

INTERVIEW WITH DTY. DAMIGO

Q=Sgt. McAllister #1706

Q1=Woman

Q2=Man

A=Dty. Damigo

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

Q2: (Unintelligible).

Q1: Yeah. I - I - I'm like, you have to put it right here in the pocket. You don't like the pen? I love the pen.

Q: Uh, you know what, this one I...

Q2: I like that.

Q: This one actually came from, uh, when she went to China or Hong Kong or something.

Q2: (Unintelligible)

Q: Yeah.

Q2: That would be Japanese.

Woman: Yeah. I - but I don't use it. See?

Q: (Unintelligible)

Q2: How you doing?

A: Good.

43 Q1: Hi. Nice to see you.
44
45 A: Good to see you. How you doing?
46
47 Q1: This is like the gold-plated ones.
48
49 Q2: Well, I want one.
50
51 Q1: I'm very gangster. That's what my Oakland clients say.
52
53 Q: I've never seen the full gold color. I just go with the black. All right.
54 (Unintelligible) All right. I don't have the time (unintelligible).
55
56 Q2: 9 o'clock.
57
58 Q: All right. It is August 6 now at 9 o'clock. Sergeant McAllister, Sergeant
59 (Alames), from (Unintelligible), Deputy Mike
60 Amigo. Uh, this involving case 10-202-0038E, Edward. Um, Deputy Damigo,
61 you understand, um, this is still a voluntary statement. I've asked you to come
62 back in, um, clarify a couple of things and do some follow-up questions. Uh, I
63 have talked to, um, about that. Have you had time to talk to
64 her and you understand why we're here today?
65
66 A: Yes I have and yes I do.
67
68 Q: Okay. Compound question, huh? Um, so we'll try to make this as short as
69 possible. Um, one of my questions, and, uh, I apologize for making you come
70 back in, that I didn't do this the first time. But when you, uh, how are your
71 magazines loaded that day? How many - do you know how many, um, rounds
72 were in each magazine?
73
74 A: 30.
75
76 Q: 30 in everything?
77
78 A: Yes.
79
80 Q: Okay. Um, was there one in the chamber plus the 30 in the magazine? Or was
81 it just the 30?
82
83 A: Um, just the 30 and then take one off the top - top number.
84

85 Q: Okay. So it wasn't like what we do with our handguns where we load 15, put
86 one in the chamber, and then we load 15?
87

88 A: No.
89

90 Q: It would just then straight 30?
91

92 A: Just straight 30.
93

94 Q: Okay, okay. And how many magazines did you have on you that day?
95

96 A: One in the weapon, three on my chest tray, and I'm trying to think if I had any
97 more in my backpack. I don't think I did.
98

99 Q: Okay.
100

101 A: So a total of four.
102

103 Q: All right. Um, are there any modifications or have any modifications been
104 made to that weapon, um, from when you got it by you or anyone?
105

106 A: From when it was originally issued?
107

108 Q: Yes.
109

110 A: Yes.
111

112 Q: Okay. What were those modifications?
113

114 A: Um, all authorized by the Range Masters. Uh, I had a class- one of the original
115 classical stocks put back on.
116

117 Q: Okay.
118

119 A: I had what we refer to the Army carrying handle.
120

121 Q: Okay.
122

123 A: On top, had that removed. It's got a flat rail.
124

125 Q: Okay.
126

127 A: A military, or a (Unintelligible) rail.
128
129 Q: Okay.
130
131 A: And, I have a - an ACOG 4x32 scope on it.
132
133 Q: Okay.
134
135 A: And I've had, um, new handguards put on. They have rails...
136
137 Q: Okay.
138
139 A: ...that allow- allowed me to mount my light in a little different manner, and
140 also they have a forward, uh, a little folding grip in the front.
141
142 Q: Okay.
143
144 A: Uh, magazines all have, well that's not true. Yeah, magazines have a rubber
145 mag pull.
146
147 Q: Okay.
148
149 A: To allow a quicker magazine change if you need to.
150
151 Q: Okay.
152
153 A: Oh, or at least so you don't drop it when you pull it out.
154
155 Q: Okay.
156
157 A: Um, don't believe there's any other modifications to it.
158
159 Q: Okay. And you said those have all been okayed by the Range Master here at
160 the Sheriff's Office?
161
162 A: Yes.
163
164 Q: Okay. Um, okay. Back to the incident. At any time, um, during your
165 encounter with the suspect, did you ever see - hear him make any, um, noises
166 or did he ever say anything? Do you remember him saying anything or
167 making any sou- noises, sounds?
168

169 A: The - the first time - the first time I heard any sound, talk, or noise come from
170 him was when (Doug) (Unintelligible) and I had come in from the top...
171

172 Q: Okay.
173

174 A: ...to try to find him. Um, as soon as I saw him, I started issuing commands.
175 And I heard him, but I don't know if it was - I don't know if it was like a
176 moaning or - or what, or if it was, um, like lung wheezing noises or
177 something.
178

179 Q: Okay.
180

181 A: Uh, but other than that I didn't - he didn't say anything.
182

183 Q: Okay.
184

185 A: I never heard him say anything.
186

187 Q: Okay. And when you hear the moaning or the wheezing, you said that's kind
188 of as soon as, uh, you kind of see him for the first time (unintelligible) when
189 you were and (Doug) (Unintelligible) are looking for him.
190

191 A: Mm-hm.
192

193 Q: Uh, do you hear that the entire time you're up there, or does it stop at some
194 point?
195

196 A: It was kind of intermittent. It wasn't all the time.
197

198 Q: Okay. Okay.
199

200 A: Th- that's my recollection. I don't think he made that noise the whole time.
201

202 Q: Okay. That's fine. Um, and when, uh, you fired your rounds at the suspect,
203 what is your, uh, stance - or position? Are you standing, kneeling, prone?
204

205 A: Standing, um, a little crouched over. I was - I had my rifle at, uh, high ready at
206 that time.
207

208 Q: Okay.
209

210 A: Uh, so it was kind of a crouched position. It was really difficult because it was
211 really steep.

212
213 Q: Okay.

214
215 A: And the footing was really atrocious, but it was - it wasn't - I wasn't I'm
216 standing straight up. I was more crouched.

217
218 Q: Okay. And is that how you were during the entire time that you were
219 shooting? Did it ever change?

220
221 A: No, it didn't change.

222
223 Q: Okay. Okay, um and did you see any of your rounds impact anywhere?

224
225 A: Yes. Yes I did.

226
227 Q: Okay. And where did you see them impact?

228
229 A: Lower abdomen area.

230
231 Q: Okay. And how many of those rounds did you see impact?

232
233 A: I don't remember how many I fired. I think I fired - I think I fired three.

234
235 Q: Three?

236
237 A: Pretty sure I fired three.

238
239 Q: Okay. And you saw all of them impact or just some of them?

240
241 A: Pretty much all of them, I think.

242
243 Q: Okay. And how did you see them? I mean were you looking through, like, up
244 and above, or did you see it from where you were in your gun? How w- w...

245
246 A: Well, I was pointing my rifle down at him, and when it got to the point where
247 he had, well I - I thought he had what appeared to be too much control over
248 that weapon ...

249
250 Q: Mm-hm.

251

252 A: And it looked like it was becoming, it was becoming a threat to me and
253 (Doug). And I don't know who else might have been coming up the hill
254 behind us, or whatever. Uh, that's when I decided to go ahead and fire.
255

256 Q: Right.
257

258 A: (Unintelligible) issuing commands and I fired, um, and - and, um, you're
259 talking about the impact area?
260

261 Q: Yeah, I mean.
262

263 A: I believe I could see al- all three hit.
264

265 Q: Okay.
266

267 A: I was looking down over the top of my, it was too close, it was like 15 feet
268 away.
269

270 Q: Right.
271

272 A: And so it's too close to use a four-power scope...
273

274 Q: Okay.
275

276 A: ...and I was looking over the top of my rifle. Um, there is - there's the problem
277 of pointing downhill. I start yelling. And I don't know if - I don't remember if
278 I - if I said this in the original interview, as - as I was coming up to the top and
279 I realized that I'm - I'm getting really close to this guy and I may have to, I
280 may have to go ahead and engage him, uh, due to whatever threat that I might
281 see. But I mean, at the time I hadn't decided that yet because he was still kind
282 of moving around. I'd just seen the guy and I don't know who's in the creek
283 right below us.
284

285 Q: Mm-hm.
286

287 A: And so, as I knew I was getting really close, I yelled it out over the radio,
288 "Danger close in the creeks. Danger close in the creek."
289

290 Q: Okay.
291

292 A: Okay. Which meant the guys to get - get down there because it was such a
293 steep slope, if one of my rounds had hit a rock or a hard piece of dirt, it could
294 - it could ricochet.
295
296 Q: Okay.
297
298 A: And so - but I had a mechanical lock set on my rifle.
299
300 Q: Okay.
301
302 A: And the scope's way up here, the center bore is down here, and I was pointing
303 at what I believed was kind of in the chest area. But if I aim too high, that
304 makes the angle a whole lot closer to the side of the hill, more of a chance for
305 ricocheting. So I was trying to aim it as low as I can, but still be effective.
306
307 Q: Okay.
308
309 A: Um, so the impact looked - looked like they were maybe above the belt or at
310 the belt area.
311
312 Q: Okay. And did, uh I remember during our first interview, you said at some
313 point he kind of lifted his head off the ground. Did any other part of his body
314 come off the ground?
315
316 A: Yeah, his left arm.
317
318 Q: Okay.
319
320 A: He - he - he - he reached over like he was searching for the rifle, then come
321 back over like this, and then - and then his hand kept going up, well, two or
322 three times behind his head.
323
324 Q: Mm-hm.
325
326 A: And because of the slope, you know (Doug) even said it before I did. He says
327 - he said, "Be careful, he might have a pistol back there."
328
329 Q: Right.
330
331 A: Because everything was going downhill.
332

333 Q: Right.
334
335 A: And so if it fell out of his pants as he fell or dropped or - or whatever, I was
336 worried that he might have a pistol back there.
337
338 Q: Right.
339
340 A: And so, but his - his arm would go like this, and - and then come back over.
341 He'd go back over and reach for the rifle, or at least what I believed that he
342 was reaching for the rifle. Come back like this, and then he'd come back here
343 like he was - like he was trying to grab something.
344
345 Q: Okay.
346
347 A: And was always going kind of back to that same spot. But that's the only
348 movement I saw.
349
350 Q: Okay.
351
352 A: Other than him trying to lift his head once.
353
354 Q: Okay, okay. So - so no other extremities other than the left arm, feet, legs,
355 other, right arm?
356
357 A: I think - I think after I shot him...
358
359 Q: Mm-hm.
360
361 A: I think one leg kind of slid back up. Kind of - kind of like - kind of pulled it
362 up a little bit and set it back down.
363
364 Q: Okay.
365
366 A: I don't think there was much movement from that time.
367
368 Q: Okay. And that, would you - you demonstrated that with your right leg?
369
370 A: With my right - so you see - I think it was his left. I'm trying to get a picture of
371 it. I think he - he moved his left leg back once and then set it back down again.
372
373 Q: Okay. Okay. But you think that was after you fired your rounds or before?
374

375 A: I believe it was after.
376
377 Q: Okay. (Unintelligible) (Fred)?
378
379 Q2: No.
380
381 Q: We're good? That's all, I guess.
382
383 A: That's it?
384
385 Q: That was it.
386
387 A: Okay.
388
389 Woman: Thank you very much.
390
391 Q: Thank you for coming in. I appreciate it very much.
392
393 A: (Unintelligible) thought there would be a reason that (unintelligible).
394
395 ((Crosstalk))
396
397 Q1: (Unintelligible) on Monday.
398
399 Q: I know.
400
401 Q1: So that's good.
402
403 Q: I heard. I'm very glad. Mm-hm. Okay. So (unintelligible).
404
405 Q1: Well, I'll talk - I'll...
406
407 Q: Do you want to talk to him?
408
409 Q1: I'll walk him out.
410
411 Q: Okay.
412
413 Q1: And then, if, um, I'll just leave my stuff here if that's all right.
414
415 Q: Absolutely fine. We like to think we (unintelligible).
416

417 Q1: Oh my...

418

419 ((Crosstalk))

420

421 Q: If not we're going to start looking at you, (Fred).

422

423

424 This transcript has been reviewed with the audio recording submitted and it is an accurate
425 transcription.

426 Signed _____