

Incident Report Pasadena Police Department

07-30520

Supplement No
0006

Narrative

Antonio DeJesus with the date of birth of February 28, 1969.

It was determined through fingerprints and photographs that Hernando Torres (O/M 3/19/59) was the same subject that had been arrested by the Houston Police Department in 1992 for a drug charge as Jose Nieves Vasquez (O/M 3/19/59), sentenced to twenty-five years in prison in 1994, and deported to Colombia in 1999. It was also determined that Hernando Torres was the deceased male that was originally identified as Miguel DeJesus (O/M 2/28/69) during this investigation.

On Monday, December 10, 2007, I contacted P. McInnis in reference to further firearms testing. McInnis advised me that she would get in contact with the Firearms Examiner, K. Downs, and ascertain when she would be able to meet to conduct the tests.

On Wednesday, December 12, I met with Firearms Examiner Downs and McInnis, as well as Officers Hunt, Ginther, and Martinez of the Crime Scene Unit at the Pasadena Police Department Range. At my request, Firearms Examiner Downs conducted further examinations with Horn's shotgun. Officer Hunt video recorded the activities and Officer Ginther took photographs.

We then departed the Range and drove to Horn's residence located at 7418 Timberline Drive. Based on Horn's video recorded walk-through, I requested that Firearms Examiner Downs eject a spent shotgun shell from the shotgun in the general area where Horn stated that he had been standing. On the first attempt, Firearms Examiner Downs was standing on the sidewalk next to the northwest corner of the flower bed. Upon ejecting the spent shotgun shell, the shell landed in the front area of the flower bed. I requested that Firearms Examiner take one step to the south and repeat the process. On the second attempt, the spent shotgun shell landed in the same vicinity where the two spent shotgun shells had been recovered after the shooting. I measured the distance where Firearms Examiner Downs was standing to the tree in the front yard where Horn had stated the two suspects had been when he confronted them, and it was approximately 15.75 feet. The activity conducted at the residence located at 7418 Timberline Drive was video recorded by Officer Hunt. Refer to Officer Hunt's supplementary report for further details regarding his actions. Refer to Officer Ginther's supplementary report for further details regarding his actions. Refer to Firearms Examiner Downs for further details regarding her actions.

On December 13, 2007, I contacted Horn's attorney, Tom Lambright, and advised him that I needed to clarify some things with Horn concerning his statements given on the date of the incident. Lambright advised me that he would have Horn contact me to set up a time and date.

A short time later, I received a phone call from Horn. Horn agreed to come to the police station on December 14, 2007, at 10:00 am.

On December 14, 2007, at approximately 9:45 am, Horn arrived for his scheduled appointment. I escorted Horn to the Criminal Investigations Division, where he provided a video recorded non-custodial sworn statement. Horn was advised that he was not under arrest and further advised that he could leave at any time. Horn's video recorded non-custodial sworn statement was later transferred to DVD by myself and then submitted to the property room as evidence. The following is a summary of Horn's video recorded statement: *Horn stated that the shotgun was*

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locked in his truck. Horn stated that his truck was parked on the driveway near the garage, but away from the gate. Horn stated that when he went to get the shotgun from his truck, he went out the through the kitchen door and then out the gate to the driveway where he truck was parked. Horn stated that shotgun was in the back portion of the cab of the truck in a case. Horn stated that case was on the floorboard. Horn stated that he entered the residence the same way that he had exited. Horn stated that the sound that he heard, while he was in the gameroom, that drew his attention to the window was like the sound of glass when it first breaks. Horn stated that the sound did not sound like glass breaking when glass hits the floor. Horn stated that it was hard to described the sound. Horn stated that when he looked out the window he saw the two subjects with some type of object and observed glass breaking and realized that was the sound that he first heard. Horn stated that when he went outside with the shotgun, he did not see anything at first. Horn stated that as he stepped further away from the porch area, he observed something in his peripheral area and that was when he observed the two subjects by the tree in his front yard. Horn stated that the 'big man' was on the right of the tree and the 'little man' was on the left of the tree. Horn stated that the 'bigger guy' had the 'bag of goodies', which was later determined to be the contents taken from the residence located at 7422 Timberline Drive. Horn stated that he had listened to the 911 tape since the incident and he thought that he said 'stop'. Horn stated that he said 'move and you're dead'. Horn stated that the subject on the left made a "full body movement" like a "football player" (While describing the movement, Horn made the body motion of a 'football player' attempting to make a tackle). Horn stated that the movement was in his (Horn) direction. Horn stated that he attention was focused on the subject that made the football movement and did not observe what the other subject was doing. Horn stated that he could not described how scared he was. Horn stated that he believed he was off the porch, somewhere near the flowerbed. Horn again stated that he did not want to shoot 'those men'. **Refer to Horn's video recorded statement for further details (D-6).**

On December 14, 2007, at approximately 3:30 pm I drove to the Intake Division of the Harris County District Attorney's Office located at 1201 Franklin and met with Harris County Assistant District Attorney W. Baker. I provided ADA Baker with a "Red Book" containing all reports completed to date as well as copies of DVDs and CDs containing affidavits, photographs, and scene videos.

This case is to be considered "To Be Continued" pending the decision of the Harris County District Attorney's Office and decision of the Grand Jury regarding criminal charges against Horn.

No further police action taken.

M.E. Bruegger
#0719