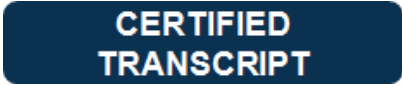


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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MENDOCINO
UKIAH BRANCH

- - -

PEOPLE OF THE STATE OF)
CALIFORNIA,)
)
PLAINTIFF,)
)
VS)
)
ARTURO FLORES VALDES,)
)
DEFENDANT.)



CASE NO.
21CR00511

PRELIMINARY HEARING

MAY 17, 2022

BEFORE HONORABLE CARLY B. DOLAN, JUDGE

APPEARANCES:

FOR THE PLAINTIFF: DAVID EYSTER
DISTRICT ATTORNEY
100 NORTH STATE STREET
UKIAH, CALIFORNIA 95482
BY: HEIDI LARSON
DEPUTY DISTRICT ATTORNEY

FOR THE DEFENDANT: LAW OFFICE OF RICHARD O
MIDDLEBROOK
BY: RICHARD ORVILLE MIDDLEBROOK
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CAROL J. DEUCHAR, CSR NO. 13877
OFFICIAL COURT REPORTER
MENDOCINO COUNTY COURTHOUSE
100 NORTH STATE STREET UKIAH, CALIFORNIA 95482

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I N D E X

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EXHIBITS

MARKED RECEIVED

FOR THE PEOPLE:	
EXHIBIT 1 PHOTOGRAPH OF DRIVER'S LICENSE OF ARTURO VALDES.	12

FOR THE DEFENDANT:
(NO EXHIBITS OFFERED.)

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MAY 17, 2022

AFTERNOON SESSION

- - -

THE COURT: On the record in Elizabeth Esplita Mireles and Arturo Flores Valdes. This is case -511.

In this matter, Ms. Larson is appearing for the People. Mr. Middlebrook is here on behalf of both defendants.

As to Mr. Valdes, the matter comes on for preliminary hearing with concurrent motion to suppress.

Ms. Mireles has joined in that motion to suppress; however, she only has misdemeanor charges.

Are both sides prepared to proceed?

MR. MIDDLEBROOK: Yes, Your Honor.

MS. LARSON: Mr. Valdes was ordered present today.

MR. MIDDLEBROOK: He was not.

MS. LARSON: It's in the minutes.

MR. MIDDLEBROOK: There's a stipulation as to the identity for purposes of arrest.

MS. LARSON: I don't see a waiver of personal presence for him, however.

MR. MIDDLEBROOK: We provided it twice.

THE COURT: The minutes do reflect both defendants were ordered present. It is my practice to order defendants present for evidentiary hearings.

MR. MIDDLEBROOK: Was that at the time of the motion to continue, Your Honor?

THE COURT: Yes.

MR. MIDDLEBROOK: I appeared via video. There was

1 no indication that they were present. I can have them here in
2 30 minutes if necessary, but it's 1538.

3 MS. LARSON: It's also prelim. That's the
4 problem.

5 MR. MIDDLEBROOK: And? We'll stipulate for the
6 ID.

7 THE COURT: I can't recall even in the academic
8 conducting preliminary hearings 977. I think it's in the
9 statute.

10 MR. MIDDLEBROOK: If prosecution wanted my client
11 present, she could have let me know any time in the last hour
12 and a half.

13 She indicated she was making a motion to continue, and
14 asked to speak to me outside regarding it. We spoke. She
15 never mentioned any concerns or issues.

16 I believe this is nothing more than a delay tactic.

17 And, for the record, the reason my client isn't present
18 is that he was beaten completely senseless by two police
19 officers.

20 My client was present to the beating, where they
21 fractured his face and rearranged his entire nose on two
22 different places on a DUI arrest, a DUI arrest.

23 The officers then stopped him weeks later without
24 probable cause to harass him further, drawing guns on him. He
25 does not want to be present in the same room.

26 He is still suffering PTSD as a result of the officers.
27 That also included a skull fracture.

28 THE COURT: Well, Penal Code section 977(b)

1 requires that the defendant be present at the hearing, the
2 preliminary hearing.

3 Section 1043.5 provides the only exception to this.

4 While there is a basic fundamental right to appear and
5 defend that flows from the Constitution, there is no
6 reciprocal constitutional authority to be absent. The right
7 of absence is derived from the legislature.

8 In 20 plus years, I have never seen a preliminary hearing
9 without a defendant, and it is required by the statute.

10 MR. MIDDLEBROOK: He can be here in 25 minutes.
11 We waited almost two hours for the other officer to show up.

12 THE COURT: Well, he was present. The Court
13 ordered him present.

14 I'm not inclined to begin the hearing at 4:00. Can he be
15 here in 15 minutes?

16 MR. MIDDLEBROOK: I can try get him here as
17 quickly as possible.

18 We can start with the 1538, since there's different
19 evidentiary requirements for the 1538 over the prelim. And
20 I'll waive his presence for it. We can get started on that.

21 THE COURT: Well, the Court needs to take our
22 afternoon break. We'll be in recess until 3:15.

23 MR. MIDDLEBROOK: Thank you, Your Honor.

24 (Recess)

25 THE COURT: Back on for the record in the Mireles
26 and Valdes matter. Mr. Valdes is now present. Counsel is
27 appearing for Ms. Mireles 977.

28 MS. LARSON: Heidi Larson for the People.

1 THE COURT: Any motions before we begin?

2 MR. MIDDLEBROOK: Motion to exclude witnesses.

3 MS. LARSON: I have two witnesses, and Officer
4 Rodello will be my investigating officer.

5 THE COURT: Okay. The motion to exclude is
6 granted. Who is your first witness?

7 MS. LARSON: It would be Sergeant Donohue.

8 THE COURT: Okay.

9 MR. MIDDLEBROOK: I am also going to request the
10 1538 for preliminary hearing because of the requirements for
11 hearsay testimony.

12 THE COURT: Okay. Rather than duplicate the
13 evidence, what the Court is inclined to do is hear them
14 concurrent.

15 If there is an objection as to hearsay, I'll sustain it
16 and make a record as to whether or not it is being overruled
17 for purposes of 115 testimony, and only consider it for that
18 holding order purpose.

19 MR. MIDDLEBROOK: Thank you. That's perfect, Your
20 Honor. Thank you.

21 The witness was duly sworn and testified as follows:

22 THE WITNESS: I swear.

23 THE CLERK: Please state your name, and spell your
24 name for the record.

25 THE WITNESS: My name is Ronald Donohue,
26 D-o-n-o-h-u-e.

27 THE CLERK: Thank you.

28 THE COURT: Okay. Go ahead, Ms. Larson.

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DIRECT EXAMINATION:

BY MS. LARSON:

Q. Where do you work?

A. The Ukiah Police Department.

Q. How long have you been with the Ukiah Police Department?

A. About seven years now, or eight years, sorry.

Q. Were you on duty the 28th of March of 2021 in the evening hours?

A. Yes. I was.

Q. Did you receive any sort of briefings?

A. I did.

Q. And what were those briefings in regard to --

MR. MIDDLEBROOK: Objection; hearsay. Withdrawn.

THE WITNESS: In the morning briefing, my dispatching approached me face-to-face and informed me that --

MR. MIDDLEBROOK: Objection. Now hearsay.

THE COURT: Sustained.

BY MS. LARSON:

Q. After receiving a briefing, did you go anywhere?

A. I did.

Q. Where did you go?

A. I would have to look at my report to refresh my recollection.

Q. If that would refresh your memory, please do. And look up when you're ready.

A. I'm ready.

Q. And where did you go?

1 A. I went to 1661 Alicante, and dispatch continued to
2 provide information while I was on the way over the radio.

3 Q. Is that in Mendocino County?

4 A. It is.

5 Q. Did you eventually arrive at that location?

6 A. I did.

7 Q. And what information did you rely on in going to
8 that?

9 MR. MIDDLEBROOK: Objection. Calls for hearsay.

10 THE COURT: Sustained.

11 MS. LARSON: It's not for the truth of the matter.

12 MR. MIDDLEBROOK: It has to be for the truth of
13 the matter, or else it's irrelevant.

14 THE COURT: Objection sustained.

15 If he's going to -- if Sergeant Donohue is going to
16 report specifics of what was told to him and rely on that as a
17 basis for detaining someone, that would be hearsay.

18 BY MS. LARSON:

19 Q. When you arrived at the location, did you see any
20 person present?

21 A. I did.

22 Q. And who was that person?

23 A. It was Arturo Valdes.

24 Q. And do you see Arturo Valdes in court today?

25 A. I do.

26 Q. Could you please state where he is seated, and
27 something he is wearing?

28 A. To the right of the attorney in the Polo shirt.

1 MS. LARSON: May the record please reflect the
2 identification of the defendant?

3 MR. MIDDLEBROOK: So stipulated.

4 THE COURT: It will.

5 BY MS. LARSON:

6 Q. Was there anything about the appearance of
7 Mr. Valdes that caught your attention?

8 A. Just that he matched the description of the --

9 MR. MIDDLEBROOK: Objection, hearsay. Motion to
10 strike.

11 THE COURT: Sustained.

12 BY MS. LARSON:

13 Q. Did you contact Mr. Valdes?

14 A. I did.

15 Q. And what about his appearance caught your
16 attention, if anything?

17 A. About his appearance?

18 Q. Yes.

19 A. Just that he was the person I was looking for.

20 MR. MIDDLEBROOK: Objection, hearsay. Motion to
21 strike.

22 THE COURT: Overruled.

23 MR. MIDDLEBROOK: And lacks foundation.

24 THE COURT: Overruled.

25 BY MS. LARSON:

26 Q. Was there anything about his demeanor that caught
27 your attention?

28 A. He swayed.

1 Whenever I got out of my vehicle and began talking to
2 him, I noted that he would have to widen his stance to stand
3 straight, or to stay upright. He appeared to be off kilter.

4 Initially when we contacted him, I could smell a light
5 odor of alcoholic beverages, and later a stronger odor.

6 His eyes were watery. That's about it.

7 Q. And did any other UPD officers arrive on the
8 scene?

9 A. Officer Rodello did.

10 Q. Did anyone after Officer Rodello arrive at the
11 scene?

12 A. Later, Officer Parker did.

13 Q. And did Mr. -- Officer Parker provide you with
14 some evidence that he had himself discovered?

15 MR. MIDDLEBROOK: Objection, vague and ambiguous
16 as to time.

17 THE COURT: Sustained. Lay a foundation.

18 BY MS. LARSON:

19 Q. Was Officer Parker involved in this investigation?

20 A. He was.

21 Q. And do you know where he was dispatched to.

22 MR. MIDDLEBROOK: Objection, calls for hearsay.
23 Lacks foundation.

24 THE COURT: Overruled.

25 THE WITNESS: He was dispatched to the Ross
26 parking lot to investigate a hit-and-run.

27 BY MS. LARSON:

28 Q. And did he come directly from the Ross parking lot

1 to your location?

2 MR. MIDDLEBROOK: Objection, lacks foundation.
3 Calls for hearsay.

4 THE COURT: Sustained as to foundation. Can you
5 establish how and what Sergeant Donohue knows?

6 BY MS. LARSON:

7 Q. Did Officer Parker arrive at your location to
8 speak with you?

9 A. I spoke with him over the phone, and then he --
10 while I was on the scene after the arrest. And I also spoke
11 with him on scene after the arrest.

12 Q. Did he provide you -- Officer Parker -- with
13 evidence regarding this investigation?

14 A. Yes, he did.

15 Q. And what did Officer Parker provide you.

16 MR. MIDDLEBROOK: Objection, hearsay. Lacks
17 foundation. It's at least double, if not triple hearsay.

18 It lacks foundation, and, also, is irrelevant, because
19 we're in a preliminary hearing -- well, with regard to the
20 1538 motion, it is only through the arrest.

21 THE COURT: Okay. The objection is sustained for
22 the purposes of a 1538; however, overruled for purposes of the
23 preliminary hearing.

24 BY MS. LARSON:

25 Q. And what evidence was that?

26 A. While I was on scene, Officer Parker texted me a
27 photograph of a California driver's license. He called me,
28 and informed me that it was given to him by the victim on

1 scene.

2 Q. And was Officer Parker able to tell you where the
3 victim got that?

4 MR. MIDDLEBROOK: Ongoing objection as to hearsay
5 on the 1538, and hearsay with regard to the preliminary
6 hearing.

7 It is Officer Parker, who is -- is making statements
8 about a -- as far as we can tell, a civilian witness that is
9 not an officer.

10 So it's three layers of hearsay at this point.

11 THE COURT: Well, I haven't heard the answer.

12 If Sergeant Donohue is going to testify that Officer
13 Parker spoke to a civilian witness and she relayed
14 information, the objection is sustained as double hearsay as
15 to the preliminary hearing and hearsay -- double hearsay as to
16 the motion to suppress.

17 BY MS. LARSON:

18 Q. When Officer Parker came to your location, did he
19 provide you with a piece of evidence?

20 A. I don't recall.

21 THE CLERK: Premarked People's 1, a photo marked
22 for identification.

23 (People's Exhibit 1 was marked for identification.)

24

25 MS. LARSON: May I approach?

26 THE COURT: Yes.

27 BY MS. LARSON:

28 Q. I'm showing you what's been marked as People's 1.

1 Do you recognize what that is?

2 A. I do.

3 Q. And what is that?

4 A. This is a California driver's license with -- that
5 was issued to Arturo Valdes. This is a -- I was sent a
6 photograph of this over SMS message.

7 Q. And did Officer Parker bring that to you, the
8 actual ID?

9 A. He brought it to the scene. I just don't remember
10 if he gave it to me.

11 Q. Thank you. And does that photograph depict anyone
12 you recognize?

13 A. Yes.

14 Q. And who is that?

15 A. Arturo Valdes.

16 Officer Parker also informed me --

17 MR. MIDDLEBROOK: Objection, no question pending.

18 THE COURT: Sustained.

19 BY MS. LARSON:

20 Q. Did Officer Parker inform you of anything else?

21 MR. MIDDLEBROOK: Hearsay. And vague and
22 ambiguous as to the plethora of possibilities.

23 THE COURT: Sustained for the 1538; overruled for
24 the preliminary hearing, subject to strike.

25 THE WITNESS: Officer Parker also informed me that
26 he watched surveillance video of a collision, and was able to
27 see the people that were involved in the interaction on the
28 video.

1 MS. LARSON: No further questions.

2 THE COURT: Cross.

3 CROSS-EXAMINATION:

4 BY MR. MIDDLEBROOK:

5 Q. Yes. Officer Parker contacted you after your
6 arrest had taken place. Is that correct?

7 A. Correct.

8 Q. Prior to Officer Parker contacting you, you had
9 had no contact with Officer Parker regarding Mr. Flores Valdes
10 prior to the arrest?

11 A. That's correct.

12 Q. When you arrived on scene at the residence, you
13 stated that you saw Mr. Flores Valdes. For the purposes -- he
14 was walking, correct?

15 A. Correct.

16 Q. You never saw him behind the wheel of a vehicle?

17 A. No.

18 Q. You never saw him at any stage driving a vehicle?

19 A. No.

20 Q. You'd never seen a picture of Mr. Valdes prior to
21 arresting him?

22 A. That's true.

23 Q. You'd never looked him up on codex or any other
24 type of form to see who he was?

25 A. No.

26 Q. You approached him in his driveway area. Is that
27 correct?

28 A. He was just north of the driveway, correct.

1 Q. And when you approached him during that period of
2 time, you said you noticed that he had red, watery eyes. Is
3 that correct?

4 A. Watery eyes. I don't remember if they were red.
5 I'd have to refer to my report to refresh my recollection.

6 Q. You noticed a slight odor of alcohol?

7 A. Yes.

8 Q. And you said he was unsteady on his feet. Is that
9 correct?

10 A. That's correct.

11 Q. Okay. Prior to that date, have you ever met
12 Mr. Valdes?

13 A. No.

14 Q. Do you know how he stands, or whether he is steady
15 on his feet normally?

16 A. No.

17 Q. Do you know what his eyes look like normally?

18 A. I know they don't look red and watery today.

19 Q. They don't look red and watery to you today?

20 A. That's correct.

21 Q. Did they look red and watery then?

22 A. They did.

23 Q. In the report, did you also say they were red and
24 watery?

25 A. I believe so.

26 Q. Did you say that you smelled a slight odor of
27 alcohol?

28 A. I believe I said moderate in my report.

1 Q. At the time you were there, did an altercation
2 occur?

3 A. Yes.

4 Q. Okay. At what point -- how long after you arrived
5 at the location did the altercation occur?

6 A. Less than 10 minutes.

7 Q. Do you think you were there for 10 minutes?

8 A. 5 to 10 minutes.

9 Q. How certain are you that it was within 5 or 10
10 minutes?

11 A. I'm not certain.

12 Q. Okay. Could it have been one minute?

13 A. No.

14 Q. Could it have been three minutes?

15 A. It could have been.

16 Q. Could it have been 8 minutes?

17 A. It could have been.

18 Q. When the -- did you place Mr. Valdes under arrest?

19 A. Yes, I did.

20 Q. When did you do that?

21 A. In the -- following an attempt to stop me from
22 knocking on his door, we attempted to place him into cuffs.

23 Q. What were you placing him into cuffs for? What
24 were you arresting him for?

25 A. He wasn't being arrested. He was being detained.

26 Q. Why were you placing him into cuffs?

27 A. Because I had information that he was a suspect in
28 a case --

1 Q. Well, your information --

2 A. -- and trying to stop me from continuing the
3 investigation.

4 THE REPORTER: Can we -- can you talk one at a
5 time, please?

6 Q. My apologies. Let's take it step by step.

7 You were talking to Mr. Flores while he was in the
8 driveway of his home, correct?

9 A. Yes.

10 Q. You left that conversation to walk towards the
11 front door, correct?

12 A. Correct.

13 Q. At the same time -- at the time that you left, was
14 Mr. Flores Valdes told he was under arrest?

15 A. No.

16 Q. Was he told he was being detained?

17 A. Not at that time.

18 Q. When you left, did you ever overhear any other
19 officer say that he was being arrested or detained?

20 A. Yes.

21 Q. Who?

22 A. First, Officer Rodello told him he was detained,
23 and then I did.

24 Q. When did Officer Rodello tell him he was being
25 detained?

26 A. Whenever he was trying to grab his hand to stop
27 him from walking towards him.

28 THE COURT: Okay. Let's slow it down a bit. It's

1 going fast for me.

2 BY MR. MIDDLEBROOK:

3 Q. All right. Sorry, Your Honor.

4 You walk away from the conversation towards the front
5 door.

6 A. Correct.

7 Q. Okay. When you walk away from the conversation,
8 at that stage, did you see where Mr. Values was?

9 A. Before I turned away, yes.

10 Q. And he was standing there, correct?

11 A. He was actually walking towards Officer Rodello's
12 patrol vehicle.

13 Q. He was walking towards the patrol vehicle?

14 A. Yes. Correct.

15 Q. Did you ever see him turn and go towards you?

16 A. Yes.

17 Q. When?

18 A. I informed Officer Rodello that I was going to go
19 check on the contents of the house, the wife and children.
20 And Mr. Valdes addressed me, over hearing that.

21 I don't remember exactly what was said, but he insinuated
22 that he did not want me to do that.

23 Q. Okay. Officer Rodello stayed at the patrol
24 vehicle as you walked away?

25 A. They weren't at the patrol vehicle. They were
26 still in the driveway.

27 Q. Okay. Then you noticed them walking towards the
28 patrol vehicle?

1 A. And I was walking towards the door.

2 Q. Your back was to them, correct?

3 A. Correct.

4 Q. At what time -- how far were you to the door
5 before you noticed that Mr. Valdes was walking you said
6 towards you?

7 A. Yes.

8 Q. When did you notice that? How long?

9 A. I was on the lawn.

10 Q. Okay. So five seconds?

11 A. Less than that. I probably would have made it to
12 the door.

13 Q. You think you made it to the door?

14 A. No. I would have made it to the door in five
15 seconds.

16 Q. So less than five seconds?

17 A. Yes.

18 Q. Okay. How many vehicles were in the driveway?

19 A. Two.

20 Q. And do you remember what the make and model of
21 those were?

22 A. No.

23 Q. Do you remember how they were placed, or what type
24 of vehicles they were? SUVs?

25 A. I just remember two vehicles being parked directly
26 in front of the garage.

27 Q. Okay. You walked around the back of those
28 vehicles, correct?

1 A. Yes.

2 Q. You walked towards the front door, which would
3 have been if you're looking at the house to the right of those
4 two vehicles?

5 A. Yes.

6 Q. When you did that, Mr. Valdes didn't walk towards
7 you, did he? He walked in between the two vehicles towards
8 the garage. Isn't that true?

9 A. Diagonally towards the front door.

10 Q. When the altercation occurred, it occurred between
11 the two vehicles, correct?

12 A. Right.

13 Q. That's where he was walking was between the two
14 vehicles in the driveway?

15 A. After I turned around, he went between the two
16 vehicles.

17 Q. Okay. Let me make sure I'm clear. If you're
18 where the patrol car was -- may I use the well, Your Honor,
19 for demonstrative purposes?

20 THE COURT: Yes.

21 BY MR. MIDDLEBROOK:

22 Q. The garage door is up here. Are you with me?

23 You walked to the back of the vehicles, around the back
24 of both vehicles towards the front door, which would have been
25 in the back corner of the courtroom for scale purposes, right?

26 A. Right.

27 THE COURT: And just for the record, you're
28 walking -- there's two vehicles. And you've demonstrated

1 walking to the right of the vehicle parked on the right side
2 of the driveway.

3 BY MR. MIDDLEBROOK:

4 Q. Correct. Thank you, Your Honor.

5 Mr. Valdes, in fact, headed between the two vehicles
6 towards the garage. Is that true?

7 A. After I turned around, correct. Yes.

8 Q. After you turned around. Are you one hundred
9 percent sure of that?

10 A. Pretty sure.

11 Q. All right. Why did you turn around?

12 Q. What's that?

13 Q. Why did you turn around?

14 A. Because I heard Officer Rodello giving affirmative
15 commands to him.

16 Q. To what?

17 A. To stop.

18 Q. Why -- did he ever say he was under arrest?

19 A. No.

20 Q. Did anybody tell him that he was in any way not
21 permitted to leave?

22 A. When Officer Rodello said to stop, that was him
23 not being permitted to leave.

24 Q. At that stage, you were investigating a crime?

25 A. Correct.

26 Q. He was not arrested?

27 A. Correct.

28 Q. Your term of being detained, what is the

1 difference in your mind between being detained and being
2 arrested?

3 A. Someone who is detained has not been transported
4 and is being held for an investigation.

5 Q. Meaning they are not free to go?

6 A. They are not free to leave.

7 Q. Okay. And at that stage, you had determined that
8 he was not free to leave, which is being -- the definition of
9 being under arrest, correct?

10 A. No.

11 Q. You don't believe that to be true?

12 A. That would be detained.

13 Q. And in your mind, you see that there is a
14 difference between the definition of detention of not being
15 free to go, and arrest, which is not being free to go?

16 A. Arrest is being transported.

17 Q. So you think that nobody is under arrest until
18 they are transported somewhere else?

19 A. Yes.

20 Q. And you were acting on that that day?

21 A. What's that?

22 Q. You were acting on that that day that he wasn't
23 under arrest?

24 A. That he was detained.

25 Q. Okay. When did he -- was he placed under arrest?

26 A. Following the use of force for resisting.

27 Q. For resisting what?

28 A. For resisting or delaying a police officer in the

1 performance of his duties.

2 Q. How did he do that by walking away?

3 A. Because he was told to stop, and he did not
4 listen.

5 He physically pulled away from my partner, and it
6 resulted in a use of force, which is resisting and delaying a
7 peace officer.

8 Q. That use of force -- this was -- I want to remind
9 you that this was for use of force -- which is why we are here
10 at the prelim -- for an arrest on a DUI case, correct?

11 A. Incorrect. We were investigating a child
12 endangerment, a DUI, and a hit-and-run.

13 Q. The child endangerment stems from the DUI,
14 correct?

15 A. It stems from the collision, and the collision in
16 the car.

17 Q. Okay. Let's talk about the collision. Let's
18 backtrack. You didn't see the car at that time, did you?

19 A. No.

20 Q. You didn't see -- you didn't see any damage to the
21 vehicle at that time?

22 A. No.

23 Q. You didn't know of any damage to the vehicles at
24 that time, did you?

25 MS. LARSON: I'm going to object as to vague and
26 ambiguous as to vehicles.

27 THE COURT: Sustained.

28 BY MR. MIDDLEBROOK:

1 Q. Okay. The vehicles that were involved in the
2 collision. You didn't see either one of them, correct?

3 A. That's correct.

4 Q. You hadn't been told about any damage to any
5 vehicles, correct?

6 A. I believe they said there was minor damage.

7 Q. Minor damage? Did they describe what minor damage
8 was?

9 A. No.

10 Q. The -- can I project pictures onto the screen,
11 Your Honor?

12 THE COURT: Do you have -- let's go off the
13 record.

14 (Discussion held off the record.)

15 BY MR. MIDDLEBROOK:

16 Q. You never went to the Ross parking lot, did you?
17 You never went to the Ross parking lot?

18 A. No.

19 Q. You never saw the victim's vehicle?

20 A. No.

21 Q. You were told that there was no -- there was no
22 injuries, correct?

23 A. I was told that there were children crying in the
24 vehicle -- the suspect vehicle that fled the scene in a
25 reckless manner.

26 Q. I'm going to talk to you about that in a second.
27 The allegation is that you were going under is that he
28 fled the scene after giving his driver's license?

1 A. Yes.

2 Q. And that's the driver's license you were talking
3 about that he provided a driver's license, and then fled the
4 scene?

5 A. Correct.

6 Q. So you were investigating a misdemeanor
7 hit-and-run, correct?

8 A. Incorrect.

9 Q. It was a felony hit-and-run?

10 A. It was unknown. I had children crying.

11 Q. Okay. So you had children crying. What does that
12 rise to the level of?

13 A. If there is an injury, any injury, it is a felony
14 hit-and-run.

15 Q. Why would it be a felony to be in an accident and
16 have an injury?

17 A. A DUI felony hit-and-run.

18 Q. Okay. So you were investigating what you believed
19 was a felony -- a potential felony DUI?

20 A. Yes.

21 Q. You had no idea how hard the collision was?

22 A. No.

23 Q. You had no idea, other than minor damage?

24 A. No.

25 Q. You knew there was a truck involved?

26 A. Yes.

27 Q. And you knew that there is a Hyundai involved,
28 correct?

1 A. I didn't know what the other vehicle was.

2 Q. So at the time that you were investigating, you
3 believed you were investigating a felony hit-and-run because
4 there might have been injuries to kids because they were
5 crying in the back of the truck, correct?

6 A. And an intoxicated driver driving recklessly
7 intoxicated from the scene.

8 Q. You believe that someone told you someone was
9 driving recklessly from the scene?

10 A. Yes.

11 Q. When -- so in your mind, you were not
12 investigating misdemeanors; you were investigating felonies?

13 A. Yes.

14 Q. The only felony arrest you made in this case was
15 for the resisting arrest, correct? Assaulting a police
16 officer?

17 A. Yes.

18 Q. Okay. I want to talk about that for a second.
19 There was no indication of any guns or weapons at all from
20 Mr. Valdes?

21 A. No.

22 Q. You didn't pat him down?

23 A. No.

24 Q. You weren't worried about your safety at that
25 time?

26 A. He was actually fairly compliant, initially.

27 Q. Okay. So you had no reason to believe your life
28 or anybody else's life was in danger?

1 A. Correct.

2 Q. Okay. He walks -- you actually come back to where
3 the door is around the back of -- around to the car, and greet
4 him, and grab him in the middle of the two cars, correct?

5 Do you remember?

6 A. I know there was an altercation. The use of force
7 took place in the middle of the two cars.

8 Q. With -- what's the best way to do this? The
9 entire -- the entire -- up until the assault, the grabbing,
10 the pulling away that you allege -- up until then, there was
11 the potential of no arrest, correct?

12 A. Up until he was told to stop, and he did not
13 comply.

14 Q. Yes.

15 A. It was a detention, and not an arrest.

16 Q. When he didn't stop, you grabbed him, correct?

17 A. When he didn't stop, Officer Rodello grabbed him.

18 Q. You also grabbed him?

19 A. Yes. In between the cars.

20 Q. Officer Rodello grabbed him, correct?

21 A. Yes.

22 Q. Officer Rodello fell, correct? Did he fall?

23 A. Yes. We all fell at one point.

24 Q. You were pulling one way. Officer Rodello was
25 pulling the other way on the arms, correct?

26 A. Correct.

27 Q. Officer Rodello fell backwards?

28 A. I fell backwards.

1 Q. You fell backwards?

2 A. Correct.

3 Q. Okay. When you were on the ground, how were you
4 holding Mr. Valdes?

5 A. I wasn't.

6 Q. You weren't holding him?

7 A. Not initially.

8 Q. When you were holding him, how did you hold him?

9 A. The first time was I had an under hook over on his
10 left arm, I believe.

11 Q. Okay. You had his arm in the air?

12 A. Yes.

13 Q. You had your arm around him, and grabbed the back
14 of his head, correct?

15 A. I believe it was on his shoulder.

16 Q. Who delivered the blows?

17 A. I did.

18 Q. When you did that, you punched him four times in
19 the face, correct?

20 A. I don't think I should answer that.

21 MR. MIDDLEBROOK: Okay. That's a good question.

22 At this stage, I'm going to ask the officer be made aware
23 of his Fifth Amendment rights to incrimination. And if he's
24 going to take the fifth, I would ask that his testimony be
25 stricken.

26 THE COURT: Is there a pending civil case?

27 MR. MIDDLEBROOK: Yes. We filed the governmental
28 tort claim act. It was denied.

1 There's a lawsuit against Officer Rodello and, well,
2 there will be four officers involved, as well as the Ukiah
3 Police Department. It will be filed by the end of next week.

4 Also, it's my belief and to be fair to the officers that
5 they used excessive force and physically brutalized my client.

6 As a result of that, I think that they deserve the right
7 to know that they do not have to testify and incriminate
8 themselves for an assault.

9 THE COURT: Do you wish to comment?

10 MS. LARSON: I spoke to the police officers
11 beforehand about their Fifth Amendment rights and answering
12 questions, knowing that the civil lawsuit was pending.

13 THE COURT: Okay. Sergeant Donohue, I would
14 advise you that you would have -- you have a right against
15 saying anything that could incriminate you under testimony
16 here under oath.

17 Should you choose to exercise that right, you just simply
18 need to say I assert the fifth. That is your right.

19 And you should be made aware that any testimony taken
20 here could be used against you in a civil suit and,
21 potentially, a criminal action, should one be filed.

22 THE WITNESS: May I reserve that right
23 selectively?

24 THE COURT: You can assert it as you believe fit.

25 Also, I don't know if you have retained counsel or have
26 spoken to an attorney regarding testifying here?

27 THE WITNESS: I have not.

28 THE COURT: And would you -- do you wish to speak

1 to an attorney before testifying further in these proceedings?

2 THE WITNESS: Yeah. I think it's best.

3 MR. MIDDLEBROOK: I agree.

4 THE COURT: Okay. It is after 4:00. I'm going to
5 -- we have commenced a preliminary hearing and a motion to
6 suppress. Should --

7 MR. MIDDLEBROOK: We won't be challenging a
8 continuance to another date.

9 THE COURT: Mr. Valdes is prepared to waive a
10 continuous preliminary hearing?

11 THE DEFENDANT: Yes.

12 THE COURT: Sir, you have a right to have your
13 hearing conducted in one hearing, meaning that the Court can
14 take breaks or to go home for the evening, and lunch, and so
15 forth, but I have to devote the Court's attention strictly to
16 this case.

17 Given scheduling issues, and the -- well, given the state
18 of the proceedings, Mr. Middlebrook tells me that you are
19 prepared to waive a continuous preliminary hearing, and we're
20 going to come back, potentially, on another day.

21 Do you understand that you have a right to have this
22 hearing begun and concluded in one day, and do you waive that
23 right?

24 THE DEFENDANT: I do understand that, yes.

25 THE COURT: Okay. Then we're going to recess in
26 this matter.

27 Sergent Donahue can step down.

28 MR. MIDDLEBROOK: I have no objection to the

1 exhibits being moved in, just to clarify the record. Or
2 Exhibit 1, I apologize.

3 THE COURT: Exhibit 1 will remain with the clerk.

4 MR. MIDDLEBROOK: I don't know whether Officer
5 Rodello would also like the same opportunity? I expect
6 similar lines of questioning.

7 I don't expect the ability to competently review the
8 facts with an attorney and provide the information that
9 they're going to need in order to make an informed decision by
10 tomorrow morning.

11 I have all day tomorrow assigned for this as well, but I
12 don't think that, given the fact that there is a potential
13 taking of the fifth and at least mildly alluding to it, at
14 this point, I think it would be better to continue the matter
15 and have this matter come back on a day that works for counsel
16 and for the Court so that they are fully informed.

17 By that point, the lawsuit will be filed, and you'll see
18 all the allegations and evidence at that point as well that
19 they can use to assist them.

20 MS. LARSON: I think with the length of this
21 hearing, that we can special set it.

22 MR. MIDDLEBROOK: I don't disagree with that. I
23 anticipate three to four hours.

24 THE COURT: Let's go off the record and discuss
25 scheduling.

26 (Discussion held off the record.)

27 THE COURT: How about August 19th? And we'll set
28 it at 11:00.

1 MR. MIDDLEBROOK: And I'd like to request a copy
2 of the transcripts thus far, and I'll provide the reporter
3 with a copy of my card.

4 THE COURT: Okay. August 15th at 9:00 a.m.

5 And, sir, I am going to order you present. This is your
6 preliminary hearing.

7 MR. MIDDLEBROOK: August 19th, correct?

8 THE COURT: What did I say?

9 MR. MIDDLEBROOK: You said the 19th now, but the
10 15th before.

11 THE COURT: Oh. August 19th.

12 MR. MIDDLEBROOK: Thank you, Your Honor. I
13 appreciate your time this afternoon.

14 THE COURT: And, for the record, is Ms. Mireles
15 here in court today?

16 MR. MIDDLEBROOK: She is. She's present in court.

17 THE COURT: So she has been present for the
18 proceedings. She is not ordered present. Counsel can appear
19 977 for her.

20 MR. MIDDLEBROOK: Thank you, Your Honor.

21 (Recess)

22

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28

1 STATE OF CALIFORNIA)
) SS.
2 COUNTY OF MENDOCINO)
3
4
5

6 CERTIFICATE OF REPORTER
7

8 I, CAROL JEANNETTE DEUCHAR, A CERTIFIED SHORTHAND
9 REPORTER OF THE STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT
10 THE FOREGOING DATES AND PAGES:

11 MAY 17, 2022, PAGES 1 TO 33, VOLUME NO. 1 CONTAIN
12 A TRUE AND CORRECT TRANSCRIPTION OF MY SHORTHAND NOTES TAKEN
13 BY ME IN THE CAUSE ENTITLED, THE PEOPLE OF THE STATE OF
14 CALIFORNIA, PLAINTIFF/RESPONDENT, VERSUS ARTURO FLORES VALDES,
15 DEFENDANT/APPELLANT, CASE NO. 21CR00511.
16
17
18
19

20 DATED THIS 20TH DAY OF MAY, 2022.
21
22
23

24 *Carol Jeannette Deuchar*
25

26 CAROL JEANNETTE DEUCHAR

27 CERTIFIED SHORTHAND REPORTER, #13877
28

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