okay. 25

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- A- Picture number 9 is opposite to picture number 8. In other words, when I'm looking... where I'm standing on picture number 8, looking back towards the phone booth where I just walked from. Picture number 9 is a reversal of picture 8 and looking back down towards that side street. Number 11 is a picture of where the truck was parked. So, when you're looking at the sketch number 7...
- 381 Q- Yes. You're looking down the street, where the truck was parked.
- A- Exactly, down...
- 382 Q- And at this point of parking, that's where Flan is testing for the dope?
- A- Yes.
- 383 Q- Okay.
- A- Or I believed him to be.
- 384 Q- You never saw him physically testing any product, did you?
- A- No, I didn't.
- 385 Q- And you never saw the product yourself, did you?
- A- No, I didn't.
- 386 Q- Okay. And at no time did Alain Olivier have the two kilograms (2 kg) of heroin in his control did he?
- A- I don't know.
- 387 Q- You never saw him have it, correct?

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- A- No.
- 388 Q- And at no time did he ever have physical control of the money you had, the seventy thousand dollars (\$70,000), is that correct?
- A- I don't know. 5
- 389 Q- I mean, you gave him the money?
- A- I didn't give him the money, I gave the money to Barry Bennett.
- 390 Q- So...
- A- I don't... 10
- 391 Q- ... if Barry Bennett says he never held the money, you would accept that as fact?
- A- Yes. I don't know what Barry said, but I didn't give Alain the money.
- 392 Q- Okay. And you know at that time that there's no conspiracy laws in Thailand that could have... may be the basis for charging Alain for a crime of conspiracy, correct? 15
- A- I was aware of that.
- 393 Q- And you were aware also that if one is apprehended with more than a hundred grams (100 g) of heroin in Thailand, that would... for export, that that would entail a death sentence? Is that correct? 20
- A- I'm aware of that now, but I wasn't then.
- 394 Q- When did you first become aware of that? 25

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A- I can't say because I can't remember.

395 Q- Prior to going to give your testimony in Thailand,
you were aware of it?

A- May have been.

396 Q- Yes?

A- I'm not certain.

397 Q- Okay. So, let's read on with your handwritten notes
in JG-8, and I quote number 7:

"When I hear Flan yelling and hand
signal, I run over."

Closed quote. Where do you run? From where to
where? At which point were you standing, to where
did you run?

A- I was standing in position number 8.

398 Q- Okay.

A- And I ran over to position... moved towards position
6 and then to 7.

399 Q- Okay. Then you say in that same sentence, under
your entry number 7, quote:

"Truck moving towards me and nearly
runs me over at the corner."

Is that the corner where you just pointed out where
we see the telephone pole?

A- Yes.

400 Q- Okay. That was picture number 10. And you're sort

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of standing on that street, near the telephone pole and you say you nearly get run over?

A- For clarification, picture 10 depicts position number 6 on the sketch.

401 Q- Okay. And you're standing on the lane where the truck is, at number 7 on the sketch, correct? 5

A- I am standing very close to position number 6, I'm moving towards number 7 as number 7 starts moving towards me.

402 Q- Okay. So, you're on that laneway. 10

A- Yes.

403 Q- Okay. And at this moment you say you don't have Alain Olivier near you?

A- No.

404 Q- And Barry Bennett is with you? 15

A- No.

405 Q- You're alone?

A- I'm alone.

406 Q- What distance would you say you were between 6 and 7? 20

A- Ten meters (10 m).

407 Q- Okay. So, you're about thirty feet (30 ft) away, it's dark, right, and the truck is moving towards you?

A- It's not well lit. 25

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408 Q- And Flanagan is on the back of the truck?

A- I saw that when the truck came towards me.

409 Q- And who else is on the back of the truck?

A- The male driver that was in the truck originally when it came by the phone booth. 5

410 Q- And the truck is moving, there must be another person driving.

A- Yes, two (2) females in the front.

411 Q- There's two (2)...

A- Sorry, one (1) female... 10

412 Q- There's one (1) female in the front driving?

A- Yes.

413 Q- So, let's read on your handwritten notes to the next sentence:

"Flan in back prone, wrestling with unknown person. Barry is with female." 15

Well, where is Barry with the female on your sketch?

A- If you picture sketch number 7 is the truck...

414 Q- Right. 20

A- ... the truck begins to move, Flanagan and the make Thai are in the back of the truck.

415 Q- Right.

A- At the immediate rear of the truck is Bennett and the female. 2

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416 Q- So, there's four (4) people in the back of this pick-up truck? Is that what you're telling me?

A- Flanagan and the male were inside the back of the pick-up truck. Bennett and the female were on the round at the back, at the rear of the truck.

417 Q- I see.

A- Alain Olivier was... Alain Olivier was on the passenger's rear portion of the truck, considering that they drive on the opposite side of the road than we do. So, in Canadian terms it would appear to be the driver's side, when in fact over there he was at the rear passenger side of the truck, next to the ditch.

418 Q- How much time elapsed between you hear Flan yelling and hand signals and you run over and you talk about the four (4) people being at the rear of the truck?

A- Seconds.

419 Q- Now, did you see Flan in back prone, wrestling with the unknown person?

A- Yes.

420 Q- During how much time was he wrestling that you saw this?

A- Well, the truck was moving.

421 Q- Okay. Moved right by you?

A- Yes.

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422 Q- Almost runs you over.

A- I tried to get on the truck.

423 Q- And how fast was it going?

A- Two, three kilometres an hour (2, 3 km/hr).

424 Q- So, why didn't you jump on? 5

A- Because the mirror pushed me off to the side, I went on the wrong side. The driver was on the right-hand, it's a right-hand drive over there, I tried to get on the left side.

425 Q- Okay. So, I mean, at two, three kilometres an hour 10
(2, 3 km/hr), you can run that.

A- Well...

426 Q- Why didn't you just run and jump on?

A- I didn't.

427 Q- Why not? 15

A- Well, the truck knocked me to the side and by that time it had rounded the corner, and the decision I made at the time was to assist Barry, those two (2) people there, Alain Olivier and the female, there's only one (1) of him, Flanagan was a pretty big boy, 20
the Thai policemen were on surveillance and it was a decision I made to secure Olivier. So that you're not confused, when the truck went around the corner, I then immediately tackled Olivier in the ditch...

428 Q- Right.

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429 A- ... and brought him out towards position number 6.

Q- Okay.

A- It was then that I saw Flanagan fall, which is down at position number 10. And during that... when I had Olivier supposedly in custody, he broke free from position 6, and that's when the Thai policemen arrived, and those events took seconds as well, from position number 6 to... Olivier ran towards position number 9.

430 Q- When you saw Flanagan fall from the truck, did you see someone fall on top of him?

A- No.

431 Q- He fell alone?

A- I saw a figure fall, I don't know at the time it was Flanagan. I know now it was.

432 Q- And did he fall, like, rolling out of the truck or did he fall from a vertical position?

A- It was a dark figure falling over, can't tell you what side it was on.

433 Q- And from what position was he at the moment prior to the fall? Standing or laying on the floor of the truck?

A- When the truck went by me at position number 6 or thereabouts, he was prone in the back of the truck.

434 Q- So, it's your testimony only one (1) person fell

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AFTER PLEA
EXAMINATION

from the truck?

A- I saw a dark figure.

435 Q- Okay. Your handwritten words go on to say, quote:

*"Alain starts to run, I catch Alain
and walk him to number 8."*

5

A- Correct.

436 Q- How much time elapsed from the moment you catch him
to the time you walk him to position number 8?

A- Seconds.

437 Q- You're alone?

10

A- No, Barry Bennett's with the female right behind me.

438 Q- Okay. The next sentence in your handwritten notes:

*"I look down lane and see truck
stopped at number 10."*

A- That's where Flanagan fell out.

15

439 Q- And then you go on to say:

"Body falls out."

A- Yes.

440 Q- So, you see the truck has stopped and then you write
"Body falls out".

20

A- M'hm.

441 Q- Does the body fall out after the truck was stopped?

A- I don't know.

442 Q- Then you write:

"Truck moves slowly on."

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A- I could see the tail lights of the truck moving away.

443 Q- So, this is a dark street, no lighting on that street?

A- It's dimly lit.

444 Q- It's nine thirty (9:30) at night?

A- Yes.

445 Q- Do you know how many light poles were out there to...

A- It's a back street, it's not as bright as the main street, it's dimly lit. You could see without the aid of artificial light.

446 Q- Within the prior moments, where you write the words "See truck stop at number 10... body falls out", that's all occurring within seconds as well?

A- Yes.

447 Q- Do you hear a gunshot?

A- No.

448 Q- You hear no sound that sounds like a gunshot?

A- No.

449 Q- At any time during the moments prior... from the moment the truck almost runs you over at point number 6 to the moment you see a dark figure on ground, did you hear a gunshot?

A- No.

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450 Q- Do you recall asking Olivier where is his gun?

A- No, I don't.

451 Q- You don't recall?

A- No, I don't.

452 Q- Do you recall asking who's got a gun? 5

A- No.

453 Q- You don't recall?

A- No.

454 Q- So, you write the next words:

*"I yell to Barry that I think Fran
is down, yelling for Amaresrit and
men."* 10

Closed quote. How much time elapsed when you yelled those words and Barry responded to you?

A- Barry was only a few meters from me at that time, 15
but from the time I yelled that till when?

455 Q- Till he responded.

A- Seconds again.

456 Q- Did he abandon the girl and run?

A- No, I believe it was at the same time that the BMNU 20
surveillance team arrived. I don't know what happened to the girl.

457 Q- The next words you enter, open quotes:

*"Technician arrives at number 5 and
I turn over Alain."*

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Closed quote.

A- Yes.

458 Q- When you use the word "technician", who are you referring to?

A- I'm referring to one of the BMNU surveillance people who I... I don't know them by name, because they have long names. And he was the guy that was wiring up the rooms, and so I referred to him as the technician.

459 Q- He's a police officer?

A- Yes, he is.

460 Q- Is he armed?

A- I don't know. I would assume he would be.

461 Q- Was he wearing a police uniform?

A- No.

462 Q- How long elapsed between the time the technician had Alain under his control and Alain broke free from the control of the technician?

A- Seconds.

463 Q- At what point did you hand over Alain to the technician on your map, on your chart, JG-8?

A- Sorry?

464 Q- At what location did you hand over Alain to the technician on your chart?

A- Somewhere between 9 and number 5.

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EXAMINATION

465 Q- And at what point do you stop him and subdue him?
Like, where does he... where is he when he puts his
hands in the air?

A- Somewhere between number 5 and number 9.

466 Q- So, you remain in the same... well, 20-meter range
between the time he breaks loose and the time you...

A- Yes.

467 Q- ... subdue him the second time?

A- Yes.

468 Q- Not much of an attempt to run away, is it?

A- Well, he definitely ran away.

469 Q- What, two yards (2 yd)?

A- More like probably ten meters (10 m).

470 Q- Ten meters (10 m).

A- Yes. Ten (10) steps.

471 Q- You make the entry, quote:

*"Technician draws and Alain
freezes."*

Closed quote. You mean the technician pulled out
his gun, is that correct?

A- Correct.

472 Q- And when Alain freezes, does he turn around to face
the two (2) of you or does he remain with his back
to the two (2) of you?

A- I recall his hands in the air and then a few seconds

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later he turned towards us.

473 Q- And while he turned towards you, a gun was being pointed at him?

A- I can't recall that. I wasn't watching the technician.

474 Q- Well, the gun is drawn, that's what you write.

A- Yes.

475 Q- Alain freezes, you see him freeze, he stops in his path, correct?

A- Correct.

476 Q- And he just turns around and faced you with his arms up in the air?

A- Correct.

477 Q- You're sure of that?

A- Yes.

478 Q- And he just walks back to you?

A- No, I caught up to him.

479 Q- You ran to him or you walked to him?

A- Well, let's say I briskly got to him.

480 Q- And you walked in front of the gun that your technician friend had out?

A- I don't know where his gun was. He could have re-holstered it, he could have... I don't know where it was, I didn't see it after that.

481 Q- I see. And was there any resistance at the point

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where you apprehend Alain at this moment?

A- No.

482 Q- And this is in between location 5 and 9 on your diagram, correct?

A- Yes.

483 Q- And you now say, and I quote:

*"I walk into Barry with female now
at spot number 8."*

How long did it take you to walk with Alain up to position number 8?

A- Just seconds. It's only... the total distance between number 9 and number 6 is, referring to this picture... if the number 8 on this picture number 8 would be in reference to position number 8 on the sketch map...

484 Q- Right.

A- ... position 9 would be over near the rear of this blue car. So, whatever length of time it would take. That's only...

485 Q- You're saying that's about thirty meters (30 m)?

A- It's about thirty meters (30 m).

OFF RECORD

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Me REEVIN PEARL:

486 Q- So, you walk to spot number 8, both the female under control, meaning Barry has his hands on one and you have your hands on Alain, correct?

A- And the Thai policemen arrived at that time, more Thai policemen. 5

487 Q- Now, approximately how much time did it take you to run from your location number 8 to location number 10, where you find Flanagan?

A- Five (5) seconds. 10

OFF RECORD

LUNCH RECESS

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In the year of Our Lord, two thousand and three (2003),
on this twenty-ninth (29th) day of September, PERSONALLY
CAME AND APPEARED:

JAMES STEPHEN (JIM) GIRDLESTONE, WHO, being under the
same Solemn Declaration, doth depose and say as follows:

PLAYBACK

Me REEVIN PEARL:

488 Q- You stated that this sketch and the handwritten
notes on the sketch, Exhibit JG-8, was done, written
by yourself around eleven o'clock (11:00) on the
night of February the nineteenth (19th), nineteen
eighty-nine (1989), correct?

A- Yes.

489 Q- Did you write some notes in your little note pad at
that hour as well?

A- Well, my notes were made, which I've already read in
up to that point.

490 Q- You read in the events of, if my memory is right,
which I specifically asked you, of twenty-one twenty
(21:20) to twenty-one thirty (21:30) that night.
Okay? So, I'm asking you to take a look at your
eleven P.M. (11:00) entry, that would be twenty-

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three hundred hours (23:00), right?

A- Yes.

491 Q- And do you find it?

A- Yes.

492 Q- I'm looking for it, too. Can you show me where it
is? 5

Me DAVID LUCAS:

Which one?

Me REEVIN PEARL:

I'm looking for... I see twenty-one thirty
(21:30). 10

Me DAVID LUCAS:

Keep going. You want twenty-three hundred
(23:00)?

Me REEVIN PEARL:

Yes. 15

Me DAVID LUCAS:

Well, keep going, it's chronologically...

Me REEVIN PEARL:

493 Q- You see, I have in my photocopy package right up to
twenty-one thirty (21:30). And so, we're missing
some pages. Maybe we could... tell me, after
twenty-one thirty (21:30), how many entries you have
in your little notebook. 20

A- I have about five (5) lines, that: 25

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"I got back from the hospital, not good news, Jack arrives shortly afterwards with the Thai policeman."

494 Q- Okay, read on.

A- "I arrive back at the hotel at twenty-three hundred hours (23:00)."

And that's when I commenced these notes.

495 Q- Okay. Would you read into the record your notes that go from twenty-three hundred (23:00) until you've completed JG-8?

Me DAVID LUCAS:

Okay, just before you do that, can you just make me a photocopy?

Me REEVIN PEARL:

We'll make that right away.

OFF RECORD

Me REEVIN PEARL:

496 Q- Would you please read into the record whatever you wrote? Twenty-three hundred (23:00) you arrive back at the hotel?

A- That's when I would have commenced those notes that I read previously.

497 Q- On Exhibit JG-8 that we've been identifying

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EXAMINATION

throughout this discovery?

A- No...

498 Q- The handwritten notes on your sketch?

A- That map would have been made after I finished these notes.

499 Q- Okay. And the handwritten notes would have been finished after you did the map?

A- Well, in conjunction with the map.

500 Q- Okay.

Me DAVID LUCAS:

Handwritten notes on the sketch...

Me REEVIN PEARL:

Correct.

Me DAVID LUCAS:

... you're referring to?

Me REEVIN PEARL:

Right.

501 Q- Now I'm asking you to read your handwritten notes directly from your original note pad for February the nineteenth (19th), nineteen eighty-nine (1989) at twenty-three hundred hours (23:00).

A- "I arrive back at hotel. While arresting Alain and walking him back to the area of the small temple, Alain threw down his wallet with his

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left hand. I grabbed same and stuffed it down the front of my pants, I have kept same in my possession. Had some I.D. of Alain and business cards, one (1) empty deck and one (1) full gram deck wrapped in Thai newsprint, white powder. During the confusion and anxiety, I neglect to let the Thai police know of the wallet."

5

10

Do you want me to continue?

502 Q- My question to you, is there any reason why you didn't make a note at that point that you're creating such a nice detailed chart?

A- I neglected to put that in my notes, with the traumatic experience that had happened, my partner was dead, or about to die, I didn't put that in, simple as that.

15

503 Q- We examined closely the statement that bears date February twenty-three (23), nineteen eighty-nine (1989), and that is Exhibit JG-7, the one that was interpreted.

20

A- The statement to police headquarters?

504 Q- Correct.

A- Yes.

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505 Q- In between the hours of eleven P.M. (11:00) on February the nineteenth (19th) up until the time you went to police headquarters to give that statement to the police, did you write up a report of the events that occurred at the buy and bust? 5

A- No.

506 Q- You made no 1624, for example, the standard continuation reports that one makes whenever there's an event that you're a witness to?

A- No. 10

507 Q- To your knowledge, did the events of that evening basically were... there were four (4) RCMP officers in play. No, five (5); Liaison Officer Kelly was in Chaing Mai with you?

A- Yes. 15

508 Q- Yourself?

A- Yes.

509 Q- Your immediately superior, being Jack Dop?

A- Yes.

510 Q- Barry Bennet? 20

A- Yes.

511 Q- And Derek Flanagan?

A- Yes.

512 Q- Any other RCMP representatives at the front line with you? 25

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- A- No, none other than what I've mentioned.
- 513 Q- To your knowledge, did any of those RCMP representatives make up a continuation report of that event on the night of February nineteenth (19th)? 5
- A- To my knowledge, they didn't. They wouldn't have to. It's not a investigation in Canada that's going somewhere, this was an assistance to the Thai Police, it's their investigation, we are witnesses to their investigation, so there would be no need to do a 1624 on a Canadian investigation, because we were in Thailand. Very similar and vice versa, if the Thai Police came to Canada to assist me in an investigation, I wouldn't expect them to do a Thai report. 10
- 514 Q- I'm just talking about the internal operating directives that exist for police officer on duty, performing his duty and witnessing a series of events in which he has a duty to make a report. And it's your testimony that you wrote nothing in the form of an official report of the nature of a 1624? 20
- A- My answer to that question is yes, I did make an official report, and that's the statement you have in front of you.
- 515 Q- Well, the statement I have in front of me you're

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telling me is in accurate.

A- Yes.

516 Q- So, I'm asking you if you made an inaccurate statement.

A- It's an inaccurate translation...

517 Q- Right.

A- ... it's a synopsis, an overview of what my evidence was that I've been giving all day today to you, but I didn't make an official RCMP report, because, in my opinion, you don't have to. You are conducting an investigation as an assistant to the Thai Police.

518 Q- Did you make a report pertaining to your flash roll?

A- What kind of report are you talking about?

519 Q- Whatever report is required with respect to the use and application of the money and, of course, the return of the money.

A- I don't recall making any report of the flash roll. I recall obtaining the flash roll money.

520 Q- You were the person in charge of the flash roll?

A- I was in charge of getting the money.

521 Q- And you were the person in charge of returning the money?

A- Yes.

522 Q- And it's your testimony today that there is no written report pertaining to the use of that flash

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roll?

A- I don't recall making one, no, because it wasn't a case in Canada. I'm not familiar with providing a report that dealt with outside the country.

523 Q- You took the money from Canada? 5

A- Yes.

524 Q- And you brought the money back to Canada?

A- Yes.

525 Q- And you're telling me that in terms of standard operating procedures for the RCMP, when you take the money out and/or return it, you do not make a written report concerning it? 10

A- Well, you take the money out via an F6, and it's accountable by putting it back for accountability of the funds. 15

526 Q- Is there a form that you fill in when you return it?

A- No, you return it back to the Receiver General of Canada, which then makes your bank statement/debit book back to zero (0). I'm responsible for that money until it's turned back. 20

527 Q- You have a bank statement governing these monies?

A- Well, it's like this, Mr. Pearl; I go to the RCMP to get authority to get the money, the administration office cuts me a cheque for seventy-five thousand dollars (\$75,000), or whatever the equivalent was

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Canadian, I then go to a bank clearing house and I get the funds, And I do the exact reverse procedure, minus the exchange rate, when I return, and it makes my balance zero (0). I'm in a debit of seventy-five thousand dollars (\$75,000) per se, or Canadian, a hundred and whatever, and then when I return the money, minus the exchange rate, my balance is back to zero (0).

5

528 Q- You were given a cheque when you drew this money?

A- I was given a cheque by the RCMP Financial Services Section.

10

529 Q- And you brought back the money, you went and bought another...

A- No, I went back to the bank when I returned, deposited the money and received a bank draft or a cheque made out to the Receiver General of Canada.

15

530 Q- And you never filled out any reports pertaining to that?

A- I don't recall filling out a report. I don't know what you're referring to as a report. The accountability was in the paperwork of the money. The money was turned back.

20

531 Q- Was there any report made after you arrested Alain Olivier under your own authorship?

A- I don't recall making a report, other than the

25

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statement you're referring to here to the Thai authorities.

532 Q- Is it your understanding of the RCMP procedure that if you arrest a Canadian citizen outside of the territory of Canada, you don't have any obligation to make any report pertaining to that arrest? 5

A- I made this report.

533 Q- You made a statement. I'm talking about internal reporting in your own organization to your own superiors. 10

A- I gave my version of facts to a criminal operations officer a few months later, but I didn't make a 1624 or a C237 or any other report. I don't recall making any reports.

534 Q- And you're talking about a verbal explanation that you gave to Mr. Palmer? 15

A- Yes.

535 Q- And that verbal explanation was given how soon after the events? We're talking about the events of the night of February the nineteenth (19th), nineteen eighty-nine (1989)? 20

A- I spoke to Mr. Palmer on the ninth (9th) of March, nineteen eighty-nine (1989).

536 Q- That's the first time that you gave anybody in Canada a report of what occurred? 25

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A- Yes.

537 Q- To your knowledge, was whatever you reported to Mr. Palmer taken down on audio tape or video tape?

A- No.

538 Q- Was there any written notes made pertaining to that verbal report? 5

A- Mr. Palmer was taking notes.

Me DAVID LUCAS:

Do you want the notes? We have them in the file. 10

OFF RECORD

A- That would be 777.

Me REEVIN PEARL: 15

539 Q- While we're looking for the Palmer report on the subject, do you know if any other member made a written report to Mr. Palmer concerning the events of February the nineteenth (19th), nineteen eighty-nine (1989)? 20

A- I believe Sergeant Jack Dop may have made a report. Or it could have been in response to Mr. Palmer's report, but I can't recall anyone from Thailand making a report. 25

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Me DAVID LUCAS:

You're looking for the Palmer report?

Me REEVIN PEARL:

Yes.

Me DAVID LUCAS:

The Palmer report is 1244, if I remember right.

A- Yes.

540 Q- Which is going to be Volume VII.

Me REEVIN PEARL:

541 Q- On page 777 of Exhibit D-1 we see a reference at the top right corner, "Constable Girdlestone, March ninth (9th), nineteen eighty-nine (1989)". Whose handwriting is on that page, to your knowledge?

A- I think it's Frank Palmer's.

542 Q- And is the entire page written by Frank Palmer?

A- It's not mine.

543 Q- Okay. It's relatively short, could you read it into the record, please?

A- You want me to read it in the record?

544 Q- Would you please?

A- It's not my writing.

545 Q- Are you able to read it?

A- Not with accuracy.

546 Q- But to your knowledge, that entire page was written by Mr. Palmer?

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EXAMINATION

A- I believe it was.

547 Q- And he was writing it as you were talking to him?

A- He was taking notes, I don't know if this is the exact notes, you'll have to ask him.

548 Q- Just so that we can understand what you understand, 5
could you read it into the record, whatever your understanding of his notes?

A- I don't understand his notes, but I'll read what I've got in front of me.

549 Q- Very well. 10

A- "Constable Girdlestone, eighty-
nine/o three/o nine (89/03/09),
Project Deception. Had the money on
day in question, TX Flan wore not
working, received back in special I,
I wired Flan and worked fine. We
never..." 15

550 Q- "Totally rely on equipment"...

A- I don't see that, but something...

"... on equipment." 20

551 Q- "We never totally rely on equipment", okay.

A- "If equipment working, Thai Police
would have been able to block lane
so vehicle," something, "from
exiting. MAYBE." In capital 25

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EXAMINATION

letters. "Firearm discussed at hotel room, all there. Amaresrit didn't know DEA men in Chevy mar three (3) men..."

Me DAVID LUCAS: 5

552 Q- Chaing Mai.

A- Chaing Mai.

Me REEVIN PEARL:

553 Q- In Chaing Mai.

A- "... should have had..."
something... 10

Me DAVID LUCAS:

554 Q- "Them involved."

A- Something...

Me REEVIN PEARL: 15

555 Q- ... in Bangkok...

A- "I was ten yards (10 yd) from back of truck, Flan in back with male and female. When I saw signal..."
something... something... "to truck. 20
Girl jumped on Flan's back, truck pulled away, ten kilometres per hour (10 km/hr), turned a corner and..."
something, "I tried to..."
something, "two (2) guys in truck

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hit me, knocked me away, saw Flan,
or saw F and male in back of truck
scuffling. Saw Flan come out of
truck, couldn't know if it was
him..."

5

556 Q- "Didn't know if it was him at the
time; dark."

A- Are you reading this or am I?

557 Q- Okay, well, you said "couldn't".

A- Well, that's what I see on here, it's not my
writing.

10

558 Q- Okay. I see "D-I-D", but you see "C-O-U-L-D"? Very
well.

A- "I still had" something "Olivier..."

559 Q- "Controlled", you see "C-O-N-T-R-O-L" there?

15

A- "Yelled for Thai Police, no real
delay, found Flan on his back, no
vital signs, M&M got his heart going
and..." something "within five (5)
minutes of following. If had to do
it again, not much change. May
twenty-first (21st), nineteen
ninety-three (1993)."

20

560 Q- Do you know what that stamp, May twenty-one (21),
nineteen ninety-three (1993), means?

25

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A- It's a stamp that is received by, it looks like, the reviewer's office.

561 Q- Okay. Now, you read into the record the last two (2) lines of this page, the words "five (5) minutes of falling"; what is that five (5) minutes referring to? Do you know? 5

A- The five (5) minutes that it took from his falling to the time we got him to the hospital.

562 Q- Do you know how many blocks the hospital is located from the place that this event occurred? 10

A- I'm guessing, but no more than six (6).

563 Q- This morning, as you were explaining the events of your apprehension of Alain Olivier and your approximate distance between where you had Alain Olivier and where you wrote on your sketch, JG-8, "truck stopped, Flanagan", the words that you have here, quote... 15

Me DAVID LUCAS:

Are you referring him to...

Me REEVIN PEARL: 20

564 Q- I'm referring to JG-8, when I asked you about...

Me DAVID LUCAS:

Can you give me a minute, I'd like to find my document.

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Me REEVIN PEARL:

"See truck stopped at number 10,
body falls out."

Me DAVID LUCAS:

Just wait a second.

5

Me REEVIN PEARL:

565 Q- I asked you, when I talk about those words, whether
you saw Flanagan fall out of the truck, and your
words, if my memory is right, is "it was too dark",
you just saw a body fall out, correct?

10

A- Correct.

566 Q- Did you in fact see the body fall out?

A- I saw something fall out, appeared to me like a
body.

567 Q- I suggest to you that you were about two to three
hundred feet (200, 300 ft) away from the place where
the truck stopped, the place where you were with
Alain Olivier. Is that correct?

15

A- Is that a question?

568 Q- Yes.

20

A- That's not correct.

569 Q- How many feet do you figure you were at?

A- From the place where I had Olivier under control to
where Flan apparently fell out of the truck, the
body went over the side, is approximately fifty

25

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meters (50 m). Between a hundred and a hundred and fifty feet (100 and 150 ft).

570 Q- And did he go over the side of the truck or did he go over the end of the truck?

A- Side. 5

571 Q- Which side of the truck did he go out? The side where the driver is on or the side where the passenger would be on?

A- Passenger.

572 Q- So, the passenger, then, would be sort of on the side, or the middle of the road, is that correct? On the side... the passenger would be... 10

Me DAVID LUCAS:

It's right-hand driving there.

Me REEVIN PEARL: 15

573 Q- Is it your statement today that at no time were you asked to issue any form of a written report to your superiors either at Division E or at headquarters Ottawa concerning the events of February the nineteenth (19th), nineteen eighty-nine (1989)? 20

A- I don't recall being asked by anyone to supply a report. I recall being asked by Assistant Commissioner Palmer to see him on the ninth (9th) of March to provide him with a statement of the events in Thailand.

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574 Q- We see in the picture JG-3, taken February twenty-one (21), nineteen eighty-nine (1989), Alain Olivier sitting in the police plane. I suggest to you that he is actually handcuffed to the seat of the plane there. Isn't that correct? 5

A- No, it's not.

575 Q- He was free?

A- He was handcuffed to the guy next to him.

576 Q- He was handcuffed to the guy next to him. Okay. And I suggest to you that the coffin of Mr. Flanagan is right beside them at the rear of the plan, correct? 10

A- It's at the front of the plane. We had to take some seats out to get the coffin in.

577 Q- And you were on the plane as well, correct? 15

A- Yes, I was.

578 Q- I suggest to you that there was an exchange between Alain Olivier and yourself, where you say that Mr. Bennett shot Mr. Flanagan. Do you remember that exchange? 20

A- No.

579 Q- You do not recall that?

A- I don't... it never happened.

580 Q- You do not recall Alain Olivier making comment to you that a gunshot went off and killed... and 25

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Flanagan was killed by Mr. Bennett?

A- I don't recall that.

581 Q- You don't recall. Okay. Do you recall having any discussions with Alain Olivier on the airplane?

A- No, I don't. 5

582 Q- None whatsoever?

A- If I did, I'd have them in my notes.

583 Q- Well, the same way you would have in your notes that you wrote up JG-9. I'll withdraw that question/comment. 10

Me DAVID LUCAS:

Leave it in.

Me REEVIN PEARL:

584 Q- Now, in your description of the fall of a person in the dark, okay, you are telling the Court that only one (1) person came out of the truck, in other words, fell out of the truck? 15

A- I saw a hulk fall out of the truck.

585 Q- When you say "a hulk", did you see it as a duffel bag or as a human being? 20

A- Looked like... appeared to me like a human being.

586 Q- And if it would have been two (2) human beings, you would have seen two (2) human beings?

A- Could have been all in one. What I saw is a hulk falling over the side of the truck. 25

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587 Q- And from the moment you saw the hulk fall over the side of the truck, within a couple seconds you were there at that hulk?

A- Within eight (8) to ten (10) seconds.

588 Q- And did you...

A- Maybe a little longer, maybe fifteen (15) seconds.

589 Q- Fifteen (15) seconds. Okay. And did you see, during that fifteen (15)... you kept your eyes on that hulk during the fifteen (15) seconds?

A- No, I didn't.

590 Q- You didn't.

A- No.

591 Q- You were looking around elsewhere?

A- Well, I was preoccupied with Mr. Olivier and Barry Bennett and the Thai female and the Thai policemen.

592 Q- But you were running to the truck, is that correct?

A- I didn't run to the truck immediately when I saw him fall, I was preoccupied with Olivier and the Thai female and Barry Bennett and the Thai policemen, and then I diverted my attention to where I saw the fall, because in my mind I thought it was Flanagan, because he had gone around the corner and I saw him on the floor of the truck and I assumed it was him, so I went to his aid.

593 Q- When you arrived at the location of finding

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Flanagan, was the truck still there?

A- No.

594 Q- It drove away?

A- Yes.

595 Q- And the gentleman that was on the back of the truck
fighting with Mr. Flanagan...

A- Yes.

596 Q- ... he drove away with the truck?

A- Well, I can't answer that, I don't know.

597 Q- You don't know what happened to him?

A- No.

598 Q- So, there's only Mr. Flanagan alone?

A- No, Mr. Flanagan was wrestling with one of the
accused in the back of the truck.

599 Q- Yes, but I'm now talking about you arriving at
Mr. Flanagan.

A- The truck was gone.

600 Q- And the gentleman who was wrestling with him was
also gone?

A- Yes.

601 Q- Did you see anybody run away from the scene?

A- No.

602 Q- Did you see anybody else come off the truck other
than the one (1) body or the one (1) person?

A- No, I didn't.

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603 Q- Okay.

Me DAVID LUCAS:

I think it's a hulk.

Me REEVIN PEARL:

604 Q- You're using the word "hulk". Are you able today, 5
with some reasonable certainty, to say to the Court
that you saw one (1) person or two (2) people fall
out of the truck?

A- I saw a hulk fall out of the truck.

605 Q- And you don't know whether the hulk is one (1) 10
person or two (2) people?

A- No, I don't.

606 Q- I am telling you that Barry Bennett wrote the
following words in his personal notes, quote... I
don't know what page it's at. It's pertaining to 15
the events of February nineteenth (19th), nineteen
eighty-nine (1989), page 8, quote:

*"Jim again yells for Flan and tells
me he saw someone fall out of the
truck."* 20

Closed quote. This is what your partner, Barry
Bennett, is writing on February the nineteenth
(19th), nineteen eighty-nine (1989). Could you tell
the Court why you would not have used the word
"hulk" falling out of the truck and you used the 25

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word of "someone" falling out of the truck? And maybe look at your own notes, what you wrote about that same statement in your personal notes.

Me DAVID LUCAS:

What turns on this? There's a body that fell out of the truck, I think that we all agree that somebody fell out of the truck and that they subsequently found Flan. Whether it was one (1) or two (2) or more, what's the difference?

5

Me REEVIN PEARL:

The honesty of this witness is a good start.

10

Me DAVID LUCAS:

But the honesty of...

Me REEVIN PEARL:

And what this witness recalls...

15

Me DAVID LUCAS:

The honesty of this witness is not in issue on a discovery.

Me REEVIN PEARL:

Correct. I just want to know what he recalls and what his notes show.

20

Me DAVID LUCAS:

I think he's told you what he recalls...

Me REEVIN PEARL:

He's used the word "hulk" today and he used the

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word "body" at the time of the event.

Me DAVID LUCAS:

He said "someone", according to the memory of
Barry Bennett.

Me REEVIN PEARL:

That someone fell out of the truck.

Me DAVID LUCAS:

Yes.

Me REEVIN PEARL:

So, we'll see what his notes say about that
statement.

Me DAVID LUCAS:

Well, I doubt if he's doing verbatim notes
while he's participating in...

Me REEVIN PEARL:

No, but he wrote those notes quite soon after
the event.

A- My notes say:

"I run and arrest Alain next to
ditch and he's yelling, 'What's
going on, Barry?' I wrestle him
onto the road and yell for
Amaresrit. At the corner I see the
truck stop two hundred feet (200 ft)
away and a large hulk goes over

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side. I yell, 'Flan'. The truck pulls away, the lights are on. I can see the tailgates going away. I drag Alain and yell at Barry that Flan is down. We drag our prisoners towards the Buddhist Temple and Amaresrit's men arrive. The technician takes Alain, at this point breaks free during the exchange and runs away."

I've read this in already. It's quite obvious, Mr. Pearl, that these notes were made after I find Flanagan, so it's quite obvious that when I'm writing this, what I saw is what I'm telling you now, a large hulk goes overside and then I yell at Barry that Flan is down. At the time I may have said to Barry "someone fell out of the truck". When I'm making these notes, it's quite obvious to me that Flan was the one that went over the truck.

607 Q- I ask you to look at your translated text of the Defendant's Amended Plea, dated February the nineteenth (19th), two thousand and two (2002). Do you have it with you?

Me DAVID LUCAS:

You're going to make comments on that

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translation?

Me REEVIN PEARL:

No, I don't mind if you use the French one.

Me DAVID LUCAS:

I didn't bring it with me. Do you have it? 5

Me REEVIN PEARL:

I have it here, and...

Me DAVID LUCAS:

Well, I don't know. What's your section?

Me REEVIN PEARL: 10

Well, you have a translated copy, right?

Me DAVID LUCAS:

Yes.

Me REEVIN PEARL:

I'm referring to paragraph 134 of the 15

Defendant's Plea. Maybe you could help him find it.

Me DAVID LUCAS:

I will.

Me REEVIN PEARL:

Paragraph 134. 20

Me DAVID LUCAS:

134. Are you sure?

Me REEVIN PEARL:

Well, the French one says, and I know...

608 Q- Do you understand French? 25

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A- No.

Me DAVID LUCAS:

Which one are you referring to...

Me REEVIN PEARL:

I'm looking at the...

5

Me DAVID LUCAS:

The last amended...

Me REEVIN PEARL:

Defendant's Amended Plea, dated February the
nineteenth (19th), two thousand and two (2002).

10

Me DAVID LUCAS:

What does it say?

Me REEVIN PEARL:

I will trust you to read that into the record
from French to English, the one that's highlighted
in yellow. Do you want to read that allegation into
the record, Maître Lucas?

15

Me DAVID LUCAS:

I don't think this is my Defense. Paragraph
134... no, I have it as 133.

20

Me REEVIN PEARL:

So, there's a typo.

Me DAVID LUCAS:

133, which is your 134...

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Me REEVIN PEARL:

Well...

Me DAVID LUCAS:

"The small truck then started away
and Derek Flanagan wrestled with the
Thai male in the box of the truck
over the heroin and they fell out of
same, with Thai on top of them.
Derek Flanagan died of complications
from brain injuries."

Me REEVIN PEARL:

Can we admit for the record that this is
allegation number 134 in the French draft of the
Amended Plea of the Attorney General, Maître Lucas?

Me DAVID LUCAS:

Sure.

Me REEVIN PEARL:

Okay. Thank you.

Me DAVID LUCAS:

Or if it's not, it's 133.

Me REEVIN PEARL:

Just so that when a judge reads the discovery,
we're all in sync about which paragraph was read
into the record.

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Me DAVID LUCAS:

133 English and 134 French.

Me REEVIN PEARL:

Okay. Are we producing as official both the
English and French drafts in the Court record?

5

Me DAVID LUCAS:

Well, we'll see.

Me REEVIN PEARL:

Well, we now are... we'll now file the English
one as... if we're using it and make reference to
it, we'll file it as an exhibit, as JG-9.

10

Exhibit JG-9

Me DAVID LUCAS:

I think it was already filed.

Me REEVIN PEARL:

I don't know. But, I mean, I don't want to
have any doubts about...

15

Me DAVID LUCAS:

Well, you know, I'm not going to...

Me REEVIN PEARL:

20

609 Q- Now, Mr. Girdlestone, there's an allegation in the
proceeding to the effect that Derek Flanagan fought
with a Thai person in the box of the truck and that
they fell out of the truck. Do you have any
knowledge of that?

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- A- No.
- 610 Q- You don't?
- A- No.
- 611 Q- To your knowledge, who else witnessed the event
pertaining to the fall out of the truck? 5
- A- No one.
- 612 Q- No one?
- Me DAVID LUCAS:
I made an error...
- Me REEVIN PEARL: 10
Maître Lucas, do you wish to amend allegation
134?
- Me DAVID LUCAS:
So that it reads that Derek Flanagan fell out
of same and that we strike "with the Thai on top of 15
him"?
- Me REEVIN PEARL:
I just want to know what you're alleging and
I...
- Me DAVID LUCAS: 20
Sure.
- Me REEVIN PEARL:
You want to...
- Me DAVID LUCAS:
Sure, if you want to strike... 25

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Me REEVIN PEARL:

I don't want to strike anything, it's your pleading and it's your allegation and I'm just cross-examining on your allegation.

Me DAVID LUCAS:

Sure.

Me REEVIN PEARL:

So, you now wish to amend?

Me DAVID LUCAS:

Sure. And it will now read that "the small truck then started away and Derek Flanagan wrestled with the Thai male in the box of the truck over the heroin and he fell out of the same".

Me REEVIN PEARL:

But let the record indicate that there's been a demanding of record of that admission and that this change of material allegation will be the subject of judicial review. My confrère's request to amend is noted and in law that right to amend has not been objected to. Just the fact that the allegation is there and the allegation has been deemed admitted in our own proceedings and response.

Me DAVID LUCAS:

I'm not following you. What are you saying?

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Me REEVIN PEARL:

We've demanded record of this admission and
now...

Me DAVID LUCAS:

You've demanded record? What are you talking
about? 5

Me REEVIN PEARL:

It's a civil law term that we use when there's
an admission made, instead of denying it or ignoring
it, we demand record of it. So, it's a joined issue 10
to that admission that's contained in the prior
proceeding.

Me DAVID LUCAS:

Right.

Me REEVIN PEARL:

And now, if you're making an amendment, we'll
have to bring it to the attention of the judge that
even though there is a judicial admission in one (1)
allegation, the amendment is not necessarily the
subject of judicial admission. 15
20

OFF RECORD

Me DAVID LUCAS:

Obviously I'm going to make the concordance to 25

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make it easier, so that the English numbering corresponds to the numbering in the French re-amended Amended Defense.

OFF RECORD

5

Me REEVIN PEARL:

613 Q- On this same subject, Mr. Girdlestone, there's been produced at page 1016 of Exhibit D-1...

Me DAVID LUCAS:

10

Hold on a sec.

Me REEVIN PEARL:

614 Q- ... statements that were reported...

Me DAVID LUCAS:

Could you just wait a minute, please?

15

Me REEVIN PEARL:

Yes, I'll show it to you, I'll give it to you.

Me DAVID LUCAS:

No, just let me find my own.

Me REEVIN PEARL:

20

1016 of Exhibit D-1 in volume...

Me DAVID LUCAS:

1016?

Me REEVIN PEARL:

Yes, volume number...

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Me DAVID LUCAS:

It would be VI.

Me REEVIN PEARL:

VI.

Me DAVID LUCAS:

I don't have it... if you notice in the documents that we provided to you, we've put what we thought were the more relevant documents, and there was a volume called "Documents Not In".

Me REEVIN PEARL:

I don't know about that.

Me DAVID LUCAS:

It's called "Documents Retirer" and somebody has taken all those documents, which we don't consider to be relevant but that we produced just so you could have them, so you wouldn't say, "Well, why does it go from page 1000 and..." Let's avoid useless objections, because it's not...

Me REEVIN PEARL:

It's in the Kelly file as well. So, how about if I lend you my copy of that page for the record purposes.

Me DAVID LUCAS:

So, it's not in D-1.

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Me REEVIN PEARL:

Well...

Me DAVID LUCAS:

It's what's called document... what we call
irrelevant documents in D-1, you can call it that. 5

Me REEVIN PEARL:

And we see in a quote...

Me DAVID LUCAS:

Can we read this first, please?

Me REEVIN PEARL:

I'm only going to one (1) paragraph in this
whole article. 10

Me DAVID LUCAS:

I know, but I don't think it's a document that
Mr. Girdlestone wrote, I think it's a newspaper
article, so let's at least get the context. And
what are you going to ask Mr. Girdlestone about an
article? 15

Me REEVIN PEARL:

Well, there is a quote attributed to... 20

Me DAVID LUCAS:

Mr. Wilson?

Me REEVIN PEARL:

There's a quote here, which appears to be
identical to the allegation number 134 before you

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made the amendment, Maître Lucas, which is the first paragraph down, where... this article is dated February twenty-one (21), nineteen eighty-nine (1989) from the Vancouver Sun, under the title "Local Mountie Killed in Thailand", closed quote, and the journalist is quoting embassy counsellor Gardiner Wilson of the RCMP.

615 Q- Do you know who this embassy counsellor Gardiner Wilson is?

A- No.

616 Q- And the embassy counsellor says the following words, open quotation:

"He was grappling with the bad guy and the vehicle was moving, and they both tumbled off and he struck his head on the pavement," Wilson told the Vancouver Sun in a telephone interview."

Do you know where this Thai embassy counsellor obtained his information?

A- No.

617 Q- Are you aware at that time that Gardiner Wilson was the spokesperson for the RCMP in Vancouver?

A- No.

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Me DAVID LUCAS:

I think it just says that he was the embassy
counsel.

Me REEVIN PEARL:

I made a mistake, I should stand corrected on
that.

Me DAVID LUCAS:

Well, it says here at the second paragraph
"Embassy counsellor Gardiner Wilson".

Me REEVIN PEARL:

I see that the article makes reference to that.

Me DAVID LUCAS:

I think you're talking about media liaison
officer Corporal Merv Korolek, the second column,
four (4) paragraphs down.

Me REEVIN PEARL:

*"Media liaison officer Corporal Merv
Korolek said Flanagan was in
Thailand to provide expertise to the
Thailand police conducting
international..."*

618

Q- The reason I highlighted this news item at page 1016
of Exhibit D-1 is because it appears to conform with
the allegation at paragraph 134 of the Defense, and
paragraph 134 of the Defense, before your counsel

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made suggestions that there should be a correction or an amendment, seemed to jive with this quote. So, I'm trying to determine the source of the quote.

Me DAVID LUCAS:

Maybe I read too many documents and too many news clippings. As I said, you should probably... I don't know if you put all your documents together, but we had taken out a whole series of newspaper clippings which appear in the file, but from our perspective are irrelevant. But we gave you those just so you would know why the file goes from, say, page 1000 to 1004, whereas 1002 and 1003, they're in the document, but we withdrew because we don't think they're relevant. So, in other words, you got the whole file.

Me REEVIN PEARL:

We do not a gross file.

Me DAVID LUCAS:

No, no, the whole E Division file.

Me REEVIN PEARL:

The RCMP file of headquarters. However, my confrère has been allowing us to consult it to avoid an attempt at duplication.

Me DAVID LUCAS:

Has ninety-five percent (95%)...