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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

-----x
:
STATE OF OREGON, :
:
No. 67
Plaintiff :
:
v. :
:
OFFICER INVOLVED SHOOTING - :
JOSHUA HOWERY :
:
Defendant :
-----x

GRAND JURY No. B
PROCEEDINGS
Case No. 67

Conducted by:
Kristen Kyle-Castelli, Deputy District Attorney

DA Case No. 2469957-1
Friday, March 15, 2024

Transcribed by: Jacqueline Bryant

Proceedings recorded on FTR audio recording; transcript provided by legal transcriber.

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GENERAL INDEX

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03/14/24 Proceedings

Case Called 3

Examination of [redacted]..... 3

P R O C E E D I N G S

March 14, 2024

(3:29 p.m.)

(Whereupon, the following proceedings were held
before Grand Jury No. B)

MS. KYLE-CASTELLI: -- tracking the case, okay?
And then I --

THE WITNESS: Okay.

MS. KYLE-CASTELLI: -- we'll get to it. Okay.

THE WITNESS: Okay.

GRAND JUROR: You're good. You have -- the
clock's broken.

MS. KYLE-CASTELLI: Thank you.

We are on the record in State -- in an officer
involved shooting investigation that occurred on January
14th, 2024. The involved officer is Joshua Howery. This is
DA Case Number 2469957. I am Kristen Kyle-Castelli, K-y-l-e
hyphen C-a-s-t-e-l-l-i. Bar number 213028. We are in front
of Grand Jury B and case number 67. And we are going to
begin with our first witness.

If you wouldn't mind, [redacted], just -- I'm
going to turn the camera and have you sworn in, okay?

THE WITNESS: Okay.

THE WITNESS

was thereupon called as a witness; and, having been first

1 duly sworn, was examined and testified as follows:

2 THE FOREPERSON: Thank you.

3 DIRECT EXAMINATION

4 BY MS. KYLE-CASTELLI:

5 Q. Thank you. You can lower your hand now.

6 Can you please state and spell your name for the
7 record?

8 A. Yes, [redacted spelling].

9 Q. Okay. And, [redacted], on January 14th in 2024,
10 where were you living?

11 A. 140 Southwest Columbia Street in Portland, Oregon,
12 Apartment 808.

13 Q. Okay. And is that also -- is that known as the
14 Astoria Apartment Complex?

15 A. Portland, yes. Yes.

16 Q. Okay. Without telling me, like, the name of the
17 individuals that lived with you, who else lived in your
18 apartment with you?

19 A. My daughter.

20 Q. Okay. And how old is your daughter?

21 A. She's almost three.

22 Q. Okay. So she's two at this time?

23 A. Two at this time, yes.

24 Q. And was it just you and your daughter living in
25 Apartment 808?

1 A. Yes.

2 Q. Okay. Would you mind kind of walking us through
3 what the layout of Apartment 808 is? If you walked into the
4 front door, what would I see?

5 A. That there was a kitchen on one side, and then on
6 the other side there was a door with the bathroom. And then
7 you walk further down there is a big living space that I
8 divided in two, so one sleeping side and then one side with
9 a table and a slide next to the bed.

10 Q. A slide as in like a child's slide?

11 A. Yes, a child's slide for my daughter. Yes.

12 Q. Okay. Was it a studio apartment?

13 A. Yes.

14 Q. With the primary living space is like if you
15 walked in through the front door, you walked through the
16 kitchen area and then that was the primary living space --

17 A. Yes.

18 Q. -- for you and your daughter?

19 A. Yes.

20 Q. Okay. Did you know the person or ever meet the
21 person that lived in Apartment 804?

22 A. No. But on the day he moved in, I saw people
23 bringing things in and I saw activity, but I can't tell you
24 who was who; who were the movers, if he was among the people
25 that I saw.

1 Q. Okay.

2 A. But I can't tell that -- I can't say that I know
3 him because we never said hi to each other.

4 Q. Okay. Do you know if he ever saw, like, you and
5 your daughter kind of entering your apartment? Did you ever
6 notice that?

7 A. No, but we share a courtyard. So his window is on
8 the courtyard side, or was on the courtyard side. So was --
9 so is our window. So he might have seen me play there with
10 my daughter, I don't know. But I've seen his cat from the
11 courtyard to his window, because you can see people's
12 windows.

13 Q. Okay. So let's describe a little bit that
14 courtyard. So is the courtyard kind of on another level,
15 like the sixth level?

16 A. Yes, it's --

17 Q. What level is it on?

18 A. -- on the sixth floor. And my apartment and his
19 apartment is floor eighth (verbatim), which is pretty close.
20 You can see accurately.

21 Q. Okay.

22 A. You -- yeah.

23 Q. So -- and when you say a courtyard, is that kind
24 of a communal living space for everybody that lives in the
25 Astoria building?

1 A. Yeah, it's for everybody. So there is a barbeque
2 place, there is -- there are many, like, lounging
3 sections --

4 Q. Mm-hmm.

5 A. -- and in the middle of it there is like fake
6 grass, but it's a huge place where people can just run, play
7 games. So, yeah.

8 Q. Okay. Had you seen anybody else enter -- or had
9 you seen multiple people kind of enter and exit out of
10 Apartment 804?

11 A. No. And I even never saw him coming out of it,
12 except on the day of the move --

13 Q. Okay.

14 A. -- when he moved in. That's when I saw
15 activities. That was the last and only time I saw activity
16 from his apartment.

17 Q. Okay. Let's talk about insulation in your
18 apartment in like 804.

19 A. Mm-hmm.

20 Q. If you were inside of your apartment, can you hear
21 things that are going out in the hallway very well?

22 A. A little bit. I mean, you hear better at night
23 because at night it's -- everything is heightened. But
24 during the day, not clearly. Even at night you don't hear
25 clearly --

1 Q. Okay.

2 A. -- like I'm talking to you. But you can hear
3 better. So if you pay attention and you come closer to the
4 hallway, yes. But if in the living space like I described
5 to you --

6 Q. Mm-hmm.

7 A. -- there is no way you can hear exactly what
8 people are saying.

9 Q. Okay. And I'm asking because sometimes apartments
10 are known to have very thin walls in between units and
11 things along those lines. Or in between your unit and the
12 hallway so you can hear everything that's going on. But is
13 -- that doesn't seem to be the case in the Astoria building.

14 A. Not really. The walls are well isolated. And I
15 had never heard him, except his cat. But I'm assuming that
16 the cat was maybe close to the wall --

17 Q. Okay.

18 A. -- and, you know -- but, no. You can't really
19 hear your neighbors.

20 Q. Okay. On January 14th of 2024, did you call
21 9-1-1?

22 A. I did, yes.

23 Q. Okay. Can you explain to the grand jurors what
24 led you to call 9-1-1 that day, that night?

25 A. So around 12:18 I heard a shoot, like a really

1 loud sound. I couldn't really make out what it was the
2 first time I heard it. The only thing that I can say is
3 that the walls were vibrating, like, were shaking. And then
4 another one. And then I was like, okay. This is bizarre,
5 but it's also kind of threatening because, you know, your
6 instinct. So I picked up my phone and called 9-1-1 because
7 just -- I felt scared.

8 So as I was on the phone with the lady on 9-1-1,
9 another shot went, went down. So I asked the lady on the
10 phone, did you hear that? She said, yes.

11 Because when I heard the first two shot, to me it
12 was like, maybe I'm making this up because it's midnight.
13 I'm about to go to sleep, everything is pretty quiet, who
14 would do that? Like, where is that coming from? So I
15 thought that I was making it up. But then when I told --
16 asked the lady she said, yes, I heard that. I was like,
17 okay. Something is going on. And then my daughter
18 screamed.

19 So -- and the lady from 9-1-1 asked me my
20 information, my name, where I was at, the address, my phone
21 number. And I asked her if she can stay with me over the
22 phone because at that moment, I know it's not something good
23 going on. And she said, no, she has to call the police. So
24 I was like, okay. And she hung up. So that was my exchange
25 with her.

1 Q. Okay. And did you ultimately realize that it
2 was -- like early on in the incident, did you realize it was
3 gunshots that you were hearing?

4 A. Yeah, because, you know, I've lived in a country
5 where there was war. So I can distinguish. And I knew
6 someone was shooting, but at first I was like, maybe
7 something -- someone coming to break into someone's
8 apartment and they're defending themselves. But the problem
9 is that when someone break into your apartment, your shots
10 are one after another. But in this case, they were pretty
11 spaced out. Not, not like direct one after another. Like
12 it's -- when someone threatens you, you should boom, boom,
13 boom, boom, boom. But this time the shot stopped, shot
14 again, stopped. So I was like, who would do that at
15 midnight? Shot, stop, shot, you know.

16 So, yeah. That's what made me think this is
17 something dangerous going on. I don't know what it is, but
18 it's not good. So, yes.

19 Q. Okay. And so you called 9-1-1. What were you
20 about to do prior to calling 9-1-1?

21 A. So I was about to pray. I just got out my shower
22 and I was about to pray, and I knew my daughter was asleep
23 so I was standing with (indiscernible) in front of me and it
24 just started. It's like, what's -- yeah.

25 Q. Okay. And so, after you called 9-1-1 and that

1 conversation ended --

2 A. Mm-hmm.

3 Q. -- what happened next?

4 A. So next I call my sister because, you know, in my
5 mind it's like -- from the moment the lady from 9-1-1 heard
6 the shot, I was like, okay. This is threatening. I need to
7 call someone, my (indiscernible) family member just to share
8 with them what's going on because our lives could be very
9 much in danger. And what if this is the last time, you
10 know? And I'm really close with my sister, so I called my
11 sister and I told her someone has been shooting, it's
12 bizarre, the walls were shaking, I don't know what's going
13 on.

14 And so, you know, and then I hung up. But again,
15 as I'm over the phone (verbatim) with my sister, he's not
16 shooting. There is a gap right there. But then I get the
17 phone call from the police. Even as I'm over the phone with
18 the police, he's not shooting. So it's like the gap is
19 pretty long. And then, they asked me, can you come out? I
20 said, no. Because I don't know what's going on outside, I
21 don't want to -- I have a kid. And then they were like,
22 okay. Where is it? So I told them it's on the eighth
23 floor, I told them which side of the eight floor. And they
24 were like, okay. We're coming up.

25 But then when I -- as soon as I hang up, maybe a

1 minute after, he shoots again. I was like, okay. Yeah.

2 Q. Okay. And so he shoots again. Did the officers
3 at that time of the initial conversation you had with them,
4 did they ask to kind of like come inside of your apartment?
5 Or is that later?

6 A. No, that's afterwards. Because once, once --
7 because they didn't know what was going on. But when they
8 heard the shooting, they're starting to I think to gauge a
9 little bit. Okay. Someone is shooting. Why? We don't
10 know.

11 But, you know, and then they called me again and
12 started to ask me questions about the layout of the eighth
13 floor, who is -- which unit is what, who I think is
14 shooting. And at that time, I couldn't tell them who was
15 shooting. All I could tell them is which apartments are
16 empty so they know it cannot come from those and gave them
17 apartments numbers. And actually, the only one that I knew
18 for sure to be empty was the one next to me on the opposite
19 side of Matthew's (ph.) side, 8010 (verbatim) was empty.
20 And I told them 8010 is empty.

21 And then they asked me if they can come and run
22 their operation from my apartment. I was like, yeah, sure.
23 I mean, if you are with me, we're probably safer. But then
24 I think they were also trying to figure out what to do,
25 because they had no idea what's going on. So then because I

1 -- the lady, the officer, the female officer spoke to
2 someone and got back to me. And she's like, okay. Can you
3 open your door so that we can come in? I was like, sure. I
4 went and opened my door and I was still with her over the
5 phone and I was like, okay. Are you coming in?

6 Because, again, they're discussing what they're
7 going to do, what's going on. So -- and then she's like,
8 no, we're not coming right now. I was like, okay. Can I go
9 close my door? Because in my mind, I'm thinking it could be
10 a shooter, it could be much more shooters. What if they
11 zoom into my apartment? Because when you open your door,
12 you can hear the click, you know? So I'm thinking they can
13 be, oh, let's go in here because she's opening the door.
14 The police -- so I was like, I needed (indiscernible) the
15 door is closed.

16 Q. Okay.

17 A. And then, yeah. I closed my door. And she said
18 she was going to call me again. I was like, okay. Because
19 I guess they were trying to figure out what to do, I don't
20 know.

21 Q. Okay.

22 A. Yeah.

23 Q. [Redacted], from where you were in Apartment
24 808 --

25 A. Mm-hmm.

1 Q. -- could you tell exactly where the shots were
2 being -- were coming from?

3 A. No.

4 Q. Okay.

5 A. No, because the only thing that I -- that gave me,
6 like, our walls were shaking as he was shooting. So he was
7 heavy. But it's hard to tell. Like, no. There is no way
8 to tell.

9 Q. Okay. Okay. So did you hear anybody yelling kind
10 of a countdown, a five, four, three, two, one? Did you hear
11 that?

12 A. No. I heard -- no.

13 Q. Okay.

14 A. But I heard people, like, I knew the police was
15 talking in the hallway. But I couldn't distinctively say
16 what they were saying.

17 Q. Okay.

18 A. But I knew they were talking. And in my mind I
19 was thinking, okay. They're going to apprehend whomever is
20 doing that, we don't have to come out. So I didn't --
21 again, I couldn't tell the level of dangerousness -- how
22 dangerous the situation was, except that someone is
23 shooting.

24 Q. Okay.

25 A. But I heard the police talking in the hallway.

1 Q. Okay.

2 A. At some point.

3 Q. So at some point -- so the police were there and
4 how long approximately, I know it's difficult kind of to
5 gauge time, but from those first calls -- the first shots
6 that you heard, you called 9-1-1, up until the time that you
7 kind of run out of your apartment, how much time do you
8 think elapsed?

9 A. Well, the first shot I heard around 12:18. And
10 when we zoomed out, it was about 2:41, -2, -3, right around
11 that time 2:40.

12 Q. Okay.

13 A. Before 2:45.

14 Q. Okay.

15 A. So --

16 Q. And through that period of time, were you -- was
17 it -- I know that you're saying that there was a pause in
18 between the shots.

19 A. Mm-hmm.

20 Q. Was it -- would it be like there was a big pause
21 and then you would start hearing shots again?

22 A. Yeah. So there was a big pause because then my
23 daughter said, oh, Mama, it's over. He's not going to shoot
24 again, it's (indiscernible) not going to come again. I was
25 like, okay. He was (indiscernible). I was like, okay.

1 But to me, I knew, I knew the police were there,
2 they were going to call me back again. So I was kind of
3 waiting. And at that time, because the police when I spoke
4 to them asking about the layout. And I was like, there
5 should be someone there, a security guard to answer these
6 questions.

7 Q. Mm-hmm.

8 A. I don't know the building, the entire building. I
9 only know my floor. So I went down and took my computer to
10 find a phone number of the emergency service for the
11 building.

12 So I -- but I was quiet because I knew, like,
13 whomever is doing -- I don't want to be heard, like, you
14 know? So I found the number, I called them, I left a
15 voicemail. And then someone was sent and that person called
16 me.

17 So during that entire time, he's not shooting.

18 Q. Okay. And --

19 A. Yeah.

20 Q. -- did he start shooting again though?

21 A. He did. He did before the bullet that I heard
22 that came in. He did again. Because that's when I told my
23 daughter, okay. Like, it's not over because he shot again.
24 I said, okay. But at least to me it was like the police is
25 here, he's shooting, they hear him, it's out of my -- like,

1 you know?

2 Q. Okay.

3 A. I'm not making this up, it's real.

4 Q. Mm-hmm.

5 A. They know. Yeah.

6 Q. Did you and your daughter stay in that primary
7 living area in your apartment while you're hearing the shots
8 and during the lull? Is that where you guys were staying --

9 A. Yeah, yeah.

10 Q. -- in your bedroom?

11 A. Yeah.

12 Q. Okay.

13 A. Because I -- it's only when the police called me
14 and said, okay. You have to get ready to start coming out.
15 Because in my mind we're not going to come out, at all. To
16 me they were coming in to his apartment and getting
17 (verbatim). But I understand also they didn't know for sure
18 where he was. So I think that's what prompted them to ask
19 us to come out. So when they called us, that's when I moved
20 out of the bed, came into the bathroom which is in front --
21 the door is in front of the kitchen as I explained to you
22 the layout. So we came into the bathroom, started to get
23 dressed, I dressed my daughter, and then --

24 Q. Okay. So somebody with the Portland Police
25 Bureau, somebody called you and said, hey, it's about time

1 to evacuate. You need to start getting your stuff
2 together. Is that right?

3 A. Yes, yes.

4 Q. Okay.

5 A. Yes.

6 Q. And so you and your daughter start getting your
7 stuff together and move to the closet area and you're
8 packing up ready to go?

9 A. Yeah.

10 Q. Okay.

11 A. And then I grabbed her lunch. And then so the one
12 thing that to me that was probably (indiscernible) him
13 shooting through our wall is that my daughter in her
14 backpack she had put the rattling toy that makes noise. And
15 as she was moving in the apartment with her backpack
16 (indiscernible). She was -- like, to me when I heard her
17 move I was like, oh, my God, she's a moving target. Like,
18 you know, because then you can trace the noise, even though
19 the walls are thick. Because in the moment of danger, you
20 know, you like -- and so I took her backpack, took the toy
21 out, and put it down. And within that moment, the bullet
22 came through our apartment and we zoomed out. So to me, he
23 heard the ding, ding, like the rattling toy because the
24 whole time there was no bullet that came through our door.

25 And the other thing also that I thought, he

1 probably has more than one with him. Because when -- the
2 entire time he was shooting, he was very loud, the walls
3 were shaking. But that one bullet that came through our
4 door, I heard nothing else but the impact of the bullet in
5 my apartment. So I was like, I didn't hear the shoot, I
6 just heard the impact --

7 Q. Okay.

8 A. -- on the table. And we zoomed out.

9 Q. So you were removing the toy that rattle toy that
10 made a lot of noise --

11 A. Oh, yeah.

12 Q. -- from your daughter's backpack?

13 A. Yes.

14 Q. And at the moment that you're getting that out,
15 that's when you hear the impact of the bullet coming inside
16 of your apartment?

17 A. Within that time. And I grabbed her and I walked
18 out with her.

19 Q. Okay.

20 A. And we even dropped things that we had in our
21 hands because he was just like it's --

22 Q. It's time to go?

23 A. Yes.

24 Q. Okay. [Redacted], I think you've previously said
25 that the bullet came through the door. Did -- was it came

1 through the door --

2 A. (indiscernible).

3 Q. -- or did it come through the wall?

4 A. Wall, yeah.

5 Q. Okay. And did it enter the wall in the area in
6 your living area?

7 A. Yes, yes, yes.

8 Q. Where both you and your daughter had been just
9 minutes beforehand?

10 A. He could have hit us, easily.

11 Q. Okay.

12 A. Because it was at feet level. So, yeah.

13 Q. Okay.

14 A. He could have hit her because she's short, she's
15 little. So, yeah.

16 Q. Okay. And so, you and your daughter -- did you
17 pick your daughter up?

18 A. I did.

19 Q. Okay. And you went running out of the apartment?

20 A. Yes, I did. Yes.

21 Q. When you exited your apartment, did you turn to
22 the right and run to the right towards the elevators?

23 A. No, I -- I just -- I went to the direction of
24 exiting, like -- and the police were there. So I went to
25 the police. Like, when I opened the door I -- like I went -

1 - I could have never gone the opposite way, which is
2 Matthew's side.

3 Q. Okay.

4 A. And I think it's just instinct because at that
5 point, you know, the police blocked the exit, you cannot
6 come out. I mean, there was an emergency with stairs
7 (verbatim).

8 Q. Okay.

9 A. But it would have never occurred to me to go the
10 opposite way of the police. Like, why would I do that?
11 They will keep me safe.

12 Q. Okay.

13 A. As soon as I went to them, they shielded us
14 because they had shields and, you know.

15 Q. Okay.

16 A. And they asked me why are you here? I'm like,
17 he's shooting at us. Like, he's, he's shooting --

18 Q. Okay.

19 A. -- us. So...

20 Q. Okay. And so, the officers put you behind the
21 shields, you and your daughter behinds the shields --

22 A. Yes.

23 Q. -- to protect you --

24 A. Yes.

25 Q. -- is that right?

1 A. Yes, yes.

2 Q. Okay.

3 A. Yes.

4 Q. Were they eventually -- did the officers
5 eventually get you kind of like the lobby area and kind of
6 do a brief interview with you?

7 A. Yes. Yes, yes, they did even upstairs when I came
8 out when they were, you know, when I was all behind them
9 like, you know, they took us away from the elevator but
10 still on the floor. And then they asked me questions, my
11 name, what I know about -- if I've seen him before. And I
12 think (indiscernible) saying the police -- to the police
13 officer, they, they because the only memory I have is of the
14 people on the moving day.

15 Q. Okay.

16 A. It was multiple people coming in and out. But the
17 movers were also among them. So I was like, okay. You
18 know, because at that moment I think they were asking me
19 more questions about who is next door to me. So I think
20 they were sure where it was coming from. And when I went to
21 the lobby, that's where I saw everybody was there except us.
22 So we were the very last people coming out.

23 Q. Okay.

24 A. So...

25 Q. So there were a bunch of other residents that were

1 already in the lobby when you came down?

2 A. On my floor, yeah. The people from my -- because
3 I know them by face --

4 Q. Okay.

5 A. -- even if I didn't know by name.

6 Q. Okay. At any point did you or your daughter
7 scream help during the incident --

8 A. No, no.

9 Q. -- while you were in the apartment?

10 A. No, no, no.

11 Q. Okay.

12 A. Because to me it's like, if he hears us, like,
13 because I don't know who is shooting but to me it's like we
14 have to be as quiet as possible.

15 Q. Okay.

16 A. Yeah.

17 Q. Did you hear any arguments or yelling --

18 A. No.

19 Q. -- during the incident?

20 A. Nuh-uh.

21 Q. Okay. Did you hear anyone say help during the
22 incident?

23 A. No.

24 Q. Okay. After the police took your statement and
25 they -- did they tell you that they were going to have to

1 process your apartment --

2 A. Yes, yes.

3 Q. -- possible evidence?

4 A. And I gave them my permission to go in, yes.

5 Q. Okay. And did they, did they provide you a hotel
6 room for you and your daughter --

7 A. They did.

8 Q. -- to stay that night?

9 A. They did, they did.

10 Q. Okay.

11 A. At the Marriott Hotel.

12 Q. Okay. Let me ask you this, [redacted], during
13 this incident on January 14th, 2024, were you scared?

14 A. (Laughs) Yeah because my life could have ended
15 right there.

16 Q. Okay. Were you scared for yourself and your
17 daughter?

18 A. Yes, yes.

19 Q. Okay. Were you scared that you or your daughter
20 could sustain serious physical injury or death?

21 A. Yeah.

22 Q. Okay.

23 A. Yes, absolutely, yes.

24 Q. [Redacted], I don't have any additional questions
25 for you. I'm going to ask -- see if the grand jury does,

1 okay?

2 A. Okay.

3 MS. KYLE-CASTELLI: Okay. Does anybody have any
4 question for [redacted]?

5 (No audible response.)

6 MS. KYLE-CASTELLI: Okay.

7 Thank you very much, [redacted].

8 THE WITNESS: Okay.

9 MS. KYLE-CASTELLI: You may, you may leave now.
10 We're going to go ahead and close off Webex.

11 THE WITNESS: Okay. Thank you.

12 MS. KYLE-CASTELLI: Thank you.

13 And we can go off the record.

14 (Whereupon, the proceedings ended at 3:52 p.m. on
15 March 15, 2024.)

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C E R T I F I C A T E

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I hereby certify that the proceedings set forth in the above-entitled matter were reported by audio recording; that thereafter I caused the said audio recorded notes to be transcribed into the foregoing transcript and the foregoing 26 pages constitute a full, true and accurate transcript of the proceedings as noted herein.

April 1, 2024



Jacqueline Bryant
Official Transcriber

Within this transcript of proceedings, some of the names and/or technical terms are spelled phonetically, inasmuch as exhibits, files and support documentation were not made available to us for reference.