

GO46081

COURT OF APPEAL STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION III

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF/RESPONDENT,

VS.

TIEN DUC NGUYEN,

DEFENDANT/APPELLANT.

APPEAL FROM THE SUPERIOR COURT OF ORANGE COUNTY

HONORABLE DAPHNE SYKES SCOTT, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

APRIL 6, 2011

A P P E A R A N C E S

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REPORTER PRO TEMPORE

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF ORANGE, WEST JUSTICE CENTER
3 DEPARTMENT W8
4

5 THE PEOPLE OF THE STATE OF CALIFORNIA,)
6 PLAINTIFF,)
7 VS.) NO. 10WF0918
8 TIEN DUC NGUYEN,)
9 DEFENDANT.)
10

11
12 HONORABLE DAPHNE SYKES , JUDGE PRESIDING

13 REPORTER'S TRANSCRIPT

14 WEDNESDAY, APRIL 6, 2011
15

16 APPEARANCES OF COUNSEL:

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19 BY: RENE JONES, DEPUTY DISTRICT ATTORNEY

20 FOR THE DEFENDANT:

21 BY: CHRISTOPHER J. HENNES, RETAINED ATTORNEY

22 LORI L. PARNES, C.S.R. #9117,
23 PRO TEMPORE COURT REPORTER
24
25
26

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1 WESTMINSTER, CALIFORNIA - WEDNESDAY, APRIL 6, 2011
2 MORNING SESSION

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT
4 OUTSIDE THE PRESENCE OF THE JURY:)

5 THE COURT: MR. NGUYEN, WE ARE OUTSIDE THE
6 PRESENCE OF THE JURY. ALL THE PARTIES AND MR. NGUYEN
7 ARE PRESENT IN THE TRIAL MATTER.

8 AND THERE WAS AN ISSUE: COUNSEL FOR THE
9 DEFENSE REQUESTED THE COURT TO ALLOW ITS EXPERT TO SIT
10 IN THE COURTROOM DURING THE TESTIMONY OF THE PEOPLE'S
11 EXPERT ON THE THINKING THAT IT WOULD, PERHAPS, EXPEDITE
12 THE MATTERS AND IT WOULD FACILITATE, I GUESS, THE
13 TESTIMONY BY THE DEFENSE EXPERT AS THIS PERSON WOULD
14 ALREADY HAVE, KIND OF, KNOWLEDGE OF WHAT THE ISSUES ARE,
15 I GUESS.

16 THE PEOPLE MADE A MOTION PURSUANT TO 777 OF
17 THE EVIDENCE CODE TO EXCLUDE WITNESSES. AND THE PEOPLE
18 OBJECT TO THE DEFENSE'S REQUEST TO HAVE THE DEFENSE
19 WITNESS EXPERT STAY IN THE COURTROOM.

20 AND WHILE IT MIGHT HAVE LOGISTICALLY HAVE BEEN
21 A GOOD IDEA, I AM GOING TO GRANT THE PEOPLE'S MOTION AND
22 I AM GOING TO EXCLUDE THE WITNESS FROM THE COURTROOM.

23 AND SO, IF YOU CAN JUST WAIT OUT IN THE
24 HALLWAY UNTIL IT'S TIME TO COME IN.

25 MR. PENHALL: OKAY.

26 THE COURT: ANYTHING ADDITIONAL?

1 MS. JONES: AND, YOUR HONOR, I'VE BEEN
2 INFORMED THAT THE DEFENDANT'S WIFE IS IN THE COURTROOM
3 NOW. AND I ASSUME THAT SHE INTENDS TO STAY. AND
4 DEFENSE HAS ASSURED ME THAT SHE IS NOT A WITNESS.

5 THE COURT: ALL RIGHT.

6 MR. HENNES: THAT'S CORRECT.

7 THE COURT: VERY WELL. WE'LL START IN ONE
8 MOMENT.

9 (RECESS)

10 (PROCEEDINGS IN THE PRESENCE OF THE JURY:)

11 THE COURT: GOOD MORNING, EVERYONE. WE ARE
12 BACK IN THE TRIAL MATTER THE PEOPLE VERSUS NGUYEN. ALL
13 PARTIES ARE PRESENT, ALL JURORS, ALTERNATES AND
14 MR. NGUYEN.

15 AND THE PEOPLE MAY CALL ITS NEXT WITNESS.

16 MS. JONES: THANK YOU. THE PEOPLE CALL
17 SERGEANT SCHOCH FROM THE ORANGE COUNTY SHERIFF'S
18 DEPARTMENT.

19 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

20 DO YOU SOLEMNLY STATE THAT THE EVIDENCE YOU
21 ARE ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE THIS
22 COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING
23 BUT THE TRUTH, SO HELP YOU GOD?

24 THE WITNESS: I DO.

25 THE CLERK: SPEAK YOUR TEST AND INCLUDE YOUR
26 TITLE, IF ANY.

1 THE WITNESS: GREGORY SCHUCH, S-C-H-U-C-H,
2 AND I'M A SERGEANT WITH THE ORANGE COUNTY SHERIFF'S
3 DEPARTMENT.

4 THE CLERK: THANK YOU. PLEASE BE SEATED IN
5 THE WITNESS BOX.

6 GREGORY SCHUCH,
7 CALLED AS A WITNESS BY AND ON BEHALF OF THE PEOPLE,
8 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED
9 AS FOLLOWS:

10
11 DIRECT EXAMINATION

12 BY MS. JONES: Q. GOOD MORNING, SERGEANT.

13 A. GOOD MORNING.

14 Q. HOW ARE YOU EMPLOYED?

15 A. I'M SORRY?

16 Q. HOW ARE YOU EMPLOYED?

17 A. I'M EMPLOYED AS A DEPUTY SHERIFF HOLDING THE
18 RANK OF THE SERGEANT WITH THE ORANGE COUNTY SHERIFF'S
19 DEPARTMENT.

20 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED WITH THE
21 ORANGE COUNTY SHERIFF'S DEPARTMENT?

22 A. I'VE BEEN WITH THE ORANGE COUNTY SHERIFF'S
23 DEPARTMENT SINCE 1989, FEBRUARY OF '89.

24 Q. WHAT IS YOUR CURRENT ASSIGNMENT?

25 A. I AM THE RANGE SERGEANT FOR THE SHERIFF'S
26 DEPARTMENT. I'M IN CHARGE OF THE FIREARMS TRAINING

1 UNIT.

2 Q. AND WHAT DOES THAT CONSIST OF? WHAT ARE YOUR
3 DUTIES?

4 A. I OVERSEE THE WEAPONS TRAINING FOR THE
5 DEPARTMENT MEMBERS AND ALSO OUTSIDE AGENCIES GOING
6 THROUGH THE ACADEMY, GOING THROUGH THE RESERVE PROGRAM,
7 AND ALSO FOR CONTINUING FIREARMS TRAINING FOR THE
8 DEPARTMENT, AND ALSO THE ARMORY ASPECTS, AND PURCHASING
9 OF WEAPONS AND ANY EQUIPMENT.

10 Q. DO YOU TRAIN OTHER OFFICERS ON THE
11 IDENTIFICATION AND USE OF FIREARMS?

12 A. YES.

13 Q. AND DO YOU CONDUCT QUALIFICATIONS PERIODICALLY
14 FOR OTHER OFFICERS?

15 A. YES.

16 Q. WHAT ARE QUALIFICATIONS?

17 A. QUALIFICATIONS REALLY ARE A TEST OF AN
18 OFFICER'S OR THE DEPUTY'S PROFICIENCY WITH THEIR
19 DUTY-RELATED WEAPONS AND OFF DUTY WEAPONS.

20 Q. DO YOU CONDUCT RIFLE TRAINING?

21 A. YES.

22 Q. CAN YOU TELL ME THE TRAINING AND EXPERIENCE
23 WHICH QUALIFIES YOU FOR THIS POSITION?

24 A. I'D START INFORMALLY. INFORMALLY, I BEGAN
25 SHOOTING WHEN I WAS FIVE YEARS OLD. I'M NOW JUST LESS
26 THAN A MONTH SHY OF 49, SO I HAVE BEEN AROUND WEAPONS

1 ALL MY LIFE AND THROUGH HIGH SCHOOL. JUST AFTER HIGH
2 SCHOOL, I JOINED THE MARINE CORPS.

3 I WAS A MACHINE GUNNER WITH THE UNITED STATES
4 MARINE CORPS. I ENDED UP SERVING SIX YEARS OF ACTIVE
5 DUTY AND RESERVE DUTY, ENDING UP AS A SERGEANT. I WAS
6 IN CHARGE OF A MACHINE GUN SQUAD.

7 I CAME TO THE SHERIFF'S DEPARTMENT, WENT
8 THROUGH THE ACADEMY, WENT THROUGH THE FORMAL BASIC
9 ACADEMY IN 1989. AFTER THAT, AFTER COMPLETION THERE, I
10 HAD MY DUTY WEAPON, BUT I ALSO COMPETED REPRESENTING THE
11 DEPARTMENT IN A POLICE OLYMPICS IN BOTH PISTOL AND RIFLE
12 COMPETITIONS.

13 THROUGH VARIOUS ASSIGNMENTS, MY WEAPONS
14 TRAINING INCLUDED WORK WITH SUBMACHINE GUNS ON SOME OF
15 THE DETAILS THAT I HAVE WORKED. I HAVE WORKED ON
16 EVIDENCE DETAIL, WHERE ONE OF MY ASSIGNED WEAPONS WAS AN
17 MP5 SUBMACHINE GUN.

18 Q. I'M SORRY, MP5 WHAT?

19 A. MP5 SUBMACHINE GUN.

20 THAT WAS ABOUT FIVE YEARS AGO, AND MAINTAINED
21 THAT. I WAS IN CHARGE OF THAT DETAIL, THE EVIDENCE
22 DETAIL, WITH THAT WEAPON TILL ABOUT SIX MONTHS AGO WHEN
23 I TOOK OVER THE RANGE DUTIES.

24 SINCE THEN I'VE BECOME A DEPARTMENT CERTIFIED
25 ARMOR IN THE MP5 SUBMACHINE GUN, CERTIFIED ARMOR WITH
26 THE M14, M180 SERIES OF RIFLES. I'M ALSO THE A

1 DEPARTMENT CERTIFIED WEAPONS INSTRUCTOR. AND THAT'S
2 SOME OF THE TRAINING THAT I'VE HAD SINCE TAKING OVER THE
3 DUTIES AS THE RANGE SERGEANT.

4 Q. CAN YOU DESCRIBE YOUR EXPOSURE TO AK-47-TYPE
5 WEAPONS?

6 A. BRIEFLY IN THE MARINE CORPS, WE WERE
7 FAMILIARIZED WITH SOME OF THE DIFFERENT -- AT THE TIME
8 THAT I WAS IN THE MARINE CORPS, RIGHT BEFORE IT WAS --
9 OUR THREAT WAS AGAINST THE SOVIET UNION, SOVIET
10 BLOC-TYPE COUNTRIES. AND SO WE WERE EXPOSED TO THE
11 SOVIET BLOC-TYPE WEAPONS, INCLUDING THE AK-47.

12 SINCE -- SINCE WORKING WITH THE DEPARTMENT,
13 IT'S -- I ACTUALLY HAVE A DEGREE IN HISTORY. AND PART
14 OF MY AREAS OF CONCENTRATION IS MODERN EUROPEAN HISTORY,
15 THAT'S STUDYING EUROPE AND THE DEVELOPMENT OF THE MODERN
16 NATION-STATES IN GOING OVER THEIR WARS AND THINGS LIKE
17 THAT.

18 SO I JUST HAVE A -- MY PERSONAL INTEREST IN
19 WARS DEALING WITH THAT TYPE OF WEAPON SYSTEM, BECAUSE
20 THE UNITED STATES WAS ALWAYS IN CONFLICT WITH THOSE
21 COUNTRIES.

22 WHEN I CAME TO THE RANGE, WE HAVE A SERIES OF
23 AK-47S IN OUR ARMORY THAT WE HAVE AS A DEPARTMENT. WE
24 DO SOME TRAINING WITH THEM. I PERSONALLY HAVE NOT HAD
25 TRAINING WITH THE AK 47, BUT I HAVE TAKEN IT OUT AND
26 SHOT IT. AGAIN, GOING BACK TO SHOOTING IT IN THE MARINE

1 CORPS AND ALSO SHOOTING IT WITH THE DEPARTMENT HERE.

2 Q. AND YOU'RE FAMILIAR WITH THE VARIOUS COUNTRIES
3 THAT PRODUCE AK-47'S?

4 A. YES. EAST GERMANY, ROMANIA, CZECHOSLOVAKIA,
5 ROMANIA, CHINA. I MEAN, JUST A NUMBER. IT WAS SOLD
6 THROUGHOUT THE WORLD. AND SO ALL OF THE COUNTRIES
7 EITHER MADE VARIATIONS -- YUGOSLAVIA IS ANOTHER ONE --
8 THEY EITHER MADE IT, OR THEY PURCHASED IT.

9 Q. AND ARE THERE SLIGHT VARIATIONS, DEPENDING ON
10 WHERE IT WAS MADE AND WHO MADE IT, IN THE MODELS?

11 A. SURE. EGYPT'S ANOTHER VARIATION. SOME OF
12 THEM HAD WOODEN STOCKS. SOME OF THEM WITH COLLAPSIBLE
13 STOCKS OR FOLDING STOCKS. SOME HAD ABSOLUTELY NO STOCKS
14 AT ALL, WHERE IT WAS SHORTENED. JUST SOME OF THE
15 VARIOUS VERSIONS LOOK LIKE A SHORTENED VERSION, LOOKS
16 LIKE A PISTOL SIZE. SOME OF THE VARIATIONS --
17 MECHANICALLY, THEY WOULD ALL BE BASICALLY THE SAME.

18 SOME OF THE SETUP WOULD BE A LITTLE DIFFERENT.
19 SOME YOU WOULD HAVE PISTOL GRIPS IN THE FRONT; THEY WOULD
20 ALL HAVE PISTOL GRIPS AT THE REAR. IT'S JUST -- IT'S
21 BEEN AROUND FOR A VERY LONG TIME.

22 AND SO SOME COUNTRIES WOULD ADAPT IT TO THEIR
23 COUNTRIES, DEPENDING ON THE SIZE OF THEIR ARMED FORCES
24 AND THEIR SPECIAL UNITS THAT WOULD CARRY IT. ATR
25 TROOPERS WOULD HAVE A FOLDING STOCK SOMETIMES, COMPARED
26 TO A WOOD STOCK.

1 BUT A WOODEN STOCK WOULD BE A LITTLE BIT
2 SHORTER TO ACCOMMODATE THE SMALLER STATURE OF THE
3 SOLDIERS, YOU KNOW, THINGS LIKE THAT.

4 Q. AND IN YOUR EXPERIENCE, THEY ARE NOT -- THE
5 USE OF THESE AK-47S IS NOT LIMITED TO THE MILITARY; IS
6 THAT CORRECT?

7 A. CORRECT. FOR A WHILE WE HAD A VERY LARGE
8 CIVILIAN PROBLEM COME UP. BUT THEY WERE SOLD TO THE
9 CIVILIANS PRIOR TO THE '90S WHEN THEY WERE BANNED.

10 MS. JONES: YOU HONOR, I'D ASK FOR A MOTION TO
11 STRIKE THE LAST PART OF THAT ABOUT IT BEING BANNED.

12 THE COURT: STRICKEN. EXCUSE ME. THE PART
13 WHERE THE WITNESS HAD TALKED ABOUT CERTAIN NUMBER BEING
14 BANNED IN THE '90S WILL BE STRICKEN. YOU WILL DISREGARD
15 THAT TESTIMONY. THE COURT IS THE ONE THAT WILL BE
16 GIVING THE LEGAL INSTRUCTION TO YOU, SO PLEASE DISREGARD
17 THAT. THANK YOU.

18 THE WITNESS: THEY ARE NO LONGER SOLD.

19 MR. HENNES: OBJECTION, YOUR HONOR. NO
20 QUESTION PENDING.

21 THE COURT: SUSTAINED. STRICKEN.

22 MR. HENNES: MOTION TO STRIKE.

23 BY MS. JONES: Q. I'D LIKE TO SHOW YOU A TYPE OF
24 AMMUNITION TAKEN FROM PEOPLE'S 3, THE BEOWOLF
25 AMMUNITION, 3-A.

26 ARE YOU FAMILIAR WITH THIS TYPE OF AMMUNITION?

1 A. I'VE SEEN IT BEFORE IN PUBLICATIONS, YES.

2 Q. AND WHAT TYPE OF AMMUNITION IS IT?

3 A. IT'S A .50 CALIBER BEOWULF. AND IT'S USED IN
4 BOTH PISTOL AND RIFLE -- FIRED FOR BOTH PISTOLS AND
5 RIFLES. I'M NOT TOO SURE ABOUT THE PISTOL. I KNOW THAT
6 THERE'S A .50 CALIBER SMITH & WESSON THAT'S ABOUT THAT
7 SIZE.

8 Q. BUT IT'S FOR A .50 CALIBER WEAPON?

9 A. IT'S FOR A .50 CALIBER WEAPON, YES.

10 Q. AND DIRECTING YOUR ATTENTION TO PEOPLE'S 2,
11 AND SPECIFICALLY ON PAGE --

12 MR. HENNES: OBJECTION, YOUR HONOR. MAY WE
13 APPROACH?

14 THE COURT: YES.

15 (SIDEBAR OUTSIDE THE PRESENCE OF THE JURY:)

16 THE COURT: ALL RIGHT. WE ARE OUTSIDE THE
17 PRESENCE OF THE JURY. COUNSEL?

18 (RECORD READ)

19 MR. HENNES: I'D LIKE TO RENEW MY OBJECTION TO
20 DEMONSTRATIVE OF THE AMMUNITION BECAUSE THEY HAVE NO
21 RELEVANCE WHATSOEVER TO MY CLIENT'S CHARGES OF
22 MANUFACTURING AN ASSAULT WEAPON, ATTEMPTING TO
23 MANUFACTURE, ATTEMPTING TO POSSESS AN ASSAULT WEAPON AS
24 DESCRIBED BY THE PENAL CODE.

25 AND I THINK THAT THE REPEATED DEMONSTRATIONS
26 CONCERNING THE BULLETS, THE LESSER EXTENT, THE DTC

1 RIFLE, ARE SIMPLY GOING TO CONFUSE THE JURY. THEY'RE
2 GOING TO NOT UNDERSTAND THAT MY CLIENT IS NOT CHARGED
3 WITH POSSESSION OF THAT AMMO IN THIS TRIAL AND THAT THEY
4 REALLY HAVE NO RELEVANCE TO PROVE ANY FACT IN ISSUE.

5 THEY DON'T GO TO MANUFACTURING, AN AK-TYPE
6 ASSAULT WEAPON. THEY DON'T GO TO ANYTHING THAT'S
7 PERMISSIBLE, IN MY VIEW, TO SHOW ANY KIND OF INTENT TO
8 MANUFACTURE AN ASSAULT WEAPON.

9 THERE WAS THOSE ROUNDS. ONCE AGAIN, THEY ARE
10 ALLOWED UNDER CALIFORNIA LAW. AND I THINK THAT AT SOME
11 POINT THE COURT'S GOING TO HAVE TO GIVE SOME FORM OF
12 INSTRUCTION TO THE JURY TO MAKE SURE THAT THEY'RE NOT
13 CONFUSING WHAT MY CLIENT IS BEING CHARGED WITH.

14 THEY MAY BE THINKING, AS THEY SIT THERE, YOU
15 KNOW, THAT HE'S BEING CHARGED WITH THE DMC AND THE AMMO,
16 SO --

17 THE COURT: WHAT'S YOUR RESPONSE, COUNSEL?

18 MS. JONES: I THINK THERE'S A SIMPLE ISSUE TO
19 RESOLVE IT AS FAR AS CONFUSION. HOWEVER, IT IS HIGHLY
20 PROBATIVE IN THAT THE OTHER TYPE OF AMMUNITION, THE
21 BROWNF, GOES TO A GUN THAT WAS NEVER LOCATED, ACCORDING
22 TO THE DEFENDANT.

23 HE SAYS THAT IT'S FOR A GUN THAT HE RENTED FOR
24 HUNTING. HOWEVER, IT'S NOT A PIG HUNTING-TYPE OF
25 AMMUNITION. TO THE CONTRARY: IT WOULD FIT THE LARGE
26 .50 CALIBER. ALL YOU HAVE TO DO IS POP OFF THE -- POP

1 IT APART, WHICH THIS EXPERT -- I'LL HAVE HIM TESTIFY TO.

2 AND YOU CAN USE IT, AND THEY DO THAT WHEN THEY
3 WANT TO FIRE THESE BIG WEAPONS, SO THAT THEY'LL HAVE
4 VERSATILITY. AND THEY CAN TRY AND FIRE AND SEE WHAT
5 THIS BULLET DOES AND THAT BULLET DOES. AND IT GOES TO
6 THE FACT THAT HE'S POSSESSING THESE HIGH-CALIBER
7 WEAPONS.

8 AND HE KNOWS ENOUGH ABOUT THEM TO HAVE
9 VARIATION IN THE TYPE OF AMMUNITION HE'S USING. SO HE
10 KNOWS A LOT ABOUT THESE WEAPONS, AND THERE'S THE
11 INFERENCE THAT IF IT WAS FOR ANOTHER WEAPON, AS HE SAID,
12 IT CERTAINLY ISN'T FOR A PIG-HUNTING WEAPON, SO HE'S OUT
13 THERE. IT'S SOME EVIDENCE THAT WHAT HE'S MAKING AND
14 WHAT HE'S POSSESSING ARE THESE HIGH-CALIBER WEAPONS.

15 MR. HENNES: WELL, YOUR HONOR, THERE'S NO
16 EVIDENCE THAT'S BEEN PUT FORTH THAT THOSE BULLETS GO TO
17 AN AK-47, OR CERTAINLY NOT THAT ONE.

18 I MEAN, THERE ARE MANY BULLETS THAT THEY HAVE
19 NOTHING TO DO WITH AN AK-47. SO AN AK-47 IS NOT HIGH
20 CALIBER. IT'S NOT A .50 CALIBER. I MEAN, THERE'S NO
21 TESTIMONY THAT THE PEOPLE HAVE PUT ON THAT AN AK-47
22 TAKES ANY TYPE OF BULLETS SIMILAR TO THE ONES THAT SHE'S
23 SHOWING THE JURY.

24 AND I JUST THINK IT'S VERY MISLEADING TO THE
25 JURY. PREJUDICIAL.

26 THE COURT: OKAY. OVERRULED.

1 (PROCEEDINGS IN THE PRESENCE OF THE JURY:)

2 THE COURT: CAN I ASK THE COURT REPORTER TO
3 READ BACK THE LAST QUESTION?

4 (RECORD READ)

5 BY MS. JONES: Q. THIS BULLET WOULDN'T GO TO AN
6 AK-47, CORRECT?

7 A. NO.

8 Q. OKAY. AND IT'S A .50 CALIBER. IT GOES TO A
9 .50 CALIBER WEAPON, AS DOES THIS OTHER TYPE OF
10 AMMUNITION THAT WE HAVE HERE, CORRECT?

11 A. YES.

12 Q. WHY THE SIZE DIFFERENCE?

13 A. ONE IS -- THE ONE ON MY RIGHT, THAT ONE.

14 Q. THE LARGER ONE?

15 A. THAT WAS ORIGINALLY DEVELOPED AS A LIGHT
16 ANTI-ARMOR WEAPON.

17 MR. HENNES: OBJECTION, YOUR HONOR.
18 NONRESPONSIVE. NO FOUNDATION.

19 THE COURT: OVERRULED.

20 BY MS. JONES: Q. GO AHEAD.

21 A. IT WAS ORIGINALLY DEVELOPED AS A .50 BROWNING
22 MACHINE GUN ROUND, WHICH WAS USED AGAINST ANTI-ARMOR,
23 ANTI-AIRCRAFT. MORE RECENTLY, IN SOME OF OUR CONFLICTS,
24 IT'S BEEN USED FOR A LONG-DISTANCE SNIPING.

25 THE ONE ON MY LEFT IS -- COULD BE CONSIDERED A
26 HUNTING ROUND. IT'S A LARGE CALIBER USED FOR HUNTING

1 LARGE GAME.

2 Q. DIRECTING YOUR ATTENTION TO PEOPLE'S 1, THE
3 LARGE, BLACK FIREARM BEHIND YOU, COULD YOU USE THIS
4 SMALLER ROUND IN THAT GUN?

5 A. AS THIS GUN IS SET UP, NO. IT WOULD TAKE
6 SOMETHING MORE AKIN TO THAT ONE. AND THAT'S WHAT IT
7 WAS.

8 Q. THE LARGER ONE?

9 A. YES, MA'AM.

10 Q. AND WHAT WOULD YOU HAVE TO DO TO USE THIS
11 AMMUNITION IN THAT GUN?

12 A. WELL, I DON'T LIKE USE THE TERM "THE BEAUTY OF
13 IT," BUT REALLY, THE BEAUTY OF THIS PLATFORM WITH THE
14 LOWER -- THE LOWER THAT IS HERE -- I'LL STAND UP -- THE
15 LOWER THAT IS HERE IS IT'S INTERCHANGEABILITY.

16 Q. AND YOU'RE INDICATING

17 A. THE LOWER PORTION, THE LOWER RECEIVER.

18 Q. OKAY.

19 A. THIS UPPER RECEIVER, IT'S JUST TWO PINS
20 HOLDING THIS TOP TO IT. SO I CAN --

21 THE COURT: HOLD ON ONE MOMENT. WOULD YOU --
22 WHAT YOU WERE POINTING TO WHEN YOU SAID "THE LOWER
23 RECEIVER," IS IT LIKE NEAR THE HAND GRIP?

24 THE WITNESS: YES, MA'AM.

25 THE COURT: OKAY. AND WHAT'S THAT YOU WERE
26 INITIALLY POINTING TO?

1 THE WITNESS: YOU COULD DISASSEMBLE THIS BY
2 JUST A COUPLE OF PINS. AND YOU CAN PULL THE PINS OUT,
3 AND YOU CAN REMOVE -- YOU CAN REMOVE THE WHOLE UPPER
4 ASSEMBLY. AND YOU CAN REPLACE THIS WITH A DIFFERENT --
5 WITH A HOLE -- WITH A LARGE AMOUNT OF UPPER ASSEMBLIES.

6 YOU CAN CONVERT THE UPPER. IF YOU HAVE A
7 LOWER -- THIS IS THE FIRE CONTROL. AND THE LOWER
8 RECEIVER, THE OPERATIONS OF THE GUN. YOU CAN REMOVE THE
9 TWO PINS, AND NOW I CAN PUT IT ON AN AR-15.

10 A .50 BEOWOLF, THEY HAVE UPERS THAT LOOK
11 SIMILAR TO AN AR-15 SERIES OF RIFLES THAT IS CHAMBERED
12 FOR THE .50 BEOWOLF. AND REALLY TO CHANGE CALIBERS FROM
13 THIS LARGE ONE TO THAT IS JUST REMOVE THESE TWO PINS AND
14 REMOVE THESE TWO PINS, IF I COULD GET THIS BACK ONE OUT.

15 SEE, NOW I CAN TAKE IT OUT. AND I CAN PUT
16 THIS ON A -- THIS IS WHAT THE SOLDIERS CARRY IN THE
17 MARINE CORPS AND IN THE ARMY.

18 THE COURT: IT LOOKS LIKE YOU JUST REMOVED THE
19 BACK HALF OF THE WHOLE GUN?

20 THE WITNESS: YES, MA'AM.

21 THE COURT: OKAY. I'M TRYING TO MAKE A RECORD
22 HERE.

23 THE WITNESS: OH, I'M SORRY. THIS IS -- THIS
24 IS THE UPPER. THIS IS REALLY THE HEART OF EVERYTHING.
25 THIS IS THE FIRE CONTROL SYSTEM, THE TRIGGER AND THE
26 SEAR, AND ALL THIS STUFF, ALL THE OPERATING PARTS ARE IN

1 HERE. NOW, WITH THE UPPER RECEIVER, THIS LARGE PART, I
2 CAN CHANGE THIS IN JUST A MATTER OF SECONDS.

3 THE COURT: "THIS" BEING WHAT?

4 THE WITNESS: I CAN TAKE THIS --

5 THE COURT: MEANING THE HAND GRIP AND THE
6 LEFT --

7 THE WITNESS: THE PISTOL GRIP AND THE TRIGGER.

8 THE COURT: ALL RIGHT.

9 THE WITNESS: SO THIS IS THE LOWER RECEIVER.
10 NOW, I CAN BUY THIS SEPARATELY.

11 THE COURT: MEANING THE OTHER UPPER PART, THE
12 RECEIVER, THE UPPER PART INCLUDING THE BARREL?

13 THE WITNESS: YES, MA'AM. I CAN BUY THIS.

14 NOW, I CAN BUY AN AR-15 UPPER RECEIVER THAT'S LIKE THIS,
15 BUT IT'S SEMIAUTOMATIC, THAT WILL SHOOT -- IT WILL TAKE
16 A MAGAZINE SIMILAR TO THIS.

17 THE COURT: SEE, YOU'RE SAYING YOU JUST
18 SWITCHED OUT THE TOP PART OF THE GUN AND MADE IT SO THAT
19 THEY CAN ATTACH A DIFFERENT PART OF THE GUN SO THEY CAN
20 CARRY LARGER AMMUNITION?

21 THE WITNESS: YES, YES. ANYTHING I WANT.

22 THE COURT: OKAY.

23 THE WITNESS: TO THE .50 BROWNF. AND IT'S
24 JUST THE INTERCHANGEABILITY.

25 THE COURT: ALL RIGHT.

26 BY MS. JONES: Q. HAVE YOU EVER, IN YOUR TRAINING

1 AND EXPERIENCE WITH FIREARMS, HEARD OF THIS TYPE OF
2 AMMUNITION, THIS BEOWOLF AMMUNITION, BEING USED TO PIG
3 HUNT?

4 MR. HENNES: OBJECTION, YOUR HONOR. NO
5 FOUNDATION.

6 THE COURT: OVERRULED.

7 THE WITNESS: I MEAN, YOU COULD USE IT FOR PIG
8 HUNTING, YES. I HAVE NEVER HEARD IT BEING USED FOR
9 THAT. IT'S A FAIRLY NEW ROUND.

10 BY MS. JONES: Q. IS IT A FAIRLY POWERFUL ROUND?

11 A. YES. IT'S ABOUT PROBABLY A 400-GRAIN BULLET
12 OR A 500-GRAIN BULLET, WHICH OUR DUTY AMMUNITION IS
13 185-GRAIN FOR JUST THE BULLET PART THAT COMES OUT. SO
14 IT'S CONSIDERABLY LARGER.

15 Q. WOULD THAT BE OVERKILL FOR PIG HUNTING?

16 MR. HENNES: OBJECTION, YOUR HONOR. LEADING.
17 IRRELEVANT. NO FOUNDATION.

18 THE COURT: SUSTAINED.

19 BY MS. JONES: Q. IN YOUR EXPERIENCE -- WELL,
20 YOU'RE FAMILIAR WITH GUN DEALERS IN THE COURSE AND SCOPE
21 OF YOUR JOB AND PERSONAL -- WELL, YOU GO TO SHOOTING
22 RANGES, CORRECT?

23 A. YES, MA'AM.

24 Q. AND YOU'VE HAD EXPOSURE TO GUN DEALERS?

25 A. YES, MA'AM.

26 Q. HAVE YOU EVER HEARD OF A GUN DEALER RENTING --

1 OR A SHOOTING RANGE -- RENTING OUT THE TYPE OF WEAPON
2 THAT THE BEOWULF AMMUNITION GOES TO FOR SOMEONE TO TAKE
3 AND GO HUNTING WITH?

4 A. NO, MA'AM. USUALLY WHEN YOU HUNT --

5 MR. HENNES: OBJECTION, YOUR HONOR,
6 NONRESPONSIVE.

7 THE COURT: "NO, MA'AM" WILL REMAIN. THE REST
8 OF THE ANSWER WILL BE STRICKEN. SUSTAINED.

9 BY MS. JONES: Q. IN YOUR EXPERIENCE WHEN YOU RENT
10 A FIREARM, WHAT IS THE USE LIMITED TO?

11 A. RIGHT AT THE RANGE ITSELF. I'VE NEVER HEARD
12 OF RIFLES BEING RENTED TO TAKE HUNTING.

13 Q. NOW, DID YOU BRING WITH YOU A FULLY OPERABLE
14 AK-47, THAT HAS BEEN PREVIOUSLY FIRED, TO COURT?

15 A. YES, MA'AM.

16 Q. AND SHOWING YOU WHAT -- WELL, REFERRING YOUR
17 ATTENTION TO WHAT I'VE ASKED TO BE MARKED PEOPLE'S 15.
18 IF YOU COULD PLEASE HOLD UP FOR THE JURY THE
19 FIREARM THAT YOU BROUGHT AND TELL US -- TELL THE JURY
20 WHAT TYPE OF FIREARM THAT IS.

21 THE COURT: IT WILL BE MARKED AS PEOPLE'S 15
22 FOR IDENTIFICATION.

23 THE WITNESS: WELL, THIS IS CHINESE-MADE AK-47
24 THAT I BROUGHT TO COURT TODAY.

25 BY MS. JONES: Q. HOW DO YOU KNOW THAT, THAT IT'S
26 CHINESE MADE?

1 A. WELL, BY THE RECEIVER, LOOKING ON THE
2 RECEIVER. AND ALSO WITH THE CASE PREVIOUSLY THAT IT WAS
3 USED FOR, IT WAS BROUGHT UP THAT IT WAS A CHINESE AK-47.

4 Q. SO IT WAS EVIDENCE IN ANOTHER CASE?

5 A. IT WAS EVIDENCE IN ANOTHER CASE, YES.

6 Q. OKAY. IF YOU COULD, PLEASE, AND DESCRIBE TO
7 THE BEST OF YOUR ABILITY EACH PART OF THE WEAPON -- AND
8 YOU CAN TAKE IT APART IF YOU NEED TO -- AND DESCRIBE
9 WHAT EACH MAJOR PART OF THAT WEAPON DOES.

10 THE COURT: AND I'M GOING TO STOP YOU
11 INTERMITTENTLY SO THAT I CAN MAKE SURE THE RECORD IS
12 CLEAR.

13 THE WITNESS: YES, MA'AM.

14 WE'LL START WITH THE FOLDING STOCK IN THE
15 BACK.

16 BY MS. JONES: Q. IS THERE A - WHAT IS A FOLDING
17 STOCK?

18 A. IT MEANS THAT I CAN TAKE -- AND NOW IT'S JUST
19 A SMALLER WEAPON. ORIGINALLY DEVELOPED FOR PARATROOPERS
20 WHEN THEY WERE JUMPING OUT OF AIRPLANES. IT WAS
21 SOMETHING THAT THEY COULD KEEP CLOSE IN THEIR BODY.

22 Q. IS THERE A PARTICULAR CONCERN IN YOUR TRAINING
23 AND EXPERIENCE AS A LAW ENFORCEMENT OFFICER WITH HAVING
24 A FOLDING STOCK FIREARM?

25 A. YES, CONCEALABILITY. NOW IT'S ONLY THIS BIG,
26 SO I CAN CONCEAL IT EITHER IN A JACKET, PUT IT IN A

1 HOLSTER OFF TO THE SIDE AND PULL IT AROUND.

2 MS. JONES: OKAY.

3 THE COURT: SO THE FOLDING STOCK IS -- IT'S
4 LIKE A -- LIKE A METAL HANDLING THAT PROTRUDES OUT OF THE
5 BACK?

6 THE WITNESS: YES. IT'S FOR A SHOULDER STOP
7 WHEN YOU GO TO TAKE IT TO AIM IT.

8 THE COURT: OH, YOU SAID IT WAS A SHOULDER
9 WHAT?

10 THE WITNESS: STOP.

11 THE COURT: OKAY. A SHOULDER STOP. OKAY. SO
12 IT CAN REST ON YOUR SHOULDER AS YOU'RE AIMING THE GUN?

13 THE WITNESS: YES, MA'AM.

14 THE COURT: OKAY. FAIR ENOUGH.

15 BY MS. JONES: Q. BUT IT'S ALSO A FOLDING STOCK,
16 RIGHT?

17 A. YES. AS COMPARED TO SOME OF THE VARIATIONS
18 WITH THE DIFFERENT AK SYSTEMS, YOU CAN FROM A WOODEN, A
19 WOOD STOCK. AND WITH THAT, IT'S -- YOU CAN'T MOVE IT AT
20 ALL. YOU CAN'T TAKE IT AND SHORTEN IT. IT'S PERMANENT.

21 Q. FIXED?

22 A. IT'S A FIXED STOCK.

23 Q. OKAY.

24 A. JUST LIKE WITH THE LOWER RECEIVER HERE ON
25 THIS, THIS IS --

26 MR. HENNES: OBJECTION, YOUR HONOR. EXCUSE

1 ME. OBJECTION. NONRESPONSIVE. MOTION TO STRIKE.

2 THE COURT: SUSTAINED AND STRICKEN. YOU CAN
3 WAIT FOR THE NEXT QUESTION.

4 THE WITNESS: OKAY.

5 BY MS. JONES: Q. HOW ELSE DOES IT DIFFER FROM THE
6 .50 CALIBER?

7 A. WELL, THIS IS A FOLDING STOCK. AND THIS AR
8 SYSTEM HERE --

9 THE COURT: HE'S REFERRING TO PEOPLE'S 1?

10 MS. JONES: YES.

11 THE WITNESS: MOST OF THE TIME THE PINS ARE
12 NOT DIFFICULT TO TAKE OUT. I'LL JUST LEAVE IT OUT.
13 THIS IS A COLLAPSIBLE STOCK.

14 ORIGINALLY, WHEN THE AR WAS DEVELOPED, IT HAD
15 A SOLID STOCK. AND THEN THROUGH JUST TRIAL AND ERROR,
16 THEY DEVELOPED A COLLAPSIBLE STOCK. SO THE AK SYSTEM
17 HERE HAS A HOLDING STOCK. AND THIS IS A COLLAPSIBLE
18 STOCK, AGAIN, FOR MANEUVERABILITY AND CONCEALABILITY.

19 THE COURT: SO THE WITNESS HAS TAKEN
20 PEOPLE'S 1, AND HE HAS MANIPULATED THE BACK PORTION OF
21 THE GUN, PULLING IT IN AND OUT.

22 THE WITNESS: YES. AND I WOULD -- THIS IS
23 JUST A DIFFERENT VARIATION OF A -- THIS IS A COLLAPSTBLE
24 STOCK, AND THIS IS A FOLDING STOCK. AND THEN HERE'S
25 ANOTHER VARIATION OF THE AK THAT HAS A --

26 MR. HENNES: OBJECTION, YOUR HONOR.

1 NONRESPONSIVE.

2 THE COURT: SUSTAINED.

3 BY MS. JONES: Q. YOU CAN GO ON TO THE NEXT PART
4 OF THE GUN. PLEASE CONTINUE.

5 A. YOU HAVE THE - THE HAND GRIP THAT IS DOWN
6 BELOW THE RECEIVER OF THE WEAPON, THE TRIGGER GROUP
7 HERE.

8 Q. AND YOU WERE POINTING TO THE TRIGGER -

9 A. THE TRIGGER, THE PISTOL GRIP HERE. YOU HAVE
10 THE SAFETY LEVER HERE, THE RECEIVER COVER.

11 THE COURT: HOLD ON. I'M SORRY. WHERE IS THE
12 SAFETY LEVER?

13 THE WITNESS: THIS RIGHT HERE. THIS IS THE
14 SAFETY LEVER (INDICATING).

15 THE COURT: SO IT'S FROM RIGHT ABOVE WHERE THE
16 TRIGGER IS; IS THAT CORRECT? IT'S A LEVER THAT'S
17 HORIZONTAL RIGHT ABOVE WHERE THE TRIGGER IS THAT YOU'RE
18 MOVING UP AND DOWN WITH YOUR THUMB?

19 THE WITNESS: YES, MA'AM.

20 THE COURT: ALL RIGHT.

21 THE WITNESS: THE SAFETY LEVER, SAFETY LEVER
22 STOP. THIS IS THE BOLT CARRIER AND THE HANDLE. YOU
23 WOULD USE THAT TO CHARGE THE WEAPON.

24 THE COURT: THAT APPEARS TO BE A TRIGGER
25 THAT'S PROTRUDING OUT FROM THE GUN.

26 THE WITNESS: YES, HERE. FORWARD GRIP -- OR

1 FORWARD GRIP. THIS IS THE GAS CYLINDER TUBE, THE GLASS
2 BLOCK, AND THE FRONT SIGHTS AND THE MUZZLE BRAKE HERE.
3 AND THIS IS THE BARREL.

4 THE COURT: OKAY. FOR THOSE LAST FOUR THINGS,
5 THE WITNESS PUT HIS HAND ON PRETTY MUCH THE TOP FOURTH
6 OF THE GUN, AND HE POINTED TO FOUR DIFFERENT PLACES
7 GOING TOWARDS THE FRONT OF THE GUN.

8 THE WITNESS: AND THIS IS THE MAGAZINE THAT
9 GETS INSERTED INTO THE WEAPON DOWN BELOW.

10 THE COURT: THE WITNESS IS NOW PUTTING THAT,
11 WHAT APPEARS TO BE A MAGAZINE, IN THE GUN.

12 BY MS. JONES: Q. IS THAT A DETACHABLE MAGAZINE?

13 A. THIS ONE IS, YES, MA'AM.

14 Q. AND IS THERE SOMETHING ON THAT GUN THAT ALLOWS
15 IT TO ACCEPT THAT DETACHABLE MAGAZINE?

16 A. YES. THIS LEVER RIGHT HERE. THERE'S THE
17 LEVER RIGHT THERE.

18 THE COURT: THAT'S THE LEVER THAT'S RIGHT
19 UNDER THE TRIGGER

20 THE WITNESS: TRIGGER GUARD.

21 THE COURT: MORE OR LESS? UNDER THE
22 TRIGGER GUARD?

23 THE WITNESS: YES.

24 BY MS. JONES: Q. IS THERE A MANUFACTURER'S NAME AND
25 SERIAL NUMBER ON YOUR GUN?

26 A. THERE'S A SERIAL NUMBER. AND I WOULD HAVE TO

1 LOOK FOR THE -- THIS IS THE RECEIVER COVER.

2 Q. AND THAT WAS THE PORTION THAT WAS ON THE TOP
3 BACK END OF THE GUN OR THE MIDDLE OF THE GUN?

4 A. YES. THE RECOIL GUIDES --

5 MS. JONES: AND THAT WAS A LARGE PIECE OF
6 COIL.

7 THE COURT: THAT THE WITNESS JUST REMOVED FROM
8 THE GUN.

9 THE WITNESS: I HAVE THE DIFFERENT SERIAL
10 NUMBERS. I'LL HAVE TO LOOK FOR --

11 THE COURT: THE WITNESS IS LOOKING AT THE GUN,
12 TRYING TO FIND, WHAT, THE MANUFACTURER'S NAME?

13 THE WITNESS: THE MANUFACTURER'S NAME.

14 BY MS. JONES: Q. YOU HAVE LOCATED A SERIAL NUMBER
15 ON THE GUN?

16 A. YES, MA'AM. A COUPLE DIFFERENT PLACES.

17 Q. WHERE IS IT LOCATED?

18 A. ON THE LEFT SIDE OF THE RECEIVER.

19 Q. AND WHERE ELSE?

20 A. AND ALSO ON THE BOLT, THE BOLT CARRIER.

21 THE REPORTER: THE BOLT WHAT?

22 THE WITNESS: THE BOLT CARRIER. THIS CARRIES
23 THE BOLT HERE.

24 DO YOU WANT ME TO JUST DISASSEMBLE IT AND SHOW
25 IT?

26 MS. JONES: YES, AS SOON AS THE COURT --

1 THE COURT: AND THE BOLT CARRIER THAT IS RIGHT
2 ABOVE THE TRIGGER AREA, RIGHT ON TOP OF THE GUN; IS THAT
3 CORRECT?

4 THE WITNESS: YES, MA'AM.

5 BY MS. JONES: Q. THANKS. GO AHEAD.

6 A. THIS IS FIELD STRIPPING.

7 Q. WHAT IS FIELD STRIPPING?

8 A. FIELD STRIPPING IS JUST THE, REALLY, THE BASIC
9 OPERATOR AS FAR AS DOWN AS YOU CAN TAKE THE WEAPON FROM
10 CLEANING AND MAINTENANCE OF THE WEAPON TO DO AN
11 INSPECTION TO SEE IF IT'S FUNCTIONAL.

12 Q. IF YOU COULD PLEASE DESCRIBE FOR THE JURY --
13 AND MAYBE YOU CAN WALK UP SO THEY CAN SEE IT CLOSER --
14 THE INNER PARTS OF THE WEAPON THAT ARE EXPOSED NOW.

15 A. THEY DON'T HAVE ANY GLOVES, BUT THIS IS THE
16 LOWER RECEIVER AND THE BARREL. SO WE START WITH THE
17 STOCK, THE PISTOL GRIP, THE TRIGGER.

18 THERE IS THE INTERNALS: THE SEAR AND THE
19 DISCONNECTOR, THE HAMMER. YOU HAVE THE BARREL HERE.
20 YOU HAVE THE FRONT SIGHT - OR I'M SORRY, THE REAR
21 SIGHT, THE REAR SIGHT BLOCK HERE. THIS IS THE GAS
22 SYSTEM. IT'S GAS-OPERATED. THIS IS THE FRONT SLIDE, THE
23 MUZZLE BRAKE.

24 MS. JONES: AND FOR THE RECORD, THE WITNESS
25 HAS WORKED FROM THE BACK OF THE GUN FORWARD, DESCRIBING
26 EACH PART.

1 THE WITNESS: DO YOU WANT ME TO PASS THIS
2 AROUND?

3 THE COURT: IT WILL SO REFLECT.

4 MS. JONES: WELL, ACTUALLY, WOULD THAT BE
5 OKAY? THE BATTLET, DEPUTY VAN, WILL SUPERVISE THE
6 PASSING AROUND).

7 MR. HENNES: OBJECTION, YOUR HONOR. I THINK
8 IT'S IMPROPER DEMONSTRATION.

9 THE COURT: OVERRULED.

10 (PAUSE IN THE PROCEEDINGS)

11 THE WITNESS: AND THE SERIAL NUMBER IS
12 CORRESPONDING ON THE BOLT CARRIER. AND THIS IS THE BOLT
13 CARRIER AND THE BOLT. THE BOLT IS REMOVABLE. THE BOLT
14 IS HERE WITH A GAS -- ON HERE. YOU CAN SEE THAT'S BEEN
15 FIRED. THIS IS THE COIL AND THE COIL SPRING, RECOIL
16 GUIDE. THIS IS THE GAS CYLINDER. THIS FITS ON TOP.

17 THE COURT: OKAY. LET'S GO AHEAD AND COUNSEL
18 CAN ASK THE NEXT QUESTION.

19 THE WITNESS: OKAY.

20 BY MS. JONES: Q. OKAY. I'M SORRY. I NEED TO --
21 FOR THE RECORD, WHAT IS IN YOUR HAND, IN YOUR RIGHT
22 HAND?

23 A. THIS IS THE BOLT.

24 Q. AND YOU'RE HOLDING UP A BOLT-LIKE OBJECT?

25 A. WITH A FIRING PIN INSIDE.

26 Q. OKAY.

1 A. THIS IS THE BOLT CARRIER. THIS IS -- HERE IS
2 THE BOLT DURING CYCLE OF OPERATION WITH THE WEAPON.

3 Q. AND THAT'S A CYLINDRICAL OBJECT THAT APPEARS
4 TO BE -- IT APPEARS THAT THE BOLT IS ON ONE SIDE OF --
5 END OF IT?

6 A. THERE IS A GAS PISTON. IT'S A GAS-OPERATED
7 WEAPON. THIS IS -- THIS IS THE GAS PISTON. AND WHEN
8 THE GAS IS EXPELLED FROM THE ROUND, IT PUSHES BACK TO
9 CYCLE FOR ANOTHER ROUND FOR EXTRACTING.

10 Q. AND HE'S POINTING TO A RAISED PORTION AT THE
11 END OF THIS CYLINDRICAL TUBE.

12 A. AND THIS IS THE RECOIL SPRING, BOTH THE REAR
13 AND THE FORWARD RECOIL GUIDE. AND THIS IS TO HELP SLOW
14 DOWN SO IT'S NOT -- SO THE PROCESS ISN'T AS VIOLENT,
15 KIND OF BUFFERS THIS FROM HITTING THE BACK OF THE WEAPON
16 THERE.

17 Q. FOR THE PERSON WHO IS SHOOTING IT?

18 A. FOR THE PERSON WHO IS SHOOTING IT, YES.

19 MS. JONES: OKAY. THANK YOU, DEPUTY.

20 BY MS. JONES: Q. DID YOU FINISH WITH THE PARTS
21 THAT WERE ON THE TABLE?

22 A. THIS IS THE RECEIVER COVER HERE.

23 Q. AND THAT'S --

24 A. THAT'S THE --

25 Q. -- THE SHELLS THAT YOU REFERRED TO EARLIER THAT
26 WENT ON THE TOP OF THE GUN?

1 A. JUST TO PROTECT THE OPERATOR FROM THE BOLT AND
2 THE BOLT CARRIER GOING BACK AND FORTH. AND THAT'S THE
3 LOWER-HAND GUARD TO KEEP THE PERSON HOLDING THE WEAPON
4 FROM BURNING THEMSELVES ON THE BARREL.

5 Q. AND THIS IS ANOTHER WOODEN OBJECT THAT'S
6 REMOVED FROM THE BOTTOM PORTION OF THE GUN?

7 THE COURT: SO THE GUN IS NOW A LITTLE BIT
8 HALF ASSEMBLED?

9 THE WITNESS: YES, MA'AM.

10 THE COURT: ALL RIGHT.

11 BY MS. JONES: Q. I'M GOING TO DIRECT YOUR
12 ATTENTION, OFFICER SCHUCH HAVE A SEAT FOR A LITTLE
13 BIT -- TO PEOPLE'S 11, WHICH APPEARS TO BE A PHOTOGRAPH
14 OF PARTS OF TWO WEAPONS.

15 DO YOU RECOGNIZE THAT PHOTOGRAPH?

16 A. YES.

17 Q. WHAT IS IT?

18 A. THAT'S THIS WEAPON DISASSEMBLED AS YOU SEE
19 THERE.

20 Q. AND BY "THIS WEAPON," YOU'RE INDICATING --

21 A. THE ONE --

22 Q. -- PEOPLE'S 15 THAT YOU BROUGHT IN TODAY AND
23 DISASSEMBLED FOR US?

24 A. YES.

25 Q. SO --

26 A. THAT'S THE ONE THAT'S IN THE LOWER PART OF THE

1 PICTURE.

2 Q. AND IS THAT A PHOTOGRAPH OF A DISASSEMBLY OF
3 THAT GUN THAT YOU PERFORMED?

4 A. YES, MA'AM.

5 Q. AND DID YOU DO THAT WITH DETECTIVE CHAPMAN?

6 A. YES, I DID.

7 Q. OKAY. AND WHAT ARE THE PARTS ABOVE IT? ON TOP
8 OF THE GREEN STRIP THAT RUNS THROUGH THE CENTER?

9 A. ALL THE PARTS THAT ARE UP ABOVE ARE THE PARTS
10 THAT ARE IN THE PLASTIC PACKAGING HERE. AND WE LAID
11 THEM OUT JUST LIKE WE DID DOWN BELOW WITH THE COMPLETED
12 PART ON THEM.

13 Q. AND BY "THE PLASTIC PACKAGING" ON THE TABLE
14 YOU'RE REFERRING TO PEOPLE'S 5, CORRECT?

15 A. YES.

16 Q. AND THOSE ARE INDIVIDUAL PACKAGES MARKED A
17 THROUGH W. ARE THOSE ALL THE PARTS THAT YOU EXAMINED OF
18 PEOPLE'S 5?

19 A. YES.

20 Q. AND IF YOU COULD -- IF YOU COULD PLEASE HOLD
21 UP EACH PACKAGE AND SHOW ACTUALLY, OPEN IT UP AND
22 TELL US WHAT LETTER IT'S MARKED, WHAT IT IS, AND
23 DESCRIBE IT FOR THE JURY, WHAT IT DOES.

24 A. I'LL START WITH THIS IS THE SHOULDER STOCK.
25 THIS IS EXHIBIT LETTER D --

26 Q. AND THE SHOULDER STOCK?

1 A. THIS IS THE SHOULDER STOCK HERE THAT'S JUST
2 LIKE THE ONE ON THE BUTTON ITSELF HERE.

3 Q. SO THAT IS DESIGNED TO FOLD DOWN, CORRECT?

4 A. YES, FOLDS UNDERNEATH.

5 Q. ALL RIGHT.

6 A. THIS IS THE -- THESE PIECES ARE THE SHOULDER
7 STOCK TAKEDOWN ASSEMBLY. AND IT'S PEOPLE'S EXHIBIT
8 LETTER F.

9 THE COURT: EXCUSE ME ONE SECOND. DO WE HAVE
10 A THROUGH W THERE, COUNSEL?

11 MS. JONES: YES.

12 THE COURT: AND IS IT POSSIBLE THAT HE COULD
13 GO IN ORDER: A, B, C?

14 MS. JONES: OH, I WAS CHECKING THEM OFF AS I
15 WENT, BUT IT MIGHT MAKE MORE SENSE IF HE DOES IT IN THE
16 ORDER THAT THEY GO ON THE GUN.

17 THE COURT: OKAY.

18 THE WITNESS: THESE GO INTO THE LARGE
19 CORRESPONDING HOLES HERE. THIS IS THE SPRING AND THE
20 DEFON PIN, WHICH ON THE WEAPON HERE, THAT'S WHAT THIS
21 BUTTON IS HERE, TOP RIGHT, THE FOLDER PORTION OF A
22 STOCK.

23 MR. HENNES: YOUR HONOR, MAY WE REFER TO THE
24 EXHIBIT NUMBER?

25 MS. JONES: "F."

26 THE WITNESS: THIS IS "F."

1 MR. HENNES: WHICH IS IT?

2 MS. JONES: "F" IS THE SHOULDER STOCK TAKEDOWN
3 ASSEMBLY.

4 THE COURT: THAT'S KIND OF A HINGE THAT HOLDS
5 THE SHOULDER STOCK ON; IS THAT CORRECT?

6 THE WITNESS: YES, MA'AM.

7 THE COURT: ALL RIGHT.

8 THE WITNESS: I WAS JUST WORKING -- TRYING TO
9 BE CONSISTENT, WORKING FROM THE REAR OF THE WEAPON
10 FORWARD.

11 ALL RIGHT. THE NEXT ONE UP IS THE PISTOL
12 GRIP. THIS IS EXHIBIT B, "BCHO." AND THIS IS THE
13 PISTOL GRIP AND THE CORRESPONDING PARTS TO THE WEAPON
14 HERE. THAT IS THAT RIGHT THERE.

15 BY MS. JONES: Q. AND PISTOL GRIP IS JUST WHAT IT
16 SAYS. YOU GRIP IT, CORRECT?

17 A. YES, MA'AM. IT'S JUST A PISTOL, PISTOL GRIP.
18 IT'S FOR YOU TO HELP CONTROL THE WEAPON ITSELF.

19 Q. WOULD THAT PISTOL GRIP BE DESIGNED TO PROTRUDE
20 CONSPICUOUSLY BENEATH THE ACTION OF THE WEAPON?

21 A. YES. THAT'S WHAT IT DOES HERE.

22 Q. AND DOES THAT MEAN THAT THE GRIP ALLOWS FOR A
23 PISTOL-STYLE GRASP IN WHICH THE WEB OF THE TRIGGER HAND,
24 BETWEEN THE THUMB AND THE INDEX FINGER, CAN BE PLACED
25 BELOW THE TOP OF THE EXPOSED PORTION OF THE TRIGGER
26 WHILE IT IS BEING FIRED?

1 A. YES, JUST LIKE THAT.

2 MS. JONES: OKAY.

3 THE COURT: AND THE WITNESS HAS JUST
4 DEMONSTRATED THAT GRID ON THE GUN.

5 THE WITNESS: HERE I HAVE THE TRIGGER GUARD.
6 THIS IS A MAGAZINE RELEASE. THIS IS EXHIBIT G, "GOLF."
7 AND THE TRIGGER ASSEMBLY, WHICH IS T, "TANGO." THIS
8 RIGHT HERE IS THE LEVER, THE MAGAZINE RELEASE LEVER THAT
9 DETECTIVE CHAPMAN IS USING RIGHT HERE.

10 THIS IS THE TRIGGER GUARD, WHICH IS THIS HERE.
11 THIS IS THE TRIGGER, THE DISCONNECTOR, AND THE SEAR.
12 AND THIS IS, INTERNALLY, RIGHT WHERE HIS FINGERS ARE
13 INSIDE THE WEAPON.

14 MR. HENNES: YOUR HONOR, MAY WE HAVE THE
15 EXHIBIT NUMBER?

16 THE COURT: YEAH. WHAT IS THAT EXHIBIT
17 NUMBER? G AND T?

18 THE WITNESS: G AND T. YES, MA'AM.

19 BY MS. JONES: Q. WOULD THAT TRIGGER GUARD GIVE
20 THE WEAPON THE CAPACITY TO ACCEPT A DETACHABLE MAGAZINE?

21 A. THIS HERE, YES. THERE'S THE MAGAZINE RELEASE
22 LEVER.

23 Q. THAT'S ON THE TRIGGER GUARD?

24 A. THAT'S ON THE TRIGGER GUARD, YES.

25 Q. OKAY. AND THAT'S JUST LIKE THE ITEM THAT YOU
26 SHOWED IN THE OTHER AK-47?

1 A. RIGHT THERE. THAT'S -- DETECTIVE CHAPMAN IS
2 MANIPULATING THAT RIGHT THERE.

3 Q. OKAY. AND THOSE TWO ITEMS ALLOW THE
4 DETACHABLE MAGAZINE TO BE PUT UP UNDERNEATH?

5 A. YES.

6 Q. OKAY.

7 A. INTERNALLY, I HAVE THREE -- THREE PARTS HERE
8 THAT ARE -- I'LL START WITH THE HAMMER AND THE HAMMER
9 SPRING. THIS IS EXHIBIT LETTER S, "SIERRA."

10 AND THIS IS THE HAMMER AND HAMMER SPRING WITH
11 CORRESPONDING PARTS JUST ABOVE THE TRIGGER AND THE SEAR
12 AND THE DISCONNECTOR. THIS PART HERE, THAT IS THE
13 FIRING PIN FOR DETONATING THE PRIMER. THAT IS LETTER F.
14 LETTER A IS THE SAFETY LEVER.

15 Q. I'M SORRY. YOU SAID LETTER -- HAMMER AND THE
16 HAMMER SPRING WAS "S"?

17 A. "S," "SIERRA."

18 Q. "S." OKAY. I THOUGHT YOU SAID "F."

19 A. SORRY. "S," AS IN "SIERRA."

20 THIS IS THE SAFETY LEVER, LETTER A. AND THIS
21 IS THE LARGE SAFETY LEVER ON THE SIDE OF THE WEAPON
22 HERE.

23 THE COURT: I'M SORRY. LET ME SEE WHERE
24 YOU'RE --

25 THE WITNESS: THAT'S WHAT THIS LEVER IS HERE.
26 AND RIGHT BELOW IT IS THE SAFETY LEVER STOP, WHICH GOES

1 ATTACHED RIGHT TO THE TRIGGER GUARD. AND THAT IS THIS
2 PORTION HERE.

3 BY MS. JONES: Q. AND WHAT LETTER ARE YOU
4 REFERRING TO?

5 A. PETS IS H, "HOTEL," H.

6 Q. THAT'S THE SAFETY LEVER STOP?

7 A. SAFETY LEVER STOP. AND THAT SETS ON TOP OF
8 THE TRIGGER GUARD AND THE SAFETY LEVER. IT JUST STOPS
9 IT FROM GOING DOWN ALL THE WAY. IT JUST RESTS ON TOP OF
10 THAT. IT'S THIS PORTION RIGHT HERE.

11 THIS LARGE, RECTANGULAR PIECE IS THE RECEIVER.
12 AND THAT'S WHAT -- THIS IS LETTER F -- OR I'M SORRY --
13 LETTER W, "WHISKEY," IS THE RECEIVER ITSELF.

14 THE COURT: APPEARS TO BE A RECTANGULAR METAL
15 BOX, KIND OF OPEN-ENDED.

16 THE WITNESS: OPEN-ENDED, YES.

17 THE COURT: ALL RIGHT. ROUGHLY.

18 THE WITNESS: NEXT, THE BARREL GETS ATTACHED
19 TO THIS END. THERE'S A PLACE FOR THE BARREL AND THE
20 BARREL RETAINING PIN.

21 ALSO, THE FRONT SIGHT LOCK GETS PLACED HERE.
22 THIS AREA RIGHT HERE IS THE -- WHERE THE SHOULDER STOCK
23 TAKEDOWN ASSEMBLY GOES INSIDE HERE. SO THE FOLDING
24 STOCK GETS MADE UP TO THE RECEIVER HERE.

25 THE COURT: NOW, THE WITNESS IS POINTING TO
26 VARIOUS SIDES ON THIS RECTANGULAR OBJECT.

1 BY MS. JONES: Q. AND AS FAR AS THE MANUFACTURER
2 OF THIS RECEIVER, IT'S BEEN -- IT'S FAIR TO SAY THAT
3 IT'S BEEN BENT INTO THE PROPER SHAPE, CORRECT?

4 A. YES, MA'AM.

5 Q. AND WHAT OTHER WORK HAS BEEN DONE TO IT SO IT
6 CAN FIT INTO THAT AK-47?

7 A. UM --

8 Q. WELL, WHAT HAS BEEN DONE BESIDE BENDING THE
9 PIECE OF METAL TO MAKE A RECEIVER?

10 A. WELL, THIS HAS BEEN RIVETED. THIS IS THE
11 BARREL, THE BARREL BLOCK, WHICH IS THIS AREA RIGHT IN
12 HERE.

13 Q. INDICATING THE CENTER OF THE ... THE ...

14 A. THE BARREL RESTS IN THIS. THIS IS --

15 Q. DEMONSTRATIVE --

16 A. -- JUST SHEET METAL UP HERE.

17 BUT THE BARREL RESTS IN THIS. AND THERE IS A
18 BARREL RETAINING PIN THAT GOES IN HERE. THAT'S WHAT IS
19 INSIDE OF HERE WITH THE SERIAL NUMBER. THIS ONE DOESN'T
20 HAVE A CORRESPONDING SERIAL NUMBERS HERE. AND THEN THE
21 REAR SIGHT ASSEMBLY SITS ON TOP OF THIS.

22 THE COURT: AND HE'S POINTING TO THE PART OF
23 THIS ITEM THAT HAS THE METAL PART PROTRUDING FROM THE
24 TOP; IS THAT RIGHT?

25 THE WITNESS: YES.

26 THE COURT: AND THERE IS A ROUND, SORT OF,

1 HOLE ALSO IN THAT SIDE OF THE RECTANGLE THAT APPEARS TO
2 HOLD SOME SORT OF, WHAT, THE BARREL?

3 THE WITNESS: THE BARREL, YES, MA'AM.

4 BY MS. JONES: Q. OKAY. AND YOU INDICATED THAT
5 SOME RIVETS THAT HAD BEEN PLACED INTO THE RECEIVER
6 ALREADY?

7 A. YES. IN THE FORWARD PORTION WHERE THE BARREL
8 BLOCK IS, THE RIVETS HAVE BEEN SET AND --

9 Q. HOW IS THAT DONE?

10 A. JUST TAKING AFTER -- AFTER THE RECEIVER IS
11 FOLDED UP, ALL YOU HAVE TO DO IS INSERT THE BARREL
12 BLOCK, AND THEN JUST TAKE A HAMMER AND LINE UP THE HOLES
13 AND --

14 Q. SO I ASSUME --

15 A. -- PIN IT IN WITH A HAMMER.

16 Q. -- THAT THE HAMMER DOES THE TRICK?

17 A. YES, MA'AM. YOU CAN ALIGN THEM WITH A PUNCH
18 MAKER SO TO MAKE SURE THAT THE HOLES ARE ALIGNED AND
19 JUST DROP A RIVET IN AND JUST -

20 Q. DOES IT INDICATE THAT THERE ARE MORE RIVETS TO
21 BE PLACED IN THERE OR MORE HOLES TO BE DRILLED?

22 A. MAYBE A COUPLE MORE. THERE'S A COUPLE OF
23 PILOT HOLES HERE, SO MAYBE A COUPLE OF MORE HOLES.

24 Q. WHAT DO YOU MEAN BY "PILOT HOLE"?

25 A. IT'S A HOLE THAT'S ALREADY PREDRILLED. SO
26 WHEN YOU PUT YOUR DRILL BIT ON IT, MAKE SURE THAT IT'S

1 CENTERED.

2 Q. AND CAN YOU TELL, LOOKING AT IT, HOW MANY MORE
3 HOLES NEED TO BE DRILLED INTO THAT BEFORE IT'S COMPLETED
4 - I MEAN, BEFORE IT CAN BE ASSEMBLED?

5 A. JUST A COUPLE. HERE'S A PILOT HOLE, AND THE
6 CORRESPONDING ONE ON THE OTHER SIDE, SO ONE --

7 Q. SO YOU'VE INDICATED ONE EACH ON --

8 A. ON EITHER SIDE --

9 Q. -- EITHER SIDE.

10 A. -- OF THE RECEIVER.

11 SO ONE GOING AROUND ALL THE WAY THROUGH. WILL
12 CUT THE TWO HOLES. AND THEN THERE'S ANOTHER PILOT HOLE
13 OVER HERE THAT CORRESPONDS WITH THE HOLE THAT'S ALREADY
14 DRILLED. SO IT LOOKS LIKE THREE MORE HOLES HAVE TO BE
15 DRILLED. I WOULD HAVE TO LINE IT UP WITH THE RECEIVER
16 HERE.

17 Q. AND SHOWING YOU PEOPLE'S 13, IS THAT THOSE TWO
18 RECEIVERS LINED UP?

19 A. YES, MA'AM.

20 Q. AND WHEN YOU'RE TALKING ABOUT -- IS THIS
21 LITTLE DOT HOLE IN THE CENTER THERE OF THE BOTTOM ONE,
22 IS THAT WHAT YOU'VE REFERRED TO AS A PILOT HOLE?

23 A. YES.

24 Q. AND DID YOU FIND THAT THE HOLES THAT HAVE BEEN
25 DRILLED CORRESPONDED WITH THE HOLES DRILLED ON YOUR
26 SAMPLE

1 A. PRETTY MUCH, YES.

2 Q. -- OF THE --

3 A. AGAIN, THERE'S SOME VARIATION.

4 THE COURT: I'M SORRY. WAIT A MINUTE. MAKE
5 SURE SHE FINISHES THE QUESTION FIRST SO WE CAN HEAR WHAT
6 YOUR ANSWER IS.

7 THE WITNESS: ALL RIGHT.

8 BY MS. JONES: Q. DO THEY SEEM TO FAIRLY
9 CORRESPOND WITH THE DEMONSTRATIVE AK-47 HOLES ON THAT --

10 A. YES.

11 Q. -- RECEIVER?

12 SORRY TO INTERRUPT YOU. GO AHEAD.

13 A. AND AGAIN, GOING BACK TO THE DIFFERENT
14 VARIATION. SOME VARIATIONS, THE HOLES WILL BE THERE.
15 IT WILL JUST BE IN A SLIGHTLY ALTERED PLACE, MAYBE NOT
16 COMPLETELY LINING UP EXACTLY WITH THE ONE THAT I HAVE
17 HERE, BECAUSE THIS IS A CHINESE OR COMMERCIAL MAKE.

18 Q. THE CHINESE MIGHT PUT THEIRS IN A DIFFERENT
19 PLACE AND THE ROMANIANS?

20 A. YES, MA'AM. IT'S ALL GOING TO BE THERE, AND
21 IT'S ALL GOING TO BE HOLDING THE SAME PARTS. IT'S JUST
22 GOING TO BE MOVED A LITTLE BIT DIFFERENTLY IN AN AREA
23 THAT'S JUST A LITTLE BIT DIFFERENT.

24 INSTEAD OF HAVING TWO HOLES BACK HERE, MAYBE
25 IT'S -- THEY PUT THREE OR HAVE THE HOLES CLOSER
26 TOGETHER. AND IT'S JUST SLIGHT VARIATION. THE

1 OPERABILITY IS THE SAME.

2 Q. THE OPERABILITY IS THE SAME. OKAY.

3 YOU CAN CONTINUE, PLEASE.

4 A. STILL INSIDE, THESE ARE THE -- THIS IS LETTER
5 B, EXHIBIT B, "BRAVO." THESE ARE THE LOWER BOLT CARRIER
6 RAILS.

7 Q. HOW ARE THOSE INSERTED INTO -- WELL, TELL ME
8 WHERE DO THEY GO, FIRST.

9 A. THEY GO INSIDE OF THE RECEIVER. AS
10 DETECTIVE CHAPMAN IS SHOWING YOU HERE, THESE ARE FOR
11 GUIDING. THE UPPER GUIDE RAILS ARE ALREADY BENT INTO
12 THE RECEIVER HERE.

13 Q. AND YOU'RE POINTING TO THE INSIDE OF THE
14 RECEIVER?

15 A. JUST ON TOP.

16 Q. GO AHEAD.

17 A. AND THEN THE LOWER GUIDE RAILS ARE THE ONES
18 INSIDE. AND THEY CAN EITHER BE ATTACHED -- EITHER
19 ATTACHED BY TACK WELDING WITH A SMALL TACK WELDER, OR
20 THEY CAN BE SCREWED INTO PLACE.

21 AND THAT'S WHERE ALIGNMENT OF THE BOLT CARRIER
22 IN MAKING SURE THAT GOES INTO BATTERY. YOU WANT TO MAKE
23 SURE THAT THE BOLT GOES ON WHERE IT CORRECTLY ALIGNS, SO
24 YOU CAN - YOU CAN MAKE THE ALIGNMENT WITH A DRILL BIT
25 AND THINGS LIKE THAT. AND THAT'S THE TWO GUIDE RAILS
26 HERE.

1 THIS IS LETTER -- HERE WE GO. THIS IS V,
2 "VICTOR." AND IT'S THE BOLT CARRIER AND -- THE BOLT AND
3 THE BOLT CARRIER. AND THIS HAS THE FIRING PIN WITH IT.
4 SO THIS SETUP IS JUST LIKE THE ONE HERE. SO AS THE TWO
5 MATCH UP, THIS IS THE GAS PISTON AND THE BOLT CARRIER
6 AND THE BOLT. AND THIS IS THE ONE OF THE MODEL THAT I
7 BROUGHT.

8 Q. AND IS THIS IN THAT PHOTOGRAPH, IF YOU COULD
9 POINT IT OUT?

10 A. YES. IT'S JUST BELOW THE RECOIL SPRING UP ON
11 TOP ABOUT THE THIRD OBJECT DOWN. THERE'S THE BOLT
12 CARRIER, THE GAS PISTON. AND THEN DIRECTLY BELOW THAT
13 -- AT THE VERY TOP YOU HAVE THE COVER, THE VERY TOP.
14 DIRECTLY BELOW THAT IS THE RECOIL SPRING, RECOIL SPRING
15 GUIDE.

16 Q. OKAY.

17 A. JUST DRIFT OVER. THAT IS THE BOLT CARRIER AND
18 THE GAS PISTON. AND THEN GO BACK A LITTLE BIT, DIRECTLY
19 DOWN IS THE BOLT. AND IT HAS THE FIRING PIN ALREADY
20 INSIDE THE BOLT.

21 Q. ALL RIGHT.

22 A. AND THAT FITS -- THAT FITS INSIDE THE
23 RECEIVER. THIS IS, I, "INDIA" EXHIBIT 1, "INDIA." THIS
24 IS THE GUIDE ROD AND GUIDE ROD SPRING. AND THAT FITS.
25 HERE IS THE CORRESPONDING PART THERE. AND THAT FITS IN
26 THE BACK OF THE BOLT CARRIER.

1 Q. AND THAT'S THAT COLL THING IN THE PHOTOGRAPH,
2 RIGHT?

3 A. YES, MA'AM. THAT'S THAT ONE RIGHT THERE.

4 THE COURT: THIS IS THE SECOND OBJECT DOWN
5 FROM THE TOP.

6 THE WITNESS: THIS IS EXHIBIT C, "CHARLIE."
7 IT'S THE RECEIVER COVER. AND HERE'S THE CORRESPONDING
8 ONE THERE.

9 BY MS. JONES: Q. FROM YOUR DEMONSTRATIVE AK-47?

10 A. YES.

11 Q. AND AGAIN, A LOT OF THE PARTS HERE ARE MARKED
12 WITH A SERIAL NUMBER --

13 MR. HENNES: OBJECTION, YOUR HONOR.
14 NONRESPONSIVE. NO QUESTION PENDING.

15 THE COURT: SUSTAINED. STRICKEN.

16 BY MS. JONES: Q. DOES THAT RECEIVER HAVE A SERIAL
17 NUMBER?

18 A. THIS ONE HERE?

19 Q. NOT THE RECEIVER, THE COVER THAT YOU JUST HELD
20 UP.

21 A. THIS COVER DOES NOT HAVE A SERIAL NUMBER AND
22 NEITHER DOES THE BOLT CARRIER.

23 Q. DOES THE BOLT CARRIER ON YOURS?

24 A. YES. THE BOLT CARRIER HAS A CORRESPONDING
25 SERIAL NUMBER HERE (INDICATING). AND THE RECEIVER COVER
26 HAS A SERIAL NUMBER HERE (INDICATING).

1 Q. OKAY.

2 A. THIS IS LETTER NUMBER K, "KILLO." THIS IS THE
3 BARREL. (INDICATING). AND THIS GETS INSERTED INTO THE
4 BARREL BLOCK ON THE RECEIVER.

5 Q. AND WHERE IS THAT ON YOUR DEMONSTRATIVE THERE?

6 A. THIS IS THE BARREL.

7 Q. ALL RIGHT.

8 A. THE FRONT END IS ALREADY SCREWED FOR THE
9 MUZZLE BRAKE. IT ALREADY HAS THE PIN INSERTS. HERE'S
10 THE MUZZLE BRAKE. THIS IS O, "OSCAR." THIS GETS
11 SCREWED ONTO THE FRONT OF THE BARREL CROWN TO PROTECT
12 THE CROWN.

13 Q. AND THE WITNESS IS SCREWING IT ONTO THE FRONT
14 OF THE BARREL.

15 A. AND THAT'S JUST LIKE IT SITS HERE. THIS IS
16 EXHIBIT E, "LIMA." THIS IS THE REAR SIGHT ASSEMBLY.
17 AND THAT'S -- IT SITS ON TOP OF THE BARREL BLOCK. AND
18 THAT'S -- IT SITS ON TOP OF THE BARREL BLOCK. AND IT'S
19 THIS PORTION HERE HOLDING THE REAR SIGHT FOR ELEVATION.

20 Q. INDICATING THE LARGE, SQUARE-LIKE PORTION ON
21 THE TOP OF THE DEMONSTRATIVE GUN?

22 A. IT ALSO HAS THE PART ABOVE FOR THE GAS PISTON
23 TO GO THROUGH UP TO THE GAS CYLINDER UP TO THE GAS
24 BLOCK. THAT'S THIS PORTION HERE.

25 THIS IS THE LETTER Q, "QUEBEC." THIS IS THE
26 GAS PORT LOCK. THIS IS USED TO HOLD THE GAS CYLINDER,

1 SWITCH I'LL GET TO NEXT. THAT'S THIS PORTION HERE
2 (INDICATING). AND IT ALSO HOLDS ONTO THE CLEANING ROD.
3 BUT THAT'S THE GAS BLOCK.

4 Q. INDICATING THE WITNESS HAS SHOWN THE SAME ON
5 THE DEMONSTRATIVE.

6 A. THIS IS LETTER J, "JULIETTE." THIS IS THE
7 HAND GUARD AND THE GAS CYLINDER. HERE IS THE
8 CORRESPONDING PART ON THE ONE THAT I BROUGHT. THIS SITS
9 ON TOP OF THE BARREL. HERE.

10 AND IT ALSO -- IT HELPS TO DISPEL THE GAS. AS
11 THE GAS IS RELEASED, THE GAS TRAVELS DOWN THE BARREL.
12 THIS BULLET EXITS AND GAS COMES BACK THROUGH THE GAS
13 BLOCK, WHICH IS THE PISTON NECK.

14 SO THIS GETS INSERTED. THIS IS THE GAS
15 PISTON. IT GETS INSERTED INTO THE UPPER HAND GUARD LIKE
16 THAT (INDICATING).

17 HERE'S THE FRONT SIGHT. THIS IS N,
18 "NOVEMBER." AND THAT'S WHERE YOU GET YOUR ELEVATION.
19 I'M SORRY. YOU COULD DO SOME BASIC ELEVATION OFF OF
20 THIS (INDICATING) AND SOME WINDAGE.

21 THE FRONT SIDE, THAT'S THIS PORTION HERE
22 (INDICATING). THIS IS M, "MIKE," THE LOWER HAND GUARD
23 BAND. THIS GETS INSERTED ON THE BARREL. AND IT JUST
24 REMAINS THE LOWER HAND GUARD HERE. AND IT'S ALSO --
25 THIS ONE HAS A STRAP FOR THE -- FOR A SHOULDER SLING.

26 Q. YOURS DOES?

1 A. MINE DOES. THIS ONE DOESN'T. AGAIN, THAT'S A
2 VARIATION.

3 Q. OKAY.

4 A. THIS ONE DOESN'T HAVE A PLACE WHERE YOU COULD
5 ATTACH THE SLING, A SLING ATTACHMENT POINT. MINE DOES.

6 Q. AG, RIGHT?

7 A. THIS IS THE LOWER HAND GUARD. THIS IS P,
8 "PAPA." THIS IS AGAIN, GOING BACK TO DIFFERENT
9 VARIATIONS. THIS ONE HAS A FORWARD PISTOL GRIP; MINE
10 DOESN'T. MINE IS JUST FLAT. THIS ONE HAS A FORWARD
11 GRIP TO IT. AND THAT ONE GETS PLACED ONTO A WEAPON
12 THERE.

13 Q. AND DOES A FORWARD PISTOL GRIP ALLOW FOR A
14 PISTOL-STYLE GRASP FORWARD OF THE TRIGGER?

15 A. YES. AND THAT'S THE WAY THIS ONE IS SET UP.

16 Q. SO YOU CAN HOLD IT WITH BOTH HANDS?

17 A. CORRECT. ALSO, WHEN YOU -- YES, YOU CAN LOAD
18 IT WITH BOTH HANDS FOR CONTROLLABILITY.

19 THIS IS THE R, "ROMEO." THIS IS THE RECEIVER
20 PTN LOCK SPRING. I SHOULD HAVE GONE THROUGH THIS
21 EARLIER. THERE IS A VERY SMALL SPRING IN HERE.

22 Q. REFERRING TO YOUR DEMONSTRATIVE GUN?

23 A. YES. AND THERE'S A RETAINING PIN DOWN BELOW
24 IN FRONT OF THE HAMMER SPRING AND THE HAMMER PIN. AND
25 THIS IS THE RETAINING SPRING -- RETAINING PIN SPRING.
26 AND THAT'S -- IT'S RIGHT IN THERE. YOU CAN SEE IT JUST

1 ALONG THE INSIDE OF THE RECEIVER. AND THAT'S HOW IT
2 GETS SET UP THERE.

3 Q. IF YOU CAN GO AHEAD AND SHOW IT.

4 A. IT'S COCKED ALL THE WAY BACK HERE. YOU HAVE
5 THE RETAINING PIN SPRING. AND IT'S RIGHT ON THE INSIDE
6 HERE (INDICATING). AND THAT'S THE RETAINING SPRING,
7 JUST LIKE THAT, INSIDE THE WEAPON. AND THAT'S ON THE
8 INSIDE, THERE'S TWO SPRINGS. HERE IS THE RETAINING
9 SPRING ALONG THE WALL HERE (INDICATING). THIS IS RIGHT
10 ALONG THE INTERNAL HAMMER HERE. YOU CAN SEE THE
11 BRIDGES, WHICH ARE INSIDE HERE (INDICATING).

12 (WITNESS IS SHOWING WEAPON TO THE JURY)

13 THE COURT: ALL THE JURORS HAVE SEEN THE
14 DEMONSTRATION. YOU MAY CONTINUE, COUNSEL.

15 BY MS. JONES: Q. GO AHEAD.

16 A. AND THEN YOU HAVE PINS AND RIVET SETS, SOME
17 VARIOUS -- THIS IS U, "UNIFORM," EXHIBIT U, "UNIFORM."
18 AND IT'S JUST SOME EXTRA RIVETS, SOME PINS, RETAINING
19 PINS, SOME ROLL PINS THAT WILL HELP RETAIN LIKE FOR THE
20 HAND GUARD, YOU NEED A PIN.

21 THERE'S A PIN ALREADY INSERTED HERE. BUT ALSO
22 WHEN YOU PUT THE BARREL IN THERE'S A RETAINING PIN THAT
23 WILL GO IN SOME OF THE RIVETS HERE. AND THAT'S IN THIS
24 PART KIT HERE.

25 Q. AND WHAT ARE THE RIVETS FOR, AGAIN?

26 A. HERE THE RIVETS ARE USED TO HOLD THE BLOCKS IN

1 PLACE WHERE THEY HAVE BEEN HAMMERED IN OR PUNCHED IN,
2 HAMMERED IN, AND THEN HAMMERED DOWN. SO JUST LIKE
3 THE -- WHAT'S BEEN DONE HERE. THESE ARE PINS THAT HAVE
4 BEEN PUSHED IN WITH LITTLE RETAINING CLIPS. THEN THE
5 PINS HERE ARE HAMMERED DOWN SO IT'S IN THIS ORIENTATION.

6 SO YOU CAN SEE THE RIVET HEADS HERE. HERE
7 THESE HAVE BEEN FILED DOWN, HAMMERED DOWN, AND FILED
8 DOWN ON BOTH SIDES. THEY HAVE LEFT THE RIVET HEADS.
9 HERE THE RIVET HEADS ARE STILL HERE. THESE ARE -

10 MS. JONES: AND THE WITNESS IS REFERRING TO
11 PEOPLE'S W, THE RECEIVER, AND THE DEMONSTRATIVE, AK-47.

12 THE WITNESS: HERE AGAIN, THE ORIENTATION IS A
13 LITTLE BIT DIFFERENT WHERE THE TWO REAR PINS ARE HERE.
14 HERE, THERE'S ONE HERE. AND THERE'S TWO FORWARD OF THE
15 SHOULDER STOCK ASSEMBLY HERE.

16 SO AGAIN, IT'S JUST A DIFFERENT VARIATION.
17 YOU HAVE TWO OF THEM HERE INSTEAD OF TWO HERE ON THIS
18 MODEL. THE TWO ARE BACK HERE. BUT IT'S THE SAME --
19 IT'S JUST RETAINING ON THE SHOULDER STOCK, THE WHOLE
20 SHOULDER STOCK ASSEMBLY, THE PLUNGER AND THE TAKEDOWN
21 ASSEMBLY HERE.

22 BUT THE PINS ARE HAMMERED IN AND THEN EITHER
23 LEFT AS RIVET HEADS, AS YOU SEE HERE, OR IN THIS CASE,
24 THEY HAVE BEEN HAMMERED DOWN.

25 BY MS. JONES: Q. OKAY. THANK YOU.

26 CAN WE GET THE RECEIVER COVER? NUMBER "C,"

1 THE RECEIVER COVER?

2 A. HERE'S THE RECEIVER COVER.

3 Q. AND THAT'S PEOPLE'S "C"?

4 A. YES, MA'AM.

5 Q. THANK YOU, SIR. YOU CAN HAVE A SEAT.

6 YOU TESTIFIED THAT PEOPLE'S 5-G, THE TRIGGER
7 GUARD AND MAGAZINE RELEASE, WOULD ALLOW THE WEAPON TO
8 ACCEPT A DETACHABLE MAGAZINE.

9 WHAT IS A DETACHABLE MAGAZINE?

10 A. THIS RIGHT HERE IS A DETACHABLE MAGAZINE.
11 IT'S MEANT TO NOT STAY INSIDE THE WEAPON. IT'S MEANT TO
12 BE REMOVED.

13 Q. WOULD IT BE FAIR TO SAY THAT IT WOULD BE AN
14 AMMUNITION FEEDING DEVICE THAT CAN BE REMOVED READILY
15 FROM THE FIREARM WITH NEITHER DISASSEMBLY OF THE FIREARM
16 ACTION NOR USE OF A TOOL BEING REQUIRED?

17 A. YES.

18 Q. THAT FITS THAT DESCRIPTION?

19 A. YES, MA'AM. THAT WITH THE SETUP, YES.

20 Q. AND THAT'S THE TYPE OF ITEM THAT THE
21 DETACHABLE --

22 A. THAT'S THIS ITEM HERE. IT'S JUST THE LEVER
23 HERE.

24 Q. THE TRIGGER GUARD MAGAZINE WOULD ALLOW THAT TO
25 BE ATTACHED TO THE WEAPON; CORRECT?

26 A. YES.

1 THE COURT: WHAT IT WAS ITEM?

2 MS. JONES: 5 G.

3 THE COURT: THANK YOU.

4 BY MS. JONES: Q. NOW, IN TERMS OF THAT
5 DEFINITION, A BULLET OR AMMUNITION CARTRIDGE WOULD BE
6 CONSIDERED A TOOL, RIGHT?

7 A. YES, MA'AM.

8 Q. AND THAT WOULD NOT BE REQUIRED?

9 A. NO. JUST MOVING THE LEVER FORWARD WOULD
10 REMOVE THE -- WOULD REMOVE THE LATCH HERE. BUT YOU
11 COULD PULL IT OUT.

12 Q. AND WITH RESPECT TO YOUR JOB, WHAT IS THE
13 SAFETY CONCERN OF A DETACHABLE MAGAZINE TO LAW
14 ENFORCEMENT?

15 A. WELL, IT JUST ALLOWS FOR A QUICK RELOADING OF
16 A WEAPON. THESE MAGAZINES ARE DESIGNED TO HOLD 30
17 ROUNDS. SO IF IT ALLOWS FOR A QUICK -- ONCE IT RUNS DRY
18 -- ONCE IT BECOMES EMPTY FROM FIRING, IT JUST TAKES MERE
19 SECONDS TO REMOVE THE MAGAZINE AND STRIP THE MAGAZINE
20 AWAY AND RELOAD IT WITH A FULLY-LOADED MAGAZINE FOR --
21 TO GET BACK INTO THE

22 Q. AND THE AMMUNITION FEEDING DEVICE WOULD
23 INCLUDE ANY BELT OR LINKED AMMUNITION, CORRECT?

24 A. YES, BUT THAT WOULDN'T BE FOR THIS. THIS IS A
25 MAGAZINE-FED BELT OR LINK WOULD BE FOR A LARGE MACHINE
26 GUN.

1 Q. SO THAT'S THE KIND YOU SEE IN THE MOVIES THAT
2 HAVE A BIG CHAIN?

3 A. YES.

4 Q. AND THAT DEFINITION WOULD NOT INCLUDE CLIPS OF
5 ANY SORT, CORRECT?

6 A. NO. A CLIP IS SOMETHING COMPLETELY DIFFERENT.
7 IT'S USED FOR A DIFFERENT WEAPON SYSTEM.

8 Q. SO IT'S BASICALLY SOMETHING THAT WOULD HOLD A
9 LOT OF AMMUNITION AT ONCE; IS THAT FAIR? IS THAT WHY
10 IT'S --

11 A. YES. THIS ONE IS 30. YOU CAN GET THEM FOR
12 20, 30. THEY EVEN HAVE THESE MADE FOR 40 ROUNDS. SOME
13 NEWER VARIATIONS FOR THE AR-15, THEY EVEN HOLD A HUNDRED
14 ROUNDS. THEY'LL DOUBLE IT UP ALMOST.

15 THE COURT: AND WHAT DOES HE HAVE IN HIS HAND,
16 WHICH EXHIBIT, MADAM PROSECUTOR?

17 MS. JONES: WE SHOULD PROBABLY MARK -- WELL,
18 THAT'S PART OF THE DEMONSTRATIVE EVIDENCE. IT'S NOT --

19 THE COURT: SO IT'S NOT MARKED?

20 MS. JONES: IT'S PEOPLE'S 15.

21 THE COURT: OH, OKAY.

22 MS. JONES: IT'S PART OF PEOPLE'S 15.

23 THE WITNESS: THIS IS A MAGAZINE FOR THE MODEL
24 THAT I BROUGHT.

25 THE COURT: THANK YOU.

26 BY MS. JONES: Q. AND THAT MAGAZINE IS CONSIDERED

1 THE AMMUNITION FEEDING DEVICE, CORRECT?

2 A. YES.

3 Q. AND IT IS DETACHABLE?

4 A. YES, MA'AM.

5 Q. SIR, IN YOUR OPINION, ARE ALL THE COMPONENT
6 PARTS PRESENT IN PEOPLE'S 5-A TO CREATE AN AK-47-TYPE
7 WEAPON?

8 A. YES, I BELIEVE SO.

9 Q. WOULD THIS BE A SEMIAUTOMATIC RIFLE?

10 A. YES.

11 Q. AND WHAT IS A SEMIAUTOMATIC RIFLE?

12 A. A SEMIAUTOMATIC WEAPON IS ONE THAT - I
13 DON'T -- THIS IS A BOLT ACTION VARIATION HERE. SO
14 EACH --

15 THE COURT: HE'S REFERRING TO PEOPLE'S 1?

16 MS. JONES: YES.

17 THE WITNESS: -- EACH TIME I PULL THE TRIGGER,
18 THE ROUND GOES OFF. I HAVE TO CYCLE IT MYSELF. I COULD
19 HAVE A MAGAZINE HERE, BUT I NEED TO PULL THE BOLT BACK.
20 IT WILL TAKE IT AND EJECT AND EXTRACT AND EJECT A ROUND.
21 AND IT WILL FEED A NEW ONE, BUT I HAVE TO DO IT MYSELF.

22 WITH A SEMIAUTOMATIC, THE GAS DOES THE WORK
23 FOR ME, SO IT PUSHES THE BOLT CARRIER BACK HOLDING A
24 BOLT. AND AS IT REMOVES IT, IT EXTRACTS AND EJECTS THE
25 ROUND, THE SPENT ROUND THAT I JUST SHOT. GOES BACK, IT
26 COCKS THE HAMMER, THEN IT GOES FORWARD. AND IT STRIKES

1 AND FEEDS AND LOCKS. READY FOR ME TO FIRE AGAIN, JUST
2 PULL THE TRIGGER.

3 SO IT'S ALL DONE INSTANTANEOUSLY. IT DOES THE
4 WORK FOR ME. INSTEAD OF ME MANIPULATING THE BOLT HERE,
5 THE GUN DOES THE WORK FOR ME.

6 BY MS. JONES: Q. WOULD IT BE THE PARTS TO
7 PEOPLE'S 5-A? WOULD THAT CREATE A CENTERFIRE RIFLE?

8 A. WELL, IT'S MADE FOR A CENTERFIRE RIFLE, YES.

9 Q. BUT THE PARTS, IS THAT WHAT THEY'RE GOING TO
10 MAKE: A CENTERFIRE RIFLE?

11 A. YES. THE BOLT CONFIGURATION AND THE WAY
12 THE FIRING IS SET UP, IT'S MADE FOR A CENTERFIRE WEAPON.

13 Q. AND WHAT IS THE CENTERFIRE WEAPON?

14 A. ON THE BACK OF THE AMMUNITION -- IF I CAN USE
15 ONE OF THE --

16 Q. THIS IS A --

17 A. -- IT MIGHT BE EASIER TO SHOW THEM THAT WITH
18 THE LARGER ONE. ON THE BACK OF THE ROUND YOU HAVE THE
19 ---

20 THE COURT: HE'S HOLDING THE LARGE ROUND.

21 THE WITNESS: ON THE BACK OF THE ROUND YOU
22 HAVE THE RIM. THE EJECTOR HOLDS ONTO THAT. BUT THE
23 FIRING PIN STRIKES THE PRIMER IN THE CENTER OF THE
24 ROUND.

25 WHEREAS THE OTHER VARIATION WOULD BE A
26 RIFLE, USUALLY FOUND IN A .22, WHERE YOU CAN STRIKE --

1 THE FIRING PIN STRIKES JUST THE RIM, AND IT WOULD
2 DETONATE THE POWDER INSIDE AND SO FORTH.

3 HERE THE FIRING PIN HAS TO SHOOT THE PRIMER
4 CUP. THE PRIMER CUP --

5 THE REPORTER: CAN YOU PLEASE SLOW DOWN A
6 LITTLE BIT? THANK YOU.

7 THE WITNESS: THE POWDER WOULD EXPEL THE
8 BULLET.

9 THE COURT: I'M SORRY, COUNSEL. HE'S HOLDING
10 PEOPLE'S WHAT?

11 MS. JONES: PEOPLE'S 1 - NO. PEOPLE'S 2.

12 THE COURT: ALL RIGHT. HE'S DEMONSTRATING
13 PEOPLE'S 2.

14 THE WITNESS: SO WITH THE CENTERFIRE THE
15 PRIMER CUP IS INSIDE THE CARTRIDGE, THE BRASS CARTRIDGE.
16 THE FIRING PIN HAS TO STRIKE THE PRIMER, WHICH DETONATES
17 THE POWDER INSIDE. AND THAT EXPELS THE BULLET.

18 SO IT HAS TO -- THE CENTERFIRE WOULD JUST BE
19 THE WAY THAT THE PRIMER IS SET UP, NOT ON --
20 NOT INTEGRAL WITH THE RIM. IT'S A SEPARATE PRIMER CUP
21 IN THE CENTER OF THE FIRE -- IN THE CENTER OF THE ROUND.

22 BY MS. JONES: Q. THANK YOU.

23 WOULD THIS WEAPON, ACCORDING TO THE PARTS THAT
24 ARE PRESENT, HAVE THE CAPACITY TO ACCEPT A DETACHABLE
25 MAGAZINE?

26 A. YES, MA'AM.

1 Q. AND THAT'S BECAUSE OF PEOPLE'S G, RIGHT,
2 PEOPLE'S S-G?

3 A. YES, THE MAGAZINE RELEASE HERE.

4 Q. AND WOULD THIS FIREARM THAT THESE PARTS WOULD
5 CREATE, WOULD IT HAVE A PISTOL GRIP PROTRUDING
6 CONSPICUOUSLY BENEATH THE ACTION OF THE WEAPON?

7 A. YES. THAT'S THIS HERE. THAT'S THE ONE IN THE
8 BACK.

9 Q. WOULD IT HAVE - - WOULD IT ALSO HAVE A FOLDING
10 STOCK?

11 A. YES, MA'AM. THAT'S THIS HERE.

12 Q. AND FINALLY, WOULD IT HAVE A FORWARD PISTOL
13 GRIP?

14 A. YES. THAT'S THIS HERE.

15 MS. JONES: I HAVE NOTHING FURTHER.

16 THE COURT: OKAY. THIS IS A GOOD TIME TO TAKE
17 A MORNING BREAK. WE'RE GOING TO BREAK FOR 10 MINUTES.

18 PLEASE DO NOT DISCUSS THE CASE WITH ANYONE.
19 AND SEE YOU BACK HERE IN EXACTLY 10 MINUTES.

20 (RECESS)

21 THE COURT: SERGEANT SCHUCH, YOU'RE REMINDED
22 THAT YOU'RE STILL UNDER OATH.

23 THE WITNESS: YES, MA'AM.

24 BY MS. JONES: Q. SERGEANT SCHUCH, I'D LIKE TO
25 DIRECT YOUR ATTENTION TO THE CYCLE OPERATION AMMUNITION
26 IN EXHIBIT 7 THAT IS IN FRONT OF THE JURY RIGHT NOW.

1 MS. JONES: AND I'D ASK THAT BE MARKED AS
2 PEOPLE'S 16.

3 THE COURT: IT WILL BE SO MARKED.

4 (EXHIBIT 16 MARKED)

5 BY MS. JONES: Q. AND CAN YOU DESCRIBE FOR ME WHAT
6 THAT DIAGRAM DEPICTS?

7 A. THE DIAGRAM UP ON THE SCREEN DEPICTS AN AR-15
8 OR AN M16 SETUP. AND EVERYTHING HIGHLIGHTED IN YELLOW
9 IS -- WELL, THE AMMUNITION WILL GO THROUGH THE CYCLE OF
10 OPERATION, WHICH WOULD BE THE SAME IN THIS WEAPON SYSTEM
11 ALSO.

12 Q. OKAY. BUT IT'S AN AR-15 THAT OPERATES UNDER
13 THE SAME SYSTEM AS OUR AK-47, CORRECT?

14 A. YES.

15 Q. AND IT WILL SHOW YOU -- LOOKING AT THIS, THE
16 JURY CAN UNDERSTAND HOW THAT AK-47 WOULD WORK?

17 A. YES. FROM THE PULLING OF THE TRIGGER TO THE
18 FIRING OF THE ROUND, TO THE CYCLING OF THE BOLT, YES.

19 Q. OKAY. WHY DON'T WE GO AHEAD AND RUN IT. AND
20 YOU HAVE A POINTER, IF YOU WANT TO REFER TO THE POINTER,
21 AND DESCRIBE WHAT WE'RE LOOKING AT AS WE GO THROUGH IT.

22 A. OKAY. THE WEAPON IS GOING BACK, BEING COCKED.
23 RIGHT NOW IT'S STRIPPING A ROUND, FEEDING A ROUND. THE
24 BOLT IS LOCKING INTO THE CHAMBER. THE TRIGGER IS GOING
25 TO BE PULLED. THE HAMMER IS GOING FORWARD. THE FIRING
26 PIN HIT THE PRIMER.

1 IT WAS DETONATED, UNLOCKED, EXTRACTED,
2 EJECTED. AND THEN IT'S STRIPPING, LOCKING -- I MEAN, IT
3 WAS COCKING THEN. THEN IT WENT FORWARD. NOW IT'S
4 EXTRACTING, EJECTING, THE ROUND'S BEING PUSHED UP,
5 STRIPPING, FEEDING, LOCKING, FIRING. THE MAGAZINE IS
6 BEING EJECTED.

7 AS THE ROUND -- THE HAMMER IS BEING COCKED IN
8 THIS ACTION HERE, THE ROUND IS PUSHED UP. IT'S NOW
9 BEING STRIPPED, BEING FED. THE BOLT IS LOCKING INTO THE
10 CHAMBER. IT'S FIRING. IT'S FIRING.

11 AS THE BULLET EXITS THE BARREL, THERE'S A GAS
12 TUBE JUST ALONG THERE. SO AS THE BULLET TRAVELS THROUGH
13 THE BARREL, THERE'S GASES PROPELLING IT FORWARD. SO AS
14 IT GOES THROUGH THE GAS -- AND IT'S JUST FRACTIONS OF A
15 SECOND -- AS THE GAS GOES THROUGH, IT'S BEING BLED OFF
16 INTO THIS TUBE.

17 THE TUBE COMES BACK. AND IT'S A BLOWBACK
18 ACTION. THERE'S RECEPTOR ON THE RECEIVER, ON THE BOLT,
19 LIKE, THIS HAS A GAS PISTON FOR THE M16. IT'S JUST A
20 LITTLE BIT DIFFERENT.

21 THERE'S A KEY UP ON TOP OF THE BOLT CARRIER
22 THAT THE GAS GETS IN THERE. IT PROPELS IT BACKWARDS.
23 AND HERE IS THE RECOIL SPRING BACK HERE, THE BUFFER
24 SPRING. SO IN THIS SYSTEM, THIS IS WHERE THE RECOIL
25 SPRING AND BUFFER SPRING IS.

26 ON MY EXAMPLE HERE, THIS IS THE RECOIL SPRING

1 THAT THE BOLT IS ACTUALLY -- SO IT -- THE FUNCTION IS
2 THE SAME. IT'S JUST THAT THIS SETUP IS FOR THE M16.
3 THAT'S FOR THE AK-47 SETUP.

4 BUT THE GAS IS BLEED OFF THROUGH THIS LITTLE
5 TUBE IN THE BARREL, A LITTLE CUT IN THE BARREL. IT GOES
6 THROUGH THE TUBE UP ON TOP THAT'S -- IT'S EASIER TO
7 DESCRIBE IT THIS WAY:

8 SO IF YOU LOOK HERE, THE BULLET IS SHOT
9 THROUGH THE BARREL, AND IT EXITS THE GAS. THE BULLET
10 EXITS THE BARREL, BUT THE GAS IS EXPELLED THROUGH THIS
11 LITTLE TINY HOLE AT THE TOP OF THE BARREL. AND IT'S
12 PUSHED BACK. AND IT'S PUSHING BACK THE GAS PISTON. SO
13 UP THERE, THE GAS GOES BACK.

14 SO INSTEAD OF -- ON THIS SYSTEM, THE PISTON IS
15 RIGHT HERE. IT'S PUSHING BACK THE PISTON TO CYCLE THE
16 BOLT HERE. HERE THE GAS TRAVELS THROUGH A LITTLE TINY
17 TUBE INTO THE BOLT CARRIER KEY, WHICH TAKES THE BOLT
18 CARRIER BACK, WHICH WILL COCK THE HAMMER HERE.

19 IT GOES BACK. IT WILL EJECT THE ROUND. IT'S
20 ALL DOING THIS ALMOST SIMULTANEOUSLY. THEN AS THE BOLT
21 IS COMING FORWARD, IT'S STRIPPING A ROUND OUT OF THE
22 MAGAZINE. THIS WOULD BE FULL OF ROUNDS. IT'S STRIPPING
23 A ROUND FROM THE MAGAZINE AND PUSHING IT UP INTO THE
24 CHAMBER AS THAT CYCLE WAS GOING.

25 AND THE BOLT GOES FORWARD. THE HAMMER IS
26 COCKED. YOU PULL THE TRIGGER, THE HAMMER GOES FORWARD,

1 SENDS THE FIRING PIN INTO THE BACK OF THE PRIMER,
2 DETONATES THE ROUND.

3 THE BULLET -- THE ROUND GOES THROUGH THE
4 BARREL WITH THE GAS BEHIND IT. IT GOES THROUGH THE
5 LITTLE HOLE. THE GAS IS NOW PUSHING BACK HERE, SO THE
6 GAS COMES THROUGH FOLLOWING THE BULLET. THE BULLET
7 EXITS. THE GAS COMES OUT.

8 AND AGAIN, THIS IS A SHORT DISTANCE HERE. AND
9 THE BULLET IS TRAVELING VERY FAST. THE GAS -- THERE'S
10 JUST ENOUGH GAS TO GO BACK, PUSH THE GAS PISTON BACK,
11 WHICH SETS THE CYCLE ALL OVER AGAIN. AND YOU CAN DO
12 THAT 700 TIMES WITH THE CYCLE OF OPERATION, WITH THE
13 CYCLE OF THE WEAPON.

14 Q. AND TALKED ABOUT BEFORE HOW THE SEMIAUTOMATIC
15 WEAPON DOES THE WORK FOR YOU AS FAR AS THE BULLET COMING
16 UP. IS THAT WHAT WE'RE LOOKING AT THERE?

17 A. YES, MA'AM. SO INSTEAD OF ME PHYSICALLY
18 COCKING THE GUN EACH TIME I PULL THE TRIGGER, AS IN
19 HERE, THIS BOLT ACTION, ME DOING ALL THAT WORK, THE
20 BULLET REALLY DOES THE WORK FOR ME.

21 THE BULLET IS EXPELLED FORWARD. THE GAS
22 THAT'S PRODUCED WITH THE EXPLOSION DOES ALL THE WORK FOR
23 ME. AND AGAIN, IT DOES IT ANYWHERE FROM 700 TO
24 SOMETIMES ALMOST CLOSE TO A THOUSAND ROUNDS A MINUTE.

25 THERE WAS SOME WEAPONS IN WORLD WAR II THAT
26 WERE 1200 ROUNDS A MINUTE.

1 Q. AND THIS AMMUNITION FEEDING DEVICE BELOW IS
2 LIKE THE ONE THAT YOU HAVE, CORRECT?

3 A. THE ONE HERE, YEAH.

4 MR. HENNES: OBJECTION, YOUR HONOR. VAGUE.

5 MS. JONES: WELL, LET ME REPHRASE THAT.

6 BY MS. JONES: Q. ON YOUR AK-47, THE DEMONSTRATIVE
7 ONE, YOU BROUGHT IN A MAGAZINE, WHICH IS AN AMMUNITION
8 FEEDING DEVICE, CORRECT?

9 A. YES.

10 Q. AND I THINK I MISPOKE WHEN I WAS -- NOT
11 MISPOKE, BUT I MAY HAVE CONFUSED THINGS WHEN I ASKED
12 ABOUT BELTED OR LINKED AMMUNITION.

13 IN THIS CASE THE AMMUNITION FEEDING DEVICE
14 ISN'T BELTED OR LINKED AMMUNITION, BUT RATHER A
15 MAGAZINE, CORRECT?

16 A. YES, A MAGAZINE, THE AMMUNITION FEEDING DEVICE
17 HERE.

18 Q. AND HOW DO WE CALL IT AS AMMUNITION FEEDING
19 DEVICE SIZE? CAN YOU --

20 A. YOU JUST CALL IT -- WE REFER TO IT AS A
21 MAGAZINE.

22 Q. RIGHT. AND THE NATURE OF IT AS AN AMMUNITION
23 FEEDING DEVICE, I GUESS, IS WHAT I WANT TO KNOW, HOW IT
24 FEEDS IT. AND IF YOU COULD SHOW THE DIAGRAM OF IT.

25 THE COURT: BEFORE WE GO TO THE DIAGRAM, THE
26 RECORD WILL REFLECT THAT WE WERE JUST WATCHING THE

1 VIDEOTAPE OF THE ANIMATED -- WHAT WOULD THAT BE CALLED?

2 THE WITNESS: CYCLE OF OPERATION.

3 THE COURT: CYCLE OF OPERATION ACTION.

4 THE WITNESS WAS ALSO DEMONSTRATING WITH THE
5 WEAPON THAT HE BROUGHT INTO COURT AS WELL, SORT OF
6 INTERMITTENTLY. I WANTED THE RECORD TO REFLECT THAT.

7 BY MS. JONES: Q. OKAY. GO AHEAD.

8 CAN YOU TELL US HOW THIS DEVICE FEEDS THE
9 AMMUNITION?

10 A. IF YOU LOOK DOWN BELOW, THERE'S A SPRING UNDER
11 COMPRESSION, AND THERE'S A FOLLOWER. EXCUSE ME. THERE
12 IS -- I CAN'T COUNT THEM NOW, BUT THIS MAGAZINE HOLDS 30
13 ROUNDS. AND SOME OF THE STANDARD MAGAZINES FOR AN M-16,
14 AR-15, ALSO HOLD 30 ROUNDS.

15 AND SO THERE'S A SPRING IN HERE UNDER
16 COMPRESSION. AND THIS IS THE FOLLOWER. ON THE DIAGRAM
17 UP HERE IT'S GREEN. THIS ONE JUST HAPPENS TO BE METAL.
18 AND WHAT IT DOES IS AS YOU LOAD - AND THERE'S LIES ON
19 TOP OF THE MAGAZINE. SO AS YOU LOAD THE MAGAZINE WITH
20 THE ROUNDS, IT CAPTURES THAT ROUND. THE ONLY WAY OUT IS
21 FORWARD WHEN IT'S STRIPPED.

22 SO AS YOU LOAD IT DOWN, IT'S A DOUBLE --
23 ALMOST A DOUBLE-STACK WHERE THE ROUNDS ARE SLIGHTLY OFF
24 CENTER. AND IT -- THE MAGAZINE, AS YOU PRESS IT -- AS
25 YOU LOAD IT UP, THE MAGAZINE IS COMPRESSED. SO IT'S
26 PUSHING THE ROUNDS BACK UP BEING HELD HERE. SO I CAN

1 HAVE A FULLY-LOADED MAGAZINE WITH 30 ROUNDS.

2 NOW, WE PUT IT INTO THE WEAPON. SO AS IT SITS
3 INSIDE THE WEAPON, THE ROUNDS ARE ALL -- THE 30 ROUNDS
4 COME DOWN TO ABOUT HERE. YOU HAVE THE SPRING
5 COMPRESSION ON THE FOLLOWER. THE SPRINGS COMPRESS DOWN
6 HERE ON THE FOLLOWER.

7 Q. AND HE'S INDICATING ON THE MAGAZINE ON THE
8 DEMONSTRATIVE AK-47.

9 A. SO YOU HAVE ABOUT 30 ROUNDS IN HERE. THEY'RE
10 ALL SITTING JUST INSIDE. SO AS THE BOLT GOES FORWARD,
11 IT WILL STRIP A ROUND, FEED IT INTO THE CHAMBER. THE
12 BOLT WILL LOCK BEHIND IT, PULL THE TRIGGER.

13 THE TRIGGER RELEASES THE FIRING -- THE HAMMER.
14 THE HAMMER HITS THE FIRING PIN, DETONATES THE PRIMER,
15 STARTS THE EXPLOSION, STARTS THE BULLET OUT OF THE
16 BARREL. THE GAS BEHIND IT IS PRODUCED, GOES THROUGH THE
17 GAS.

18 HERE IS THE GAS BLOCK, GOES THROUGH THIS
19 SYSTEM TO START. AND IT PUSHES THE GAS PISTON BACK. IT
20 PUSHES THE BOLT BACK TO UNLOCK IT, REMOVE THE ROUND. WE
21 CALL IT EXTRACTING AND EJECTING THE ROUND. THE ROUND
22 GETS EXTRACTED AND EJECTED OUT.

23 AS IT'S COMING BACK, IT COCKS THE HAMMER BACK.
24 IF YOU PULL THE TRIGGER, THE HAMMER GOES FORWARD. IT
25 SETS THE HAMMER BACK, COCKS IT, READY FOR THE NEXT
26 ROUND.

1 AFTER YOU PULL THE TRIGGER, THE HAMMER GOES
2 FORWARD. IT SETS THE HAMMER BACK, COCKS IT, READY FOR
3 THE NEXT ROUND. AND IT STARTS THE RECOIL SPRING
4 BOUNCES -- UP HERE IS THE RECOIL SPRING. THIS SYSTEM --
5 THERE'S A BUTTSTOCK HERE.

6 THE COURT: IN THE BACK OF THE GUN?

7 THE WITNESS: THE BACK OF THE GUN. THE
8 SHOULDER STOCK. THE RECOIL SPRING HERE IS UP ON TOP.
9 BUT IT'S THE SAME FUNCTION. IT'S JUST ORIENTED A LITTLE
10 DIFFERENTLY.

11 SO THEN THE BOLT CARRIER GETS PUSHED FORWARD,
12 STRIPPING AROUND FROM THE MAGAZINE INTO THE CHAMBER.
13 AND IT STARTS THE CYCLE ALL OVER AGAIN.

14 BY MS. JONES: Q. AND IT'S FEEDING IT?

15 A. CONSTANTLY. IT'S FEEDING IT WITHOUT ME
16 MANIPULATING THE BOLT EACH AND EVERY TIME AS YOU DO WITH
17 A BOLT-ACTION.

18 Q. VERY QUICKLY IT'S FEEDING IT, CORRECT?

19 A. PROBABLY 700 ROUNDS A MINUTE.

20 MS. JONES: I HAVE NOTHING FURTHER.

21 THE COURT: CROSS-EXAMINE?

22
23 CROSS-EXAMINATION

24 BY MR. HENNES: Q. GOOD MORNING, SERGEANT.

25 A. GOOD MORNING, SIR.

26 Q. SERGEANT, YOU MENTIONED THAT EARLIER IN YOUR

1 TESTIMONY THAT PART OF YOUR EXPERIENCE AND YOUR DUTIES
2 AS OF TODAY IS TO TRAIN POLICE OFFICERS IN SOME FASHION;
3 IS THAT CORRECT?

4 A. YES, SIR.

5 Q. AND WHAT KIND OF TRAINING DO YOU PROVIDE?

6 A. WELL, I'M A FIREARMS INSTRUCTOR FOR THE
7 DEPARTMENT AND ALSO A RIFLE INSTRUCTOR, PATROL RIFLE
8 INSTRUCTOR FOR THE DEPARTMENT.

9 Q. AND WHAT KIND OF DUTIES WOULD BE PERFORMED IN
10 THE WAY OF RIFLE INSTRUCTION AND FIREARMS INSTRUCTION?

11 IN OTHER WORDS, WHAT ARE YOU TRYING TO TEACH
12 THE OFFICERS TO DO?

13 A. HOW TO HANDLE -- HOW TO SAFELY HANDLE A RIFLE
14 AND HOW TO DEPLOY IT IN THE FIELD IN THEIR PATROL
15 SCENARIOS.

16 Q. JUST POLICE-ISSUED RIFLES, IS THAT WHAT YOU
17 TRAINED THEM TO OPERATE CIVIL -

18 A. YES. IT WOULD BE DEPARTMENT-ISSUED RIFLES,
19 YES.

20 Q. ALL RIGHT. NOW, YOU MENTIONED SOMETHING IN
21 YOUR DIRECT EXAMINATION ABOUT TRAINING OFFICERS IN THE
22 IDENTIFICATION OF WEAPONS.

23 WHAT'S THE PURPOSE OF THAT PART OF YOUR
24 TRAINING?

25 A. WELL, KNOWING WHAT IT WOULD BE USED FOR, WHAT
26 IT COULD BE USED FOR, WHAT WOULD BE A THREAT TO US AS

1 LAW ENFORCEMENT OFFICERS.

2 Q. WHAT KIND OF WEAPONS DO YOU TRAIN THE OFFICERS
3 TO RECOGNIZE AS A THREAT?

4 A. ALL TYPES OF WEAPONS FROM KNIVES, HANDHELD
5 WEAPONS, PISTOLS, HANDGUNS, RIFLES.

6 Q. WHAT KIND OF RIFLES?

7 A. YOU WOULD GO THROUGH ALL SORTS OF RIFLES, JUST
8 DIFFERENT VARIETIES. ALL RIFLES -- ANY RIFLE WOULD BE A
9 THREAT TO US.

10 Q. WHAT DO --

11 A. ANY HANDGUN WOULD BE A THREAT TO US.

12 Q. WHAT IS IT THAT YOU TRAIN YOUR OFFICERS TO
13 IDENTIFY, BESIDES -- DO YOU JUST SAY, "THIS IS A
14 THREAT"? OR DO YOU TRAIN THEM TO IDENTIFY PARTICULAR
15 TYPES OF WEAPONS?

16 MS. JONES: OBJECTION. VAGUE. COMPOUND.

17 THE COURT: SUSTAINED.

18 BY MR. HENNES: Q. SPECIFICALLY WHAT TYPES OF
19 FIREARMS -- WHAT TYPE OF RIFLES DO YOU TRAIN YOUR
20 OFFICERS TO RECOGNIZE AS A DANGER, BESIDES ALL OF THEM,
21 THAT WOULD BE COMMON -- GO AHEAD.

22 A. WELL, COMMON RIFLES. I MEAN, THEY COULD BE
23 LEVER ACTION PLAIN RIFLES. THEY COULD BE SEMIAUTOMATIC
24 HUNTING RIFLES. THEY COULD BE BOLT-ACTION RIFLES. THEY
25 COULD BE SHOTGUNS. THEY COULD BE MILITARY-STYLE
26 WEAPONS.

1 Q. WHAT DOES YOUR TRAINING CONSIST OF IN THAT
2 REGARD AS FAR AS IDENTIFYING RIFLES?

3 MS. JONES: OBJECTION. VAGUE AND RELEVANCE.

4 THE COURT: OVERRULED.

5 THE WITNESS: COULD YOU PLEASE REPEAT THE
6 QUESTION?

7 BY MR. HENNES: Q. WELL, DO YOU TRAIN YOUR
8 OFFICERS TO RECOGNIZE ASSAULT RIFLES?

9 A. YES, SIR.

10 Q. AND HOW DO YOU TRAIN THEM TO DO THAT? WHAT DO
11 YOU TEACH THEM?

12 A. TO LOOK FOR SUSPECTS CARRYING RIFLES.

13 Q. OKAY. WELL, AN ASSAULT RIFLE IS A PARTICULAR
14 KIND OF RIFLE; IS THAT NOT CORRECT?

15 A. IT'S A TYPE OF RIFLE, YES.

16 Q. AND WHAT DO YOU TELL YOUR OFFICERS, WHEN
17 YOU'RE TRAINING, TO LOOK FOR WHEN THEY'RE LOOKING OUT
18 FOR SOMEONE WITH AN ASSAULT RIFLE?

19 HOW DO YOU DESCRIBE THE ASSAULT RIFLE?

20 MS. JONES: YOUR HONOR, MAY WE APPROACH?

21 THE COURT: YES.

22 (SIDEBAR OUTSIDE THE PRESENCE OF THE JURY:)

23 THE COURT: WE ARE OUTSIDE THE PRESENCE OF THE
24 JURY. YES, COUNSEL?

25 MS. JONES: HE'S ABOUT TO OPEN THE DOOR ON
26 WHAT AN ASSAULT WEAPON IS. AND AS SOON AS HE DOES THAT,

1 I'M GOING TO ASK HIM IF THAT'S AN ASSAULT WEAPON. HE'S
2 BEEN TRYING FOR THE WHOLE TRIAL TO KEEP THAT OUT, SO --

3 THE COURT: COUNSEL, WHAT ARE YOU TRYING TO
4 ELICIT?

5 MR. HENNES: I'M TRYING TO GET HIM TO DESCRIBE
6 WHAT HE'S LOOKING FOR. OBVIOUSLY, YOU KNOW, HE GETS UP
7 ON THERE. ONE OF HIS QUALIFICATIONS IS THAT HE TRAINS
8 OTHER POLICE OFFICERS HOW TO IDENTIFY WEAPONS.

9 AND, OBVIOUSLY, HE'S SUPPOSED TO BE TEACHING
10 THEM WHAT TO LOOK FOR TO DETERMINE WHETHER IT'S AN
11 ILLEGAL WEAPON. I'VE GOT A BULLETIN ISSUED BY THE
12 SHERIFF'S DEPARTMENT. HE CAN'T GET UP THERE AND JUST
13 SAY THAT, "I TRAIN OFFICERS TO IDENTIFY WEAPONS," AND
14 THEN NOT EXPLAIN WHAT HE MEANS BY THAT.

15 THE COURT: OKAY. YOU SAID A COUPLE OF
16 DIFFERENT THINGS, KIND OF, ALL IN ONE. YOU WANT TO
17 ELICIT FROM HIM WHAT HE TELLS THEM TO LOOK FOR, HOW TO
18 IDENTIFY AN ASSAULT RIFLE?

19 MR. HENNES: WELL -- OR I'LL ASK HIM, DOES HE
20 TRAIN THEM TO LOOK FOR A WEAPON, A RIFLE WITH
21 CHARACTERISTICS THAT ARE LISTED IN THE CODE AND IN THE
22 INSTRUCTION? DO YOU TRAIN THEM TO LOOK FOR A WEAPON
23 WITH A DETACHABLE MAGAZINE? DO YOU --

24 THE COURT: IN OTHER WORDS, "DESCRIBE THE
25 FEATURES THAT YOU TELL THEM TO LOOK FOR"?

26 MR. HENNES: THAT'S A GOOD WAY OF PUTTING IT,

1 YES. WHAT IS HE TRAINING THEM TO IDENTIFY AND FOR WHAT
2 PURPOSE? I MEAN, PART OF IT, I EXPECT, IS GOING TO BE
3 THAT HE'S TRAINING THE OFFICERS TO LOOK FOR ILLEGAL
4 WEAPONS, AMONG THEM, ASSAULT RIFLES.

5 THE COURT: HOW IS THAT -- I'M SORRY. HOW IS
6 THAT RELEVANT OR HELPFUL HERE?

7 MR. HENNES: WELL, BECAUSE I'M GOING TO SHOW
8 THAT HE'S WRONG IN HIS IDENTIFICATION. I WANT TO KNOW
9 IF HE WILL RECOGNIZE THAT. I WANT TO KNOW IF HE KNOWS
10 WHAT AN ASSAULT RIFLE IS UNDER THE CODE, FRANKLY.

11 THE COURT: ISN'T THAT THE ULTIMATE -- HE'S
12 NOT GOING TO HE CANNOT OPINE AS TO THAT.

13 MR. HENNES: BUT HE CAN AS TO WHETHER THERE'S
14 A DETACHABLE MAGAZINE.

15 I MEAN, FOR EXAMPLE, THE OFFICER IS GETTING UP
16 ON THE STAND AND TALKING ABOUT 700 ROUNDS A MINUTE ABOUT
17 THESE MAGAZINES WHEN THERE ISN'T ONE IN THE BOX OF
18 PARTS.

19 THE COURT: HE'S TESTIFYING AS TO HOW THE GUNS
20 FUNCTION.

21 MR. HENNES: RIGHT.

22 THE COURT: DIFFERENT PARTS OF THE GUN. HOW
23 IT'S USED, YOU KNOW, HOW IT WORKS.

24 MR. HENNES: I DON'T WANT TO DWELL ON IT.

25 MS. JONES: I -- I THINK IT NEEDS TO BE
26 EXCLUDED. I THINK THAT THAT NEEDS TO BE SUSTAINED. AND

1 HE SHOULDN'T BE ABLE TO GO THERE. IT'S IRRELEVANT AND
2 IT'S -- HE CAN'T GET INTO WHAT'S LEGAL AND WHAT'S
3 ILLEGAL. AND THAT'S WHAT IT APPEARS HE'S TRYING TO DO.

4 THE COURT: IN A ROUNDABOUT WAY.

5 MR. HENNES: WELL, I THINK --

6 THE COURT: UNLESS YOU CAN EXPLAIN IT IN -- A
7 LITTLE BIT DIFFERENTLY, I DON'T -- I'M NOT QUITE
8 PERSUADED BY IT YET, COUNSEL.

9 MR. HENNES: WELL, I DON'T KNOW HOW TO EXPLAIN
10 IT ANY BETTER WITH THE COURT'S RULING THAT, YOU KNOW,
11 THESE EXPERTS AREN'T ALLOWED TO TESTIFY AS TO WHAT IS
12 CALIFORNIA COMPLIANT OR NOT.

13 THE COURT: NO. THAT'S WHAT THE JURY
14 INSTRUCTION IS FOR. I DON'T EVEN KNOW IF THEY KNOW OR
15 NOT.

16 MR. HENNES: ALL RIGHT. YES.

17 THE COURT: I JUST HAVE TO GO BY THE JURY
18 INSTRUCTION.

19 MR. HENNES: I'LL MOVE ON.

20 THE COURT: ALL RIGHT.

21 (PROCEEDINGS IN THE PRESENCE OF THE JURY:)

22 THE COURT: THAT OBJECTION IS SUSTAINED. IF
23 YOU CAN ASK YOUR NEXT QUESTION, COUNSEL.

24 BY MR. HENNES: Q. SERGEANT SCHUCH, HAVE YOU
25 RECEIVED ANY TRAINING AS A GUNSMITH?

26 A. JUST AT THE ARMOR LEVEL.

1 Q. CAN YOU DESCRIBE THE TRAINING THAT YOU'VE HAD
2 IN THAT AREA?

3 A. I'M A CERTIFIED ARMOR WITH THE H&K MP5 MACHINE
4 GUN, WHICH IS A SUBMACHINE GUN THAT WE DEPLOY WITH SOME
5 OF OUR SPECIALTY UNITS. AND ALSO WITH AN M-14/M-1A,
6 WHICH IS QUITE A BIT LARGER. IT'S MAGAZINE-FED, BOTH
7 FULLY AND SEMIAUTOMATIC RIFLE.

8 Q. COULD YOU DESCRIBE THE TRAINING YOU HAD IN
9 BEING A GUNSMITH FOR THOSE WEAPONS?

10 A. I SAID I'M AN ARMOR, SO I WENT THROUGH ARMOR'S
11 COURSES THAT THE DEPARTMENT HAS SENT ME TO ON HOW TO
12 TAKE THEM DOWN, BREAK THEM APART, YOU KNOW, HOW TO
13 MAINTAIN THEM, HOW TO INSPECT THEM, HOW TO SHOOT THEM,
14 FUNCTIONALITY TESTS, THINGS LIKE THAT.

15 Q. DO YOU HAVE ANY TRAINING OR EXPERIENCE IN
16 PUTTING TOGETHER A WEAPON FROM A BOX OF PARTS THAT ARE
17 COMPLETE, SUCH AS THIS ONE THAT IS AT ISSUE HERE?

18 A. WELL, I -- IT'S HARD TO EXPLAIN. I WAS
19 INVOLVED IN A CASE WHERE IT WAS QUITE SIMILAR WHERE A
20 PERSON HAD BOXES OF PARTS. AND THAT'S WHERE --

21 MR. HENNES: EXCUSE ME, YOUR HONOR. IT'S
22 NONRESPONSIVE.

23 THE COURT: SUSTAINED. STRICKEN.

24 BY MR. HENNES: Q. DO YOU HAVE ANY EXPERIENCE IN
25 ACTUALLY PUTTING TOGETHER A FUNCTIONING CENTERFIRE
26 SEMIAUTOMATIC RIFLE?

1 A. YES, MY OWN.

2 Q. WHAT KIND OF RIFLE IS THAT?

3 A. I HAVE AN AR-15 THAT I BUILT.

4 Q. DID YOU BUILD THAT FROM A KIT?

5 A. YES, I DID.

6 Q. DID YOU HAVE A FLAT RECEIVER WHEN YOU STARTED
7 OUT?

8 A. NO, SIR. IT WAS A RECEIVER THAT I HAD
9 PURCHASED. IT'S MUCH LIKE THE ONE THAT'S BACK HERE.

10 MR. HENNES: OBJECTION, YOUR HONOR. NO
11 QUESTION PENDING.

12 THE COURT: THAT'S CORRECT. THAT WILL BE
13 STRICKEN.

14 BY MR. HENNES: Q. SERGEANT, JUST BRIEFLY
15 REGARDING WHEN YOU DID THE AR-15, DID YOU WELD ANY OF
16 THE PARTS TO THE RECEIVER?

17 A. NO.

18 Q. IT ALREADY CAME PREWELDED WITH THE NECESSARY
19 PARTS TO THE RECEIVER? IN OTHER WORDS, DID THE RECEIVER
20 COME COMPLETE?

21 A. IT WAS MACHINED, YES.

22 THE COURT: DID YOU SAY "IT WAS A MACHINE"?

23 THE WITNESS: THERE WERE NO PARTS TO WELD.
24 THE RECEIVER IS MACHINED.

25 THE COURT: OH, "MACHINED." OKAY.

26 THE WITNESS: IT'S JUST LIKE THE ONE RIGHT

1 HERE.

2 THE COURT: ALL RIGHT. I JUST DIDN'T HEAR THE
3 WORD.

4 BY MR. HENNES: Q. SO NO RIVETS HAD TO BE WELDED
5 ON OR INSTALLED SOMEHOW? NO HOLES HAD TO BE DRILLED IN
6 YOUR AR RECEIVER THAT YOU PURCHASED? IS THAT CORRECT?

7 A. CORRECT. BUT IT --

8 Q. YOU INDICATED THAT THE RECEIVER THAT WAS TAKEN
9 FROM MY CLIENT WAS -- IS CAPABLE OF ACCEPTING THE
10 DETACHABLE MAGAZINE?

11 A. IN ITS COMPLETED FORM, YES.

12 Q. DID YOU TESTIFY TO THAT ON DIRECT? OR DID YOU
13 JUST SAY IT'S CAPABLE IN ITS PRESENT STATE OF ACCEPTING
14 A DETACHABLE MAGAZINE?

15 A. I'D HAVE TO REFER BACK TO --

16 Q. I'LL JUST ASK YOU, IS THE RECEIVER, IN ITS
17 CURRENT STATE, CAPABLE -- OR DOES IT HAVE THE CAPACITY
18 TO ACCEPT A DETACHABLE --

19 A. NO, SIR.

20 Q. WHY NOT?

21 A. BECAUSE THE TRIGGER GUARD -- TRIGGER GUARD AND
22 MAGAZINE RELEASE ISN'T ATTACHED TO THE WEAPON.

23 Q. ALL RIGHT. AND IN ORDER TO ATTACH THE TRIGGER
24 GUARD, ET CETERA, TO THAT RECEIVER, THAT'S GOING TO
25 REQUIRE SOME MORE WELDING AND/OR HOLES PUNCHED?

26 A. NO WELDING. NO WELDING. JUST YOU CAN ATTACH

1 A COUPLE OF RIVETS.

2 Q. HAVE YOU EVER DONE THAT AND BUILT A RECEIVER
3 LIKE THAT YOURSELF?

4 A. PERSONALLY, NO.

5 Q. SO IF I ASK YOU TO ATTACH THAT MAGAZINE TO THE
6 RECEIVER, YOU COULD NOT DO IT; IS THAT CORRECT?

7 A. IT WOULD TAKE ME A SHORT WHILE. I WOULD BE
8 ABLE TO DO IT.

9 Q. COULD YOU DO IT NOW, THEN? I'M TALKING ABOUT
10 TAKING THE RECEIVER THAT YOU RECOVERED AND TAKING THE
11 MAGAZINE TO YOUR AK-47 AND ATTACHING THE MAGAZINE TO THE
12 RECEIVER OF MY CLIENT'S --

13 A. GIVEN THE PROPER TOOLS, I COULD PROBABLY DO IT
14 IN ABOUT A HOUR.

15 Q. YOU CAN'T DO IT, IN OTHER WORDS, AS YOU SIT
16 HERE TODAY?

17 A. I DON'T HAVE A HAMMER WITH ME, AND I DON'T
18 HAVE --

19 MS. JONES: OBJECTION. MISSTATES THE
20 EVIDENCE. ASKED AND ANSWERED. ARGUMENTATIVE.

21 THE COURT: OVERRULED.

22 BY MR. HENNES: Q. SO YOU CAN'T DO IT AS YOU SIT
23 HERE; IS THAT CORRECT?

24 MS. JONES: OBJECTION. ASKED AND ANSWERED.

25 THE COURT: OVERRULED.

26 BY MR. HENNES: Q. NOW, HAVE YOU EVER --

1 THE COURT: I'M SORRY. IS THAT ANSWER "NO"?

2 THE WITNESS: I DON'T HAVE THE TOOLS HERE,
3 MA'AM.

4 THE COURT: OKAY. NEXT QUESTION.

5 BY MR. GENNES: Q. AND YOU HAVE NEVER ACTUALLY
6 PERFORMED THAT TYPE OF OPERATION TO ATTACH THE VARIOUS
7 PARTS TO A RECEIVER; IS THAT CORRECT?

8 A. WELL, TO SOME DEGREE, I DID. IT WAS IN A
9 SEPARATE COURT CASE.

10 Q. HAVE YOU EVER DONE IT WITH AN AK-47? DO YOU
11 HAVE ANY EXPERIENCE IN ATTACHING THOSE VARIOUS PARTS TO
12 THE RECEIVER?

13 A. NOT WITH AN AK-47, BUT WITH OTHER WEAPON
14 SYSTEMS, YES.

15 Q. AND THE FOLDING STOCK -- BEFORE I GET TO THAT,
16 AND YOU DID NOT RECOVER A MAGAZINE -- OR EXCUSE ME.

17 THERE IS NO MAGAZINE IN THAT COLLECTION OF
18 PARTS FOR MY CLIENT; IS THAT CORRECT?

19 A. THERE'S NOT ONE THERE, NO.

20 Q. NOW, REGARDING MAGAZINES, THEY COME IN WHAT
21 TYPES OF -- HOW MANY QUANTITIES OF BULLETS CAN FIT INTO
22 A MAGAZINE?

23 A. NORMALLY FOR THIS WEAPON SYSTEM, IT'S 30
24 ROUNDS.

25 Q. ARE THERE NOT 10-ROUND MAGAZINES ALSO?

26 A. I DON'T KNOW. I JUST KNOW OF 30-ROUND

1 MAGAZINES. THEY SELL 10-ROUND MAGAZINES FOR THE AK. I
2 JUST HAVE NEVER SEEN 10 ROUND MAGAZINES FOR AN AK-47.

3 Q. DO YOU KNOW WHETHER OR NOT THAT SUCH MAGAZINES
4 ARE MADE OR AVAILABLE?

5 MS. JONES: OBJECTION. RELEVANCE.

6 THE COURT: OVERRULED.

7 THE WITNESS: I'M SURE YOU CAN PURCHASE THEM.

8 BY MR. HENNES: Q. REGARDING A FOLDING STOCK THAT
9 IS IN A BOX OF PARTS, WOULD YOU BE ABLE TO ATTACH THE
10 FOLDING STOCK TO THE RECEIVER OF THE ---

11 A. YES, SIR.

12 Q. AS IT'S CURRENTLY - IN ITS CURRENT CONDITION?

13 A. YES, SIR.

14 Q. OKAY. WOULD YOU TRY TO DO THAT?

15 A. (INDICATING.)

16 Q. NO, I'M TALKING ABOUT THE RECEIVER THAT MY
17 CLIENT - TO THAT ONE.

18 A. I DON'T HAVE A VIDEO. NORMALLY THEY -- ON THE
19 INTERNET, THEY HAVE VIDEOS THAT ARE STEP-BY-STEP GUIDES.
20 AND ALL YOU HAVE TO DO IS WATCH THAT, AND THEY CAN WALK
21 YOU THROUGH EVERYTHING STEP BY STEP.

22 Q. I'M NOT TRYING TO PUT YOU THROUGH TORTURE, BUT
23 JUST DO YOU BELIEVE THAT THAT FOLDING STOCK COULD BE
24 ATTACHED TO THE RECEIVER IN ITS CURRENT CONDITION?

25 A. YEAH.

26 Q. OKAY. WELL, GO AHEAD AND TRY IT.

1 A. THE HOLES ARE A LITTLE OFF-CENTERED, SO THEY'D
2 HAVE TO BE MITLED DOWN A LITTLE BIT. SO YOU -- I WOULD
3 JUST NEED A RAT FILE -- A RATCHET FILE TO LINE THE HOLES
4 UP A LITTLE BIT TO ALLOW FOR THIS YOKE TO BE ABLE TO GO
5 THROUGH THE RECEIVER. SO IT'S JUST FINE TUNING THE
6 PARTS. ALL YOU WOULD NEED IS A FILE TO DO THAT.

7 Q. OKAY. THAT'S SUFFICIENT. THANK YOU.
8 REGARDING THE -- YOU CAN JUST LEAVE IT IN THAT -- ITS
9 PRESENT STATE.

10 A. NOW, THERE'S A BARREL IN THE PARTS COLLECTION;
11 IS THAT CORRECT?

12 A. YES, SIR.

13 Q. WOULD THAT BE ABLE TO BE INSTALLED INTO THE
14 RECEIVER IN THE RECEIVER'S PRESENT CONDITION?

15 A. I BELIEVE SO, YES.

16 Q. HOW WOULD ONE DO THAT?

17 A. YOU CAN PUNCH IT. IT'S PUNCHED IN.

18 Q. BY "PUNCHED," WHAT DO YOU MEAN?

19 A. YOU CAN TAKE IT AND HAMMER IT IN. THIS SETUP
20 IS MADE FOR SOMEBODY WORKING -- WELL --

21 Q. IS THAT THE USUAL WAY THAT HAMMERS ARE SEATED
22 INTO THE RECEIVER?

23 A. THERE'S A WHOLE VARIETY OF WAYS THAT IT COULD
24 BE SEATED INTO A RECEIVER, BUT THAT WOULD BE THE
25 SIMPLEST FORM.

26 Q. OKAY. YOU TESTIFIED REGARDING THE RAILS, BOLTS

1 CARRIER RAILS?

2 A. YES, SIR.

3 Q. WOULD THOSE BE ABLE TO BE INSTALLED, AS YOU
4 SIT HERE, INTO THE RECEIVER AS IT IS PRESENTLY?

5 A. NO. THEY WOULD STILL NEED A LITTLE BIT OF
6 DRILLING, BECAUSE THEY COULD EITHER BE ATTACHED WITH A
7 SMALL TACK WELD OR THEY COULD BE SCREWED INTO PLACE.

8 Q. OKAY. THANK YOU.

9 NOW, REGARDING THE BARREL, IT HAS TO BE
10 INSERTED INTO THE BARREL LOCK; IS THAT RIGHT?

11 A. YES, SIR.

12 Q. THAT'S WHAT YOU NEED A PRESS FOR.

13 NOW, THE FORWARD PISTOL GRIP, IS THAT --

14 MS. JONES: I'D OBJECT, YOUR HONOR. I'M NOT
15 SURE IF THAT WAS A QUESTION, AND THE WITNESS DIDN'T GET
16 TO ANSWER IT.

17 THE COURT: THAT'S CORRECT. IF YOU COULD GO
18 BACK, MR. HENNES, TO THAT LAST QUESTION. IT SOUNDS LIKE
19 IT MIGHT HAVE BEEN A STATEMENT.

20 MR. HENNES: I WAS JUST ASKING ABOUT THE
21 BARREL, THE BARREL BEING INSTALLED INTO THE BARREL BLOCK
22 WITH A PRESS. AND I THINK HE ALREADY ANSWERED THAT, SO
23 WITHDRAW THE QUESTION.

24 THE COURT: ALL RIGHT.

25 BY MR. HENNES: Q. REGARDING THE FORWARD PISTOL
26 GRIP, DOES THAT RECEIVER HAVE ONE ON IT NOW IN ITS

1 CURRENT CONDITION?

2 A. YES, SIR. IT JUST NEEDS TO BE SCREWED ON.

3 Q. AND HOW IS THAT ATTACHED TO THE RECEIVER?

4 COULD IT BE IN ITS PRESENT CONDITION?

5 A. THERE'S A LARGE BARREL THROUGH ON THE BLOCK,
6 SCREWED UNDERNEATH.

7 Q. YOU INDICATED THAT SIMILAR WEAPONS HAVE THE
8 CAPACITY TO FIRE HUGE NUMBERS OF ROUNDS IN A SECOND. I
9 THINK YOU SAID 700 ROUNDS IN A SECOND?

10 A. IN A MINUTE.

11 Q. IN A MINUTE. EXCUSE ME.

12 IS THAT POSSIBLE IF ONE HAS A 10-ROUND
13 MAGAZINE?

14 MS. JONES: OBJECTION. RELEVANCE. BEYOND THE
15 SCOPE.

16 THE COURT: OVERRULED.

17 BY MR. HENNES: Q. IS IT POSSIBLE FOR A 10-ROUND
18 MAGAZINE TO FIRE 700 ROUNDS A MINUTE?

19 A. WELL, THE -- THE WEAPON WILL KEEP FIRING AS
20 LONG AS THERE'S ROUNDS BEING FED INTO IT. SO AS SOON AS
21 THAT STOPS -- IT STILL COULD BE A CYCLIC RATE OF 700
22 ROUNDS A MINUTE, EVEN THOUGH IT ONLY HAS 10 ROUNDS.
23 IT'S JUST HOW FAST THE ACTION RECOVERS AND RELOADS.

24 Q. RIGHT.

25 A. SO CYCLIC RATE COULD STILL BE 700 ROUNDS, EVEN
26 THOUGH YOU HAVE 10 ROUNDS IN THE MAGAZINE.

1 Q. I'M TALKING AS A PRACTICAL MATTER. WOULD THAT
2 WEAPON BE ABLE TO FIRE 700 ROUNDS A MINUTE WITH A
3 10 ROUND MAGAZINE?

4 MS. JONES: YOUR HONOR --

5 THE WITNESS: AGAIN, THE CYCLIC RATE HAS NO --

6 MS. JONES: -- HAS NO RELEVANCE. THIS IS
7 IRRELEVANT AT THIS POINT.

8 THE COURT: COUNSEL, APPROACH.

9 (SIDEBAR OUTSIDE THE PRESENCE OF THE JURY:)

10 THE COURT: OKAY. WE'RE OUTSIDE THE PRESENCE
11 OF THE JURY.

12 COUNSEL, WHAT IS THE RELEVANCE OF THIS AREA?

13 MR. HENNES: BECAUSE THE OFFICER IS TESTIFYING
14 THAT -- HE'S TALKING THESE LARGE NUMBERS PER MINUTE, 700
15 ROUNDS A MINUTE. AND HE'S GOING TO GIVE THE JURY AN
16 IMPRESSION THAT THAT'S ACTUALLY POSSIBLE WITH THIS KIND
17 OF WEAPON, WHEN, IN ACTUALITY, I DON'T CARE ABOUT THE
18 RATE I'M TALKING ABOUT SAYS IN ONE MINUTE, IS IT CAPABLE
19 OF FIRING 700 ROUNDS A MINUTE. AND IT'S NOT.

20 THE COURT: WHERE DOES THE 10-ROUND EVIDENCE
21 COME IN?

22 MR. HENNES: THROUGH MY EXPERT. AND HE'S
23 ALREADY SAID, YOU KNOW, HE THINKS HE CAN GET THEM. AND
24 ACTUALLY, THAT'S ILLEGAL. THAT'S RIGHT IN THE
25 INSTRUCTION, ACTUALLY, THAT YOU CANNOT HAVE A MAGAZINE,
26 EVEN IF IT'S FIXED, THAT CAN HANDLE MORE THAN 10 ROUNDS.

1 YOU CANNOT HAVE A 30-ROUND, A 20-ROUND MAGAZINE.

2 SO, YOU KNOW, THAT'S -- I THINK IT'S FAIR GAME
3 TO TALK ABOUT 10-ROUND MAGAZINE BECAUSE THAT'S THE ONLY
4 KIND OF MAGAZINE THAT'S PERMITTED IN THIS STATE. SO, I
5 MEAN, THAT'S ANOTHER EXAMPLE OF THESE INFLATED NUMBERS
6 THAT HAVE NO BASTS IN REALITY.

7 THE COURT: OKAY. HOLD ON. WAIT.

8 MR. HENNES: OKAY.

9 THE COURT: WHAT I HAVE HEARD SO FAR IS
10 THERE'S A MAGAZINE THAT HOLDS 30 ROUNDS. I HAVEN'T
11 HEARD ANYTHING ABOUT A MAGAZINE THAT'S HOLDING 10 ROUNDS
12 THAT IS RECOVERED THAT WAS PART OF HIS CASE AT ALL.

13 WHERE DOES THE 10-ROUND COME IN?

14 MR. HENNES: BECAUSE THAT'S -- I THINK THAT
15 THAT'S WHAT -- THAT IS WHAT NORMALLY IT HAS. IT'S THE
16 ONLY LEGAL MAGAZINE THAT CAN GO ON AN AR-15, OR AN AK-47
17 IN THIS CASE.

18 THE COURT: WHAT IS YOUR ARGUMENT GOING TO BE
19 RELATIVE TO THE 10-ROUND ISSUE?

20 MR. HENNES: WELL, THAT'S WHAT

21 THE COURT: YOU'RE GOING TO SAY WHAT? WHAT'S
22 YOUR THEORY?

23 MR. HENNES: MY THEORY IS THAT, NUMBER ONE,
24 THERE'S NO MAGAZINE. NUMBER TWO, THAT'S ONE OF THE
25 PARTS THAT'S LACKING IS THE MAGAZINE.

26 THE COURT: OKAY.

1 MR. HENNES: AND THAT MY EXPERT WILL SAY THAT
2 A 10-ROUND MAGAZINE IS THE MAX THAT GOES ON.

3 THE COURT: THAT'S THE MAX THAT GOES ON.

4 MR. HENNES: IT'S THE MAX IN A MAGAZINE THAT
5 CAN LEGALLY BE PUT ON. HE'S NOT GOING TO SAY IT IN THAT
6 MANY WORDS. BUT HE SELLS ONLY 10-ROUND MAGAZINES, I
7 THINK I SHOULD BE ABLE TO HAVE HIM TESTIFY AS TO THAT.
8 IF HE DOESN'T SELL THEM, I DON'T HAVE TO MENTION THAT.

9 THE COURT: IT'S NOT RELEVANT THAT HE SELLS
10 10-ROUND MAGAZINES. HOW'S THAT RELEVANT TO THIS CASE?

11 MR. HENNES: WELL, BECAUSE THE JURY
12 INSTRUCTION SAYS THAT IT DEFINES AN ASSAULT RIFLE AS
13 ALTERNATIVELY TO THOSE SHOULDER STOCK TAKEDOWN ASSEMBLY,
14 FOLDING, ALL THAT BUSINESS.

15 IF YOU LOOK AT THE -- WHAT'S IN THE CODE
16 SECTION, I THINK IT'S "B" OR WHATEVER, THAT THE SECOND
17 DESCRIPTION OF AN ASSAULT RIFLE IS "ANY SEMIAUTOMATIC
18 CENTERFIRE RIFLE THAT -- WITH A FIXED MAGAZINE."

19 THE COURT: RIGHT.

20 MR. HENNES: "THAT HOLDS MORE THAN 10 ROUNDS."

21 MS. JONES: NO, NO, NO. THE JURY INSTRUCTION
22 DEFINITION IS THAT THE CHARACTERISTICS HAS TO BE THAT IT
23 ACCEPTS A DETACHABLE MAGAZINE, PERIOD. THERE'S NOTHING
24 ABOUT HOW MANY ROUNDS. IT'S NOT ONE OF THE ELEMENTS IN
25 THE JURY INSTRUCTION.

26 THE COURT: ARE YOU SAYING IT'S IN THE JURY

1 INSTRUCTION?

2 MR. HENNES: WELL, IT SHOULD BE. IT'S IN THE
3 CODE SECTION. WAIT A MINUTE. THAT'S THE DEFINITION OF
4 AN ASSAULT RIFLE.

5 THE COURT: I'M NOT LAUGHING AT YOU, BUT I
6 HAVEN'T HEARD THAT DEFINITION. IT SHOULD BE --

7 MR. HENNES: I THINK IT IS. THAT'S ONE OF THE
8 DESCRIPTIONS OF AN ASSAULT RIFLE.

9 THE COURT: AND YOU THINK THAT'S THE JURY
10 INSTRUCTION?

11 MR. HENNES: I KNOW IT'S IN THE STATUTE AS A
12 DESCRIPTION. IT'S RIGHT AFTERWARDS, RIGHT BELOW IT.

13 MS. JONES: WE'RE GOING UNDER 12276.1 AND IT'S
14 JURY INSTRUCTION.

15 THE COURT: FIND IT IN THERE, WOULD YOU?

16 MS. JONES: THIS IS IT. "THE ASSAULT WEAPON
17 SEMIAUTOMATIC CENTERFIRE" --

18 MR. HENNES: TURN THE PAGE.

19 MS. JONES: OKAY. IT GOES UNDER ANY OF THE
20 FOLLOWING. WE'RE GOING UNDER 1. THIS IS NO. 2. IT
21 DOESN'T APPLY.

22 MR. HENNES: I DON'T BELIEVE THAT'S WHAT THE
23 INFORMATION SAYS. IT SAYS "AS DEFINED BY 122" --

24 THE COURT: 76.1.

25 MR. HENNES: AND -- YEAH -- NO, ACTUALLY IT
26 GOES TO THE --

1 MS. JONES: NO. WE'RE NOT DEALING WITH THE
2 FIXED MAGAZINE WITH THE CAPACITY TO ACCEPT MORE THAN 10
3 ROUNDS. WE'RE NOT DEALING WITH A FIXED MAGAZINE AT ALL.
4 THERE'S NO EVIDENCE OF A FIXED MAGAZINE.

5 MR. HENNES: HOW DO YOU KNOW? I HAVEN'T PUT
6 ON MY CASE YET.

7 MS. JONES: BECAUSE YOU TOLD ME YOUR ONLY
8 WITNESS WAS THE EXPERT.

9 MR. HENNES: THE CONDITION, CURRENT STATE OF
10 THAT RECEIVER, IT CAN BE MADE INTO A FIXED MAGAZINE. IT
11 CAN BE MADE INTO A DETACHABLE MAGAZINE. HE WASN'T EVEN
12 AT THAT POINT YET.

13 THE COURT: OKAY. WHAT WAS THE LAST QUESTION
14 THAT BROUGHT US IN HERE? YOU WERE ASKING ME ABOUT --

15 MR. HENNES: I DON'T KNOW.

16 THE COURT: -- 10-ROUND -- WHAT WAS YOUR LAST
17 QUESTION? WHAT WAS YOUR LAST POINT THAT YOU WERE
18 MAKING?

19 MS. JONES: BEFORE WE DO THAT, THERE'S
20 DIFFERENT THEORIES THAT WE CAN GO UNDER. WE'RE NOT
21 ADDRESSING THE ELEMENTS OF NO. 1.

22 THE COURT: BUT OUR -- IS THIS -- DOES THE
23 COMPLAINT INCORPORATE, THOUGH, THIS LANGUAGE?

24 MS. JONES: NO.

25 THE COURT: IT JUST INCORPORATES THE THEORY,
26 THE LANGUAGE OF YOUR THEORY.

1 MS. JONES: THAT'S THE PROBLEM.

2 MR. HENNES: I THINK I WOULD LIKE TO REFER TO
3 THE INFORMATION, BECAUSE I DON'T BELIEVE THERE'S ANY
4 FURTHER DESCRIPTION OTHER THAN --

5 THE COURT: OKAY. WHAT I'M GOING TO DO IS,
6 LET'S GO AHEAD AND WE'RE GOING TO EXCUSE THE JURY. I'M
7 GOING TO HAVE THEM COME BACK AT -- IS THERE ANY OTHER --
8 I'M GOING TO HAVE THEM COME BACK AT 1:30. BUT BETWEEN
9 NOW AND THEN, WE'LL TALK A LITTLE BIT MORE.

10 (PROCEEDINGS IN THE PRESENCE OF THE JURY:)

11 THE COURT: WE ARE BACK ON THE RECORD IN THE
12 PRESENCE OF THE JURY.

13 AND A LEGAL ISSUE HAS ARISEN. WE'RE GOING TO
14 TAKE A FEW MINUTES BEFORE LUNCH TO DISCUSS IT. SO I'M
15 GOING TO GO AHEAD AND EXCUSE YOU AGAIN SO THAT,
16 HOPEFULLY, WE CAN MINIMIZE ANY DELAY. YOU ARE ORDERED
17 TO RETURN AT 1:30.

18 REMEMBER, DO NOT DISCUSS THE CASE WITH EACH
19 OTHER OR WITH ANYONE. ENJOY YOUR LUNCH, AND WE'LL SEE
20 YOU AT 1:30. JURY IS EXCUSED AT THIS TIME.

21 (PROCEEDINGS OUTSIDE THE PRESENCE OF THE JURY:)

22 THE COURT: ALL RIGHT. WE ARE OUTSIDE OF THE
23 PRESENCE OF THE JURY.

24 IF I COULD HAVE COUNSEL'S LAST QUESTION READ
25 BACK, MR. HENNES' LAST QUESTION, WHICH WAS THE SUBJECT
26 OF THE OBJECTION?

1 (RECORD READ)

2 MR. HENNES: I BELIEVE I SAID "PRACTICAL,
3 MATTER."

4 THE COURT: AND MR. HENNES HAS AN OFFER OF
5 PROOF. THE QUESTION IS, WOULD THAT BE THE -- THIS
6 WEAPON BE ABLE TO FIRE A 10-ROUND MAGAZINE AT THE 700
7 ROUNDS PER MINUTE?

8 MR. HENNES: NO. WOULD IT BE ABLE TO FIRE 700
9 ROUNDS IN ONE MINUTE, IN 60 SECONDS, AS A PRACTICAL,
10 MATTER, NOT AS A RATE OF FIRING. I MEAN, YOU COULD HAVE
11 A RATE OF 700 ROUNDS A MINUTE FOR 10 SECONDS. BUT I
12 WANT TO MAKE IT CLEAR THAT NO ONE IS GOING TO BE FIRING
13 700 ROUNDS IN A MINUTE OR ANYTHING CLOSE TO A MINUTE --

14 THE COURT: WITH A --

15 MR. HENNES: -- WITH SIMILAR -- WITH A
16 30-ROUND MAGAZINE.

17 THE COURT: I THOUGHT THE WITNESS JUST SAID
18 THAT YOU COULD. DID I MISHEAR THAT EVIDENCE? DIDN'T
19 THE WITNESS SAY THAT THE RATE OF CYCLE IS 700 ROUNDS A
20 MINUTE?

21 MR. HENNES: WE'RE TALKING APPLES AND ORANGES.
22 I DON'T WANT THE JURY TO THINK THAT THAT GUN IS REALLY
23 CAPABLE OF FIRING 700 ROUNDS IN A SINGLE MINUTE IF, AS A
24 PRACTICAL MATTER, YOU'VE GOT TO CHANGE THE MAGAZINE --

25 THE COURT: IS THAT TRUE?

26 MR. HENNES: -- MANY, MANY, MANY TIMES.

1 THE WITNESS: THE NUMBER OF ROUNDS IN THE
2 MAGAZINE HAS NO BEARING ON THE CYCLIC RATE OF THE
3 WEAPON.

4 THE COURT: I SEE.

5 THE WITNESS: SO YOU COULD HAVE THE CYCLIC
6 RATE -- IS THE CYCLIC RATE -- SO YOU CAN HAVE 10 ROUNDS.
7 IT WILL STILL FIRE AT 700 ROUNDS A MINUTE, BUT YOUR 10
8 ROUNDS WILL ONLY GO 10 ROUNDS. YOU CAN PUT IN 20 ROUNDS
9 OR 30 ROUNDS OR 40 ROUNDS, CYCLIC RATE IS STILL GOING TO
10 BE THE SAME AT 700 ROUNDS A MINUTE.

11 YOU'RE PHYSICALLY NOT GOING TO BE FIRING THE
12 700 ROUNDS OFF BECAUSE YOU'RE ONLY LIMITED BY THE NUMBER
13 OF ROUNDS IN THE MAGAZINE. SO YOU CAN FIRE OFF A COUPLE
14 HUNDRED ROUNDS IN A MINUTE.

15 LIKE WITH MY MP5, MY MP5 SHOOTS 700 HUNDRED
16 ROUNDS A MINUTE. I HAVE A DOUBLE-STACK. I HAVE A
17 30 ROUND MAGAZINE ON MY MP5. I HAVE A MECHANISM THAT
18 YOU CAN ATTACH TWO OF THEM TOGETHER, SO THAT'S 60
19 ROUNDS.

20 I HAVE ANOTHER -- I HAVE ANOTHER SETUP ON MY
21 BALLISTIC VEST, SO I CAN FIRE 120 ROUNDS AS FAST AS I
22 CAN PULL THE TRIGGER, IT WILL GO. THE CYCLIC RATE STAYS
23 THE SAME. YOU'RE JUST LIMITED BY THE NUMBER OF ROUNDS
24 THAT ARE IN THE MAGAZINE.

25 THE COURT: OKAY. SO, COUNSEL, IN LIGHT OF
26 THAT --

1 MR. HENNES: WELL, YOU KNOW, WE KNOW WHAT HE
2 MEANS BY RATE AND CYCLIC RATE, BUT THE JURY COULD EASILY
3 GET THE IMPRESSION THAT THIS WEAPON IS SO DANGEROUS THAT
4 IN ONE MINUTE TIME, 700 BULLETS ARE GOING TO BE COMING
5 OUT OF IT. AND THAT'S JUST NOT THE CASE.

6 THE COURT: WELL, YOU CAN CROSS-EXAMINE HIM ON
7 THAT AND CLARIFY THAT.

8 MR. HENNES: YEAH. THAT'S WHAT I'M DOING.

9 THE COURT: OH, THAT'S WHAT YOU WERE DOING?

10 MR. HENNES: YEAH, I WAS.

11 MS. JONES: BUT THIS 10-ROUND MAGAZINE AND
12 DEFENSE COUNSEL INDICATED AT SIDEBAR THAT HE WANTED TO
13 TALK ABOUT HOW YOU CAN'T LEGALLY BUY THE ONE WITH 10
14 ROUNDS. AND THAT'S COMPLETELY IRRELEVANT. AND THERE'S
15 NO EVIDENCE --

16 THE COURT: THAT'S INAPPROPRIATE. AND ALSO, I
17 WILL PRECLUDE MR. HENNES, YOUR WITNESS, YOUR DEFENSE
18 WITNESS, FROM SAYING THE REASON WHY OR WHY HE MAY NOT
19 SELL THOSE ROUNDS.

20 AS A MATTER OF FACT, IT'S NOT EVEN RELEVANT IF
21 HE DOES SELL THEM, IS IT?

22 MR. HENNES: YOUR HONOR, WE HAD A QUESTION
23 BACK -- AND BEFORE I ANSWER, WE DID HAVE A QUESTION AS
24 TO WHAT WAS BEING -- IN THE INFORMATION AS TO THE
25 DESCRIPTION OF THE ALLEGED ASSAULT RIFLE.

26 AND COUNT 2 REFERS TO THE DEFINITIONS IN

1 SECTIONS 12276 AND 12276.1. AND THAT'S THE ONLY
2 REFERENCE TO THE STATUTE.

3 AND 12276.1 HAS THE DEFINITION OF AN ASSAULT
4 RIFLE AS "A FIXED MAGAZINE WITH MORE THAN 10 ROUNDS."
5 SO THAT'S DEFINITELY IN THE STATUTE. AND WHETHER THEY
6 TRY AND PROVE IT OR NOT, I DON'T KNOW WHAT THEIR
7 ALLEGATIONS ARE GOING TO BE.

8 MS. JONES: YES, HE DOES, BECAUSE WE HAVE TOLD
9 HIM AND BECAUSE WE HAVE ALREADY GONE OVER THE JURY
10 INSTRUCTIONS AND THE FACT THAT WE'RE GOING UNDER
11 SUBSECTION 1 AND NOT SUBSECTION 2.

12 THE COURT: THAT IS CORRECT. ALL RIGHT.
13 WE'LL GO AHEAD AND STOP NOW. I WILL ALLOW COUNSEL TO
14 JUST WRAP UP THAT LIMITED AREA OF INQUIRY WITH THIS
15 WITNESS WHEN WE RETURN. LOOKS LIKE JUST A COUPLE MORE
16 QUESTIONS. AND WE'LL RESUME AT 1:30.

17 MR. HENNES: THANK YOU.

18 MS. JONES: THANK YOU.

19 THE COURT: OKAY.

20 (LUNCH RECESS)

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1 WESTMINSTER, CALIFORNIA - APRIL 6, 2011

2 AFTERNOON SESSION

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT

4 OUTSIDE THE PRESENCE OF THE JURY:)

5 THE COURT: LET ME JUST CLARIFY THAT THE
6 PROSECUTION IS PROCEEDING UNDER THE THEORY THAT THIS
7 CONDUCT WAS IN VIOLATION OF 12276.1 (A) (4.1)?

8 MS. JONES: (A) (1).

9 THE COURT: (A) (1)?

10 MS. JONES: YES.

11 MR. HENNES: YES.

12 THE COURT: (A) (1).

13 MR. HENNES: THAT'S IT?

14 MS. JONES: THAT'S IT.

15 MR. HENNES: SUBSECTION A THROUGH F, I GUESS,
16 BUT (A) (1).

17 THE COURT: OKAY. SO IN LIGHT OF THAT, THEN,
18 ANY ADDITIONAL EVIDENCE ABOUT GUNS OR CAPACITY TO ACCEPT
19 MORE THAN 10 ROUNDS WOULD NOT BE RELEVANT.

20 MR. HENNES: THAT'S FINE. SO THE PEOPLE HAVE
21 MADE AN ELECTION TO PROCEED ONLY ON THAT THEORY, THEN
22 THE DEFENSE IS FINE WITH THAT.

23 THE COURT: OKAY. SO THAT'S KIND OF A CHANGE
24 OR AN AMENDMENT TO MY EARLIER -- I JUST WANTED TO
25 CLARIFY THAT.

26 IS THERE ANYTHING ELSE WE NEED TO DISCUSS

1 OUTSIDE OF THE PRESENCE OF THE JURY?

2 MS. JONES: NOT AT THIS POINT.

3 MR. HENNES: THERE WILL BE, IF I UNDERSTAND, A
4 402 MOTION, I BELIEVE, REGARDING SOME ASPECTS OF WHAT
5 MIGHT BE MY EXPERT'S TESTIMONY.

6 THE COURT: ALL RIGHT.

7 MR. HENNES: IN THE MATTER SUBJECT AREA, I
8 DON'T KNOW -- I'M NOT THE ONE MAKING THE MOTION. SO I
9 DON'T KNOW IF THE COURT WANTS TO ADDRESS IT NOW.

10 THE COURT: YEAH, MAYBE WE CAN ADDRESS NOW.
11 GO AHEAD, COUNSEL.

12 MS. JONES: I WANTED TO MAKE SURE THAT THERE
13 WAS NO MENTION OF BULLET BUTTONS OR ITEMS THAT NOT IN
14 EVIDENCE FOR THE SAME REASON AS THE 10-OR-LESS CARTRIDGE
15 INFORMATION DOESN'T COME IN, IT DIDN'T APPLY TO THIS
16 CASE. THERE'S NO EVIDENCE. IT BEING AN IMPROPER
17 HYPOTHETICAL BECAUSE THERE IS NO EVIDENCE TO THE EFFECT
18 OF A BULLET BUTTON OR ANYTHING ELSE BEING PRESENT HERE.

19 THE COURT: HOW WOULD IT BE RELEVANT, COUNSEL?

20 MR. HENNES: WELL, BECAUSE MR. NGUYEN STATED
21 IN HIS STATEMENT THAT WAS MADE BEFORE THE JURY THAT HE
22 DID NOT HAVE ALL THE PARTS NECESSARY TO MAKE AN AK-47,
23 WHICH WOULD LEAD TO AN INFERENCE THAT HE NEEDED TO
24 OBTAIN MORE PARTS, DIFFERENT PARTS, IN ORDER TO FINISH
25 HIS AK, IF HE, INDEED, WAS GOING TO FINISH IT.

26 AND A MAGAZINE LOCK IS ONE SUCH PART THAT

1 WOULD BE INSTALLED TO MAKE IT A FIXED MAGAZINE. AND
2 THAT IS ONE CONFIGURATION THAT CAN BE DERIVED AT FROM
3 THE PARTS. ARE ALL THE PARTS THERE? NO. BUT THERE'S
4 NO MAGAZINE THERE EITHER. SO, OBVIOUSLY, HE NEEDS TO
5 GET SOME MORE PARTS.

6 NOW THE PROSECUTION IS TRYING TO SAY THAT HE
7 ONLY INTENDED TO PUT ON THE PARTS THAT HE ALREADY HAD.
8 AND THAT'S NOT TRUE EITHER, BECAUSE HE COULD HAVE
9 ELECTED TO HAVE NOT ATTACHED OR INSTALLED SOME OF THOSE
10 PARTS AND STILL HAVE A WORKING RIFLE. AND MY EXPERT CAN
11 TESTIFY TO THAT. NOW --

12 THE COURT: HOLD ON ONE SECOND. I'M SORRY.
13 SO DO I UNDERSTAND YOU TO SAY THAT SINCE THERE'S NOT A
14 MAGAZINE THERE, OR SINCE THE DEFENDANT WAS LACKING THAT
15 PART, THAT HE COULD HAVE EASILY, INSTEAD OF PUTTING THE
16 DETACHABLE MAGAZINE IN, HE COULD HAVE EASILY PUT A FIXED
17 MAGAZINE IN, AND THEREFORE, THE GUN WOULD HAVE BEEN
18 LEGAL.

19 IS THAT WHAT YOU'RE SAYING?

20 MR. HENNES: WELL, THAT'S THE EFFECT OF IT.
21 BUT HE -- WE CAN'T USE WORDS SUCH AS "LEGAL." THAT IS
22 ONE CONFIGURATION THAT IS POSSIBLE. AND I DON'T EVEN
23 HAVE TO SAY THAT IT'S GOING TO BE -- TO SAY THAT -- TO
24 HAVE A FIXED MAGAZINE AND ARGUE FROM THAT POINT.

25 THE COURT: LET ME STOP YOU. SO IN OTHER
26 WORDS, YOU'RE THINKING ABOUT TRYING TO ELICIT FROM ONE

1 OF THE EXPERTS THAT THIS GUN COULD ACCEPT A FIXED
2 MAGAZINE?

3 MR. HENNES: YES.

4 THE COURT: OKAY. AND THE JURY COULD THEN,
5 YOU KNOW, I GUESS --

6 MR. HENNES: RIGHT.

7 THE COURT: EVEN THOUGH IT'S POSSIBLY
8 SPECULATION, THEY COULD SAY, "WELL, IF THIS WERE IN,
9 THEREFORE, IT DOESN'T FIT THE STATUTE."

10 IS THAT YOUR ARGUMENT?

11 MR. HENNES: IT IS.

12 THE COURT: OKAY.

13 MR. HENNES: THE ENTIRE CASE IS SPECULATION.
14 THAT'S NO MORE SPECULATIVE THAN ASSUMING THAT HE'S GOING
15 TO BUILD AN ILLEGAL WEAPON.

16 THE COURT: I UNDERSTAND. HOLD ON ONE SECOND
17 FOR THAT.

18 MR. HENNES: YEAH.

19 THE COURT: WHAT IS THE SIGNIFICANCE OF A
20 BULLET BUTTON? WHY DON'T YOU WANT IT IN? I DON'T KNOW
21 WHAT ONE IS YET, SO I DON'T KNOW WHAT THE ARGUMENT IS.

22 MS. JONES: WELL, AS THE DEFENSE HAS SUGGESTED
23 IN PREVIOUS CONVERSATIONS, THAT IF HE -- OR I THINK IT
24 WAS IN MAYBE THE PRELIM -- THAT IF HE WERE TO GET A
25 BULLET BUTTON THAT -- ATTACHED A BULLET BUTTON, WOULD
26 THAT MAKE IT LEGAL. AND HE WENT DOWN THAT ROAD.

1 BUT THE POINT IS THERE IS NO BULLET BUTTON
2 HERE. THERE'S PLENTY OF THINGS. HE COULD FILL THE
3 BARREL WITH CEMENT AND IT WOULD MAKE IT LEGAL. BUT, YOU
4 KNOW, I MEAN, WHERE DO YOU STOP THERE? THE
5 HYPOTHETICALS NEED TO BE BASED ON THE --

6 THE COURT: EVIDENCE.

7 MS. JONES: EVIDENCE.

8 MR. HENNES: WAIT A MINUTE. THAT'S A TERRIBLE
9 ANALOGY.

10 THE COURT: WELL, LET ME ASK YOU THIS,
11 COUNSEL: WERE YOU GOING TO ARGUE SOMETHING OR ELICIT
12 SOMETHING ABOUT BULLET BUTTONS? AND WHAT'S YOUR
13 ARGUMENT?

14 MR. HENNES: THE MAGAZINE LOCK, WHICH IS A
15 FORM OF -- WELL, IT'S A MAGAZINE LOCK.

16 THE COURT: BULLET BUTTON IS A MAGAZINE LOCK?

17 MR. HENNES: YES. YES, FOR PURPOSES OF
18 "ASSAULT WEAPON," FOR PURPOSES OF 12276.1. AND THE
19 POINT IS MY EXPERT WILL ALSO TESTIFY THAT -- THE WORK
20 THAT NEEDED TO BE DONE ON THE RECEIVER -- THAT NEEDED TO
21 BE DONE -- IT WOULD BE UNLIKELY THAT MY CLIENT COULD
22 EVER EVEN COMPLETE IT BECAUSE IT'S NOT QUITE SO SIMPLE
23 AS THE PROSECUTION WOULD HAVE YOU BELIEVE.

24 THE COURT: THAT'S FINE.

25 MR. HENNES: OKAY. AND I WOULD ASK HIM TO
26 EXAMINE THE PARTS IN EVIDENCE AND ASK IF HE CAN

1 CONSTRUCT A WEAPON OR A CENTERFIRE -- SEMIAUTOMATIC
2 CENTERFIRE RIFLE THAT HAS THE CAPACITY TO ACCEPT A
3 DETACHABLE MAGAZINE. AND HE'LL SAY, "YES, YOU KNOW, IT
4 COULD BE."

5 THE COURT: OKAY. LET ME ASK YOU THIS:

6 WITH RESPECT TO THE MAGAZINE LOCK OR THE TERM
7 "BULLET BUTTON," WHAT ARE YOU GOING TO ELICIT ABOUT
8 THAT?

9 MR. HENNES: MY ULTIMATE -- AND THAT WOULD
10 MAKE IT AN ILLEGAL WEAPON FOR -- YOU KNOW, I'M NOT GOING
11 TO SAY SO, BUT I MEAN, ACCORDING -- YOU KNOW, THAT'S THE
12 INFERENCE -- OR, I MEAN, THAT'S THE ONLY -- THAT'S THE
13 DEFINITION OF AN ASSAULT WEAPON UNDER THE CODE.

14 THE COURT: I'M SORRY. WAIT A MINUTE. YOU'RE
15 GOING TO ASK YOUR WITNESS SOMETHING ABOUT A MAGAZINE
16 LOCK OR BULLET BUTTON?

17 MR. HENNES: I AM GOING TO ASK MY WITNESS
18 WHETHER THE -- HOW TO CONFIGURE THE COLLECTION OF PARTS
19 THAT ARE HERE. AND WHAT -- AND ARE THERE DIFFERENT
20 CONFIGURATIONS THAT CAN BE MADE BASED ON THE PARTS.

21 AND HE WILL TESTIFY THAT THERE IS -- HE COULD
22 MAKE AN ILLEGAL WEAPON OUT OF THOSE PARTS, AND HE CAN
23 MAKE A LEGAL WEAPON. I MEAN -- AND I'M NOT ELICITING
24 THAT SPECIFICALLY --

25 THE COURT: WELL, HE CAN MAKE WEAPON A OUT OF
26 WEAPON B?

1 MR. HENNES: CORRECT.

2 THE COURT: MY QUESTION IS, WHAT IS HE GOING
3 TO SAY ABOUT THE MAGAZINE LOCK OR THE BULLET BUTTON?
4 HOW DOES THAT FIT IN?

5 MR. HENNES: HE WOULD SAY THAT THAT MAGAZINE
6 LOCK WOULD BE INSTALLED AT THE -- PRIOR TO THE FINAL
7 ASSEMBLY OF THE WEAPON. THOSE -- AND THAT THOSE PARTS,
8 THE MAGAZINE LOCK, WAS NOT COMMONLY SOLD WAS NOT SOLD
9 WITH THE KIT THAT -- THAT MY EXPERT JUST PURCHASED.

10 AND IT WILL SHOW, YOU KNOW, THE JURY. AND
11 THAT THAT MAGAZINE LOCK IS SOMETHING THAT IS SOLD IN
12 CALIFORNIA, BECAUSE IT'S REALLY A CALIFORNIA SPECIFIC
13 DEVICE.

14 THE COURT: WELL, IF IT'S NOT HERE, THEN WHY
15 IS HE TALKING ABOUT A MAGAZINE LOCK? WHAT'S THE REASON?

16 MR. HENNES: WELL, HE HAS -- HIS DEMONSTRATION
17 AK HAS ONE INSTALLED ON IT. AND THAT WOULD BE A
18 POSSIBLE CONFIGURATION EQUALLY, IF NOT MORE LIKELY, THAN
19 CONFIGURING THE WEAPON TO BE IN VIOLATION OF THE LAW, IN
20 THE WORDS OF THE STATUTE.

21 THE COURT: SO HIS GUN WILL SHOW, "HEY, HERE'S
22 A MAGAZINE LOCK ON IT." THESE --

23 MR. HENNES: HERE'S A COMPLETED WEAPON THAT I
24 SELL IN MY SHOP." I THINK HE'S GOING TO SAY --

25 THE COURT: AND THIS WEAPON, IF IT HAD A
26 MAGAZINE LOCK, WOULD LOOK JUST LIKE MY WEAPON.

1 MR. HENNES: THAT WOULD BE ONE -- OR THERE'S
2 AN ALTERNATIVE METHOD TO COMPLY WITH THE CODE. AND THAT
3 IS TO HAVE A DETACHABLE MAGAZINE, BUT WITHOUT -- IT
4 COULD BE CONFIGURED TO HAVE A DETACHABLE MAGAZINE
5 WITHOUT A PISTOL GRIP, A THUMB -- YOU KNOW, ANY OF THESE
6 OTHER OFFENDING CHARACTERISTICS.

7 GRANTED, HE HAS SOME OF THOSE PARTS, BUT THAT
8 DOESN'T MEAN THAT THEY HAVE TO BE PUT ON. AND THERE'S
9 NO EVIDENCE OF INTENT TO DO SO. IT'S PURE SPECULATION
10 FROM THAT POINT.

11 THE COURT: ALL RIGHT. SO WHAT YOU'RE GOING
12 TO ELICIT AS YOU ARE SPEAKING, ONE OF THE THINGS YOU
13 WOULD ELICIT FROM YOUR EXPERT IS THAT, "HEY, YOU COULD
14 ALSO PUT A MAGAZINE LOCK ON THIS GUN"?

15 MR. HENNES: IN FINAL ASSEMBLY, YES. YES.

16 THE COURT: OKAY.

17 MR. HENNES: AND THAT HE DOES SELL COMPLETED
18 WEAPONS. HE BUYS COMPLETED WEAPONS, YOU KNOW, IN --
19 FROM, YOU KNOW, INTERSTATE SALES. AND THAT'S WHAT HIS
20 EFL LICENSE ALLOWS HIM TO DO. HE BUYS COMPLETED
21 AK STYLE WEAPONS AND SELLS THEM TO THE PUBLIC IN
22 CALIFORNIA.

23 THE COURT: HOW IS ANY OF THAT RELEVANT, WHAT
24 HE BUYS AND SELLS TO THE PUBLIC?

25 MR. HENNES: WELL, THERE WAS TESTIMONY HERE
26 BY, I THINK IT WAS SERGEANT SCHUCH, THAT IT WAS NOT

1 STRICKEN FROM THE RECORD THAT AKS WERE BANNED, YOU KNOW.

2 THE COURT: THAT WAS STRICKEN FROM THE RECORD.

3 MR. HENNES: WELL, I DON'T THINK THAT THAT
4 LAST PART WAS.

5 THE COURT: THE FACT THAT THEY WERE BANNED WAS
6 STRICKEN. AND THEN HE SAID THEY WEREN'T SOLD OR
7 SOMETHING LIKE THAT.

8 MR. HENNES: THERE YOU GO. OKAY.

9 THE COURT: AND THEN THAT WAS NONRESPONSIVE.
10 SO THAT'S NOT ON THE RECORD EITHER.

11 MR. HENNES: WAS THAT STRICKEN, THOUGH? WAS
12 THERE AN ORDER STRIKING THAT FROM THE RECORD THAT THEY
13 WERE NOT SOLD?

14 THE COURT: THAT WAS STRICKEN. THAT OBJECTION
15 WAS SUSTAINED. THAT ANSWER WAS NONRESPONSIVE. AND IT
16 WAS NOT A RESPONSIVE PORTION.

17 MR. HENNES: ALL RIGHT. BUT BECAUSE MY EXPERT
18 WITNESS IS BOTH A LICENSED FIREARMS DEALER AND A
19 GUNSMITH WITH NUMEROUS OTHER QUALIFICATIONS, AND HE HAS
20 JUST RECEIVED HIS MANUFACTURING LICENSE, WHICH MEANS HE
21 CAN MAKE AK-STYLE AND SELL THEM TO THE PUBLIC. THAT'S
22 WHAT THE LICENSE, THE MANUFACTURING LICENSE, ALLOWS HIM
23 TO DO.

24 AND SO HE IS QUALIFIED TO TESTIFY AS TO THE
25 VARIOUS CONFIGURATIONS THAT THOSE PARTS CAN BE MADE
26 INTO. AND THIS IS AN ATTEMPT CASE. YOU KNOW, THEY'VE

1 GOT A HIGH BURDEN TO PROVE THAT THERE WAS AN ILLEGAL
2 INTENT FOR EVERY STEP OF THE PROCESS.

3 AND THE FACT THAT IT'S -- THE PARTS COLLECTION
4 THAT MR. NGUYEN HAD IS CAPABLE OF BEING ASSEMBLED INTO A
5 WEAPON THAT COMPLIES WITH THE LAW, IT IS HIGHLY
6 IRRELEVANT.

7 AND FURTHERMORE, THAT -- THE JURY HAS SEEN
8 ONLY POLICE OFFICERS CARRYING -- YOU KNOW, AND HANDLING
9 THESE WEAPONS. AND I THINK IT'S IMPORTANT THAT THE JURY
10 UNDERSTAND BY INFERENCE THAT POSSESSING AK-STYLE
11 WEAPONS, AS LONG AS THEY'RE CONFIGURED UNDER THE LAW
12 WITH THE CHARACTERISTICS THAT ARE REQUIRED, IS SOMETHING
13 THAT HE DOES IN HIS BUSINESS, AND HE HAS NO LICENSE --

14 THE COURT: THAT'S A ROUNDABOUT, BACKDOOR WAY
15 OF TRYING TO -- IT IS KIND OF. YOU WANT TO SAY HE SELLS
16 GUNS. THIS IS WHAT HE'S LICENSED TO DO. HE SELLS THESE
17 TYPE OF GUNS. THEREFORE, IT MUST BE LEGAL AND,
18 THEREFORE, THIS GUN IS LEGAL. AND I'M GOING TO INSTRUCT
19 THE JURY ON WHAT IS LEGAL.

20 MR. HENNES: NO, NO, NO.

21 THE COURT: NO?

22 MR. HENNES: I'M NOT SAYING "LEGAL." I'M JUST
23 SAYING HE SELLS AK-STYLE FIREARMS WITH A PARTICULAR
24 CONFIGURATION THAT IS POSSIBLE WITH THE COLLECTION OF
25 PARTS THAT MR. NGUYEN HAS.

26 THE COURT: HOW IS THE FACT THAT HE'S SELLING

1 THOSE GUNS RELEVANT?

2 MR. HENNES: POSSESSING THEM. BECAUSE HE
3 DOES. AND THE INFERENCE IS THAT THE POSSESSION OF SUCH
4 A WEAPON, WHEN ASSEMBLED CORRECTLY, THIS GUN WAS SOLD --
5 I MEAN, IT WASN'T EVEN A GUN. THIS COLLECTION OF PARTS
6 IS SO FAR AWAY FROM BEING IN FINAL ASSEMBLY THAT, YOU
7 KNOW, IT'S SPECULATION.

8 THE COURT: I'M GOING TO PRECLUDE HIS SAYING
9 THAT HE SELLS THESE GUNS TO THE PUBLIC. HE CAN TESTIFY
10 THAT HE IS AN EXPERT IN THIS WEAPON, HE KNOWS HOW TO
11 ASSEMBLE THESE WEAPONS, HE KNOWS WHAT PARTS GO IN, WHAT
12 PARTS GO OUT, THE MANY DIFFERENT WAYS YOU CAN CONFIGURE
13 THESE WEAPONS. AND THAT'S IT.

14 MR. HENNES: AND ONE WAY TO CONFIGURE IT IS
15 WITH A --

16 THE COURT: HOWEVER YOU WANT TO SAY.

17 MR. HENNES: AS LONG AS WE USE THE WORDS OF
18 THE STATUTE; IS THAT CORRECT? IN OTHER WORDS, I'M NOT
19 GOING TO, YOU KNOW, ELICIT ANY OPINION AS TO WHAT IS
20 LEGAL OR NOT. I'M JUST SAYING THAT HE IS ABLE, BASED ON
21 HIS EXPERTISE, TO TESTIFY THAT THE COLLECTION OF PARTS
22 CAN BE ASSEMBLED IN A WAY THAT HAS A FIXED MAGAZINE.

23 THE COURT: ABSOLUTELY. AND THE PROSECUTION
24 ASKED SIMILAR QUESTIONS: "IS THERE AN ATTACHABLE
25 MAGAZINE THAT DOES A, B AND C?" THAT'S FINE.

26 MR. HENNES: OKAY. NOW, IN ORDER FOR IT TO BE

1 A FIXED MAGAZINE, HOWEVER, THAT WILL REQUIRE THE
2 INSTALLATION OF ANOTHER PART.

3 THE COURT: THAT'S FINE.

4 MR. HENNES: OKAY.

5 THE COURT: THAT'S ALL FINE. I JUST AM GOING
6 TO PRECLUDE HIM FROM SAYING THAT HE SELLS THESE GUNS TO
7 THE PUBLIC.

8 MR. HENNES: THAT'S WELL AND GOOD.

9 AND ALSO JUST TO BE BRIEF, BUT HE'S GOING TO
10 EXAMINE THE PARTS, YOU KNOW, THE RECEIVER, PARTICULARLY,
11 AND GIVE HIS OPINION AS TO WHAT REMAINS TO BE DONE TO
12 MAKE A COMPLETED RIFLE.

13 THE COURT: SURE.

14 MR. HENNES: IN ANY CONFIGURATION AND THE
15 DIFFICULTY ALSO.

16 THE COURT: SURE.

17 MR. HENNES: THE PROCESS INVOLVED. ALL RIGHT.

18 THE COURT: SURE.

19 MS. JONES: AND WE JUST WANTED TO TAKE JUST A
20 COUPLE MINUTES TO LOOK AT THE DEFENSE EXHIBITS. WE'RE
21 NOT SURE WHAT THEY ARE BECAUSE HE BROUGHT IN A BAG OF
22 STUFF. AND IT WAS DONE, BUT WE HAVEN'T HAD A CHANCE TO
23 LOOK AT IT.

24 THE COURT: YOU NEED TO DO THAT NOW?

25 MS. JONES: AND PROBABLY, BECAUSE THEN WE CAN
26 GO RIGHT INTO IT AFTER THIS.

1 THE COURT: OKAY. YOU JUST GOING TO GO OVER
2 HERE AND TAKE A LOOK.

3 (PAUSE IN THE PROCEEDINGS)

4 (PROCEEDINGS IN THE PRESENCE OF THE JURY:)

5 THE COURT: WELCOME BACK. HOPE YOU HAD A GOOD
6 LUNCH. WE'RE ON THE RECORD IN THE TRIAL MATTER. ALL
7 PARTIES AND MR. NGUYEN ARE PRESENT. SERGEANT SCHUCH IS
8 ON THE WITNESS STAND. YOU'RE REMINDED THAT YOU'RE STILL
9 UNDER OATH.

10 AND I BELIEVE WE ARE STILL WITH
11 CROSS EXAMINATION.

12 MR. HENNES: YES, YOUR HONOR.

13 BY MR. HENNES: Q. SERGEANT SCHUCH, I WANT TO ASK
14 YOU A COUPLE OF QUESTIONS ABOUT THE DFC BEHIND YOU.

15 YOU TESTIFIED ON DIRECT EXAMINATION THAT IT'S
16 A BOLT-ACTION RIFLE; IS THAT CORRECT?

17 A. YES, SIR.

18 Q. AND THAT THE WEAPON IS FIRED BY PUTTING A
19 ROUND IN THE CHAMBER, BOLTING IT IN, FIRING IT. AND
20 AFTER IT'S FIRED, EJECTING THE SPENT SHELL CASING WITH
21 THE BOLT ACTION REVERSED; IS THAT CORRECT?

22 A. YES, SIR.

23 Q. AND IN ORDER TO FIRE THAT WEAPON AGAIN, YOU
24 WOULD HAVE TO MANUALLY FEED A -- OR PUT ANOTHER ROUND IN
25 THE CHAMBER; IS THAT CORRECT?

26 A. YES, SIR.

1 Q. SO IT'S NOT SELF-FEEDING? I MEAN, IT ONLY
2 WILL ACCOMMODATE ONE BULLET AT A TIME, ONE ROUND AT A
3 TIME?

4 A. YES.

5 Q. ALL RIGHT. SO THERE IS NO SUCH THING AS A
6 MAGAZINE IN THAT WEAPON; IS THAT CORRECT?

7 A. IN ITS CURRENT CONFIGURATION, NO.

8 Q. OKAY. AND SO, THEREFORE, IT IS NOT A
9 SEMIAUTOMATIC WEAPON; IS THAT CORRECT?

10 A. CORRECT, SIR.

11 Q. AND NOT A CENTERFIRE WEAPON?

12 A. IT'S A CENTERFIRE RIFLE.

13 Q. BUT IT DOES NOT HAVE A DETACHABLE MAGAZINE?

14 A. NO, SIR.

15 Q. IT HAS NO CAPACITY TO ACCEPT ONE?

16 A. IN ITS CURRENT CONFIGURATION, NO, SIR.

17 MR. HENKES: THANK YOU. THAT'S ALL THE
18 QUESTIONS I HAVE.

19 THE COURT: REDIRECT?

20 MS. JONES: NOTHING FURTHER.

21 THE COURT: MAY THIS WITNESS BE EXCUSED?

22 MS. JONES: SUBJECT TO RECALL.

23 THE COURT: YOU'RE EXCUSED SUBJECT TO RECALL.

24 THANK YOU.

25 MS. JONES: PEOPLE HAVE NO FURTHER WITNESSES.

26 WE REQUEST THAT PEOPLE'S 1 THROUGH 16 BE ADMITTED.

1 THE COURT: WHAT WAS 16?

2 MS. JONES: NUMBER 16 IS THE CYCLE OF
3 OPERATION.

4 THE COURT: DVD? OKAY. WELL, IT WILL BE
5 MARKED AS PEOPLE'S 16. THAT IS THE DVD. IT WAS ABOUT
6 15 SECONDS LONG OF THE CYCLING OF THE ACTION OF THE GUN.

7 MS. JONES: 36 SECONDS.

8 THE COURT: 36 SECONDS.

9 ANY OBJECTION, COUNSEL? SO WE CAN --

10 MR. HENNES: MAY WE DISCUSS IT BRIEFLY?

11 THE COURT: YES. LET'S DO THAT.

12 (PROCEEDINGS OUTSIDE THE PRESENCE OF THE JURY:)

13 THE COURT: WE ARE OUTSIDE OF THE PRESENCE OF
14 THE JURY. AND THE PEOPLE HAVE MADE A MOTION TO ADMIT
15 PEOPLE'S 1 THROUGH 16. THERE IS AN OBJECTION BY DEFENSE
16 COUNSEL.

17 YES, STR?

18 MR. HENNES: MY OBJECTION IS GOES TO EXHIBITS
19 2, 2-A, 3, 3-A, THE AMMUNITION, BECAUSE I DON'T THINK
20 THERE IS ANY EVIDENCE THAT THE AMMUNITION HAS ANY
21 RELEVANCE TO ANY OF THE ISSUES IN THIS TRIAL. THEY
22 DON'T GO TO THE INTENT TO CONSTRUCT, BUILD, MANUFACTURE,
23 OR POSSESS AN ASSAULT WEAPON AS DEFINED BY THE CODE.
24 THEY DON'T HAVE ANY BEARING ON MY CLIENT'S KNOWLEDGE.

25 THE ONLY REASON THAT THEY WERE THERE, FROM
26 WHAT I GATHERED FROM THE TESTIMONY, WAS THAT THE

1 PROSECUTION IS ALLUDING TO SOME MYSTERIOUS MISSING .50
2 CALIBER WEAPON; THAT THERE'S NO EVIDENCE EVER EXISTED.

3 THE ONLY EVIDENCE THEY HAVE IS AN OPEN GUN
4 CLOSET DOOR. AN INSINUATION IS JUST SIMPLY NOT
5 EVIDENCE, SO I WOULD OBJECT TO THE AMMUNITION GOING IN.

6 THE REST OF THE EXHIBITS, WITH THE EXCEPTION
7 OF THE RECEIPTS FOR THE AMMUNITION, I WOULD HAVE AN
8 OBJECTION TO THOSE. BUT THAT'S ANYTHING TO DO WITH THE
9 AMMUNITION. IT'S IRRELEVANT.

10 THE COURT: OKAY. THAT'S PEOPLE'S 2, 2-A, 3,
11 3 A AND MAYBE 6?

12 MR. HENNES: NO, IT'S THE D/C. I BELIEVE
13 THERE IS A --

14 THE COURT: 14?

15 MR. HENNES: YES, THAT.

16 THE COURT: OKAY. GO AHEAD.

17 MR. HENNES: BECAUSE THEY ARE IN, I THOUGHT
18 THERE WAS A RECEIPT FOR THE AMMO. I GUESS, THERE ISN'T.

19 MS. JONES: WE ALREADY WENT THROUGH A MOTION
20 ON THE ADMISSIBILITY OF THE AMMUNITION. THE COURT'S
21 ALREADY MADE ITS RULING ON IT. YOU THOUGHT IT WAS GOING
22 TO BE SOME KIND OF FOUNDATIONAL ISSUE, BUT IT IS
23 RELEVANT TO THE CASE AS TO HIS INTENT, HIS MOTIVE.

24 THE RULINGS WERE MADE PRETRIAL. AND THAT'S
25 THE EVIDENCE WE INTEND TO PUT IN. AND THAT'S WHAT WE'RE
26 ASKING NOW TO ADMIT AFTER SHOWING IT TO THE JURY.

1 THE COURT: THAT OBJECTION IS OVERRULED. SO
2 PEOPLE'S 1 THROUGH 16 WILL BE RECEIVED.

3 (EXHIBITS 1 THROUGH 16 RECEIVED)

4 THE COURT: ARE THE PEOPLE RESTING?

5 MS. JONES: YES.

6 THE COURT: IS THERE ANY MOTION BEFORE THE
7 DEFENSE CASH?

8 MR. HENNES: YES. 1118.1, MOTION TO DISMISS.

9 THE COURT: THAT MOTION IS DENIED.

10 ANYTHING FURTHER?

11 MR. HENNES: NO.

12 MS. JONES: NO.

13 (PROCEEDINGS IN THE PRESENCE OF THE JURY:)

14 THE COURT: OKAY. WE'RE BACK ON THE RECORD IN
15 THE PRESENCE OF THE JURY.

16 AND THE PEOPLE REST?

17 MS. JONES: YES, YOUR HONOR.

18 THE COURT: PEOPLE'S 1 THROUGH 16 ARE
19 RECEIVED.

20 (EXHIBITS 1 THROUGH 16 RECEIVED)

21 THE COURT: THE DEFENSE, WOULD YOU LIKE TO
22 MAKE YOUR OPENING STATEMENT NOW?

23 MR. HENNES: YES. THANK YOU, YOUR HONOR.

24 THE COURT: ALL RIGHT. VERY WELL.

25 (PROCEEDINGS REPORTED AND NOT TRANSCRIBED)

26 MR. HENNES: WITH THAT, I'D LIKE TO CALL MY

1 FIRST WITNESS.

2 THE COURT: CALL YOUR FIRST WITNESS.

3 THE CLERK: DO YOU SOLLEMNLY STATE THAT THE
4 EVIDENCE YOU ARE ABOUT TO GIVE IN THE CAUSE NOW PENDING
5 BEFORE THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH,
6 AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

7 THE WITNESS: I DO.

8 THE CLERK: WOULD YOU PLEASE STATE YOUR NAME
9 FOR THE RECORD, SPELL YOUR LAST AND INCLUDE YOUR TITLE,
10 IF ANY.

11 THE WITNESS: MICHAEL JOSEPH PENHALL,
12 P-E-N-H-A-I-L. NO TITLE.

13 THE CLERK: THANK YOU. PLEASE BE SEATED IN
14 THE WITNESS BOX.

15 MICHAEL JOSEPH PENHALL,

16 CALLED AS A WITNESS BY AND ON BEHALF OF THE DEFENSE,
17 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED
18 AS FOLLOWS:

19

20 DIRECT EXAMINATION

21 BY MR. HENNES: Q. MR. PENHALL, WHAT IS YOUR
22 OCCUPATION?

23 A. GUN STORE OWNER.

24 Q. WHAT'S THE NAME OF YOUR STORE?

25 A. OC ARMORY.

26 Q. AND ARE YOU THE OWNER OF THAT BUSINESS?

1 A. I AM.

2 Q. HOW LONG HAVE YOU OWNED THAT BUSINESS?

3 A. ALMOST THREE YEARS NOW.

4 Q. DID YOU START THAT BUSINESS YOURSELF?

5 A. I DID.

6 Q. DO YOU HOLD ANY LICENSES REGARDING FIREARMS
7 FROM ANY GOVERNMENTAL BODY?

8 A. I DO.

9 Q. AND COULD YOU DESCRIBE WHAT LICENSES YOU OWN
10 OR HAVE?

11 A. I HOLD FEDERAL FIREARMS LICENSE. I ALSO HOLD
12 AN S.O.T. TAX STAMP.

13 Q. WHAT DOES THAT STAND FOR?

14 A. "SPECIAL OCCUPATIONAL TAX."

15 Q. AND WHAT DOES THAT ALLOW YOU TO DO?

16 A. IT ALLOWS ME TO DEAL IN TITLE 11 FIREARMS,
17 SUPPRESSORS, PUMPS, MACHINE GUNS, STUFF LIKE THAT.

18 Q. COULD YOU BRIEFLY DESCRIBE TITLE 11 FIREARMS
19 FOR -

20 MS. JONES: OBJECTION. RELEVANCE.

21 THE COURT: SUSTAINED.

22 BY MR. HENNES: Q. WHAT IS A FEDERAL FIREARMS
23 LICENSE ALLOW YOU TO DO?

24 MS. JONES: OBJECTION. RELEVANCE.

25 THE COURT: SUSTAINED.

26 BY MR. HENNES: Q. WHAT TYPE OF TRANSACTIONS DOES

1 YOUR BUSINESS ENCASE IN?

2 MS. JONES: OBJECTION. RELEVANCE.

3 THE COURT: SUSTAINED.

4 BY MR. HENNES: Q. WHAT TRAINING HAVE YOU HAD IN
5 GUNSMITHING?

6 A. I HOLD A CERTIFICATE IN GUNSMITHING. AND I'M
7 A CERTIFIED COLT M16 ARMOR.

8 Q. AND WHAT DOES GUNSMITHING INVOLVE?

9 A. MODIFICATIONS TO FIREARMS, REPAIR.

10 Q. AND DO YOU HAVE ANY OTHER LICENSES OTHER THAN
11 THE ONES YOU'VE DISCUSSED NOW?

12 A. NO? PARTICULARLY THAT RELATE TO THAT.

13 Q. DO YOU HAVE A MANUFACTURING LICENSE FROM THE
14 STATE OF CALIFORNIA?

15 A. NOT FROM THE STATE OF CALIFORNIA.

16 Q. FROM WHOM?

17 A. THE FEDERAL GOVERNMENT.

18 Q. ALL RIGHT. AND WHAT DOES THAT ALLOW YOU TO
19 DO?

20 MS. JONES: OBJECTION. RELEVANCE.

21 THE COURT: SUSTAINED.

22 BY MR. HENNES: Q. DO YOU SELL MANUFACTURED OR
23 COMPLETE AK-STYLE WEAPONS?

24 MS. JONES: OBJECTION. RELEVANCE.

25 THE COURT: SUSTAINED.

26 BY MR. HENNES: Q. DID YOU BRING -- ARE YOU

1 FAMILIAR WITH AK-STYLE RIFLES?

2 A. YES.

3 Q. CAN YOU DESCRIBE YOUR EXPERIENCE WITH THEM?

4 A. I SELL THEM. I OWN SEVERAL OF THEM AND --

5 MS. JONES: OBJECTION. MOTION TO STRIKE.

6 THE COURT: SUSTAINED. IT WILL BE STRICKEN.

7 JURY TO DISREGARD THE LAST ANSWER.

8 MR. HENNES: THE ENTIRE ANSWER?

9 THE COURT: YES.

10 BY MR. HENNES: Q. CAN YOU DESCRIBE WHAT
11 EXPERIENCE YOU'VE HAD WITH SHOOTING AND FIRING AK-STYLE
12 RIFLES?

13 A. I'VE SHOT SEVERAL. I -- I DON'T KNOW. I'M A
14 RECREATIONAL SHOOTER, SO I HAVE QUITE A BIT OF
15 EXPERIENCE SHOOTING THAT STYLE FIREARM AS WELL AS
16 OTHERS.

17 Q. HOW LONG HAVE YOU BEEN INVOLVED WITH FIREARMS
18 ON ANY LEVEL?

19 A. SINCE I WAS A LITTLE KID.

20 Q. AND HAVE YOU HAD A CHANCE TO EXAMINE
21 PHOTOGRAPHS WHERE THE ACTUAL PARTS AND THE COLLECTION OF
22 THE PARTS THAT WERE TAKEN FROM THE DEFENDANT IN THIS
23 MATTER?

24 A. JUST THE PHOTOGRAPHS.

25 MR. HENNES: YOUR HONOR, IF HE COULD TAKE A
26 COUPLE OF MOMENTS TO TURN AROUND, I BELIEVE THEY ARE ON

1 THAT TABLE THERE.

2 THE COURT: YES.

3 BY MR. HENNES: Q. HAVE YOU HAD AN OPPORTUNITY TO
4 LOOK AT THE PARTS?

5 A. YES, SIR.

6 Q. WHAT DO THEY APPEAR TO BE TO YOU?

7 A. THEY APPEAR TO BE AK-STYLE FIREARMS.

8 Q. ARE YOU A CERTIFIED PISTOL INSTRUCTOR?

9 A. YES.

10 Q. ARE YOU A CERTIFIED RIFLE INSTRUCTOR?

11 A. YES.

12 Q. IS THAT CERTIFIED BY THE NATIONAL RIFLE
13 ASSOCIATION?

14 A. YES.

15 Q. HAVE YOU WORKED WITH LAW ENFORCEMENT REGARDING
16 ANY ISSUES INVOLVING FIREARMS?

17 A. YES.

18 Q. EXPLAIN WHAT, PLEASE.

19 A. ROUTINELY WE'LL HAVE OFFICERS COME INTO THE
20 SHOP AND ASK US FOR CLARIFICATION ON TYPES OF FIREARMS,
21 THEIR LEGALITIES IN CALIFORNIA, WHETHER OR NOT THEY'RE
22 FEDERALLY LEGAL, JUST TO GET SOME OF OUR KNOWLEDGE ON
23 THEM.

24 Q. AND HOW OFTEN HAVE YOU, IN THE PAST, MET WITH
25 ANY LAW ENFORCEMENT AGENCY REPRESENTATIVES?

26 MS. JONES: OBJECTION. RELEVANCE.

1 THE COURT: SUSTAINED.

2 BY MR. HENNES: Q. ARE YOU FAMILIAR WITH THE
3 VARIOUS ATTRIBUTES OF THE AK-STYLE WEAPON?

4 A. YES.

5 Q. NOW, IN LOOKING AT THE PARTS ON THE TABLE, DO
6 YOU RECOGNIZE A PART CALLED A RECEIVER?

7 A. YES. IT APPEARS YOU HAVE TWO FIREARMS,
8 ACTUALLY, SITTING ON THE TABLE THERE. THERE'S TWO
9 AK-STYLE FIREARMS SITTING ON THE TABLE.

10 Q. NOW, ARE THERE TWO INCOMPLETE?

11 A. NO. THERE APPEARS TO BE ONE COMPLETED AND
12 ONE --

13 Q. LOOK AT THE INCOMPLETE ONE, THE DISASSEMBLED
14 ONE, PLEASE.

15 A. OKAY.

16 Q. ALL RIGHT. DO YOU SEE ANY PART THERE THAT YOU
17 WOULD RECOGNIZE AS A RECEIVER?

18 A. YES.

19 Q. WOULD YOU PLEASE PICK THAT UP?

20 A. THAT WOULD BE THAT PART THERE.

21 Q. FOR THE RECORD, THAT'S B-C, I BELIEVE.

22 THE COURT: THANK YOU, YES.

23 BY MR. HENNES: Q. WHAT DOES THAT APPEAR TO BE TO
24 YOU?

25 A. IT APPEARS TO BE AN AK-STYLE RECEIVER WITH
26 THE FRONT TRUNNION INSTALLED.

1 Q. WHAT WAS THAT?

2 A. TRUNNION, T-R-U-N N I-O-N.

3 Q. THAT MIGHT BE W, I BELIEVE.

4 THE COURT: YEAH, IT IS. THE RECORD WILL
5 REFLECT THAT THE WITNESS HAS S-W IN HIS HAND).

6 BY MR. HENNES: Q. DOES THAT RECEIVER APPEAR TO BE
7 READY TO BE INSTALLED ON ANY FORM OF FIREARM?

8 A. IT DOES NOT APPEAR LIKE IT'S READY TO BE
9 INSTALLED, NO, SIR.

10 Q. ARE YOU ABLE TO TELL FROM LOOKING AT THAT
11 FIREARM WHAT WORK HAS BEEN DONE FROM ITS ORIGINAL STATE,
12 IF YOU KNOW?

13 A. IF IT'S START -- I DON'T KNOW HOW IT STARTED,
14 SO --

15 Q. WELL, DID YOU -- ARE YOU FAMILIAR WITH WHAT'S
16 TERMED A "FLAT RECEIVER"?

17 A. YES.

18 Q. DID YOU HAPPEN TO BRING ONE WITH YOU --

19 A. YES.

20 Q. -- TODAY?

21 THE COURT: YES. AND I WOULD JUST ASK
22 MR. PENHALL --

23 THE WITNESS: YES, MA'AM.

24 THE COURT: -- TO WAIT UNTIL THE ATTORNEY
25 FINISHES ASKING THE QUESTION COMPLETELY AND THEN ANSWER
26 SO WE CAN MAKE SURE SHE GETS BOTH ANSWERS DOWN. I KNOW

1 THAT YOU'RE ANTICIPATING WHAT HE'S GOING TO SAY AND YOU
2 KNOW THAT ANSWER QUICKLY. BUT JUST KIND OF GIVE HIM A
3 PAUSE SO WE CAN MAKE SURE SHE GETS THE WRITING DOWN.

4 AND I'M GOING TO STEP OFF THE BENCH FOR A
5 MOMENT. I'LL BE BACK IN A MOMENT.

6 (RECESS)

7 THE COURT: ALL RIGHT. BACK ON THE RECORD.
8 YOU MAY RESUME.

9 MR. HENNES: IF I MAY, I WOULD LIKE TO
10 APPROACH THE WITNESS AND JUST MAYBE GIVE HIM A
11 COLLECTION OF PARTS AND THEN IDENTIFY THEM ONE BY ONE.
12 THE WITNESS HAS ALREADY TESTIFIED TO THEM, BUT JUST FOR
13 EASE OF --

14 THE COURT: SURE.

15 MR. HENNES: THANK YOU.

16 BY MR. HENNES: Q. MR. PENHALL, LET THE RECORD
17 REFLECT I'VE HANDED YOU A BAG OF WHAT APPEARS TO BE
18 FIREARM PARTS, WHICH I WILL IDENTIFY AS THEY ARE
19 DESCRIBED IN YOUR TESTIMONY.

20 I WOULD ASK FIRST, DO YOU SEE ANY PART THAT
21 COULD BE DESCRIBED AS A FLAT RECEIVER?

22 A. YES.

23 Q. COULD YOU PULL THAT OUT, PLEASE?

24 A. THAT WOULD BE THAT PART THERE.

25 Q. DID YOU PURCHASE THAT?

26 A. YES.

1 Q. AND FROM WHOM DID YOU PURCHASE IT?

2 MS. JONES: OBJECTION. WELL, STRIKE THAT.

3 THE WITNESS: AK-BUILDER.COM.

4 BY MR. HENNES: Q. ARE YOU ABLE TO TELL WHETHER
5 THAT IS THE SAME TYPE OF SEVERE THAT WAS IN THE
6 POSSESSION OF MR. NGUYEN? DESPITE ITS ALTERED
7 APPEARANCE, CAN YOU TELL WHETHER THEY ARE

8 THE WITNESS: IT'S SIMILAR. IT'S JUST NOT THE
9 EXACT SAME.

10 BY MR. HENNES: Q. AND BY "FLAT RECEIVER," WHAT
11 DOES THAT MEAN BECAUSE IT'S FLAT?

12 A. IT JUST MEANS THAT IT'S FLAT, AND IT NEEDS TO
13 BE FOLDED INTO THE RECEIVER SHAPE.

14 Q. AND THE -- LET'S STICK WITH THAT.

15 NOW, REGARDING THE FOLDED RECEIVER, WHICH IS
16 5-W, I THINK IT WAS.

17 THE COURT: YES. AND THE FLAT RECEIVER, DO
18 YOU WANT TO MARK THAT FOR IDENTIFICATION AS DEFENSE A?

19 MR. HENNES: THAT WOULD BE DEFENSE A. THANK
20 YOU.

21 THE COURT: ALL RIGHT. IT WILL BE SO MARKED.

22 BY MR. HENNES: Q. AND I REMEMBER DISCUSSING THAT.

23 CAN YOU TELL BY COMPARING 5-W, WHICH YOU ARE
24 HOLDING, WITH DEFENSE A, WHAT KIND OF -- OR WHAT WORK
25 HAS BEEN DONE TO ALTER 5 W IN ANY WAY?

26 A. IT'S BEEN FOLDED. SO IT'S BEEN PUT INTO A

1 VISE AND USED A PRESS TO FOLD IT. AND THEN THE FRONT
2 AND REAR TRUNNIONS, THE FRONT APPEARS TO HAVE BEEN
3 COMPLETED INSTALLED. THE REAR TRUNNION WAS PARTIALLY
4 INSTALLED.

5 Q. AND DESCRIBE WHAT FUNCTION A COMPLETED
6 RECEIVER HAS WITH RESPECT TO AN AK-STYLE WEAPON?

7 A. WELL, IT'S THE BASE OF THE FIREARM. IT'S THE
8 HOUSING, BASICALLY, THAT THE FIREARM IS BASED OFF OF.

9 Q. AND DO YOU HAVE AN OPINION AS TO WHAT WOULD
10 REMAIN TO BE DONE IN THE WAY OF ALTERING, CHANGING THAT
11 RECEIVER IN YOUR HAND, WHICH IS S-W, IN ORDER TO MAKE IT
12 FUNCTIONAL IN THE SENSE THAT IT WOULD ACCEPT THE OTHER
13 PARTS OF THE FIREARM?

14 A. YEAH, IT WOULD TAKE A FAIR AMOUNT OF WORK TO
15 MAKE IT FUNCTIONAL.

16 Q. DESCRIBE WHAT THAT WOULD BE.

17 A. YOU WOULD HAVE TO FIRST OF ALL, NOT ALL THE
18 HOLES HAVE BEEN RIMMED ON THE SIDE OF THE RECEIVER. SO
19 YOU PHYSICALLY COULDN'T PUT THE FIRE CONTROL PARTS IN
20 THERE.

21 Q. WHY NOT?

22 A. THERE'S JUST NO HOLES FOR THE PINS TO BE
23 INSTALLED. THERE'S THE -- THE START, WHICH IS TYPICAL
24 ON A FLAT, BUT THEY NEED TO BE THE CORRECT SIZE. THE
25 RAILS NEED TO BE WELDED ON. THAT'S THE PART THAT THE
26 BOLT RIDES ON. IT HAS TO BE PERFECTLY STRAIGHT. AND IT

1 HAS TO BE EXACTLY DIMENSIONALLY-WISE CORRECT OR THE GUN
2 WILL NOT FUNCTION PROPERLY.

3 Q. AND HOW WOULD ONE DETERMINE WHETHER THE RAILS
4 ARE INSTALLED CORRECTLY AND ANY OTHER WORK DONE ON IT IN
5 A MANNER TO MAKE THE FIREARM FUNCTIONAL, SAY?

6 A. YOU WOULD USE CALIPERS, LEVELS. YOU WOULD
7 BASICALLY HAVE TO LINE IT UP USING THE PINS THAT YOU
8 WOULD NORMALLY USE, THE FIRE CONTROL PINS. IT LOOKS
9 LIKE THE REAR RECEIVER WAS INSTALLED - OR THE REAR
10 TRUNNION WAS INSTALLED INCORRECTLY. SO THAT WOULD NEED
11 TO BE FIXED WELL.

12 Q. WHY DO YOU SAY THAT?

13 A. IT DOESN'T LINE UP WITH THE HOLES ON THE
14 RECEIVER. SO YOU WOULD NEED TO GAUGE THE SPACE BETWEEN
15 THE TWO TRUNNIONS SO THEY WERE EXACTLY THE SAME
16 DIMENSIONS APART FOR THE BOLT TOP TO FIT PROPERLY IN THE
17 RECEIVER.

18 Q. AND DID YOU BRING WITH YOU, ALSO, TODAY A
19 COMPLETE AK STYLE RIFLE?

20 A. YES.

21 MR. HENNES: ALL RIGHT. IF I MAY APPROACH.

22 BY MR. HENNES: Q. MR. PENHALL, I JUST HANDED YOU
23 THE RIFLE CASE.

24 WOULD YOU PLEASE OPEN IT AND PULL OUT THE
25 FIREARM THAT IS INSIDE. AND WOULD YOU DESCRIBE WHAT
26 THAT FIREARM IS?

1 A. THIS IS WHAT'S CALLED A WASR-10. IT'S AN
2 AK-STYLE FTREARM, SEMIAUTOMATIC RIFLE. IT SHOOTS 7.62
3 BY 39 AMMUNITION. AND IT CONTAINS A MAGAZINE LOCK ON
4 IT.

5 Q. ALL RIGHT. NOW, WOULD YOU COMPARE THE RIFLE
6 THAT YOU'RE HOLDING IN YOUR HAND, WHICH WE WILL REQUEST
7 TO BE MARKED AS DEFENDANT'S B --

8 THE COURT: IT WILL BE MARKED AS DEFENSE B FOR
9 IDENTIFICATION.

10 MR. HENNES: THANK YOU.

11 THE COURT: YOU'RE WELCOME.

12 (EXHIBIT B MARKED)

13 BY MR. HENNES: Q. -- WOULD YOU PLEASE COMPARE
14 THAT WITH THE -- I BELIEVE IT'S 2, PEOPLE'S 2 -- NO, IT
15 ISN'T. WITH 15. DO YOU SEE EXHIBIT 15, WHICH IS A
16 CHINESE-MADE AK-47 BROUGHT IN BY -- I DON'T KNOW IF
17 IT'S --

18 A. IT'S NOT LABELED, BUT I SEE A CHINESE-MADE
19 AK 47, I'M ASSUMING.

20 Q. NOW, CAN YOU DESCRIBE ANY QUALITIES OF THE
21 ARTICLE THAT YOU'RE HOLDING, DEFENDANT'S B, AND COMPARE
22 AND CONTRAST IT WITH ANY DISSIMILAR QUALITIES IN THE
23 EXHIBIT 15, THE CHINESE AK? HOW ARE THEY SIMILAR? HOW
24 ARE THEY DIFFERENT?

25 A. THIS WOULD BE A FIXED STOCK RIFLE. IT DOES
26 NOT HAVE A FOLDING STOCK.

1 THE COURT: HE'S REFERRING TO DEFENSE B.

2 THE WITNESS: YEAH. MY RIFLE HAS A MAGAZINE
3 LOCK ON IT. IT DOES NOT APPEAR THAT THE ONE ON THE
4 TABLE DOES.

5 BY MR. HENNES: Q. ALL RIGHT. ANY OTHER
6 SIGNIFICANT DIFFERENCES?

7 A. THAT APPEARS TO BE IT. THE ONLY THING THAT I
8 COULD -- I CAN'T TELL, WITHOUT PICKING IT UP, IF IT
9 WOULD BE A "BANNED BY" NAME. THIS IS WHAT'S CONSIDERED
10 OFF-LIST IN CALIFORNIA, SO --

11 THE COURT: AND THAT IS NONRESPONSIVE AND WILL
12 BE STRICKEN. THE JURY IS TO DISREGARD THAT LAST ANSWER.

13 BY MR. HENNES: Q. MR. PENNANT, YOU'VE DESCRIBED
14 WHAT YOU HAD CALLED A MAGAZINE LOCK ON DEFENSE --
15 DEFENDANT'S B; IS THAT --

16 A. YES, SIR.

17 Q. COULD YOU POINT TO WHAT THAT IS?

18 A. IT'S THAT ITEM RIGHT THERE.

19 Q. AND WHAT IS THE --

20 THE COURT: I'M SORRY. HE'S POINTING TO A
21 PROTRUSION RIGHT IN FRONT OF THE -- THEY CALL IT A GRIP.

22 THE WITNESS: YEAH, IN FRONT OF THE TRIGGER.

23 THE COURT: IN FRONT OF THE TRIGGER. ALL
24 RIGHT.

25 BY MR. HENNES: Q. AND DID YOU INSTALL THAT?

26 A. IT'S DONE OUT OF STATE BY OUR IMPORTER.

1 MS. JONES: OBJECTION. RELEVANCE.

2 THE COURT: SUSTAINED. THAT ANSWER WILL BE
3 STRICKEN. THE JURY TO DISREGARD THAT ANSWER.

4 BY MR. HENNES: Q. WHAT IS THE FUNCTION OF THAT
5 MAGAZINE LOCK IN TERMS OF ACTUAL FUNCTION OF ANY PART OF
6 THE WEAPON?

7 A. IT MAKES IT SO IT REQUIRES THE USE OF A TOOL
8 TO REMOVE THE MAGAZINE.

9 Q. DOES THAT MAGAZINE LOCK HAVE THE -- DEPRIVE
10 THE WEAPON OF THE CAPACITY TO ACCEPT A DETACHABLE
11 MAGAZINE?

12 MS. JONES: YOUR HONOR, I'M GOING TO OBJECT TO
13 THE RELEVANCY OF THE MAGAZINE LOCK AND --

14 THE COURT: LET'S APPROACH, COUNSEL.

15 (STEPPAR OUTSIDE THE PRESENCE OF THE JURY:)

16 THE COURT: OUTSIDE THE PRESENCE OF THE JURY.
17 THE DEFENSE COUNSEL IS ASKING ABOUT THE FUNCTION OF THE
18 MAGAZINE LOCK. I THINK THE WITNESS SAYS THAT IT
19 REQUIRES A TOOL TO REMOVE THE MAGAZINE. IT APPEARS TO
20 BE RELEVANT.

21 AND, COUNSEL, WHY DON'T YOU THINK IT'S
22 RELEVANT?

23 MS. JONES: BECAUSE IT HAS -- THERE IS NOTHING
24 LIKE THAT PRESENT IN THIS CASE. IT HAS NOTHING TO DO
25 WITH WHAT THE DEFENDANT HAD. HE DIDN'T HAVE A MAGAZINE
26 LOCK. THEY DIDN'T FIND A MAGAZINE LOCK. HE DIDN'T SAY

1 HE HAD A MAGAZINE LOCK.

2 THE COURT: AND YOUR POINT, COUNSEL?

3 MR. HENNES: HE DIDN'T HAVE A MAGAZINE EITHER.
4 HE DIDN'T HAVE ALL THE PARTS.

5 THE COURT: THIS FOR ELICITING THIS PARTICULAR
6 TESTIMONY ABOUT A MAGAZINE LOCK WOULD BE -- WHAT'S THE
7 USE OF IT?

8 MR. HENNES: RELEVANT TO THE INFERENCE THAT
9 THERE WAS A FIXED MAGAZINE THAT THE --- I'M USING THAT AS
10 AN EXAMPLE OF A MAGAZINE LOCK AND WHEN DOES ONE INSTALL
11 A MAGAZINE LOCK IN THE ASSEMBLY OF AN AK RIFLE, A LEGAL
12 RIFLE. AND I BELIEVE THAT WE HAVE DISCUSSED THIS PRIOR
13 TO EXPERT'S TESTIMONY AND THE COURT WAS GOING TO ALLOW
14 TESTIMONY REGARDING "THIS IS THE BULLET BUTTON,"
15 BASICALLY.

16 THE COURT: I'M SORRY. AND WE MAY HAVE
17 DISCUSSED IT BEFORE; HOWEVER, THIS IS HIGHLY TECHNICAL.
18 AND ALL OF THE TERMS ARE SWIRLING AROUND.

19 MR. HENNES: TECHNICAL TRADE BRAND NAME
20 MAGAZINE LOCK IS WHAT IS A BULLET BUTTON.

21 THE COURT: SO IT'S COMING BACK TO ME. YOUR
22 ARGUMENT IS THAT ALTHOUGH HE DOESN'T HAVE ONE OF THESE,
23 HE DIDN'T HAVE ANY MAGAZINE?

24 MR. HENNES: CORRECT.

25 THE COURT: AND HE COULD HAVE BEEN GOING TO
26 OBTAIN ONE OF THESE, IN WHICH CASE IT WOULD HAVE BEEN

1 LEGAL.

2 THAT'S KIND OF WHERE YOU'RE GOING?

3 MR. HENNES: THIS WAS AT A VERY EARLY STAGE OF
4 ASSEMBLY OR MANUFACTURE, IF YOU WILL.

5 THE COURT: OKAY.

6 MR. HENNES: AND HE ALSO SAID HE DIDN'T HAVE
7 ALL THE PARTS.

8 MS. JONES: HE HAS A KIT TO MAKE THE -- I'M
9 SORRY -- TO LET IT ACCEPT THE DETACHABLE MAGAZINE.

10 THE COURT: YES.

11 MS. JONES: HE'S GOT THE ELEMENTS OF THIS
12 ILLEGAL WEAPON. HE DOESN'T HAVE THE MAGAZINE. SO HE
13 DID NOT NEED TO HAVE THE MAGAZINE YET. AND THIS DOESN'T
14 HAVE TO DO WITH WHAT HE'S CONSTRUCTING. THAT'S
15 SOMETHING THAT HE COULD ADD ON.

16 THE COURT: IN WHICH CASE IF HE DID ADD IT ON
17 LATER, WOULD THAT MEAN THAT HE -- THAT IT IS NOT LEGAL?

18 MS. JONES: WELL, THE PROBLEM IS ACTUALLY THIS
19 MAGAZINE, THIS GUN, WOULDN'T BE LEGAL ANYWAY BECAUSE
20 THEN IT WOULD FALL UNDER THE FOLLOWING SECTION WHERE
21 IT'S TOO SHORT WITH THE -- DO YOU SEE WHAT I MEAN?

22 THE COURT: YES.

23 MS. JONES: SO THEN WE GOT TO GET INTO --
24 WELL, EVEN IF HE PUTS THAT ON THERE, HE'S GOT A PROBLEM
25 BECAUSE THE SHORT THING, IT HAS TO BE BIGGER THAN 30
26 INCHES, AND THE GUN IS NOT.

1 MR. HENNES: WHICH ONE ARE YOU TALKING ABOUT?

2 MS. JONES: THE AK-47.

3 MR. HENNES: THE ONE THAT HE'S HANDLING OR MY
4 CLIENT? --

5 MS. JONES: YOUR CLIENT. SO IT WOULD COME IN
6 UNDER THAT SECTION. SO IF HE WANTS TO GO THERE, IT
7 WOULD BE LEGAL OR IF HE ATTACHED THIS, THEN IT WOULDN'T
8 HAVE ONE OF THE ELEMENTS. WELL, IT STILL HAS AN ILLEGAL
9 ELEMENT.

10 THE COURT: YES, BUT ISN'T THAT ARGUMENT?
11 ISN'T THAT? --

12 MS. JONES: WELL, THEY DON'T KNOW ABOUT THAT.
13 THEN I HAVE TO ELICIT FROM THIS EXPERT THAT YOU'D STILL
14 HAVE A PROBLEM WITH THIS GUN.

15 MR. HENNES: WAIT.

16 THE COURT: ISN'T THAT ARGUMENT, THOUGH? IN
17 OTHER WORDS, THAT COMMENT THAT YOU JUST MADE, THAT WOULD
18 BE THE ARGUMENT? IN OTHER WORDS, THE WAY I UNDERSTAND
19 IT, IS HE HAS CERTAIN PARTS, ONE OR TWO OTHER PARTS.

20 MS. JONES: NO, HE HAS ALL THE PARTS.

21 MR. HENNES: NO, HE DOESN'T.

22 MS. JONES: YES, HE DOES. HE HAS ALL THE
23 PARTS TO MAKE A FULLY FUNCTIONING WEAPON.

24 THE COURT: WELL, THAT'S AN ARGUMENT TOO.

25 MS. JONES: THAT'S YOUR BIG ARGUMENT. BUT ONE
26 OF THE PARTS --

1 THE COURT: THAT MAY BE TRUE, BUT HE STILL
2 DOESN'T HAVE A MAGAZINE. IS THAT TRUE? HE DOESN'T HAVE
3 A MAGAZINE?

4 MS. JONES: BUT THAT'S NOT ONE OF THE PARTS OF
5 THE WEAPON. THAT'S JUST THE AMMO.

6 THE COURT: OKAY.

7 MR. HENNES: WELL, THAT GOES TO INTENT. HE
8 DIDN'T GET A MAGAZINE BECAUSE HE DIDN'T HAVE THE
9 BULLETS.

10 MS. JONES: WELL, MAKE THE GUN.

11 MR. HENNES: AND THE BARREL IS IRRELEVANT
12 BECAUSE IF HE SPECIFICALLY ELECTED TO GO ON ONE, THE
13 BARREL IS TWO --

14 MS. JONES: NOT IF YOU'RE GOING TO START
15 TALKING ABOUT -- WELL, WHATEVER HE DID THIS, THEN, IT
16 WOULDN'T FALL WITHIN THE STATUTE. AND THAT OPENS THE
17 DOOR. AND YOU HAVE TO SAY, "OH, YES, IT WOULD," BECAUSE
18 THEN IT WOULD COME IN THIS WAY BECAUSE IT WOULD STILL BE
19 ILLEGAL.

20 MR. HENNES: I'M ASKING ABOUT A FIXED
21 MAGAZINE, NOT A BARREL. I'M ASKING --

22 MS. JONES: THOSE OPEN A WHOLE CAN OF WORMS.
23 THERE'S NO EVIDENCE ON THE RECORD ABOUT A FIXED MAGAZINE
24 IN THIS CASE.

25 MR. HENNES: YES, THERE IS. YOU ASKED ABOUT A
26 BULLET BUTTON.

1 MS. JONES: NO, I DIDN'T.

2 MR. HENNES: YES, YOU DID.

3 MS. JONES: NO, I DIDN'T. I NEVER ASKED ABOUT
4 A BOLLET BUTTON.

5 THE COURT: I DON'T BELIEVE SHE DID, COUNSEL.
6 SHE DID NOT LIKE SHE SHOWED NOT GO THERE. WE WERE
7 ARGUING ABOUT IT OUTSIDE THE PRESENCE OF THE JURY. BUT
8 SHE DID NOT MENTION THAT WORD OR ELICIT THAT.

9 MR. HENNES: REGARDLESS, THE COURT HAS ALREADY
10 RULED THAT THE EXPERT CAN TESTIFY REGARDING

11 MS. JONES: THAT'S WHY WE'RE ARGUING ABOUT THE
12 SCOPE OF IT BECAUSE IT'S GOING TO OPEN UP THE DOOR.

13 MR. HENNES: I'M ONLY ASKING THAT NOT IF IT'S
14 A LEGAL WEAPON, IF IT HAS A BULLET BUTTON, DOES IT TURN
15 IT INTO A FIXED MAGAZINE. I'M NOT ARGUING THE ELEMENTS.

16 MS. JONES: THEN IT WOULDN'T FIT THE
17 CHARACTERISTICS OF AN ASSAULT WEAPON, BUT IT WOULD STILL
18 FIT THE CHARACTERISTICS OF AN ASSAULT WEAPON ON ANOTHER.

19 THE COURT: THEORY AND CODE SECTION?

20 MS. JONES: WELL, CITES THE SAME CODE SECTION,
21 DIFFERENT LETTER, YEAH, DOWN BELOW.

22 THE COURT: DIFFERENT LETTER.

23 MR. HENNES: THE ONE THAT --

24 MS. JONES: THAT'S THE PROBLEM.

25 MR. HENNES: THE ONE THAT DESCRIBES THE
26 10-ROUND MAGAZINE THAT'S FIXED. I MEAN, THAT'S 2 AND 3.

1 SO YOU STOPPED AT 1. ONE MAKES NO MENTION TO A SHORT
2 BARREL. ONE MAKES NO MENTION -- OR ONE MAKES NO MENTION
3 OF THE 10-ROUND OR FIXED MAGAZINE WITH GREATER THAN 10
4 ROUNDS IN IT, WHICH IS WHAT I WAS PRECLUDED FROM ASKING
5 'THE SERGEANT' ABOUT. AND HE SPECIFICALLY SAID, "WE'RE
6 STICKING TO THE DEFINITION IN SUBSECTION 1."

7 MS. JONES: I DON'T THINK DEFENSE CAN HAVE HIS
8 CAKE AND EAT IT TOO. HE WANTS TO BROADEN THE SCOPE OF
9 HIS INQUIRY. AND THEN HE WANTS TO LIMIT IT. AND HE'S
10 GOING TO OPEN THE DOOR IF HE DOES THAT.

11 BECAUSE HE'S SAYING ESSENTIALLY, THIS DOESN'T
12 FIT THE CHARACTERISTICS OF AN ASSAULT WEAPON NOW, DOES
13 IT? IF HE DOES THIS TO IT, WELL, AS A MATTER OF FACT,
14 IT DOES.

15 THE COURT: IN ANOTHER SECTION?

16 MS. JONES: YES.

17 MR. HENNES: WELL, THAT'S -- THEY ARE
18 PROCEEDING UNDER (A) (1) ONLY, NOT UNDER (A) (2) OF THE
19 12276.1.

20 AND I'M NOT OPENING A DOOR. I'M CONFINING MY
21 EVIDENCE TO WHAT IS DESCRIBED IN SUBSECTION (1).

22 MS. JONES: IF HE GOES THERE, THEN WE NEED TO
23 READDRESS IT.

24 MR. HENNES: I DON'T KNOW WHAT 'THE' FIXED
25 MAGAZINE HAS TO DO WITH A SHORT BARREL. WHEN THE ELECTION
26 WAS UNILATERALLY STATED ON THE RECORD TO PROCEED ON ONE

1 OF THE ITEMS, NOT STRAIGHT OUT OF SUBSECTION (1).

2 THE COURT: HOLD ON A SECOND. OVERRULED.

3 MS. JONES: YOUR HONOR, I GUESS I NEED
4 CLARIFICATION WHETHER I CAN GO INTO THE OTHER SECTION
5 THEN.

6 THE COURT: I WOULD LIKE CLARIFICATION IF SHE
7 CAN GO INTO THE OTHER SECTION. I'M GOING TO WITHHOLD A
8 RULING ON THAT BECAUSE I'M GOING TO JUST GIVE A LITTLE
9 BIT OF LATITUDE IN THIS AREA, AND THEN WE'LL SEE IF IT,
10 IN FACT, OPENS THE DOOR AND TO WHAT EXTENT. AND WE CAN
11 REVISIT THAT ISSUE.

12 MS. JONES: OKAY.

13 THE COURT: OKAY.

14 (PROCEEDINGS IN THE PRESENCE OF THE JURY:)

15 THE COURT: WE'RE BACK ON THE RECORD. THAT
16 OBJECTION IS OVERRULED.

17 BY MR. HENNES: Q. I THINK I WAS ASKING THE
18 FUNCTION.

19 WILL YOU PLEASE LOCATE DEFENDANT'S -- AND I
20 BELIEVE WE WERE DISCUSSING THE PART OF THE RIFLE THAT
21 WAS CALLED A MAGAZINE LOCK.

22 A. THAT'S CORRECT.

23 Q. ARE THERE OTHER TERMS THAT ARE COMMONLY USED
24 TO DESCRIBE THE SAME PARTS?

25 A. YEAH, BULLET BUTTON, RADDLOCK.

26 Q. NOW, DOES THE INSTALLATION OF A MAGAZINE LOCK

1 BULLET BUTTON, DOES THAT CAUSE THE MAGAZINE OF AN
2 AK STYLE RIFLE TO BE A FIXED MAGAZINE?

3 A. IT DOES.

4 Q. WHY?

5 A. BECAUSE IT REQUIRES THE USE OF A TOOL TO
6 REMOVE IT.

7 Q. AND THE NAME "BULLET BUTTON," DO YOU KNOW
8 WHERE THAT IS DERIVED FROM?

9 A. IT DOES. IN THE ORIGINAL PRINTER'S DESIGN, YOU
10 COULD USE A BULLET TIP TO INSERT AND REMOVE THE
11 MAGAZINE.

12 Q. AND DO YOU KNOW AT WHAT POINT IN THE PROCESS
13 OF ASSEMBLING OR COMPLETING THE MANUFACTURING OF AN
14 AK-STYLE RIFLE WOULD A BULLET BUTTON BE INSTALLED?

15 A. BEFORE YOU COMPLETED THE -- ANYTIME BEFORE THE
16 FIREARM -- IT WAS A COMPLETED FIREARM. SO I WOULD
17 PROBABLY DO IT AFTER I REFINISHED IT AND HAD IT ALL
18 RTVETED AND WELDED TOGETHER BEFORE I INSTALLED A PISTOL
19 GRIP OR COLLAPSABLE STOCK.

20 Q. OKAY. YOU CAN PUT THAT AWAY.

21 GOING BACK TO DEFENDANT'S A, WHICH IS THE PART
22 OF THE COMPLETED RECEIVER, CAN YOU EXPLAIN HOW A BARREL
23 OF THE AK WOULD BE INSTALLED INTO THAT?

24 DO YOU SEE A BARREL, BY THE WAY, BEHIND YOU?

25 A. YES.

26 Q. AND THAT, I BELIEVE --

1 A. LOOKS LIKE'S K.

2 Q. IT SAYS "K"?

3 A. K.

4 Q. ALL RIGHT. B K.

5 THE COURT: IT IS.

6 BY MR. HENNES: Q. COULD YOU EXAMINE IT? TAKE THE
7 RECEIVER DOWN. YOU CAN GO AHEAD AND SIT DOWN AND HOLD
8 IT.

9 NOW, IN ORDER FOR THE BARREL TO BE INSTALLED,
10 OR THAT BARREL TO BE INSTALLED INTO A RECEIVER, WHAT
11 WOULD NEED TO BE DONE IF IT WERE INSTALLED?

12 A. IN ORDER TO INSTALL THIS BARREL, YOU WOULD
13 HAVE TO PRESS IT IN USING A PRESS.

14 Q. AND HOW WOULD THAT BE? WHAT TECHNIQUE WOULD
15 BE USED?

16 A. THEY MAKE A CHUCK, BASICALLY, THAT YOU INSERT
17 SO THAT WAY YOU DON'T DEFORM THE RECEIVER. PUT IT INTO
18 A LARGE PRESS AND ACTUALLY PRESS THE BARREL INTO THE
19 TRUNNION FAR ENOUGH TO GO PAST THIS HOLE RIGHT HERE SO
20 THAT YOU CAN PIN IT.

21 THE COURT: AND HE JUST POINTED TO A HOLE ON
22 THE RECEIVER, ON THE END OF THE RECEIVER.

23 BY MR. HENNES: Q. AND DOES THAT NEED TO BE DONE
24 WITH A CERTAIN AMOUNT OF PRECISION?

25 A. IT DOES TOWARDS THE END PROCESS, BECAUSE YOU
26 HAVE TO ESTABLISH HEADSPACING. BECAUSE THIS APPEARS TO

1 BE A NEW BARREL, THE HEADSPACING WON'T BE SET. SO YOU
2 WOULD NEED SOME SORT OF GUNSMITHING TOOLS TO MEASURE AND
3 ADJUST THE HEADSPACING.

4 Q. AND WAS THERE ANY PRELIMINARY STEPS TAKEN WITH
5 REGARD TO THE RECEIVER, DEFENDANT'S A, TO RECEIVE THE
6 SEATING OF THAT BARREL?

7 A. YEAH. THEY INSTALLED THE FRONT TRUNNION HERE.
8 SO THE TRUNNION IS INSTALLED.

9 Q. IS THE TRUNNION PROPERLY INSTALLED?

10 A. THE FRONT ONE APPEARS TO BE
11 PROPERLY INSTALLED. THE RIVETS DON'T LOOK THE BEST, BUT
12 IT DOES APPEAR TO BE INSTALLED CORRECTLY.

13 Q. NOW, YOU SEE A STOCK IN THE COLLECTION OF
14 PARTS. THERE MIGHT BE A LETTER ON IT, FOLDING STOCK?

15 A. YEAH, IT'S LETTER F.

16 Q. WOULD YOU PLEASE PICK THAT UP AND KEEP THE
17 RECEIVER?

18 A. OKAY.

19 Q. I WOULD LIKE YOU TO SEE IF ALL THE PARTS ARE
20 THERE TO INSTALL THE STOCK ONTO THE RECEIVER?

21 A. THERE'S A HOLE -- THERE'S ONE OR TWO HOLE PINS
22 MISSING. THAT'S WHAT WILL ACTUALLY HOLD THE SPRING
23 ASSEMBLY IN PLACE SO THAT IT ALL HOLDS TOGETHER. BUT
24 THE MAIN PARTS APPEAR TO BE HERE.

25 Q. OKAY. WOULD THERE NEED TO BE EXTRA PARTS
26 OBTAINED, AT LEAST FROM YOUR VIEW, OF THE COLLECTION IN

1 ORDER TO INSTALL THE STOCK ON THE RECEIVER?

2 A. YEAH, YOU WOULD NEED A ROTI PIN TO INSTALL
3 THE -- TO KEEP IT FROM TURNING IN THE --

4 Q. OKAY. AND WHAT WOULD BE NECESSARY? WHAT'S
5 THE PROCESS FOR INSTALLING THE STOCK ONTO THE RECEIVER,
6 IF THAT'S WHERE IT GOES?

7 A. ON THIS RECEIVER, YOU'D HAVE TO ADJUST THE
8 TRUNNION OR ADJUST THE RECEIVER.

9 Q. WHY?

10 A. BECAUSE IT -- WHEN THE REAR TRUNNION WAS
11 INSTALLED, IT DIDN'T MEET UP PROPERLY TO THE RECEIVER.
12 SO YOU WOULD HAVE TO ADJUST THAT. FIRST, YOU WOULD
13 MEASURE IT AND SEE IF YOU WOULD NEED TO ADJUST THE
14 RECEIVER OR JUST CUT IT OUT OR WOULD YOU NEED TO ADJUST
15 THE TRUNNION TO SEE, YOU KNOW, HOW DEEP IT WAS OR NOT.

16 Q. WOULD ANY SPECIAL TOOLS BE NEEDED TO PERFORM
17 THAT FUNCTION?

18 A. NOT NECESSARILY. A DREMEL. YOU WOULD NEED
19 SOME SORT OF GRINDING IMPLEMENT.

20 Q. IT'S NOT SOMETHING THAT COULD BE SCREWED IN
21 OR --

22 A. NOT IN ITS CURRENT STATE. IT DOES NEED A
23 LITTLE BIT OF FINISH WORK TO GET THE HOLES TO LINE UP
24 PROPERLY SO YOU COULD INSTALL THE STOCK.

25 Q. NOW, AFTER YOU -- SO YOU WOULD -- WHAT'S THE
26 PROCESS FOR INSTALLING THE STOCK, ASSUMING THAT IT'S

1 THE --

2 A. BASICALLY, YOU --

3 Q. -- PROPER SIZE?

4 A. -- HAVE A COLLAR WITH A LARGE SPRING. AND
5 THEN THERE'S PUSH BUTTON RIGHT HERE IN F, IN THE BAG
6 MARKED "F."

7 THAT ALL GOES THROUGH -- THE STOCK WOULD
8 ATTACH TO THE OUTSIDE. THE PARTS WOULD BE INSERTED.
9 AND THEN YOU WOULD INSERT THE COLLAR IN THE ROLL PIN TO
10 HOLD EVERYTHING IN PLACE, SO THAT WHEN YOU PUSH THE
11 BUTTON, IT WOULD DEPRESS THE SPRING, THE STOCK WOULD
12 THEN FOLD.

13 Q. NOW, IF YOU LOOK AT THOSE PARTS, AS YOU SET
14 THERE, IS IT POSSIBLE TO ASSEMBLE THAT PART OF THE
15 FIREARM FROM YOUR SEAT WITHOUT --

16 A. NOT REALLY, NO.

17 MS. JONES: OBJECTION. RELEVANCE AS TO
18 WHETHER HE COULD ASSEMBLE IT FROM HIS SEAT.

19 THE COURT: SUSTAINED. ANSWER WILL BE
20 STRICKEN.

21 BY MR. HENNES: Q. WOULD YOU NEED TO DO SOME WORK
22 ON THAT RECEIVER IN ORDER FOR THAT STOCK TO BE
23 PROPERLY INSTALLED?

24 A. YES.

25 Q. NOW, WHAT ELSE REMAINED TO BE DONE ON THAT
26 RECEIVER?

1 A. THE RECEIVER REQUIRED THE RAILS TO BE WELDED
2 ON.

3 Q. DESCRIBE THE RAILS.

4 A. THE RAILS ARE THE TOP PART. THEY ACTUALLY --
5 YOU SPOT-WELD THEM TO THE TOP OF THE RECEIVER, AND THEY
6 HAVE TO BE PERFECTLY LEVEL BECAUSE THAT'S WHAT THE BOLT
7 TRAVELS ON, SO IT ACTUALLY HAS TO BE STRAIGHT INTO THE
8 TRUNNION.

9 THE COURT: LET THE RECORD REFLECT THE WITNESS
10 HAS TAKEN HIS HAND AND RUBBED IT ACROSS THE TOP OF THE
11 RECEIVER BACK AND FORTH.

12 BY MR. HENNES: Q. WOULD YOU LOOK AT 5-B? I THINK
13 THOSE ARE THE RAILS. THE RAILS OR WHATEVER THEY ARE.

14 A. OKAY.

15 Q. IS THAT 5-B?

16 A. YES.

17 Q. COULD YOU HOLD THOSE UP? AND I DON'T KNOW IF
18 YOU NEED TO TAKE THEM OUT OF THE BAG OR NOT.

19 A. (WITNESS COMPLETES.)

20 Q. WHAT ARE THOSE DESIGNED TO DO? WHAT FUNCTION
21 DO THOSE PERFORM, AND AK STOCK?

22 A. THEY PROVIDE A SHELF FOR THE BOLT AND CARRIER
23 GROUP TO RIDE UPON.

24 Q. AND IT'S ABSOLUTELY NECESSARY FOR THESE TO BE
25 INSTALLED ONTO THE RECEIVER FOR THE FIREARM TO WORK?

26 A. ABSOLUTELY.

1 Q. AND HOW WOULD THOSE RAILS BE INSTALLED?

2 A. THEY ARE SPOT-WELDED TO THE RECEIVER ITSELF.

3 Q. AND CAN YOU DESCRIBE THAT PROCESS AND SKILLS
4 THAT WOULD BE REQUIRED TO DO THAT?

5 A. IT UTILIZES A SPECIAL TOOL, A SPOT-WELDING
6 MACHINE. IT'S GOT TWO TONGS. AND THEY GO ONTO EITHER
7 SIDE OF THE METAL, AND THEN HEAT IT UP AND WELD IT TO THE
8 METAL. YOU WOULD THEN REHEAT TREAT YOUR RECEIVER SO AS
9 TO MAKE IT SO IT DIDN'T STRETCH OR BREAK.

10 Q. NOW, DOES THAT RECEIVER IN ITS CURRENT STATE
11 CONSTITUTE A RIFLE OF ANY FORM?

12 A. NO.

13 Q. IN ADDITION TO WHAT YOU'VE ALREADY DISCUSSED,
14 WHAT ELSE NEEDS TO BE DONE WITH RESPECT TO ASSEMBLING
15 THE COMPLEX OF PARTS INTO A FUNCTIONING FIREARM?

16 A. WHEN I EXAMINED THE BARREL, THE BARREL IS NOT
17 FINISHED. IT'S A NEW BARREL, WHICH MEANS THAT YOU HAVE
18 TO INSTALL THE GAS BLOCK ON IT. THAT WOULD BE REQUIRED
19 FOR SEMIAUTOMATIC OPERATION OF THE FIREARM.

20 Q. AND SEMIAUTOMATIC MEANS WHAT?

21 A. EACH PULL OF THE TRIGGER WILL FIRE ONE ROUND.
22 THE RIFLE WILL THEN AUTOMATICALLY LOAD THE NEXT
23 CARTRIDGE AND EJECT THE SPENT SHELL.

24 Q. NOW, IS THERE ANYTHING ELSE THAT WOULD NEED TO
25 BE DONE ON THAT RECEIVER TO MAKE IT FUNCTIONAL AND READY
26 TO BE PUT TOGETHER IN ITS FINAL FORM WITH THE RIFLE?

1 A. YEAH. YOU WOULD HAVE TO DRILL THE TRIGGER AND
2 HAMMER PIN HOLES. YOU WOULD HAVE TO INSTALL THE TRIGGER
3 GUARD, WHICH CONTAINS THE MAGAZINE RELEASE. YOU WOULD
4 HAVE TO INSTALL THE TRIGGER, THE HAMMER AND THE
5 DISCONNECT.

6 Q. HOW WOULD THOSE BE INSTALLED, THE LATTER; THE
7 TRIGGER GUARD AND THE TRIGGER? AND IF YOU COULD FIND
8 THOSE IN THE COLLECTION, I BELIEVE IT'S G AND T THAT YOU
9 WERE DISCUSSING.

10 A. SO THE HAMMER AND HAMMER SPRING ARE S. THE
11 TRIGGER ASSEMBLY, LETTER T. THE TRIGGER GUARD, LETTER
12 G, AND MAGAZINE RELEASE. THE TRIGGER GUARD CAN I
13 TAKE THIS OUT OF THE BAG?

14 Q. IF IT WOULD HELP. IF YOU CAN, HOLD IT UP.

15 A. THE TRIGGER GUARD WOULD ACTUALLY BE RIVETED TO
16 THE RECEIVER ITSELF HERE. AND THEN THAT WOULD BE
17 SECURED USING RIVETS OR SCREWS, DEPENDING ON HOW YOU
18 WERE BUILDING THE FIREARM.

19 Q. AND THEN HOW WOULD -- WOULD YOU USE ANY TOOL
20 TO RIVET IT BESIDES IF YOU DIDN'T USE SCREWS?

21 A. YEAH, THEY MAKE A SPECIAL TOOL FOR IT. IT
22 LOOKS -- SOMETHING THAT LOOKS VERY MUCH LIKE A LARGE
23 BOLT CUTTER, SO YOU CAN ACTUALLY SQUASH THEM PROPERLY.

24 Q. ALL RIGHT. AND THAT WOULD INSTALL THE TRIGGER
25 GUARD; IS THAT WHAT YOU'RE TALKING ABOUT?

26 A. THAT WOULD INSTALL THE TRIGGER GUARD.

1 Q. IS THERE ANY PRECISION THAT WOULD BE
2 REQUIRED - - ANY GREAT PRECISION THAT WOULD BE REQUIRED
3 TO INSTALL THE TRIGGER GUARD?

4 A. IT WOULD REQUIRE SOME BECAUSE YOU NEED TO MAKE
5 SURE IT'S LINED UP WITH THE MAGAZINE CATCH ON THE
6 MAGAZINE -- ON THE BACK OF THE MAGAZINE.

7 Q. NOW, FROM WHAT YOU'VE DESCRIBED SO FAR, IT
8 APPEARS THAT THERE ARE NOT LARGE TOLERANCES IN THE
9 ASSEMBLY OF THIS AK.

10 IS THAT A FAIR STATEMENT?

11 A. YEAH.

12 Q. NOW, YOU MENTIONED THE MAGAZINE RELEASE.

13 A. UH-HUH.

14 Q. WHEN DOES THAT GO ON?

15 A. IT CAN GO ON AT ANYTIME DURING THE PROCESS.
16 MOST PEOPLE DO IT AFTER THEY WELD THE RAILS ON. YOU CAN
17 COULD IT BEFORE. SOMETIMES IT'S EASIER TO DO IT BEFORE
18 JUST BECAUSE YOU HAVE A LITTLE BIT MORE ACCESS TO THE
19 INSIDE OF THE RECEIVER. YOU WOULD DEFINITELY DO IT
20 BEFORE YOU REFINISHED THE FIREARM BECAUSE YOU'D WANT IT
21 ALL TO TO BE THE SAME COLOR.

22 Q. BY "REFINISHING IT," YOU MEAN WHAT?

23 A. PARKERIZING IT OR ANODIZING IT, DEPENDING --

24 Q. JUST BRIEFLY EXPLAIN THOSE TWO PROCESSES.

25 A. PARKERIZING IS A MEANS OF APPLYING A FINISH SO
26 THAT WAY THE METAL DOESN'T RUST. SO IT WOULD GIVE YOU

1 THAT TYPICAL BLUE OR GRAY FINISH THAT YOU SEE ON A
2 FIREARM.

3 Q. NOW, IF ONE WERE TO INSTALL THE FORWARD PISTOL
4 GRIP, DO YOU SEE THAT PART IN THE COLLECTION?

5 A. YES, SIR. IT'S LETTER P.

6 Q. P, AS IN "PAUL."

7 IF ONE WERE TO INSTALL THAT PARTICULAR
8 FEATURE, HOW WOULD THAT BE DONE AND WHERE?

9 A. YOU WOULD THAT WOULD PROBABLY BE ONE OF THE
10 LAST PIECES YOU WOULD INSTALL. CAN I SHOW YOU ON MY
11 RIFLE?

12 Q. YES, THAT WOULD HELP.

13 A. THAT PIECE INSTALLS RIGHT HERE. SO I WOULD
14 HAVE TO INSTALL THE BARREL FIRST, HEADSPACE IT. I WOULD
15 HAVE TO INSTALL THE GAS BLOCK. I NOTICE THE HOLE WAS
16 NOT DRILLED FOR THE GAS BLOCK YET, SO YOU'D HAVE TO
17 DRILL THE GAS HOLE FOR IT. I WOULD HAVE TO ALIGN THAT
18 STRAIGHT. I WOULD HAVE TO MAKE SURE THAT I HAD THE HAND
19 GUARD, HAND CAPS IN PLACE. AND THEN I COULD USE THE --
20 THERE'S A LEVER INSIDE HERE THAT GOES INTO A GROOVE TO
21 CINCH THAT IN PLACE.

22 Q. AND DESCRIBE THE GAS BLOCK.

23 A. AND THE GAS BLOCK IS RIGHT HERE, APPROXIMATELY
24 MIDWAY DOWN THE BARREL.

25 Q. AND WHAT FUNCTION DOES THAT HAVE?

26 A. IT REDIRECTS THE GAS FROM THE SPENT CARTRIDGE,

1 PUTS IT INTO THIS CHAMBER HERE, WHERE THERE'S PISTON
2 THAT'S ATTACHED TO THE BOLT. THE GAS EXPANDS, PUSHING
3 THE BOLT REARWARD, EJECTING THE SPENT CARTRIDGE. AND
4 THEN THERE'S A SPRING THAT LOADS THE NEXT CARTRIDGE.

5 Q. NOW, IS THERE ANYTHING ELSE THAT WOULD NEED TO
6 BE INSTALLED ON THE RECEIVER OR OTHER PART OF THE
7 FIREARM IN ORDER TO MAKE IT FUNCTIONAL?

8 A. AT THAT POINT, YOU'D PROBABLY BE FUNCTIONAL.

9 Q. WHAT ABOUT THE SIGHTS?

10 A. IT'S NOT REQUIRED FOR THE FUNCTION OF THE GUN,
11 BUT YOU WOULD WANT TO INSTALL IT PRIOR TO COMPLETING THE
12 FIREARM, FOR SURE.

13 Q. BASED ON YOUR EXPERIENCE AND KNOWLEDGE, CAN
14 YOU ESTIMATE WHAT PERCENTAGE OF THE MANUFACTURING OR
15 ASSEMBLY PROCESS WAS COMPLETED WITH RESPECT TO THESE
16 COLLECTIONS OF PARTS IN ORDER TO -- BEFORE THEY WOULD
17 BE -- AS FAR AS EVERYTHING THAT WOULD HAVE TO BE DONE TO
18 MAKE A FUNCTIONING RIFLE?

19 A. I REALLY COULDN'T GIVE YOU A PERCENTAGE
20 BECAUSE IT'S HARD TO SAY, YOU KNOW, WHAT IS HARDER THAN
21 ANOTHER. YOU KNOW, WHAT PERCENTAGE THIS WORK TOOK. IT
22 LOOKS LIKE YOU STILL HAVE QUITE A WAYS TO GO TO MAKE A
23 FUNCTIONING RIFLE OUT OF THIS.

24 Q. AND WOULD YOU PLEASE DESCRIBE THE MAGAZINE
25 LOCK AND AT WHAT POINT THAT WOULD GO ON -- IN RELATION TO ...
26 WHAT YOU DISCUSSED SO FAR, IF ONE WERE TO INSTALL ONE?

1 MR. HENNES: I REQUEST THAT THE ENTIRE BAG
2 STAY AS IT IS FOR NOW AND BE IDENTIFIED AS DEFENDANT'S
3 C, BECAUSE I DON'T BELIEVE WE'LL HAVE TO -- FROM OUR
4 PART OF IT OF THE EXAMINATION -- REMOVE ANY PARTICULAR
5 PARTS. I JUST WANT TO ASK HIM SOME GENERAL QUESTIONS.

6 THE COURT: THAT WILL BE MARKED AS DEFENSE C
7 FOR IDENTIFICATION.

8 (EXHIBIT C MARKED)

9 BY MR. HENNES: Q. ALL RIGHT. NOW, DEFENSE C IS
10 THAT BAG THAT YOU'RE HOLDING FULL OF PARTS. IS THAT THE
11 KIT THAT YOU PURCHASED?

12 A. YES.

13 Q. WHEN DID YOU PURCHASE THAT?

14 A. ABOUT A MONTH AND A HALF AGO.

15 Q. AND HAVE YOU EXAMINED THE CONTENTS OF THAT
16 KIT?

17 A. I HAVE.

18 Q. DOES THE KIT THAT YOU PURCHASED CONTAIN THE
19 SAME COMPONENTS, SAME PARTS, THAT WAS CONTAINED OR THAT
20 IS IN THE COLLECTION OF PARTS IDENTIFIED AS EXHIBIT 5-A
21 THROUGH W, I THINK IT IS, THE PARTS BELONGING TO
22 MR. NGUYEN?

23 A. THE STOCK IS DIFFERENT.

24 Q. OKAY.

25 A. AND MY KIT IS MISSING THE FRONT HAND GUARD
26 HERE.

1 Q. BUT IN ALL OTHER RESPECTS, IT HAS THE SAME
2 TYPE OF PARTS. AND IF YOU WERE TO BUILD YOUR AK FROM
3 YOUR PARTS COLLECTION, WOULD IT BE AN AK-STYLE RIFLE?

4 A. YES.

5 Q. AND REGARDING THE COLLECTION OF PARTS
6 BELONGING TO MR. NGUYEN -- COLLECTIVELY IDENTIFIED AS
7 EXHIBIT 5 -- ARE THERE DIFFERENT WAYS THAT THAT
8 COLLECTION OF PARTS CAN BE CONFIGURED INTO A FUNCTIONING
9 RIFLE?

10 A. I MEAN, THERE'S REALLY ONLY ONE WAY TO BUILD
11 IT, YOU KNOW, TO MAKE IT FIRE A ROUND.

12 Q. NOW, WOULD IT -- COULD YOU CONFIGURE THE PARTS
13 BELONGING TO MR. NGUYEN WITHOUT HAVING A FIXED MAGAZINE?
14 I MEAN, NOT NECESSARILY JUST BASED ON THE PARTS THAT ARE
15 PRESENT, BUT --

16 A. YES. IF I PURCHASED A MAGAZINE LOCK, I COULD
17 BUILD THE SAME RIFLE JUST WITH A FIXED MAGAZINE.

18 Q. AND IS IT POSSIBLE TO CONSTRUCT THE RIFLE
19 WITHOUT A FIXED MAGAZINE IF ONE WERE TO CHOOSE THAT?

20 A. YES.

21 Q. AND IF ONE WERE TO CHOOSE TO NOT HAVE A FIXED
22 MAGAZINE, COULD ONE CONSTRUCT A WORKING RIFLE WITH OR
23 WITHOUT THE ADDITION OF SOME OTHER PARTS INTO A RIFLE
24 THAT DID NOT HAVE A PISTOL GRIP?

25 A. YES.

26 Q. COULD YOU BUY A PART THAT IS -- THAT WOULD

1 FULFILL THE BASIC FUNCTION OF A PISTOL GRIP? IN FACT,
2 WHAT WOULD YOU DO IF YOU DIDN'T HAVE A PISTOL GRIP?
3 WOULD YOU HAVE A GRIP AT ALL?

4 A. YOU CAN DO TWO -- SOME PEOPLE TAKE THE PISTOL
5 GRIP OFF COMPLETELY, IN WHICH CASE THEY SHOOT IT MORE OF
6 A SPORTSTER-STYLE RIFLE, OR BUY A KYDEX WRAP, WHICH IS
7 WHAT I HAD PURCHASED FOR MY KIT.

8 Q. CAN YOU SPELL THAT, PLEASE?

9 A. K Y-D-E-X. WHAT THIS DOES IS THIS GOES AROUND
10 THE EXISTING PISTOL GRIP.

11 Q. WAS THAT THE BAG OR IS THAT --

12 A. IT'S PURCHASED SEPARATELY.

13 MR. HENNES: OKAY. SO THAT WOULD BE MARKED
14 FOR IDENTIFICATION AS DEFENDANT'S D, I THINK.

15 THE COURT: DEFENSE D FOR IDENTIFICATION.

16 (EXHIBIT D MARKED)

17 BY MR. HENNES: Q. AND WHAT IS THAT AGAIN?

18 A. IT'S KYDEX WRAP. AND WHAT IT DOES IS IT MAKES
19 IT SO IT'S NO LONGER A PISTOL GRIP. YOU CANNOT GET YOUR
20 THUMB WRAPPED AROUND THE GRIP. SO IT GIVES YOU MORE A
21 SPORTSTER-STYLE GRIP.

22 Q. AND IS THAT PART -- THAT PART AVAILABLE THAT
23 YOU'RE HOLDING -- DEFENDANT'S D -- AVAILABLE FOR
24 PURCHASE?

25 MS. JONES: OBJECTION.

26 THE COURT: SUSTAINED.

1 BY MR. HENNES: Q. DID YOU BUY THAT FROM THE SAME
2 PLACE YOU BOUGHT YOUR PARTS KIT? OR IS IT SOMEWHERE
3 SEPARATE?

4 A. SOMEWHERE SEPARATE.

5 Q. WOULD YOU BE ABLE TO CONSTRUCT A RIFLE OF
6 MR. NGUYEN'S PARTS THAT HAD A DETACHABLE MAGAZINE BUT
7 WITHOUT A GRENADE LAUNCHER?

8 A. THAT'S NO GRENADE LAUNCHER ON THIS RIFLE.

9 Q. WHAT ABOUT A

10 THE COURT: I'M SORRY. THE WITNESS SAID THERE
11 IS NO GRENADE LAUNCHER ON THIS RIFLE. SO WHAT IS THE
12 ANSWER TO THE QUESTION; HE MAY BE ABLE TO CONSTRUCT IT
13 OR NOT?

14 WAS YOUR QUESTION, COUNSEL, WOULD HE BE ABLE
15 TO CONSTRUCT IT BASED ON THE PARTS HERE?

16 MR. HENNES: NO, IF HE HAD TO GET ADDITIONAL,
17 PARTS. I'LL WITHDRAW THAT QUESTION.

18 THE COURT: OKAY.

19 BY MR. HENNES: Q. REGARDING THE FORWARD PISTOL
20 GRIP, IS THAT DIFFERENT FROM A PISTOL GRIP THAT
21 PROTRUDES CONSPICUOUSLY UNDER THE ACTION OF A WEAPON?
22 OR ARE THEY THE SAME THING?

23 A. WELL, THE PISTOL GRIP UNDER THE ACTION OF THE
24 WEAPON WOULD BE BACK AT THE RECEIVER, BECAUSE THIS IS
25 THE ACTION OF THE WEAPON. THIS IS WHERE THE OPERATION
26 IS OCCURRING. THIS WOULD BE A FORWARD GRIP.

1 Q. OKAY. IS THERE A PISTOL GRIP FOR THE REAR OF
2 THE --

3 A. YEAH. THERE'S BAG 2 IS THE PISTOL GRIP FOR
4 THE -- IT GOES BENEATH THE ACTION OF --

5 Q. AND ARE THERE OTHER ALTERNATIVE STYLES OF
6 GRIPS THAT ONE COULD INSTALL ONTO THAT?

7 A. YES.

8 Q. AND WHAT WOULD THOSE BE?

9 A. THEY'RE YOU COULD DO A MONSTERMAN GRIP.

10 Q. WHAT'S THAT?

11 A. IT'S A -- IT'S A GRIP THAT ATTACHES THE SAME
12 WAY, BUT IT'S ACTUALLY CANTED REARWARD LIKE THAT. SO
13 THAT MAKES IT SO IT'S NOT A PISTOL GRIP BECAUSE YOU'RE
14 THUMB IS, ONCE AGAIN, NO LONGER BEHIND THE GRIP. IT HAS
15 TO DO WITH RELATION OF YOUR WRISTS TO YOUR THUMB,
16 BASICALLY.

17 Q. NOW, DO YOU KNOW WHETHER THESE PARTS THAT CAME
18 WITH YOUR COLLECTION, OR WITH MR. NGUYEN'S COLLECTION OF
19 PARTS, CONTAIN PARTS THAT ARE NOT NECESSARY TO INSTALL
20 ON THE RIFLE IF ONE CHOOSES NOT TO?

21 MS. JONES: I'LL OBJECT.

22 MR. HENNES: I'LL REPHRASE IT.

23 BY MR. HENNES: Q. HOW DO THESE KITS -- HOW ARE
24 THEY ASSEMBLED AND HOW ARE THEY -- DO YOU KNOW WHERE
25 THEY COME FROM, GENERALLY?

26 A. YEAH. THEY ARE IMPORTED AS PARTS. THEY'RE --

1 THEY BEGAN LIFE AS MACHINE GUNS IN OTHER COUNTRIES. AND
2 THEY'RE PROPERLY DE-MILLED TO THE ATF SPECIFICATIONS AND
3 BROUGHT OVER AS PARTS.

4 Q. AND DO THEY COMMONLY INCLUDE THE KIT? DO THEY
5 COMMONLY INCLUDE PARTS, SUCH AS PISTOL GRIPS OR A THUMB
6 HOLE STOCK OR OTHER FEATURES THAT ONE DOESN'T HAVE TO
7 INSTALL IF ONE CHOOSES NOT TO?

8 A. IF YOU CHOSE NOT TO, YOU DO NOT HAVE TO
9 INSTALL THEM.

10 MR. HENNES: I DON'T HAVE ANY FURTHER
11 QUESTIONS.

12 THE COURT: OKAY. LET'S TAKE A BRIEF BREAK,
13 MAYBE ABOUT SEVEN OR SO MINUTES, SEVEN OR EIGHT MINUTES,
14 JUST TO STRETCH.

15 (RECESS)

16 THE COURT: WE ARE BACK ON THE RECORD AND ALL
17 PARTIES ARE PRESENT, ALL JURORS AND ALTERNATES AND
18 MR. NGUYEN.

19 MR. PENHALL, YOU ARE REMINDED THAT YOU ARE
20 STILL UNDER OATH. AND REDIRECT WITH MS. JONES.

21 MS. JONES: THANK YOU.

22 BY MR. JONES: Q. GOOD AFTERNOON, SIR.

23 A. GOOD AFTERNOON.

24 THE COURT: THAT WOULDN'T BE REDIRECT; THAT
25 WOULD BE CROSS.

26 MS. JONES: CROSS, THAT'S RIGHT.

CROSS EXAMINATION

1
2 BY MS. JONES: Q. WERE YOU PAID TO TESTIFY TODAY?

3 A. YES, MA'AM.

4 Q. HOW MUCH?

5 A. \$500.

6 Q. AND WHEN WERE YOU RETAINED?

7 A. I WAS ASKED TO ON FRIDAY, I BELIEVE, LAST
8 FRIDAY.

9 Q. DID YOU EVER VIEW THE EVIDENCE, THE PHYSICAL
10 EVIDENCE BEFORE YOU CAME IN AND TESTIFIED?

11 A. I SAW PICTURES.

12 Q. DID YOU EVER REVIEW THE PHYSICAL EVIDENCE?

13 A. NO.

14 Q. DID YOU EVER READ THE POLICE REPORTS?

15 A. YES.

16 Q. DID YOU EVER GO TO MR. NGUYEN'S SHOP TO TAKE A
17 LOOK AT THE TOOLS THAT HE MIGHT HAVE?

18 A. NO.

19 Q. DID YOU EVER INTERVIEW ANY OFFICERS OR
20 WITNESSES TO THIS CASE?

21 A. NO.

22 Q. AND YOU'RE A GUNSMITH, CORRECT?

23 A. THAT'S CORRECT.

24 Q. AND HOW MUCH DO YOU MAKE AN HOUR TO DO YOUR
25 ALTERATIONS OR REPAIR TO GUNS?

26 A. OUR SHOP LABOR IS \$45 AN HOUR.

1 Q. AND YOU'VE TAKEN A LOOK NOW AT THE EVIDENCE
2 THERE, CORRECT?

3 A. YES.

4 Q. CAN YOU ESTIMATE HOW MANY HOURS IT WOULD TAKE
5 TO COMPLETE THAT AK-47?

6 MR. HENNES: OBJECTION, YOUR HONOR. MISSTATES
7 THE EVIDENCE. IT'S NOT AN AK-47.

8 THE COURT: SUSTAINED.

9 BY MS. JONES: Q. AK 47-TYPE WEAPON.

10 MR. HENNES: STILL MISSTATES THE EVIDENCE,
11 YOUR HONOR.

12 THE COURT: AND, COUNSEL, WERE YOU REFERRING
13 TO THE DISASSEMBLED PARTS?

14 MS. JONES: CORRECT. SORRY. SHOULD HAVE
15 CLARIFIED.

16 THE COURT: PEOPLE'S 5-A THROUGH W?

17 MS. JONES: YES.

18 THE COURT: ALL RIGHT. REPHRASE YOUR
19 QUESTION, WOULD YOU.

20 BY MS. JONES: Q. HOW MANY HOURS WOULD YOU
21 ESTIMATE IT WOULD TAKE TO COMPLETE IT?

22 A. YOU'RE PROBABLY LOOKING -- IF YOU HAVE THE
23 PROPER TOOLS, YOU'RE LOOKING AT ABOUT EIGHT HOURS.

24 Q. IT'S CERTAINLY NOT FINISHED?

25 A. CERTAINLY.

26 Q. AND IT'S CERTAINLY -- THE PROCEDURE TO CREATE

1 IT HAS STARTED, WOULD YOU AGREE?

2 A. THAT'S CORRECT.

3 Q. NOW YOU'RE FAMILIAR WITH THESE GUNS? IN FACT,
4 YOU'VE PURCHASED ONE YOURSELF?

5 A. THAT'S CORRECT.

6 Q. AND YOU'RE AWARE THAT YOU CAN ORDER THEM OFF
7 THE INTERNET?

8 A. THAT IS CORRECT.

9 Q. AND DO YOU UNDERSTAND AND YOU HAVE THE
10 INFORMATION THAT THE DEFENDANT ORDERED HIS KIT OFF OF
11 HENDERSONDEFENSE.COM, RIGHT?

12 A. I READ THAT IN THE REPORT, YES.

13 Q. NOW, IT'S A LOT CHEAPER TO ORDER A KIT AND
14 CREATE IT YOURSELF THAN IT IS TO GO BUY A GUN, CORRECT?

15 A. YES.

16 Q. AND ISN'T IT TRUE THAT THESE KITS ARE CREATED
17 FOR GUN ENTHUSIASTS SO THEY CAN BUILD THEIR OWN WEAPONS?

18 A. THAT'S CORRECT.

19 Q. YOU CAN BUY A FLAT FOR ABOUT 20 BUCKS?

20 A. ABOUT THAT. THEY'RE A LITTLE CHEAPER THAN
21 THAT.

22 Q. YOUR KIT COSTS ABOUT A HUNDRED BUCKS?

23 A. YES, MA'AM.

24 Q. THAT KIT ON THE TABLE, PEOPLE'S 5-A THROUGH W,
25 COST ABOUT 140 BUCKS?

26 A. THAT'S CORRECT.

1 Q. A PRESS OR A DYE, IF YOU PURCHASE ONE OF THOSE
2 TO BUILD ONE THESE WEAPONS, THAT WOULD COST A LOT FOR
3 YOUR FIRST ONE, RIGHT, \$150?

4 A. THAT'S CORRECT, YEAH.

5 Q. BUT THEN ONCE YOU HAD THAT DIE, YOU COULD
6 BUILD OTHER ONES, RIGHT?

7 A. THAT'S CORRECT.

8 Q. AND THE BARREL WOULD BE ABOUT \$75?

9 A. IT DEPENDS ON THE BARREL, BUT THEY'RE IN THAT
10 RANGE.

11 Q. ABOUT?

12 A. ANYWHERE FROM \$45 TO A COUPLE HUNDRED DOLLARS
13 FOR SOME OF THE EXOTIC BARRELS.

14 Q. AND YOU'RE AWARE THAT HENDERSON SELLS THOSE
15 KITS FOR ABOUT \$140?

16 A. THAT'S CORRECT, THESE KITS HERE, YES.

17 Q. NOW, YOU TESTIFIED ON DIRECT THAT THERE WERE
18 ITEMS MISSING FROM THE KIT THAT YOU WOULD NEED TO
19 COMPLETE THE WEAPON.

20 A. YEAH, I BELIEVE ON THE STOCK, THERE WAS ONE
21 SMALL ROLL PIN MISSING.

22 Q. ABOUT HOW MUCH DOES A ROLL PIN COST?

23 A. TEN, 15 CENTS.

24 Q. ANYTHING SIGNIFICANT MISSING FROM THAT GUN TO
25 CREATE AN AK47-TYPE WEAPON?

26 A. NO. IT APPEARS THAT YOU COULD CREATE A

1 COMPLETE FIREARM OUT OF IT.

2 Q. NOW, YOUR KIT, PARTS OF IT HAVE SERIAL NUMBERS
3 ON IT, RIGHT?

4 A. I DON'T KNOW. I HAVEN'T LOOKED AT THOSE.
5 YES, MY STILL HAS SERIAL NUMBERS ON PARTS OF IT. SOME
6 OF THEM DO NOT.

7 Q. SOME OF THE PARTS DON'T?

8 A. SOME KITS DO NOT COME WITH THE SERIAL NUMBERS
9 ON THERE.

10 MS. JONES: MOTION TO STRIKE. NONRESPONSIVE.

11 THE COURT: SUSTAINED. STRICKEN. JURY TO
12 DISREGARD THAT LAST ANSWER.

13 BY MS. JONES: Q. IF YOU COULD LOOK AT PEOPLE'S
14 5 A THROUGH W. DO YOU SEE ANY SERIAL NUMBERS ON THAT
15 KIT?

16 A. NO.

17 MR. HENNES: OBJECTION, YOUR HONOR. THAT'S
18 IRRELEVANT.

19 THE COURT: OVERRULED.

20 BY MS. JONES: Q. GO AHEAD.

21 A. THEY HAVE BEEN REMOVED WHERE THE SERIAL
22 NUMBERS WOULD NORMALLY BE.

23 Q. THEY HAVE BEEN REMOVED?

24 A. YES.

25 Q. IF YOU HAD MECHANICAL APTITUDE AND THE PROPER
26 TOOLS, DO YOU HAVE EVERYTHING YOU NEED IN THE KIT, IN

1 PEOPLE'S S A THROUGH W, TO BUILD A SEMIAUTOMATIC
2 CENTERFIRE WEAPON THAT WOULD HAVE THE CAPACITY TO ACCEPT
3 A DETACHABLE MAGAZINE?

4 A. YES, MA'AM.

5 Q. AND DO YOU HAVE WHAT YOU WOULD NEED SO THAT
6 THAT WEAPON WOULD HAVE THE FOLLOWING CHARACTERISTICS: A
7 PISTOL GRIP THAT WOULD PROTRUDE CONSPICUOUSLY BENEATH
8 THE ACTION OF THE WEAPON?

9 A. YES, MA'AM.

10 Q. A FOLDING STOCK?

11 A. YES, MA'AM.

12 Q. AND A FORWARD PISTOL GRIP?

13 A. YES, MA'AM.

14 Q. DO YOU SEE A MAGAZINE BLOCK ON THAT TABLE, S-A
15 THROUGH W?

16 A. I DO NOT.

17 Q. DO YOU SEE A BULLET BUTTON OR ANYTHING ELSE
18 THAT WOULD ALLOW THAT WEAPON TO ACCEPT A FIXED MAGAZINE?

19 A. NOT ON THAT TABLE.

20 Q. YOUR KIT DOESN'T HAVE A FOLDING STOCK, DOES
21 IT?

22 A. NO, MA'AM.

23 Q. AND THAT KIT ON THE TABLE, THAT DOESN'T HAVE A
24 KYDEX WRAP, DOES IT?

25 A. NO, MA'AM.

26 Q. NOW THOSE RAILS YOU TALKED ABOUT, THOSE COULD

1 ALSO BE SCREWED IN, CORRECT?

2 A. THE RECEIVER RAILS?

3 Q. YES.

4 A. ABSOLUTELY NOT.

5 Q. ARE YOU FAMILIAR WITH THE WEBSITE
6 SOUPSTONUTS.COM?

7 A. I AM.

8 Q. AND THAT GIVES YOU INSTRUCTIONS ON HOW TO
9 COMPLETELY WELD THE KIT, RIGHT, WITH THE \$150 ITEM?

10 A. YES.

11 Q. YOU'RE FAMILIAR WITH GUNCO.NET?

12 A. NOT THAT ONE.

13 Q. YOU'RE NOT FAMILIAR WITH THE FACT THAT THEY --
14 MR. HENNES: OBJECTION, YOUR HONOR. ASKED AND
15 ANSWERED. HE'S NOT FAMILIAR WITH IT.

16 MS. JONES: I'D REPHRASE.

17 THE COURT: SUSTAINED.

18 BY MS. JONES: Q. ARE YOU AWARE THAT THERE ARE
19 INTERNET SITES WHERE YOU CAN OBTAIN DIRECTIONS ON HOW TO
20 WELD IN THE RAILS?

21 A. YES, MA'AM.

22 Q. NOW, YOU SAID SOME OF THESE ITEMS, WHAT
23 BASICALLY NEEDS TO BE DONE IS TO DO SOME MORE DRILLINGS
24 AND TO PUT THE THING TOGETHER, RIGHT?

25 A. WELL, PUTTING THE THING TOGETHER IS A BROAD
26 TERM.

1 Q. OKAY. WELL, YOU TALKED ABOUT A LOT OF
2 DIFFERENT TOOLS THAT YOU WOULD NEED. FOR INSTANCE, YOU
3 WOULD NEED A SPECIAL TOOL TO PUT TOGETHER THE TRIGGER
4 AND HAMMER PART?

5 A. WELL, YOU WOULD NEED TO RIVET THE TRIGGER
6 GUARD ON. YOU COULD SCREW IT ON. IT DOES NOT SUPPORT
7 ANY LOAD.

8 Q. OKAY. SO WHEN YOU'RE TALKING ABOUT IT, YOU'RE
9 TALKING ABOUT IT AS A GUNSMITH, THE WAY THAT GUNSMITHS
10 WOULD PROFESSIONALLY, CORRECTLY DO IT, RIGHT?

11 A. THAT IS THE PROPER WAY TO ASSEMBLE THAT
12 FIREARM.

13 Q. OKAY. AND YOU'RE ALSO AWARE THAT WHEN YOU GO
14 TO THESE WEBSITES, YOU CAN GET THE INSTRUCTIONS AND
15 DIAGRAMS ON HOW TO KIND OF DO IT YOURSELF IF YOU'VE GOT
16 THE MECHANICAL APTITUDE, RIGHT?

17 A. THAT'S CORRECT.

18 Q. AND SO YOU COULD, FOR INSTANCE, SOMETHING THAT
19 YOU WOULD USE A SPECIAL TOOL TO APPLY THE RIVETS WITH,
20 YOU COULD ACTUALLY JUST TAKE A HAMMER AND TAP THEM IN?

21 A. I WOULD SAY NO ON USING A HAMMER. THE PROBLEM
22 WITH USING A HAMMER IS IT HAS A FLAT FACE. AND THAT
23 WOULD SMASH THE RIVETS. AND THE MINUTE THERE WAS STRESS
24 PUT ON THERE, IT WOULD ACTUALLY CAUSE THEM TO CRACK
25 RIGHT AROUND THE PIN. SO YOU COULD, BUT IT WOULD NOT
26 LAST VERY LONG.

1 Q. COULD YOU DO IT WITH SOME OTHER SPECIALIZED
2 TOOL?

3 A. SURE.

4 Q. LIKE WHAT?

5 A. THEY SELL A KIT TO USE BOLT CUTTERS. YOU
6 CHANGE THE JAWS OUT ON THE BOLT CUTTERS.

7 Q. IF I WERE TO TELL YOU THAT PEOPLE - I THINK
8 IT'S G, 5-G, THAT THIS ITEM STARTED OUT AS A FLAT LIKE
9 IN YOUR KIT, IF SOMEONE ORDERED THIS --

10 A. YES, MA'AM.

11 Q. -- OFF THE INTERNET AS A FLAT, CAN YOU TELL ME
12 HOW THIS HAS BEEN CHANGED AND HOW THE MANUFACTURING
13 PROCESS OF THE GUN HAS BEEN STARTED WITH RESPECT TO THIS
14 ITEM?

15 A. OKAY. NORMALLY WHAT THEY SELL IS A BLOCK.
16 IT'S A LARGE STAINLESS STEEL BLOCK. IT ACTUALLY CAN BE
17 MADE OUT OF JUST ABOUT ANYTHING.

18 BUT YOU PUT THAT IN THERE. YOU'D LINE IT UP
19 CORRECTLY WITH THE RECEIVER. YOU PUT IT IN A PRESS AND
20 ACTUALLY PRESS IT DOWN. AND THAT WILL ACTUALLY DRAW THE
21 SIDES OF THE RECEIVER UP. THAT WILL GIVE YOU THE
22 U-SHAPE IN THE RECEIVER ITSELF.

23 THEY HAVE INSERTED THE FRONT TRUNNION AND
24 ATTEMPTED TO RIVET IT. THEY DID AN OKAY JOB ON THE
25 FRONT TRUNNION. THEY INSERTED THE REAR TRUNNION AND
26 BASICALLY JUST PUT THE TWO PINS IN THERE. THIS HAS NOT

1 BEEN RIVETED YET.

2 Q. CAN YOU THINK OF ANY REASON THAT ANYBODY WOULD
3 DO THAT TO A PIECE OF METAL BESIDES TO MAKE THE GUN THAT
4 THTS COULD MAKE?

5 MR. HENNES: OBJECTION, YOUR HONOR. VAGUE.

6 THE COURT: SUSTAINED.

7 BY MS. JONES: Q. CAN YOU THINK OF ANY OTHER USE
8 FOR THIS PIECE OF METAL IN YOUR TRAINING AND EXPERIENCE
9 OTHER THAN TO USE IT TO CREATE AN AK-47?

10 MR. HENNES: OBJECTION. VAGUE. CALLS FOR
11 SPECULATION.

12 THE COURT: SUSTAINED.

13 BY MS. JONES: Q. WOULD YOU AGREE THAT SOMEONE HAS
14 DONE SOME WORK ON THIS PLAT TO MAKE IT INTO THE SHAPE
15 THAT IT'S IN?

16 A. YES.

17 Q. AND THAT IT ADHERES TOGETHER WITH THE OTHER
18 ITEMS AS THOUGH THIS IS PART OF A GUN KIT?

19 A. IT IS PART OF A FIREARMS KIT, YES.

20 Q. COULD YOU PRESS THE RIVETS IN?

21 A. YEAH, YOU CAN USE A PRESS. THAT'S THE
22 PREFERRED METHOD.

23 Q. AND YOU DON'T KNOW IF MR. NGUYEN HAD A PRESS
24 IN HIS AUTO REPAIR SHOP, RIGHT?

25 A. I WAS NOT MADE AWARE OF THAT.

26 Q. HOW MUCH IS AN AK-47 NEW, IF YOU KNOW?

1 MR. HENNES: OBJECTION, YOUR HONOR.

2 THE COURT: SUSTAINED.

3 BY MS. JONES: Q. WOULD THERE BE ANY REASON FOR
4 SOMEONE TO BUY A KIT AND THEN TAKE IT TO SOMEBODY THAT
5 THEY HAVE TO PAY \$45 AN HOUR TO?

6 MR. HENNES: OBJECTION, YOUR HONOR. CALLS FOR
7 SPECULATION. IRRELEVANT.

8 THE COURT: SUSTAINED.

9 BY MS. JONES: Q. IN YOUR EXPERIENCE HAS ANYONE
10 EVER PURCHASED A KIT AND ASKED YOU TO PUT IT TOGETHER?

11 A. NOT ME MYSELF, BUT PEOPLE HAVE.

12 Q. NOT IN YOUR EXPERIENCE?

13 A. THEY HAVE NOT ASKED ME PERSONALLY.

14 MS. JONES: NOTHING FURTHER.

15 THE COURT: REDIRECT?

16 MR. HENNES: YES.

17

18 REDIRECT EXAMINATION

19 BY MR. HENNES: Q. IS THE PRESENCE OR LACK OF
20 SERIAL NUMBERS OF ANY SIGNIFICANCE?

21 A. NOT ON THIS KIT.

22 MS. JONES: OBJECTION. RELEVANCE.

23 THE COURT: OVERRULED.

24 BY MR. HENNES: Q. IS IT OF ANY SIGNIFICANCE TO
25 YOU?

26 A. NOT ON THIS KIT.

1 BY MR. HENNES: Q. WHY NOT?

2 MS. JONES: OBJECTION.

3 THE COURT: I'M SORRY. I'M GOING TO CHANGE
4 THAT. COUNSEL APPROACH.

5 (PROCEEDINGS OUTSIDE THE PRESENCE OF THE JURY:)

6 THE COURT: WE'RE OUTSIDE THE PRESENCE OF THE
7 JURY. YOU WERE ASKING ABOUT THE SIGNIFICANCE OF THE
8 ABSENCE OF THE PRESENCE OF THE SERIAL NUMBERS. I KNOW
9 THAT COUNSEL FOR THE PEOPLE DID ASK IF THE SERIAL
10 NUMBERS WERE THERE OR NOT.

11 WHAT DO YOU SEE THE RELEVANCE OF YOUR
12 QUESTION?

13 MR. HENNES: I BELIEVE I OBJECTED TO THAT.
14 AND IT WAS OVERRULED ON MY OBJECTION BECAUSE IT'S
15 ANOTHER IMPLICATION THAT THERE'S SOMETHING ILLEGAL ABOUT
16 NOT HAVING SERIAL NUMBERS WHEN THERE IS NOTHING IN THE
17 WORDS THAT'S UNLAWFUL ABOUT THESE KITS WITHOUT SERIAL
18 NUMBERS.

19 SO, I MEAN, OTHERWISE, WE'RE BEING, YOU KNOW,
20 PROSECUTED BY "INNUENDO," ESSENTIALLY. THERE'S NO
21 RELEVANCE TO THE SERIAL NUMBERS. THEY DON'T MAKE THESE
22 KITS. THEY DO NOT HAVE TO HAVE SERIAL NUMBERS.

23 AND I THINK I SHOULD BE ABLE TO INQUIRE AFTER
24 SHE BROUGHT UP THE SUBJECT TO BEGIN WITH, AND NOT ONLY
25 YOUR WITNESS, BUT MY WITNESS ABOUT THE PRESENCE OR
26 ABSENCE OF SERIAL NUMBERS. I MEAN --

1 THE COURT: OKAY. WELL, FIRST OF ALL, THIS
2 WITNESS -- I DON'T KNOW IF HE INTENDS TO ANSWER THAT
3 QUESTION WITH RESPECT TO WHETHER THEY'RE LEGAL OR NOT.

4 MR. HENNES: MAYBE I CAN REPHRASE IT.

5 THE COURT: BUT THE OTHER THING IS, WHAT IS
6 THE RELEVANCE OF THE SERIAL NUMBERS BEING THERE OR NOT,
7 OTHER THE FACT THAT THEY ARE OR WEREN'T?

8 MS. JONES: HE DOESN'T HAVE SERIAL NUMBERS ON
9 THEM. THE OTHER GUN DOESN'T HAVE SERIAL NUMBERS ON IT.
10 HE'S MADE THE GUN. AND THERE'S NO TRACKING DEVICE ON
11 THE GUN, OBVIOUSLY, THAT HE'S USED.

12 I'M NOT SAYING THAT HE HAS TO DO IT. BUT HE
13 HASN'T DONE IT. AND I THINK THAT IF HE STARTS TALKING
14 ABOUT THE REQUIREMENT TO HAVE SERIAL NUMBERS OR TO
15 REGISTER THE FIREARM, OR ANYTHING LIKE THAT, THEN YOU
16 GET INTO THE FACT THAT BASICALLY HE'S ORDERING THIS
17 STUFF OFF THE INTERNET TO GET AROUND THE REGISTRATION
18 REQUIREMENTS BECAUSE HE CAN'T GET A GUN BECAUSE HE'S A
19 FEJON, AND HE DOESN'T WANT TO HAVE TO REGISTER IT
20 BECAUSE HE KNOWS HE CAN'T.

21 THE COURT: OKAY. IS IT TRUE THAT THE GUNS
22 ARE SUPPOSED TO HAVE SERIAL NUMBERS?

23 MS. JONES: THEY'RE SUPPOSED TO BE REGISTERED.

24 THE COURT: IS THAT EQUIV. TO A SERIAL NUMBER?

25 MS. JONES: I'M NOT SURE.

26 MR. HENNES: THE ANSWER IS NO TO BOTH, BECAUSE

1 ONLY AN ASSAULT RIFLE HAS TO BE REGISTERED. AND THAT'S
2 A DIFFERENT SECTION. IF IT'S NOT AN ASSAULT WEAPON, IT
3 DOES NOT HAVE TO BE REGISTERED. ONLY HANDGUNS NEED TO
4 BE REGISTERED.

5 MS. JONES: WELL, THIS IS AN ASSAULT WEAPON.

6 MR. HENNES: WELL, THAT'S WHAT YOU'RE CLAIMING

7 --

8 THE COURT: WAIT A MINUTE. WAIT A MINUTE.
9 BACK UP.

10 MR. HENNES: -- TO QUESTIONS AND ANSWERS
11 REGARDING SERIAL NUMBERS WHEN THEY ARE IMMATERIAL TO
12 WHETHER THE GUN IS UNLAWFUL OR KITS ARE UNLAWFUL OR NOT
13 LEGAL. HE TESTIFIED THAT HE DOES NOT HAVE TO HAVE
14 SERIAL NUMBERS. THESE ARE COMING FROM --

15 THE COURT: HOLD ON ONE SECOND. SO FAR WHAT I
16 KNOW IS THAT THERE'S TESTIMONY THAT HIS DIDN'T HAVE
17 SERIAL NUMBERS; IS THAT CORRECT?

18 MR. HENNES: CORRECT.

19 MS. JONES: CORRECT.

20 THE COURT: OKAY. WHAT EVIDENCE ARE YOU GOING
21 TO HAVE, OR IS THERE, IF I MISSED IT, ABOUT THE
22 SIGNIFICANCE OR RELEVANCE OF SERIAL NUMBERS? HAS THERE
23 BEEN ANY, OTHER THAN THE FACT THAT HIS DON'T HAVE ANY?

24 MS. JONES: I THINK THIS IS CIRCUMSTANTIAL
25 EVIDENCE OF HIS INTENT TO CIRCUMVENT THE LAW, AND NOT
26 JUST THE LAW, BUT TO HIDE THE PRESENCE OF THESE GUNS

1 BECAUSE THEY'RE ASSAULT WEAPONS.

2 THE COURT: OKAY. IS THERE A REQUIREMENT,
3 THOUGH, A LEGAL REQUIREMENT THAT THEY MUST HAVE A SERIAL
4 NUMBER. SEEMS LIKE THAT WOULD ONLY STAND IF HE'S
5 SUPPOSED TO HAVE A SERIAL NUMBER, I MEAN.

6 MS. JONES: HOW DO YOU IDENTIFY THE GUN IF
7 THERE'S NO SERIAL? IT'S UNIDENTIFIABLE ASSAULT WEAPON.

8 THE COURT: IS IT REQUIRED FOR YOU TO HAVE A
9 SERIAL NUMBER, THOUGH?

10 MS. JONES: HE ANSWER THAT IN ABOUT FIVE
11 SECONDS.

12 THE COURT: I'M SORRY. DID YOU SAY, "I KNOW
13 THEY KNOW," BUT I JUST THINK IT'S GOING WHERE WE DON'T
14 NEED TO GO.

15 MR. HENNES: YOU MAY SAY THEY DO.

16 THE COURT: IT WAS ALSO ELICITED AS THOUGH
17 THAT WERE RELEVANT TO SOMETHING.

18 MS. JONES: WELL, THEN, I GET TO ASK IT IF
19 THAT GUN IS NOT IDENTIFIABLE IN ITS PRESENT STATE,
20 BECAUSE IT DOESN'T HAVE A SERIAL NUMBER, RIGHT? YOU
21 CAN'T IDENTIFY IT BY A SERIAL NUMBER.

22 MR. HENNES: BECAUSE IT'S NOT A GUN.

23 THE COURT: HOLD ON. THAT'S ANOTHER ISSUE. A
24 SERIAL NUMBER WOULD IDENTIFY THE GUN WITH WHOM? THE
25 MANUFACTURER OR WHOM?

26 MS. JONES: YOU HAVE TO REGISTER AN ASSAULT

1 WEAPON. IT DOESN'T HAVE A SERIAL NUMBER. IT'S GOT TO
2 HAVE A NUMBER. HOW ELSE DO YOU REGISTER IT? HIS
3 DOESN'T HAVE A NUMBER.

4 THE COURT: WELL, THIS SEEMS TO ME --

5 MR. HENNES: WE'RE GOING IN CIRCLES.

6 THE COURT: -- HIS WITNESS --

7 MS. JONES: HE'S GOING TO SAY "OH, YOU DON'T
8 NEED A NUMBER, REALLY."

9 "DO YOU HAVE TO REGISTER IT?"

10 "YEAH."

11 MR. HENNES: NO.

12 MS. JONES: YEAH, YOU DO.

13 MR. HENNES: HOW CAN HE REGISTER THAT
14 COLLECTION OF PARTS?

15 MS. JONES: SAME WAY HE CAN WITH THAT .50
16 CALIBER THING.

17 MR. HENNES: YOUR ARGUMENT IS BETTER MADE TO
18 THE LEGISLATURE. ALL WE'RE DOING IS FOLLOWING THE LAW.
19 YOU DON'T AGREE WITH THE LAW. BUT ALL IT DOES IS CAST
20 FURTHER SUSPICION. AND THAT'S ALL THEY'RE TRYING TO DO.

21 THE COURT: SURE. SURE. THAT'S WHAT THEY'RE
22 TRYING TO DO. HOLD ON ONE SECOND. IF THEY CAN LEGALLY
23 DO IT, THEY CAN. IF THEY CAN'T, THEY CAN'T.

24 I THINK I SUSTAINED AN OBJECTION TO WHETHER
25 THIS WITNESS CAN TESTIFY AS TO -- WHAT WAS YOUR QUESTION
26 ON WHY THERE IS A SERIAL NUMBER?

1 MR. HENNES: WHAT'S THE SIGNIFICANCE OF A
2 SERIAL - OF SERIAL NUMBERS ON THE PARTS? OR IS -

3 THE COURT: WHAT IS THE SIGNIFICANCE? HE CAN
4 SAY IT ALLOWS HIM TO TRACK THE GUN.

5 MS. JONES: I DON'T HAVE AN OBJECTION TO THAT.

6 THE COURT: WE'RE NOT GETTING INTO
7 REGISTRATION AND ALL THAT STUFF.

8 JUROR NO. 11 HAS A QUESTION. IT'S THE GUN
9 EXPERT: "IS THE MAGAZINE LOCK, I GUESS, MAGAZINE LOCK
10 OR RELEASE PROPRIETARY TO THE TRIGGER GUARD? OR CAN
11 THEY BE CHANGED?"

12 MR. HENNES: IN OTHER WORDS, DO YOU HAVE TO --
13 I THINK THE TRIGGER GUARD MANUFACTURES A MAGAZINE LOCK,
14 I THINK, NECESSARILY HAVE TO GO WITH THAT PARTICULAR
15 TRIGGER GUARD.

16 THE COURT: I GUESS IT'S A VALID QUESTION.
17 SOMEBODY CAN -- IT'S YOUR WITNESS, SO I GUESS YOU CAN
18 ASK THE QUESTION IF HE UNDERSTANDS IT.

19 DO YOU HAVE AN OBJECTION TO HIS ASKING IT?

20 MS. JONES: I DON'T EVEN KNOW WHAT IT IS.

21 MR. HENNES: PROPRIETARY TO THE TRIGGER GUARD
22 OR CAN THEY BE CHANGED?

23 THE COURT: WELL, THAT'S THE QUESTION. AND
24 YOU CAN ASK IT.

25 MR. HENNES: ALL RIGHT.

26 THE COURT: IF YOU CAN Elicit AN ANSWER,

1 GREAT. IF NOT, SO THE ANSWER IS AS TO THAT ISSUE.

2 MR. HENNES: THERE'S EVIDENCE THAT HE HAS, YOU
3 KNOW, SOME EXPERIENCE WITH THESE AK KITS. AND I THINK I
4 SHOULD BE ABLE TO ASK HIM DOES HE -- HAS HE EVER GOT ANY
5 KITS WITH NO SERIAL NUMBERS.

6 THE COURT: YEAH, YOU CAN ASK HIM THAT.

7 (PROCEEDINGS IN THE PRESENCE OF THE JURY:)

8 THE COURT: OKAY. WE'RE BACK ON RECORD. AND
9 THE LAST OBJECTION WAS OVERRULED.

10 COUNSEL, YOU MAY EITHER RE-ASK THE QUESTION.

11 BY MR. HENNES: Q. IS THE PRESENCE OR ABSENCE OF
12 SERIAL NUMBERS ON THE PARTS OF THE GUN KIT OF ANY
13 SIGNIFICANCE TO YOU?

14 A. NOT ON THIS KIT.

15 Q. HAVE YOU RECEIVED -- IN YOUR EXPERIENCE, HAVE
16 YOU SEEN AK KITS THAT HAVE NO SERIAL NUMBERS ON THE
17 PARTS?

18 A. YES.

19 Q. FINALLY, IS THE MAGAZINE LOCK OR RELEASE -- IS
20 THE MAGAZINE LOCK OR RELEASE, ASSUMING THAT MEANS THE
21 MAGAZINE RELEASE MECHANISM, PROPRIETARY TO THE TRIGGER
22 COARD? OR CAN THEY BE CHANGED?

23 A. I'LL TRY THE BEST. I DON'T KNOW IF I CAN
24 COMPLETELY UNDERSTAND YOUR QUESTION. THE MAGAZINE
25 RELEASE CAN BE CHANGED -- EXCHANGED FOR WHAT'S REFERRED
26 TO AS A RADDLOCK, WHERE YOU REMOVE THE FLAPPER AND

1 INSTALL A SEPARATE DEVICE, IF THAT'S WHAT YOU'RE ASKING.
2 I'M NOT SURE.

3 Q. DOES THE PARTICULAR TRIGGER GUARD, I GUESS,
4 HAVE ANY PROPRIETARY INTEREST IN EITHER THE MAG LOCK OR
5 THE MAGAZINE RELEASE, IF THAT MAKES MORE SENSE?

6 A. NO.

7 Q. ARE THEY - PERHAPS IS THE MAG LOCK OR
8 MAGAZINE RELEASE SPECIFIC TO THE TYPE OF TRIGGER GUARD
9 OR BRANDS OF TRIGGER GUARD? I THINK THAT'S ANOTHER WAY
10 OF SAYING THE SAME QUESTION.

11 A. WELL, YOU'RE DEALING WITH TWO DIFFERENT PARTS:
12 THE MAGAZINE LOCK ONE PART; THE MAGAZINE RELEASE IS THE
13 OTHER PART. THE MAGAZINE LOCK IS SPECIFICALLY DESIGNED
14 FOR AN AK-STYLE TRIGGER GUARD.

15 MR. HENNES: THANK YOU.

16 THE COURT: RECROSS?

17 MR. HENNES: ACTUALLY, COULD I JUST HAVE ONE
18 MOMENT?

19 THE COURT: YES.

20 (PAUSE IN THE PROCEEDINGS)

21
22 RECROSS-EXAMINATION

23 BY MS. JONES: Q. I WANT TO GO BACK TO THAT LAST
24 QUESTION. I THINK I UNDERSTAND IT. THE TRIGGER GUARD
25 ALLOWS THE WEAPON TO RECEIVE A DETACHABLE MAGAZINE,
26 RIGHT? ONCE THE GUN IS BUILT, DOES -- CAN YOU REMOVE

1 THAT AND PUT ON ONE MORE AFFIXED MAGAZINE? OR DOES THAT
2 BECOME A PART OF THE WEAPON?

3 A. YOU CAN REMOVE -- WHAT THEY DO IS THEY JUST
4 REMOVE THE ACTUAL RELEASE PARTS MECHANISM. AND THERE'S
5 ANOTHER PART YOU CAN PUT IN ITS PLACE.

6 Q. SO YOU WOULD HAVE TO -- BUT THE ACTUAL -- THIS
7 PART, THE ENTIRE PART --

8 A. THE TRIGGER GUARD IS JUST THERE TO GUARD THE
9 TRIGGER.

10 Q. SO YOU WOULD HAVE TO TAKE THIS APART, RIGHT?

11 A. CORRECT.

12 Q. AND THEN YOU WOULD HAVE TO REPLACE IT WITH
13 SOMETHING ELSE?

14 A. THAT'S CORRECT.

15 Q. YOU SIMPLY CAN'T COVER IT?

16 A. YOU COULD COVER IT. THAT'S THE WAY MINE IS
17 SET UP.

18 Q. SO THAT WOULD COVER IT, AND THEN YOU COULD
19 TAKE THE COVER OFF?

20 A. IF YOU WENT OUT OF STATE OR REMOVED ANY
21 ASSAULT WEAPON FEATURES, YES.

22 MS. JONES: OKAY. NOTHING FURTHER.

23 MR. HENNES: NOTHING FURTHER.

24 THE COURT: MAY THIS WITNESS BE EXCUSED?

25 MR. HENNES: YES.

26 THE COURT: THANK YOU. YOU'RE EXCUSED.

1 MR. HENNES: OBJECTION OF MOVING DEFENSE A
2 THROUGH D --

3 THE COURT: HOLD ON ONE MOMENT, WOULD YOU?

4 (DISCUSSION OFF THE RECORD)

5 THE COURT: COUNSEL, THERE'S ONLY A DEFENSE A
6 THROUGH D, CORRECT?

7 MR. HENNES: YES.

8 THE COURT: OKAY. IT'S A LITTLE BIT AWKWARD
9 BUT AT THIS TIME, I NEED FOR YOU TO GO OUT -- YOU, THE
10 JURY, TO GO OUT IN THE HALLWAY FOR ABOUT, OH, A MINUTE
11 OR TWO, JUST A MINUTE OR TWO. DON'T DISCUSS THE CASE.
12 AND THEN WE'LL BRING YOU BACK IN. AND DON'T GO FAR.

13 (PROCEEDINGS OUTSIDE THE PRESENCE OF THE JURY:)

14 THE COURT: WE'RE OUTSIDE THE PRESENCE OF THE
15 JURY.

16 COURT UNDERSTANDS THAT THE DEFENDANT IS NOT
17 TESTIFYING; IS THAT CORRECT?

18 MR. HENNES: THAT'S CORRECT.

19 THE COURT: ALL RIGHT. I'M GOING TO TAKE
20 AN ORAL STATEMENT FROM THE DEFENDANT AT THIS TIME.

21 MR. NGUYEN, DO YOU UNDERSTAND THAT YOU HAVE
22 THE RIGHT TO TESTIFY OR NOT TESTIFY AT YOUR TRIAL?

23 THE DEFENDANT: YES.

24 THE COURT: ALL RIGHT. DO YOU UNDERSTAND THAT
25 IT IS YOUR DECISION AS TO WHETHER OR NOT YOU TESTIFY AT
26 YOUR TRIAL?

1 THE DEFENDANT: YES.

2 THE COURT: DID YOU HAVE AN OPPORTUNITY TO
3 TALK WITH YOUR ATTORNEY ABOUT YOUR RIGHT TO TESTIFY OR
4 NOT TESTIFY AT YOUR TRIAL?

5 THE DEFENDANT: YES.

6 THE COURT: DID HE ADVISE YOU ON THE
7 ADVANTAGES AND DISADVANTAGES OF TESTIFYING OR NOT
8 TESTIFYING?

9 THE DEFENDANT: YES.

10 THE COURT: DO YOU HAVE ANY QUESTIONS YOU
11 WOULD LIKE TO ASK ME IN REGARDS TO YOUR RIGHT TO TESTIFY
12 OR NOT TESTIFY?

13 THE DEFENDANT: NO.

14 THE COURT: HAVE YOU MADE YOUR DECISION ON
15 WHETHER OR NOT YOU WISH TO TESTIFY AT YOUR TRIAL?

16 THE DEFENDANT: YES.

17 THE COURT: WHAT IS YOUR DECISION?

18 THE DEFENDANT: I DON'T WISH TO.

19 THE COURT: OKAY. COUNSEL, JOIN IN THE
20 WAIVER?

21 MR. HENNES: I JOIN IN THE WAIVER.

22 THE COURT: GREAT. AND WITH RESPECT TO
23 DEFENSE MOTION TO ADMIT DEFENSE EXHIBITS A THROUGH D, IS
24 THERE ANY OBJECTION?

25 MS. JONES: NO.

26 THE COURT: OKAY. THOSE WILL BE --

1 MS. JONES: OH, WITH THE EXCEPTION OF -- I
2 NOTICED IN THE CONTAINER FOR THE AK 47 THAT THERE WAS A
3 MAGAZINE CLIP. AND THAT DID NOT COME INTO EVIDENCE.

4 THE COURT: OKAY. IS IT SOMETHING SEPARATE
5 THAT'S JUST IN THE BOX?

6 MS. JONES: YEAH.

7 THE COURT: OKAY.

8 MR. HENNES: COULD WE JUST KEEP IT TOGETHER
9 AND NOT, YOU KNOW --

10 MS. JONES: I DON'T WANT --

11 MR. HENNES: YOU DON'T HAVE TO GO BACK TO THE
12 JURY, JUST --

13 THE COURT: IT CAN REMAIN IN THE BOX. BUT IF
14 THE WEAPON GOES IN, JUST THE WEAPON WILL GO IN.

15 MR. HENNES: RIGHT. THE BOX WASN'T MOVED INTO
16 EVIDENCE EITHER, SO JUST THE WEAPON.

17 THE COURT: ALL RIGHT. AND WITH THAT, DOES
18 THE DEFENDANT REST?

19 MR. HENNES: YES.

20 THE COURT: ANY REBUTTAL?

21 MS. JONES: NO.

22 THE COURT: ALL RIGHT. WHAT WE'LL DO, THEN,
23 IS WE WILL BRING THE JURORS BACK IN. HOLD ON ONE
24 SECOND. I'M SORRY.

25 READY FOR CLOSING, COUNSEL?

26 MR. HENNES: NOT PARTICULARLY.

1 THE COURT: NO?

2 MS. JONES: ONLY IF HE DOES.

3 THE COURT: WE DON'T WANT TO BREAK UP THE
4 CLOSING, DO WE? HOW ABOUT LETTING THEM GO AT
5 4:00 O'CLOCK? THEY HAVE HEARD LOTS OF DETAILED
6 EVIDENCE. AND WE'LL GO AHEAD AND RELEASE THEM. SO THEY
7 CAN COME ON IN, AND THEN I WILL RELEASE THEM.

8 (PROCEEDINGS IN THE PRESENCE OF THE JURY:)

9 THE COURT: ALL RIGHT. THANK YOU ALL FOR YOUR
10 ATTENTIVENESS TODAY DURING ALL OF THE TESTIMONY. WE ARE
11 GOING TO BREAK A LITTLE BIT EARLY BECAUSE IT'S A NATURAL
12 BREAK IN THE CASE.

13 BOTH SIDES HAVE RESTED. ALL OF THE EVIDENCE
14 IS IN. WHAT REMAINS ARE THE CLOSING ARGUMENTS OF
15 COUNSEL. THE PEOPLE WILL HAVE THEIR OPENING ARGUMENT.
16 DEFENSE WILL THEN HAVE THEIR OPENING ARGUMENT. AND THEN
17 THE PEOPLE WILL HAVE THE FINAL WORD OF REBUTTAL.

18 AND WE DON'T WANT TO BREAK THAT UP, SO I'M
19 GOING TO ORDER YOU ALL BACK TOMORROW AT 9:00 A.M. WE'LL
20 HAVE YOUR ARGUMENTS THEN. THEN I WILL INSTRUCT YOU AND
21 YOU WILL GO IN FOR DELIBERATIONS. SO THANK YOU AGAIN.

22 AND PLEASE DO NOT TALK ABOUT THE CASE WITH
23 ANYONE UNTIL IT IS SUBMITTED TO YOU FOR YOUR
24 CONSIDERATION AND DELIBERATIONS.

25 SEE YOU AT 9:00 O'CLOCK TOMORROW.

26 (PROCEEDINGS OUTSIDE THE PRESENCE OF THE JURY:)

1 THE COURT: WE'RE OUTSIDE THE PRESENCE OF THE
2 JURY. AND, ACTUALLY, IT'S COME TO MY ATTENTION THAT WE
3 WANTED TO HANDLE A HOUSEKEEPING MATTER. AFTER THE
4 TRIAL. --

5 (DISCUSSION OFF THE RECORD)

6 THE COURT: YOU ALL HAVE A CAMERA IN THE CAR
7 OUT IN THE PARKING LOT?

8 MR. HENNES: I CAN PROBABLY TAKE CUSTODY OF MY
9 EXPERT'S -- WOULDN'T THAT BE AFTER THE VERDICT, THEN,
10 RIGHT? I MEAN, WHEN IS THE EVIDENCE GOING TO BE
11 RETURNED?

12 THE COURT: YEAH. AFTER EVERYTHING IS OVER,
13 THE VERDICT HAS BEEN TAKEN AND THEN --

14 MR. HENNES: RIGHT.

15 THE COURT: -- AND THE JURORS ARE ACTUALLY
16 EXCUSED.

17 MR. HENNES: OKAY.

18 THE COURT: THEN WE'LL TAKE THE PHOTOS. THE
19 PHOTOS WILL BE TAKEN.

20 MR. HENNES: RIGHT. I'LL - PROBABLY BE BEST
21 IF I ALSO JOIN IN. AND IS THE COURT GOING TO RELEASE
22 THE EVIDENCE TO -- IN MY CASE, TO MR. PENHALL DIRECTLY?

23 OR CAN YOU AUTHORIZE ME TO GET IT, WHICH I
24 DON'T REALLY WANT TO DO? BUT WHAT IS THE COURT'S
25 PREFERENCE? I JUST DON'T KNOW WHO GETS CUSTODY OF THE
26 EVIDENCE.

1 THE COURT: AFTER THE CASE IS ALL OVER?

2 MR. HENNES: YES.

3 THE COURT: ANYONE THAT WANTS TO TAKE IT
4 OUTSIDE OF THIS COURTROOM.

5 MR. HENNES: OH, THERE IS ONE THING THAT
6 MR. PENHAID REQUESTED THAT HE BE GIVEN SOME SORT OF A
7 RECEIPT, YOU KNOW, BECAUSE HE JUST WANTS A RECEIPT FOR
8 THE, YOU KNOW, ITEMS THAT HE LEFT, JUST DESCRIBING THAT
9 IT'S IN THE CUSTODY OF THE COURT OR SOMETHING.

10 THE COURT: IS THERE A PIECE OF PAPER OR
11 SOMETHING WE CAN --

12 MR. HENNES: YEAH, ANYTHING. I DON'T KNOW
13 WHAT HIS CONCERNS ARE, BUT, I MEAN, IT IS HIS PROPERTY.

14 THE COURT: WE DON'T REALLY DO RECEIPTS.

15 MR. HENNES: I KNOW.

16 THE CLERK: I'M SORRY TO INTERRUPT.
17 GENERALLY, IF I GIVE A RECEIPT, IT MEANS THAT I'M TAKING
18 IT. AND I AM NOT TOUCHING THE WEAPONS. I AM NOT
19 AUTHORIZED TO GIVE A RECEIPT FOR SOMETHING LIKE THAT.

20 MR. HENNES: IS THERE ANY WAY TO -- WHAT A
21 HEADACHE. I'LL TALK TO HIM ABOUT IT TO BE SAFE.

22 THE BAILIFF: I'LL BE HAPPY TO SHOW HIM THE
23 GUN SAFE I'M GOING TO LOCK THEM IN IF HE WANTS.

24 THE COURT: OKAY.

25 MR. HENNES: WELL, WE CAN MAYBE TALK TO HIM
26 AFTER WE'RE DONE HERE AND SEE IF HE WANTS THEM. AND

1 JUST DESCRIBE WHAT IS UP THERE. I DON'T MEAN TO GET
2 OVERLY TECHNICAL. I DON'T WANT HIM DRIVING HOME WITHOUT
3 HIS PROPERTY TODAY. I MEAN, I DIDN'T REALLY ADVISE HIM.
4 I DIDN'T THINK ABOUT IT EITHER, SO IT WAS A BIT OF A
5 SHOCK.

6 THE COURT: OKAY. COUNSEL, SO WE HAVE ALREADY
7 COME OVER THE JURY INSTRUCTION. THERE IS THIS --
8 MADAM PROSECUTOR, MR. HENNES DID SUBMIT THIS ONE
9 DOCUMENT WITH RESPECT TO DEFINITIONS, BUT I THINK
10 THAT --

11 MS. JONES: IT'S PARTIALLY APPLICABLE, BUT --

12 MR. HENNES: YEAH, THE FIRST PART.

13 MS. JONES: WELL, SOME OF THE FIRST PART. THE
14 EXPERT DEFINED WHAT THOSE WERE VERBATIM. THE ONLY THING
15 IS IN THE FIRST PART, THE DEFINITION OF WHAT AN
16 "AMMUNITION FEEDING DEVICE" IS OR ISN'T, I THINK THAT
17 PART SHOULD BE EXCLUDED BECAUSE THAT'S NOT PRESENT HERE.
18 THAT'S NOT THAT TYPE OF AMMUNITION FEEDING DEVICE. AND
19 WE'RE NOT DEALING WITH CLIPS OR ANYTHING.

20 THE COURT: YOU KNOW WHAT, I THINK IT WAS
21 ADEQUATELY DEFINED WHAT AN ATTACHABLE MAGAZINE WAS. IT
22 WAS DEFINED. AND I THINK THAT WAS ESSENTIALLY
23 UNDISPUTED.

24 MS. JONES: RIGHT.

25 THE COURT: AND ALSO WHAT A PISTOL GRIP WAS.
26 I THINK THE WITNESS DESCRIBED THAT AS IT HAS BEEN

1 DESCRIBED HERE, "COMPLETE WITH USING THE WEB OF THE
2 TRIGGER HAND" IN THAT SAME TERMINOLOGY. SO I DON'T
3 THINK THIS IS --

4 MS. JONES: AND D. I'M SORRY. AND D. AND
5 THAT ONE WAS DEFINED, TOO, SPECIFICALLY. THAT'S
6 SEPARATE.

7 THE COURT: THAT'S WHAT I MEANT, D.

8 MS. JONES: WELL, THERE'S C AND D.

9 THE COURT: OH, AND "FORWARD PISTOL GRIP."
10 EXACTLY. THESE HAVE BEEN DEFINED BY THE WITNESS AND --

11 MR. HENNES: IF I MAY, YOUR HONOR?

12 THE COURT: YES, YOU MAY.

13 MR. HENNES: I'M DISCONCERTED. I THINK "A"
14 SHOULD BE IN.

15 MS. JONES: WELL, IT'S --

16 MR. HENNES: YEAH, "TOOL." OKAY. OH, OKAY.

17 MS. JONES: IT'S CUT OUT WHERE IT STARTS AFTER
18 THE WORD "TOOL" ON THE -- ONE, TWO, THREE -- FIFTH LINE,
19 AFTER THE WORD "TOOL," CUT OUT THE REST OF IT.

20 MR. HENNES: BEGINNING WITH "AMMUNITION."

21 THE COURT: OKAY.

22 MR. HENNES: THAT'S FINE.

23 THE COURT: SO "A" ALL THE WAY DOWN TO THE
24 WORD "TOOL," PERIOD.

25 MR. HENNES: YES.

26 THE COURT: AND THEN C?

1 MS. JONES: YES.

2 THE COURT: AND THEN D?

3 MS. JONES: YES. THAT'S IT.

4 THE COURT: ANYTHING ELSE?

5 MR. HENNES: NO. I CONCUR ON THAT. THAT'S
6 FINE.

7 THE COURT: OKAY. COULD SOMEBODY PUT THIS IN
8 A BETTER FORM? I DON'T THINK I'M GOING TO GIVE THIS TO
9 THE JURY LOOKING LIKE THIS.

10 COUNSEL, I'M JUST GOING TO TITLE THIS
11 "DEFINITIONS."

12 MR. HENNES: YES.

13 THE COURT: OKAY. ORDERING YOU BACK TOMORROW
14 AT 8:45. MR. NGUYEN, 8:45.

15 MR. HENNES: OKAY.

16 MS. JONES: YEAH, WE'RE JUST GOING TO HAVE
17 THEM PUT THAT STUFF TOGETHER.

18 MR. HENNES: ALL RIGHT. THANK YOU VERY MUCH.

19 THE COURT: THAT'S IT. SEE YOU TOMORROW.

20 (END OF PROCEEDINGS)

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