

No. CR-14-15136

THE PEOPLE OF THE STATE
OF LONE STAR,

Prosecution,

v.

PETE MITCHELL,

Defendant.

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IN THE DISTRICT COURT

IN AND FOR

THE COUNTY OF LONE STAR

Prepared by:

**Pamela Robillard Mackey
Haddon, Morgan and Foreman, P.C.
150 E. 10th Avenue
Denver, CO 80203**

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This case file was commissioned by the Texas Young Lawyers Association and was prepared by Pamela Robillard Mackey for the 2015 National Trial Competition

Statement of the Case

This is a criminal action against Pete Mitchell for assault in the first degree and disorderly conduct. The People of the State of Lone Star allege that on or about October 2, 2014, Pete Mitchell assaulted William James with a deadly weapon to wit, a flashlight, causing serious bodily injury, and that Mitchell engaged in disorderly conduct.

Witnesses:

For the Prosecution:

1. William James, decorated Iraq War veteran and named victim.
2. Jeri McNulty, investigating officer for the Lone Star Police Department.

For the Defense:

3. Pete Mitchell, the defendant, who will testify on his own behalf.
4. Kelley Bradshaw, an eye witness and friend of the defendant's.

<p>THE PEOPLE OF THE STATE OF LONE STAR,</p> <p>Prosecution,</p> <p>v.</p> <p>PETE MITCHELL,</p> <p>Defendant.</p>	<p>§ § § § § § § § § §</p>	<p>IN THE DISTRICT COURT</p> <p>IN AND FOR</p> <p>THE COUNTY OF LONE STAR</p>
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COMPLAINT AND INFORMATION

TWO CHARGES:

COUNT 1: ASSAULT IN THE FIRST DEGREE

COUNT 2: DISORDERLY CONDUCT—FIGHTING

Karen Deming, District Attorney for the First Judicial District of the State of Lone Star, in the name and by the authority of the People of the State of Lone Star, informs the Court of the following offenses committed, or triable, in the City and County of Lone Star.


COUNT 1: ASSAULT IN THE FIRST DEGREE

That on or about October 2, 2014, Pete Mitchell, with intent to cause serious bodily injury to another person, unlawfully and feloniously caused serious bodily injury to William James by means of a deadly weapon, to wit: a flashlight, in violation of LSRS § 18-3-202(1)(a).

COUNT 2: DISORDERLY CONDUCT

On or about October 2, 2014, Pete Mitchell did unlawfully and knowingly or recklessly fight with William James in a public place, not in an amateur or professional contest of athletic skill, in violation of LSRS § 018-9-106(d)(1).

DATED: October 6, 2014



Karen Deming
Office of the District Attorney for the
First Judicial District
State of Lone Star

WITNESS AND EXHIBIT LIST

WITNESSES:

1. Pete Mitchell, defendant (must be male)
 2. Kelley Bradshaw, eyewitness and casual friend of Mitchell (may be male or female)
 3. William James, the victim (must be male)
 4. Jeri McNulty, investigating officer (may be male or female)
 5. JT Sanborn will appear via preliminary hearing testimony, having re-located to Uzbekistan to work for Blackwater Agency
-

EXHIBITS:

1. Photograph - Flashlight which measured 30 inches in length
2. Schematic drawn by McNulty
3. Photograph – Overhead view of 7-Eleven and surrounding area
4. Photograph – Front of 7-Eleven Store
5. Photograph – Front of First Bank
6. Photograph – Mitchell's left leg
7. Photograph – Mitchell's left leg
8. Photograph – Mitchell's left leg
9. Schematic drawn by McNulty redrawn by Mitchell
10. Medical records
- 11-A Photograph – James' injuries
- 11-B Photograph – James' injuries
12. Physician's Report
13. Specifications for 2013 Audi A4 Station Wagon
14. Specifications for 2014 Chevy Silverado Truck

STIPULATIONS AS TO EVIDENTIARY MATTERS

Procedural Matters

1. Federal Rules of Criminal Procedure and Federal Rules of Evidence apply.
2. All witnesses called to testify have identified the parties, other individuals, or tangible evidence in prior testimony and will, if asked, identify the same at trial.
3. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.
4. This competition does not permit a listed witness, while testifying, to "invent" an individual not mentioned in this problem and have testimony or evidence offered to the court or jury from that "invented" individual.
5. "Beyond the record" shall not be entertained as an objection. Rather, teams shall use cross-examination as to inferences from material facts pursuant to National Rules 7.4(C), (D), (E) and (F), and 8.5. Any party wishing to file a complaint concerning a violation of this rule shall use the procedure found in Rule 8.3.
6. The State and the Defendant must call the two witnesses listed as that party's witnesses on the witness list.
7. All exhibits in the file are authentic. In addition, each exhibit contained in the file is the original of that exhibit unless otherwise noted on the exhibit or as established by the evidence.
8. All confrontation clause objections have been raised pretrial and have been overruled.

9. It is stipulated that no one shall attempt to contact the problem drafter about this problem before the conclusion of the 2015 National Trial Competition Final Round. Contact with the competition officials concerning this problem must be pursuant to the rules of the competition.

10. 2015 is the year in which this case comes to trial.

11. Presentation and argument on pretrial motions shall be limited to a total time of sixteen minutes divided equally between the parties as follows: (1) the State shall have four minutes to present any pretrial motions; (2) the defendant shall have four minutes to respond to the State's motion(s); (3) the defendant shall have four minutes to present any pretrial motions; and (4) the State shall have four minutes to respond to the defendant's motion(s).

12. This competition permits teams to argue additional case law and other relevant authority to support the team's argument on motions and evidentiary issues. However, no additions or deletions are permitted to the provided jury instructions or to the jury verdict form.

Substantive Matters

1. Lone Star Revised Statute § 18-1-501 provides:

The following definitions are applicable to the determination of culpability requirements for offenses defined in this code:

(1) "Intentionally" or "with intent". All offenses defined in this code in which the mental culpability requirement is expressed as "intentionally" or "with intent" are declared to be specific intent offenses. A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the statute defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

(2) “Knowingly” or “willfully”. All offenses defined in this code in which the mental culpability requirement is expressed as “knowingly” or “willfully” are declared to be general intent crimes. A person acts “knowingly” or “willfully” with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts “knowingly” or “willfully”, with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

(3) “Recklessly”. A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

(4) “Criminal Negligence”. A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

2. Lone Star Revised Statute § 18-3-202(1)(a) provides:

18-3-202. Assault in the first degree (a felony with a mandatory prison sentence)

(1) A person commits the crime of assault in the first degree if:

(a) With intent to cause serious bodily injury to another person, he causes serious bodily injury to any person by means of a deadly weapon.

3. Lone Star Revised Statute § 18-9-106(1)(d) provides:

(1) A person commits disorderly conduct if he or she intentionally, knowingly, or recklessly:

....

(d) Fights with another in a public place except in an amateur or professional contest of athletic skill; or

4. Lone Star Revised Statute § 18-1-704 provides:

18-1-704. Use of physical force in defense of a person

(1) Except as provided in subsections (2) and (3) of this section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

(2) Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and:

(a) The actor has reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury; or

(3) Notwithstanding the provisions of subsection (1) of this section, a person is not justified in using physical force if:

(a) With intent to cause bodily injury or death to another person, he provokes the use of unlawful physical force by that other person; or

(b) He is the initial aggressor; except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the use of unlawful physical force; or

(c) The physical force involved is the product of a combat by agreement not specifically authorized by law.

(4) In a case in which the defendant is not entitled to a jury instruction regarding self-defense as an affirmative defense, the court shall allow the defendant to present evidence, when relevant, that he or she was acting in self-defense. If the defendant presents evidence of self-defense, the court shall instruct the jury with a self-defense law instruction. The court shall instruct the jury that it may consider the evidence of self-defense in determining whether the defendant acted recklessly, with extreme indifference, or in a criminally negligent manner. However, the self-defense law instruction shall not be an affirmative defense instruction and the prosecuting attorney shall not have the burden of disproving self-defense. This section shall not apply to strict liability crimes.

CRIMINAL FILING

Police Agency: LONE STAR POLICE DEPT. _____ Summons (with blank affidavit)
Police Case No. 14-2700 _____ Warrant (with probable cause affidavit)
Investigating Officer: J. McNulty Warrantless Arrest

Bond Amount: \$15,000 Bond Return Date: FILING

MITCHELL PETE MICHAEL
Last Name First Name Middle Name

AKA/ Nickname: _____

Address: 1510 LITTLE RAVEN UNIT D LONE STAR 80202
(indicate full mailing and physical address)

DOB: 01-31-80 Date of Arrest: 10-2-14

Sex: M Race: W Hgt: 4'02 Wgt: 175 Hair: BRO Eye: BLU

Place of Birth: CALIFORNIA Soc. Sec. No. 312-48-1234

Driver's License No. 99-011-7054 FBI No. 825062WB7

Local Arrest No. _____ SID No. 8413702

If a Juvenile: Name of Parent/ Guardian: _____

Relationship: _____

Address: _____

INCIDENT /INVESTIGATION REPORT

Lone Star Police Department

OCA: 2014-002700

EVIDENCE:

1. A black metal Mag Lite flashlight 30 inches in length.
2. Digital photographs victim.

WITNESSES:

1. Officer Jeri McNulty can testify to the contents of the report and statements made by the witnesses.

BACKGROUND:

On 10/02/14 at approximately 0211 hours, I was driving my patrol vehicle eastbound on the North Frontage road when I observed a vehicle with its headlights on and all of its doors open in the parking lot of First Bank and 7-Eleven, located at 2271 North Frontage Road, facing south. Additionally, I noticed a large group of people moving around outside of the vehicle. I further observed a large red truck parked perpendicular, eastbound to the south-facing vehicle, blocked into the parking lot of 7-Eleven and First Bank.

OBSERVATION/INVESTIGATION:

I pulled into the entrance of the parking lot and observed two males, later identified as William James and Pete Mitchell, wrestling. I exited my patrol vehicle, announced myself as a Lone Star Police officer, and separated Mitchell and James. At that time, I observed James had a severe laceration running vertically on the left side of his forehead, which was bleeding profusely down his face. Additionally, James's left eye was red, beginning to turn purple, and was swollen shut. James was holding his face as I assisted him over by my patrol car and told everyone else not to move. I then told James to go sit by the curb in front of the First Bank. There was blood all over the ground, and I had numerous people trying to talk to me at once.

I requested cover officers to respond and additionally requested an ambulance to respond to the scene for James. At that time, I observed a large metal flashlight lying on the ground in front of the left front driver's side tire of a gray Audi station wagon, later identified to belong to Mitchell. I picked up the flashlight for my safety and placed it into the left cargo pocket of my uniform pants.

Several parties approached me stating that James had been struck with a flashlight by the guy with the beard. Two people pointed out the individual with the beard they identified as striking James with the flashlight as Mitchell. Additionally, Mitchell was the individual I separated from James when I arrived on scene.

Mitchell was wearing a dark colored hooded sweatshirt, which had blood all over the front of it. Additionally, his shoes and the front of his blue jeans were also covered in blood as well as his hands. I assisted James in holding a roll of gauze against the major laceration on his forehead, not noticing the other lacerations in his scalp at that time.

I then went over to Mitchell at which time I could see that he had blood on his hands. Mitchell had a large amount of blood on the sweatshirt that he was wearing as well as on his pants and his shoes. I smelled an odor of an alcoholic beverage on his breath and his eyes were glassy.

I asked Mitchell to tell me what happened. He stated that while he was in the store he knocked over some iced tea by accident and that a guy with a neck tattoo started yelling at him. Mitchell stated as he was trying to leave a party, later identified as James, and his friend continued to talk shit. Mitchell stated

INCIDENT / INVESTIGATION REPORT

Lone Star Police Department

OCA: 2014-002700

that he got into his vehicle and was trying to leave. I asked Mitchell if he was driving the vehicle. Mitchell stated "No. No I wasn't driving. I was in the passenger's seat." Mitchell then stated that he began to pull his vehicle out. I then asked Mitchell if he was driving. He again said, "No." I told Mitchell that he had just told me that he began to pull the vehicle out. He stated, "No, no. I was in the passenger's seat. It was my friend that was driving. I don't have a driver's license."

Mitchell stated that James and his friends then continued to holler things at him. I asked Mitchell again what they were hollering. He states, "Just shit." Mitchell stated that he then got out of the car and put his hands in the air and said, "What?" Mitchell stated that James then came over and started swinging punches at him. Mitchell then stated, "I'm not going to lie to you. I hit him, yeah, I hit him." Mitchell said I was trying to defend myself. I was punching James with my fists and elbows.

I asked Mitchell who the flashlight belonged to. Mitchell asked, "What flashlight?" At that time, I told Mitchell that James had been hit with a flashlight. Mitchell stated, "No, no. I didn't have a flashlight. I don't own a flashlight." Mitchell said, "I hit him with my fists and elbows." He stated, "I know how to fight, that's why I used my elbows. But I didn't have a flashlight."

I then asked Mitchell where all the blood had come from that was on his sweatshirt. Mitchell asked, "What blood?" He then looked down on his sweatshirt and saw that it was soaked with blood. Mitchell said, "Oh, gross. Can I take this off?" At that time, Mitchell removed the sweatshirt. I took the sweatshirt and placed it on the push bumper of my patrol vehicle to dry. Mitchell again stated, "I just used my fists and my elbows. I really know how to fight."

I then asked Mitchell where his car was. He pointed to a black Audi that was parked in the last parking space on the north side in front of Bullcrabs. He said that's my car. Mitchell then said someone moved my car to that space. I asked him who. He said, "I don't know, but it was moved."

A short time later, the ambulance and fire trucks arrived and transported James to the hospital due to the severity of his injuries. I placed Mitchell into custody and transported him to the Lone Star Police Department after taking photographs and gathering statements from other witnesses.

After transporting Mitchell to the Lone Star Police Department, I drove to the Lone Star Medical Center. When I arrived, James was receiving x-rays to determine if he had any cranial or internal brain injuries. When James returned to the emergency room, the doctor informed me that he had a fracture of the upper orbital (eye socket) above his left eye, in addition to three severe lacerations on his head. The doctor told me he used 21 external stitches and numerous internal stitches to close three wounds. I took photographs of James's injuries. James's left eye was completely black and swollen shut.

I asked James what had happened once he had stabilized and received his stitches. James told me that he was inside 7-Eleven with JT Sanborn when Mitchell knocked over an iced tea. James told me that he told Mitchell to pick it up and Mitchell began making comments towards him, which he did not remember. James told me that Mitchell left. James also left the store and got into his truck which Sanborn was driving. James told me that their exit was blocked by Mitchell's Audi, and at that time, James exited the truck, asking Mitchell to move his car. James told me he walked around the front of Mitchell's car, requesting him to move his vehicle, and Mitchell merely stayed talking on the phone, motioning in a provoking manner. James told me that he never saw a flashlight. He just knew he was hit immediately and felt a lot of heat on his head and felt the cut open up. He told me at that point he felt the blood running down his face and just grabbed on to Mitchell and "held on for dear life." He told me that he did not remember the fighting or how many times he was hit in the head; however, he told me he knew he was hit numerous times.

INCIDENT /INVESTIGATION REPORT

Lone Star Police Department

OCA: 2014-002700

Once I had finished speaking to James, I issued him a summons for disorderly conduct and explained to him why I was issuing him the summons, indicating that it takes two people to fight. He told me that he agreed and wasn't looking for a fight; however, it just happened. James was finally released from Lone Star Medical Center at approximately 0545 hours. I returned to the scene of the crime to observe whether Mitchell's vehicle had any blood evidence on it. I observed on the passenger door of the driver's side of the vehicle, there was a blood smear; additionally, on the rear wheel of the driver's side, there was a blood drop.

I then returned to the police department where Mitchell was being held on a bond—Mitchell was being charged with first degree assault because he caused serious bodily injury with a deadly weapon in addition to a charge of disorderly conduct.

I drew a sketch of the scene as I found it. I took measurements on 10/02/14 at approximately 2200 hours. The sketch shows the location I found the flashlight at and where the Defendant's vehicle was moved to.

Disposition: OPEN _____ INACTIVE _____ CLEARED X ARREST X UNFOUNDED _____
SUMMONS _____ EXCEPTIONAL _____

Investigator Assigned:

Officer: McNulty

Unit: 229

Supervisor:

INCIDENT /INVESTIGATION REPORT

Lone Star Police Department

OCA: 2014-002700

SUPPLEMENTAL WITNESS INTERVIEW

On October 2, 2014, I spoke to a female party identified as Kelley Bradshaw while at the scene. Bradshaw said that she was going to 7-Eleven when she could not get into the parking lot. She said she parked over there pointing to Bull Crabs parking area. Bradshaw said that she began to walk toward 7-Eleven and realized that there was a fight. She said that some of her friends were involved.

Bradshaw said that she saw James throw a punch at her friend Pete Mitchell. She said that Mitchell avoided the punch and he was trying to defend himself and he punched back hitting James. Bradshaw could not say where James was hit. She then said that police arrived. Bradshaw said that she has seen many fights in Lone Star and she was normally sorry for the person who got hurt but said that James deserved everything he got. She said that he was egging Mitchell on. I asked how but Bradshaw was unable to tell me. I asked if she saw anyone with a flash light. She said no.

Disposition: OPEN _____ INACTIVE _____ CLEARED X ARREST X UNFOUNDED _____
SUMMONS _____ EXCEPTIONAL _____

Investigator Assigned:

Officer: McNulty

Unit: 229

Supervisor:

NO. 14789

UNIFORM SUMMONS & COMPLAINT OR PENALTY ASSESSMENT

THE PEOPLE OF THE STATE OF COLORADO VS: **SAUBORN JT** (First Middle) SSN: **01148530** V NUMBER: **2006** Date of Birth: **11/14/85** Age: **30** () Traffic () Penal Violation Mo. Day Yr: **10 08 14**

Defendant's Address: **6969 SHOCKER AVE LONESTAR** City: **LS** State: **TX** Zip: **75012** Direction of Travel: **0211** Appra. () Yes () No

Driver's License Number and Type: **87-164-2022** State: **TX** Sex: **M** Height: **507** Weight: **160** Eyes: **BRO** Hair: **BRO** Home Telephone: **730-321-5111** County: **LONESTAR** No. **44**

Employer Name: **LONESTAR CATERING** Employer Address: **BAUQUETS** Business Telephone: Traffic Accident Injuries Involved () Yes () No () Yes () No

Vehicle License Number and Type: State: Vehicle Year: Make: Type or Body Style: Approximate Location of Violation, State or Location: () On _____ MILES FROM _____ () At Intersection With: _____

Vehicle Color (Top/Bottom): VIN: () On _____ MILES FROM _____ () At Intersection With: _____

YOU ARE SUMMONED AND ORDERED TO APPEAR TO ANSWER CHARGES AS STATED BELOW IN: **LONESTAR COUNTY COURT** ON **NOVEMBER 22, 2014 8:30**

Registered Owner (Name and Address) () Same as above: **LONESTAR COUNTY COURT**

42-4-1301 (1a) Code 800 D.U.I. 12 Points CAS 42-4-1101 () () Code 42-4-1409 (1) Code 854 Owner Operated Uninsured Motor Vehicle

42-4-1301 (1b) Code 801 D.W.A.I. 8 Points Speeding _____ MPH in _____ zone. 42-4-1409 (2) Code 856 Person Operated Uninsured Motor Vehicle

42-4-1501 (2a) Code 815 D.U.I. per se 12 Points \$ _____ Fine \$ _____ Surcharge _____ Points 42-4-1409 (3) Code 857 Failed to Present Evidence of Insurance

Check only one box - all are SUMMONS and 4 POINTS

SECTION	CODE	FINE \$	SURCHARGE \$	POINTS
12-9-106 Disorderly Conduct				
SECTION				

SECTION

NRVC ()	CUSTODIAL ARREST ()	FINGER PRINTED ()	CDL ()	CMCL VEH RED CDL INVOLVED ()	USDOT #	PLACARDED HAZ MAT ()	SURCHG. TOTAL \$	TOTAL TO BE PAID BY MAIL \$ (FINE AND SURCHARGE)

SUMMONS TRAFFIC INFRACTION () OFFENSE ()

Without admitting guilt, I promise to appear at the time and place indicated above.

DEFENDANT: **SAUBORN JT**

NOTICE: SEE INSTRUCTIONS ON REVERSE SIDE

THE UNDERSIGNED HAS PROBABLE CAUSE TO BELIEVE THAT THE DEFENDANT COMMITTED THE OFFENSE(S) AGAINST THE PEACE AND DIGNITY OF THE PEOPLE OF THE STATE OF COLORADO AND AFFIRMS THAT A COPY OF THIS SUMMONS & COMPLAINT OR PENALTY ASSESSMENT WAS SERVED UPON THE DEFENDANT.

SGT INITIALS: **McNULTY** DATE ISSUED: _____ MO. DAY YR: _____ OFFICER: **McNULTY** NO. **228**

THIS IS A LEGAL DOCUMENT READ BOTH SIDES

COURT

OR/CO

AR#04-002467
SUMMONS & RELEASE
 NO. 13653
 #35633 OR 04-2700

UNIFORM SUMMONS & COMPLAINT OR PENALTY ASSESSMENT

THE PEOPLE OF THE STATE OF COLORADO VS: SSN: ROAD CODE MILE POST

Defendant (Last Name) **JAMES WILLIAM** (First) (Middle) Date of Birth **07-04-79** Age **35** () Traffic (X) Penal Violation Mo. Day Yr. **10-02-14**

Defendant City **LS 8010** Direction of Travel Approx. Time of Violation

Driver's License Number and Type **92-469-7432** State **LS** Race **W** Sex **M** Height **59** Weight **174** Hair **BRN** Eyes **BRN** Home Telephone **303-987-4543** County **LS** No. **44**

Employer Name **US Army** Employer Address **LONE STAR** Occupation **ARMY** Business Telephone Traffic Accident () Yes (X) No (X) Yes () No

Vehicle License Number and Type State Vehicle Year Make Type or Body Style Approximate Location of Violation, State of Colorado
 () On **2271 N. FRONTIER RD. W**
 () At Intersection With

Vehicle Color (Top/bottom) VIN

YOU ARE SUMMONED AND ORDERED TO APPEAR TO ANSWER CHARGES AS STATED BELOW IN: Registered Owner (Name and Address) Same as above; or
LONESTAR COUNTY COURT ON NOVEMBER 22, 2014 at 8:30 AM

42-4-237 (2) Code Drove vehicle when safety belt not in use. 42-4-1101 () Code Speeding _____ MPH in _____ zone. 42-4-1409 (1) Code 954 Owner Operated Uninsured Motor Vehicle 42-4-1409 (2) Code 955 Person Operated Uninsured Motor Vehicle 42-4-1409 (3) Code 957 Failed to Present Evidence of Insurance
 (\$15 Fine \$2 Surcharge 0 Points) (\$ _____ Fine \$ _____ Surcharge _____ Points) Check only one box - all are SUMMONS and 4 POINTS

CHARGE(S)	CODE	FINE \$	SURCHARGE \$	POINTS
18-9-106 DISORDERLY CONDUCT				Summons
SECTION	CODE	FINE \$	SURCHARGE \$	POINTS

NRVC ()	CUSTODIAL ARREST ()	FINGER PRINTED ()	CDL ()	CMCL VEH REC CDL INVOLVED ()	CMV USDOT #	PLACARDED HAZ MAT ()	SURCHG TOTAL \$	TOTAL TO BE PAID BY MAIL \$ (FINE AND SURCHARGE)		
SUMMONS				TRAFFIC INFRACTION ()	OFFENSE (X)	PENALTY ASSESSMENT		TRAFFIC INFRACTION ()	OFFENSE ()	MAILED ()

Without admitting guilt, I promise to appear at the time and place.

DEFENDANT: **James William** NOTICE: SEE INSTRUCTIONS ON REVERSE SIDE

My signature is a promise to pay this penalty assessment within 20 days. With payment, I acknowledge guilt of all charges listed above and understand that the points indicated will be assessed against my driver's license. If I do not pay, my signature is a promise to appear in court.

DEFENDANT: **James William** NOTICE: SEE INSTRUCTIONS ON REVERSE SIDE

THE UNDERSIGNED HAS PROBABLE CAUSE TO BELIEVE THAT THE DEFENDANT COMMITTED THE OFFENSE(S) AGAINST THE PEACE AND QUIET OF THE PEOPLE OF THE STATE OF COLORADO AND AFFIRMS THAT A COPY OF THIS SUMMONS & COMPLAINT OR PENALTY ASSESSMENT WAS SERVED UPON THE DEFENDANT.

DISTRICT _____ PATROL _____ DATE ISSUED **10 02 14** OFFICER **McNULTY** NO. **228/22a**

THIS IS A LEGAL DOCUMENT READ BOTH SIDES

COURT

OFFICER

Manufactured by Alexander Clark Graphics - Boise, Idaho - (208) 382-0811

*****CRIMINAL HISTORY*****

DATE OF OFFENSE	10/02/2014
AGENCY	CO00070200 PD LONE STAR
NAME USED	JAMES, WILLIAM
DOB	7/4/1979
CHARGE	01
CHARGE LITERAL	DISORDERLY CONDUCT
TYPE/LEVEL	MISDEMEANOR
COURT DISPOSITION	GUILTY
DISPOSITION DATE	NOVEMBER 22, 2014
SENTENCE	PROBATION - 6 MOS
SUMMARY	DEF PLED GUILTY TO DISORDERLY CONDUCT

*****CRIMINAL HISTORY*****

DATE OF OFFENSE	10/02/2014
AGENCY	CO00070200 PD LONE STAR
NAME USED	SANBORN, JT
DOB	1/14/85
CHARGE	01
CHARGE LITERAL	DISORDERLY CONDUCT
TYPE/LEVEL	MISDEMEANOR
COURT DISPOSITION	GUILTY
DISPOSITION DATE	NOVEMBER 22, 2014
SENTENCE	PROBATION - 6 MOS
SUMMARY	DEF PLED GUILTY TO DISORDERLY CONDUCT

Testimony of JT Sanborn at the Preliminary Hearing in People v. Mitchell. January 7, 2015, in the County Court for the City and County of Lone Star. The Honorable Judge Maggi presiding.

Prosecutor Taylor (PT)	Good morning, please introduce yourself to the Court.
JT Sanborn (JTS)	My name is JT Sanborn.
PT	Where do you live, Mr. Sanborn?
JTS	Right here in Lone Star.
PT	What do you do for a living?
JTS	Right now I am unemployed. I was just recently honorably discharged from the Unites States Army and I am looking for work.
PT	How long were you in the Army?
JTS	10 years.
PT	Did you see combat?
JTS	Yes, I was deployed to Iraq three times. I was a troop commander in a Calvary squadron and was responsible for 100 guys and a variety of missions. Willy and I were together a lot.
PT	Did you receive any recognition for your service?
JTS	Yes, I have been awarded the Purple Heart and the Bronze Star. I received the Bronze star for the same battle as Willy. We both got ours for the same fight.
PT	I would like to talk about the events of October 2, 2014.
PT	Where were you that day?
JTS	Well, Willy and I were right here in Lone Star. We had gone to a high school football game, our friend is the coach and then we went out drinking. I was the designated driver so I did not drink.
PT	Did there come a time when you went to the 7-11 on the Frontage Road here in Lone Star?
JTS	Yes.
PT	Please tell us about that.
JTS	Well, as I said, I was driving. So, Willy was in the passenger seat. I pulled into a parking space directly in front of the 7-11. Willy and I got out and went inside. We were there to get some food. There was this hippy-looking dude with long hair in the 7-11. There was something weird about him. He was being really aggressive, jawing with the cashier, just being a jerk. It was pretty obvious that the guy was drunk. After he paid, he knocked a bottle of iced tea that was sitting on the counter to the floor. It broke and made a real mess. The guy acted like nothing

	happened and started to leave.
PT	Do you see that man in the courtroom today?
JTS	Yeah – it's the guy sitting next to the big guy in the suit. He has on a Pink Floyd T-shirt and his hair is a lot shorter than it was last fall.
PT	Let the record reflect that the witness has identified the defendant, Pete Mitchell.
Judge Maggi	The record will so reflect.
PT	Did you eventually learn that the man you just pointed to is named Pete Mitchell?
JTS	Yeah, the police officer told me so that night. I remember the name because Top Gun is my favorite movie and the guy acted a little bit like that character, you know cocky.
PT	So, let's go back to the 7-11 now, Mr. Sanborn.
PT	After the defendant knocked over the tea, what happened next?
JTS	<p>Willy said, really politely, hey – you need to help clean that up. I guess he was feeling sorry for the poor girl behind the counter.</p> <p>That guy, Mitchell, mouthed off to Willy. I am not sure what he said but it was one of those things that would pull somebody into a fight.</p> <p>Willy talked back. Again, I can't remember exactly what was said, but Willy wasn't afraid of the guy but he wasn't provoking him either.</p> <p>Really it just seemed like a bunch of drunk people all around which didn't seem like an uncommon sight for the time and place. Somebody is always out there looking for a fight so this was no big deal.</p>
PT	What happened then?
JTS	<p>Well, we left the store and got into Willy's truck. I was driving; he was in the passenger seat.</p> <p>We started to leave and an Audi pulled out in front of us. The Audi stopped in the middle of the parking lot and blocked us from leaving the parking lot. I stopped the truck; we were both wondering what was going on. The Audi was stopped in the middle of the road.</p> <p>This is where it gets unusual. Willy got out of the truck and said that he was going to ask the guy to move. I also got out of the truck and we both walked toward the Audi. We walked around the front of the Audi and approached the driver's side of the Audi.</p> <p>Willy told the driver to move his car because we needed to get by. I don't recall the exact words. I saw that the guy in the Audi was the same hippy dude I saw inside that had knocked over the tea. He was talking on his cell phone. We knocked on his window and asked him to move. I can't</p>

	<p>remember what he said, but he basically said that he would move the car. He was really drunk and I didn't think he should be driving.</p> <p>We stood at the window for about a minute, Willy was doing all the talking for our side, because Willy and the driver were going back and forth: the driver was talking to somebody on the cell phone and then talking to us, well, really to Willy.</p>
PT	Then what happened?
JTS	Well after the dude agreed to move the car, I turned around and walked back around the front of the Audi toward the truck. Just as I passed the passenger side of the Audi and was walking toward the truck, I heard Mitchell hitting Willy in the head with the flashlight. It was a bad sound. I could see Mitchell hitting Willy in the head and I could hear metallic cracking on James's skull. I was really surprised by it because I thought everything was fine."
PT	What happened next?
JTS	<p>I ran around the front side of the car. Willy was near the driver's side of the car and the door was open. Willy had Mitchell in a bear-hug to protect himself.</p> <p>A bunch a people came running over and I started yelling at them to stay away and I think I pushed a couple of 'em to make sure they didn't get in the fight.</p> <p>Then the police pulled up. I don't remember if the cops physically restrained anybody or not. I know they pulled Willy off to the side.</p>
PT	Were you able to observe any injuries on Mr. James?
JTS	Oh, man yeah. I thought I was looking at Willy's brain hanging out of his skull. There was blood all over the place. The cops called an ambulance.
PT	Mr. Sanborn, who threw the first punch?
JTS	Well, I didn't really see everything, but I know it had to be that guy over there, Mitchell. No way would Willy do it. He is totally cool under pressure. I should know – we've been through major fire-fights together. 'Sides, there was no reason to fight, the guy said he was gonna move the car.
PT	If he had not moved the car, could you have left the parking lot?
JTS	No way, man. He was totally blocking it. Look, that guy, Mitchell, was aggressive and nasty. He was just looking for a fight. From inside the 7-11 to the parking lot.
PT	Anything else you want to tell the court Mr. Sanborn?
JTS	Yeah, Judge, I mean you gotta understand. Willy and me, we had just gotten back from Iraq when this happened. We were over there fighting this great nation's wars and keeping the world safe from terrorists. Iraq is unsafe everywhere. The whole idea of terrorism is to strike when you think you're the most protected and so when you think you're safest, you're probably the least safe. So, we learn to be careful and to protect ourselves. Walking around, constantly under attack, we learn to defend

	ourselves quickly and to anticipate any trouble. In fact, if the truth be told, I owe Willy my life. We got into a scrape with enemy fire and if it wasn't for Willy, I'd be dead.
PT	Thank you Mr. Sanborn. No further questions.
Judge Maggi	Cross?
Defense Counsel (DC)	Mr. Sanborn, Had Mr. Williams been drinking that night?
JTS	Yes.
DC	How much had he had to drink?
JTS	Not sure, but he was about as drunk as he gets when we play poker. I would say a 4 or 5 on a scale of 10 with 10 being trashed.
DC	And Mr. Mitchell told you that he would move the car.
JTS	Well yeah, but he didn't mean it. We were standing by the driver's side of the Audi for a really long time because Mitchell wouldn't pay any attention to us. He just kept talking on his cell phone.
DC	And Mr. Williams slammed the driver's side door shut on Mr. Mitchell as he was standing between the door and the car.
JTS	I don't remember seeing Willy shake or slam the care door. I don't remember him touching the door in any way.
DC	Isn't it true that Mr. James started this fight?
JTS	No way. Not true. Look, that dude over there, Mr. Mitchell as you call him, started this whole thing. He knocked the tea off the counter, refused to help the girl clean it up, totally blocked our way out of the parking lot and beat the hell out of my friend – my friend who, by the way, risked his life to keep that guy and every American citizen safe. No way man – it's all Mitchell's fault.
DC	I have no further questions.

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INVESTIGATION REPORT – CONFIDENTIAL WORK PRODUCT

NAME OF WITNESS	Kelley Bradshaw	SUBPOENAED	
DATE OF CONTACT	October 15, 2014	TAPED	No
		CLIENT CASE NO.	Pete Mitchell 04-15136

ADDRESS/LOCATION	Mailing: P.O. Box 3655, Lone Star Physical: 3062 Wildridge Road, Unit C, Lone Star
TELEPHONE NO.	970-390-9906
EMAIL ADDRESS	
DOB / SSN	September 8, 1977
TYPE OF CONTACT	Telephone interview

On the above date, I conducted a pre-arranged interview with Kelley Bradshaw. She clearly understands that I'm a private investigator working with the attorney who represents Pete Mitchell. I attempted to meet with Kelley in person when I was in Lone Star the previous week but she was too busy. She works three jobs and has limited availability.

Kelley Bradshaw stated the following:

- She is originally from Louisiana. She moved to Lone Star 9 years ago. Over the years, she's been employed as a camp counselor, a waitress, working for a non-profit (Lone Star Foundation, puts on free concerts, dance festival), and she owned a coffee shop in Lone Star. She just got her bachelor's degree.
- Kelley has a lot of friends in town, which is probably how she met Pete Mitchell. She's known Pete for 2-3 years from living in the Valley and having mutual friends. Her relationship with Pete is pretty casual. It's not necessarily consistent and strong but they are definitely friends. She hasn't seen Pete for about one year.

- Kelley remembers pulling into the parking lot of 7-Eleven on October 2, 2014, and seeing Pete's car pulling out. Kelley noticed that Pete's car was parked right near the exit. Pete was inside the car door between the frame and car door and his car door was open. Pete was surrounded by 2 guys. The situation appeared to be heated. Kelley saw a guy hit Pete. The guy took the first swing and Pete swung back defending himself. Kelley then parked her car. Kelley remembers that she parked between two cars and one of the cars was blocking her view once she parked. She stayed in the car for about one minute and then got out. She waited a minute before getting out because she didn't want to get involved. Kelley explained that she had been drinking so did not want to get involved. Once she decided to get out of the car, Kelley saw Pete and this other guy fighting. There were other guys around them. Kelley didn't see a flash flight. Kelley stated that Pete asked if she saw a flashlight and she's wondering why everybody wants to know about a flashlight.
- Kelley explained that she parked in front of Bull Crabs. When she got out, she thinks Pete and the other guy were on the ground. Kelley was about 15-20 yards away.
- Kelley explained that she probably had 4-5 drinks that night. She probably started drinking around 8:00 p.m. while she was still working. Kelley "had a pretty good buzz" and definitely wasn't able to drive.
- When asked, Kelley stated that she didn't know this fight was going on prior to driving into the 7-Eleven parking lot. Kelley guessed Pete was going to Bull Crabs because there's a mechanical bull there. Kelley explained that she wasn't close enough friends with Pete or any of Pete's friends to receive a call from them. Kelley joked and stated that neither Pete nor any of his friends would call her and notify her that they were getting into a fight. Kelley stated that she wouldn't have driven to a fight to get involved or help out.
- Kelley distinctly remembers parking in front of Bull Crabs. When asked, Kelley stated that it's possible she was going to 7-Eleven to get something to eat. She thinks she saw the fight start when she was pulling into 7-Eleven. Kelley distinctly remembers driving

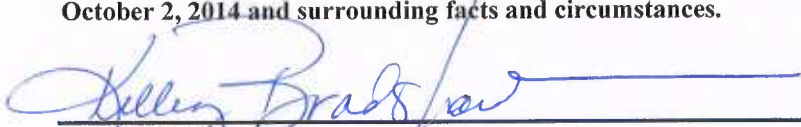
into the parking lot when she saw Pete get punched. She remembers this guy was standing on the outside of the driver's side door and Pete was on the inside of the door between the car door and the frame. Kelley doesn't remember if there were other people standing around Pete and the other guy. She remembers seeing the cop arrive, and the cop separated the two groups. When asked, Kelley stated that she was there before the cops arrived. Kelley qualified this by stating that she couldn't imagine getting out of the car if the cops were around because she had been drinking.

- Kelley remembers talking to Pete about the fight a couple days later. She asked Pete what happened and he said that he was in 7-Eleven and words were exchanged and then there was a fight outside. The other day, Pete asked her if she saw a flashlight and she said she didn't.
- I asked Kelley whether anybody could get past Pete's car and leave the parking lot. Kelley stated that if Pete's car doors were open, people probably couldn't get past his car and leave the parking lot, but she's not sure. She recalls that Pete was over to the right side of the exit and not parked in the middle.
- I reviewed Kelley's statement that she made to Officer McNulty. Kelley stated that she has no idea what she was referring to when she says "egging on". She doesn't remember any of that. She just remembers Pete getting hit first. She can't tell me anything about Pete getting "egged on" by James because she doesn't remember that and she doesn't know what she might have been referring to when she said that to the officer.
- Kelley remembers that the manager (at the time) for Bull Crabs came out on the deck and she told him to call the cops. The owner of Bull Crabs would remember who the manager was at the time. She doesn't know what the manager saw, if anything.
- She remembers after the fight was over and the cops arrived, there was an argument between the two groups. She remembers them yelling but she's not sure what they were

saying. Before the first punch, she doesn't know what was being said because she was driving up in the car at the time.

END OF REPORT

I, Kelley Bradshaw, have reviewed the foregoing. It is an true, accurate and complete report of the events of October 2, 2014 and surrounding facts and circumstances.



Kelley Bradshaw

10/17/2014

_____ Date

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INVESTIGATION REPORT – CONFIDENTIAL WORK PRODUCT

NAME OF WITNESS	William James	SUBPOENAED	
DATE OF CONTACT	December 11, 2014	TAPED	No
		CLIENT CASE NO.	Pete Mitchell 04-15136

ADDRESS/LOCATION	5150 Lansing Street, Lone Star
TELEPHONE NO.	303-487-6543
EMAIL ADDRESS	
DOB / SSN	07-04-1977
TYPE OF CONTACT	In person

On the above date, I went to William James's house to attempt an interview with him. There was a motor home and a boat parked in the driveway. There were two dogs in the back yard (Beagle and a yellow Lab). I drove past the house and pulled over a couple houses away. I wanted to make sure that William was home before I went to the door because I didn't want to my only contact to be through his wife. The curtains were closed and there didn't appear to be anybody home. I waited for about 30 minutes and then I saw a red pick-up pull in front of the house and park off the street. William and two children got out of the pick-up and went into the house through the garage. There was a girl who appeared to be about 13 years old and a boy who appeared to be about 8 years old. I waited a couple minutes and then went to the front door. As I walked by the garage, I noticed more recreational equipment. (I think I saw a kayak and a dirt bike among other things). I went to the front door and when I rang the doorbell, the dogs that were now inside the house, started barking. I heard William scream at the dogs to 'shut up!' and I heard him unlock the front door. When he opened the door, the dogs rushed up to the door and continued barking. As William was opening the front door, he was screaming at his kids to get the dogs. The dogs kept barking and when he opened the door, he turned around and kicked the Beagle who wouldn't stop barking and yelled at it to 'Get out of here!' (It wasn't a full-on kick but he definitely kicked/shoved the dog out of his way.) William didn't seem to be embarrassed about kicking the dog until he found out who I was. I introduced myself as a

private investigator and at that point, William opened the door and came outside onto the front porch. He joking said, “You want a Beagle?” I told him I would take the Lab before the Beagle. I finished introducing myself as a private investigator working with the attorney who represents Pete Mitchell. I explained that Pete Mitchell is the guy who has been charged with assault from the incident that took place in Lone Star in October. William commented that he knows exactly who Pete Mitchell because “he did this to me” and he showed me the scars on his forehead. I took a couple seconds to look closely at his forehead. (The whole exchange with the dogs was loud, a little violent, William was quickly angered, and the level of his anger seemed inappropriate for the situation. I mean it must happen every day that the doorbell rings and the dogs bark. However, once William realized who I was, his whole demeanor changed and he was calm and almost overly polite.)

I explained to William that I stopped by because I wanted to talk with him about what happened that night. William told me that he already provided statements and that I should have a copy of all the police reports. I told him that I did and that I’ve reviewed those reports but I still had additional questions. I explained to William that I just recently got on the case and I wanted to meet him in person and talk with him directly about what happened. William asked me if I represent Mitchell. I clarified that I work for the attorney who represents Pete Mitchell. William shook his head to indicate that he didn’t want to talk to me. William commented that he didn’t want to talk to me and he didn’t think he had to. I told him he was absolutely correct and that it was his choice as to whether or not he talked to me. William then asked what was going on and why I stopped by. I explained to William that Pete hired a new lawyer because the first lawyer did a really bad job at the Preliminary Hearing and did not ask any questions, and the case is getting geared up and that we’ll be back in court soon. William then commented that Pete is flying all over the place and going on vacation to all these fancy locations. William stated that Pete has money or somebody in his family must have money because Pete is traveling all over the place. I told William that I didn’t know anything about Pete’s financial situation but I do know that Pete travels because of work. William commented that he knew that Pete did filming or something like that. William then stated, “I’m not suggesting that I’m after his money or anything.” William then stated that he’s been to Iraq three times which means that he’s been away from his family and missed seeing his kids for 36 months (I think that was the number). William stated that he’s been fighting this battle and Pete is flying all over the place making

videos. I thanked William for his service and asked him when he returned from Iraq. William stated that he returned in February and just recently retired. I asked William again how he felt about this whole court case and where he was at with the whole ordeal. William asked why I wanted to know. I told him that how he felt was very important and shouldn't be discounted. I also told him that since he didn't want to talk about the facts of the case and what happened, then perhaps we could just talk about how he was feeling. William stated, "I don't know where I'm at with the whole thing. I really don't know. I can't answer that." I gave William my card and told him that I would love to talk with him about what happened that night and to give me a call should he change his mind. William took my card. William apologized and said that I shouldn't take it personally that he didn't want to talk to me. I told him that he didn't need to apologize and that I understood his position. I asked William what would be an appropriate resolution to this case and he stated again that he didn't know and that he didn't know how to answer that. I thanked him for his time and started to leave. He told me to be careful on the ice on the driveway and sidewalk. He told me to have a nice evening.

END OF REPORT

**STATEMENT OF WILLIAM JAMES TO INVESTIGATOR
FOR THE OFFICE OF THE DISTRICT ATTORNEY FOR THE
CITY AND COUNTY OF LONE STAR**

On Saturday morning 2 October 2004 at approximately 0210 hours, myself and JT Sanborn stopped at the 7-11 convenience store located in Lone Star. JT and I served in Iraq together while assigned to the 3rd Armored Cavalry Regiment.

While in the process of checking out at the 7-11, I noticed a young man (23-25 years old) enter the store. While passing by he knocked over a plastic bottle of tea that was on a shelf in front of the check out counter. I expected him to pick it up and when he didn't I asked him if he intended to just leave it there or pick it up. He made a comment or gesture that made it clear that he had no intentions of picking up the bottle. I ignored the incident as it just being a young kid being immature and we departed the store after paying for our items.

We got in my truck and JT, who was driving, backed out and proceeded to the east to leave the 7-11 parking lot. A car had pulled out in front of us and was blocking our exit. At this time, I had no idea that it was the same person that knocked over the tea in the store. I thought the car was backing into the parking spot directly behind them. It was at this point when the occupant of the car looked at us and "flipped us off" (middle finger in an obscene gesture).

At first, I was sort of stunned like it was a joke or that maybe JT knew them, but that was not the case. We all asked ourselves "what the heck is he doing"? I opened the door of the truck and stood on the step. I gestured to him to "move out of the way" and got back in thinking that he would soon move. He did not. Instead, he got out of the car and was talking on the telephone. (Later I was told he called more of his friends to come to the 7-11). As I recall, these friends of his apparently showed up about the same time as the police did.

After the driver got out of his vehicle and refused to move out of our way, I went over to the front of his car and asked him what was going on. I received no answer. The driver was just smiling and continued talking on the phone ignoring my questioning. JT pulled me back and said something to the effect of "come on Willy, it's not worth it." I agreed and started back to the truck. At that time, the driver began to call us names. Upon hearing this, I turned back around, towards the driver and asked him "what his problem was?" Again, JT told me to just leave. I again started to leave and the driver increased his verbal attacks. This is when I moved to the side of the driver's door and began arguing with the driver. I cannot clearly recall what was exactly said or done.

At some time in this part during the argument I hit the car door out of frustration from this young man's insults. The only thing that I recall after that is being engaged in a wrestling struggle with the driver. I do not recall how the assault was terminated. I vaguely remember being placed in the ambulance and being very cold.

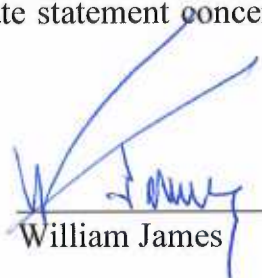
While at the hospital, JT came in the room I was in to check on me many times. I asked him what had happened and he said that I was hit with a metal flashlight. I never saw the weapon the driver used to strike me and I cannot recall how many times I was struck but I clearly have 3 separate scars that required numerous sutures to close both internal and external. I had one more cut towards the very top of my head that did not require sutures but was badly bruised and swollen. Additionally, I received a blow to the left side of my head around the ear/cheek that left my left side very sore, bruised and swollen.

I was released from the hospital at 6AM. JT took me to his house where I slept until about 10AM.

I do not think that I am qualified to say what kind of punishment this person should receive. If he has a record of brutality towards others or other similar offenses maybe this incident has identified a trend in his life that needs to be addressed by a professional. He may need some time away from the ones he loves to make him think of the fragility of human life and the effects his actions have had not only on my family, but his as well. Although not legal anymore and for good reasons, if I had the authority this young man would spend some time in the armed services so that he can gain an appreciation for self-discipline, moral order, and above all, the consideration of others.

I served three year-long combat tours in Iraq. I can tell you from experience that being away from the people you love and the things that you like will give you a enormous appreciation for both. I would hope that the time that this young man will miss by being sent to a correctional facility will give him a sense of great gratitude for his freedoms that so many people he probably doesn't even know exist, give their lives for.

The foregoing is a complete and accurate statement concerning the events of October 2, 2014.



William James

10/6/2014

Date

Addendum: I hereby state and agree that the specifications shown to me by Officer McNulty and attached hereto as Exhibit 14 are correct for the vehicle I was driving October 2, 2014.

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INVESTIGATION REPORT – CONFIDENTIAL WORK PRODUCT

NAME OF WITNESS	Pete Mitchell	SUBPOENAED	
DATE OF CONTACT	October 15, 2014	TAPED	No
		CLIENT CASE NO.	Pete Mitchell 04-15136

ADDRESS/LOCATION	1510 Little Raven, Unit D, Lone Star, 80202
TELEPHONE NO.	303-555-9876
EMAIL ADDRESS	
DOB / SSN	01-31-91
TYPE OF CONTACT	In person

The following is a report of my interview with Pete Mitchell. It is substantially a verbatim recitation of what Mitchell said. Additionally, the report has been reviewed, corrected and adopted by Mr. Mitchell.

Mr. Mitchell is 23 years old. He was born and raised in Lone Star. He is an only child. His parents divorced at an early age. His mother remarried and that man, Rodney Acker, has raised Mitchell. Mitchell and Acker are quite close. Mitchell adores his mother.

Mitchell was raised in a very well-to-do family. He is well aware that he has lived a privileged life.

Mitchell graduated with a Bachelor's of Fine Arts from Lone Star State University in the spring of 2013. Acker gave him a 2013 Audi station wagon as a graduation gift. I showed Mitchell the specs for the Audi, marked as Exhibit 13, and he verified that these specs were accurate.

Mitchell's passion is filming skiing and snowboarding. With highly portable digital cameras now inexpensive and widely available, Mitchell avails himself of that technology and travels the world filming skiing and snowboarding. He specializes in building jumps and obstacles in the back-country and filming his friends jumping and overcoming the obstacles. He also has a passion for filming skiers and snowboarders jumping off very high rocks and cliffs. One of his friends died while Mitchell was filming. The death was ruled an accident by the

Jackson County Sherriff's Department. Mitchell was back filming in the same spot the next day.

Mitchell is a self-described adrenaline junkie. He loves speed and heights. Indeed, his driver's license was suspended in June 2014 for accumulating too many speeding tickets. He is eligible for re-instatement in June 2015.

On October 2, 2014, Mitchell had been out drinking with friends. He had taken a cab into town and walked between the bars and clubs. He took a cab home, knowing he was too drunk to drive and that he did not have a valid license. However, once home, he decided he was too hungry to sleep and drove to the 7-Eleven for some microwave burritos.

He is ashamed that he drove after drinking and without a license. Mitchell admits that he initially lied to the investigating officer when he told the officer that he was not the driver of the Audi. He was really scared after having been attacked and was afraid he was going to get into trouble. So, he lied about driving.

The officer never asked him to perform any roadides, never asked him to take a breathalyzer test and never ticketed him for any traffic offense, alcohol-related, or not.

Mitchell said that he drove to the 7-Eleven by himself. That he parked his car in the lot, he doesn't remember where, and went into the store. The store was really crowded with the late night crowd and folks were jostling each other trying to get whatever they wanted to eat and drink.

At some point a bottle of ice tea was knocked off the counter and broke. A really big guy with a shaved head got in Mitchell's face and told him to clean it up. Mitchell refused. He told the guy he didn't knock the tea off the counter and it wasn't his job to clean it up. Mitchell told the guy that if he was worried about cleaning up the tea, the guy should do it himself. The guy called him a worthless hippy punk and told him to f___ off. Mitchell could see that the guy was a lot bigger than him and seemed to be with a friend. Mitchell did not want to get in a fight so he left the 7-Eleven without getting any food.

Mitchell went out to his car and started to back up. The guy with the neck tattoo, who had yelled at him in the store, a guy he now knows is William James, came out of the store with his buddy and got in a red truck.

Mitchell had to back his car up to be able to see James getting in the red truck. Mitchell then began to pull forward to leave the parking lot. The red truck then backed up really quickly and came flying across the parking lot and almost hit Mitchell's car. The two guys, James and

his buddy (who Mitchell now knows is JT Sanborn) jumped out of the truck and came running up to the driver's side door. James went around the back of Mitchell's car and up the driver's side of his car and Sanborn came around the front of the car so Mitchell couldn't leave without hitting him.

Mitchell was mad. He figured he had swallowed his pride once and walked away from a fight but now here the same guy was at him again. He pulled out his cell phone to call one of his buddies for help but James yanked the driver's side door open and started yelling at him. Something about how he was the guy that stood on the wall, that I was just another schmuck sleeping under the blanket of the very freedom he provides. Mitchell said he was terrified.

Mitchell said he did not know what to do so he stood up but kept the door of the Audi between him and James. He lost track of Sanborn but knew he must be close by. He knew he was out numbered. James continued to yell at him something about how I should pick up a weapon and stand the post. Mitchell had no idea what he was talking about.

Then James started shoving on the door of the Audi trying to close Mitchell in the door. He was shoving really hard and Mitchell's legs were trapped between the door and the car. Mitchell started yelling telling him to stop pushing on the door that he was hurting him. James wouldn't stop.

Mitchell keeps a large flashlight in his car between the driver's side seat and the door. It lies on the floor of the Audi. It has been there since he first started driving the car. His Dad, Mr. Acker, gave it to him and told him to keep it in the car.

When James refused to stop and kept yelling and pushing on the door, Mitchell reached down and grabbed the flashlight in his right hand. He took the flashlight and reached over the door of the Audi and hit James. Because the window was up, the only part of James' body he could reach was his head. Mitchell said he can only remember hitting James once. But he says he knows that the medical reports support several blows. Mitchell insists that he can only remembering hitting James once.

Mitchell admits that he lied to the cops about the flashlight. He was really scared. He saw James sitting on the curb waiting for the ambulance and he was "bleeding like a stuck pig." Mitchell said there was blood everywhere and he totally freaked out. He was too afraid to admit that he had used the flashlight.

At this point in the interview, Mitchell started to cry. He said that he was so scared when James and Sanborn ran up to him. He said that James kept slamming the door on his legs and he was afraid he was going to break both his legs. He said he had never been so afraid in his whole life.

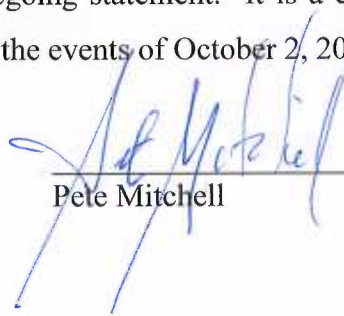
He said that the next day his legs were scraped up and bruised. He took pictures of both his legs and gave the pictures to me. There are two pictures of each leg. Mitchell says the pictures do not really show how bruised his legs were. He said he had trouble walking for about a week.

I showed Mitchell the schematic drawing made by Officer McNulty. Mitchell said it was all wrong. Mitchell took a red pen and drew in the location of the Audi and the red truck. Mitchell said that someone had moved his car even before the ambulance arrived so there was no way that Officer McNulty drew the placement of the vehicles while the vehicles were still in place. Mitchell said that he never blocked the way out of the 7-Eleven. He said that anyone could have gotten by his car, even a big pickup truck.

Mitchell has never been in trouble before and does not have a criminal history of any kind.

Mitchell ended the interview by saying, "I never wanted to hurt the guy, but if I didn't get him away from me I thought he was gonna break my legs."

I, Pete Mitchell, have reviewed the foregoing statement. It is a complete and accurate statement. It contains a complete description of the events of October 2, 2014.


Pete Mitchell

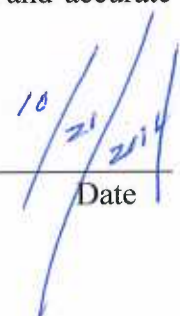
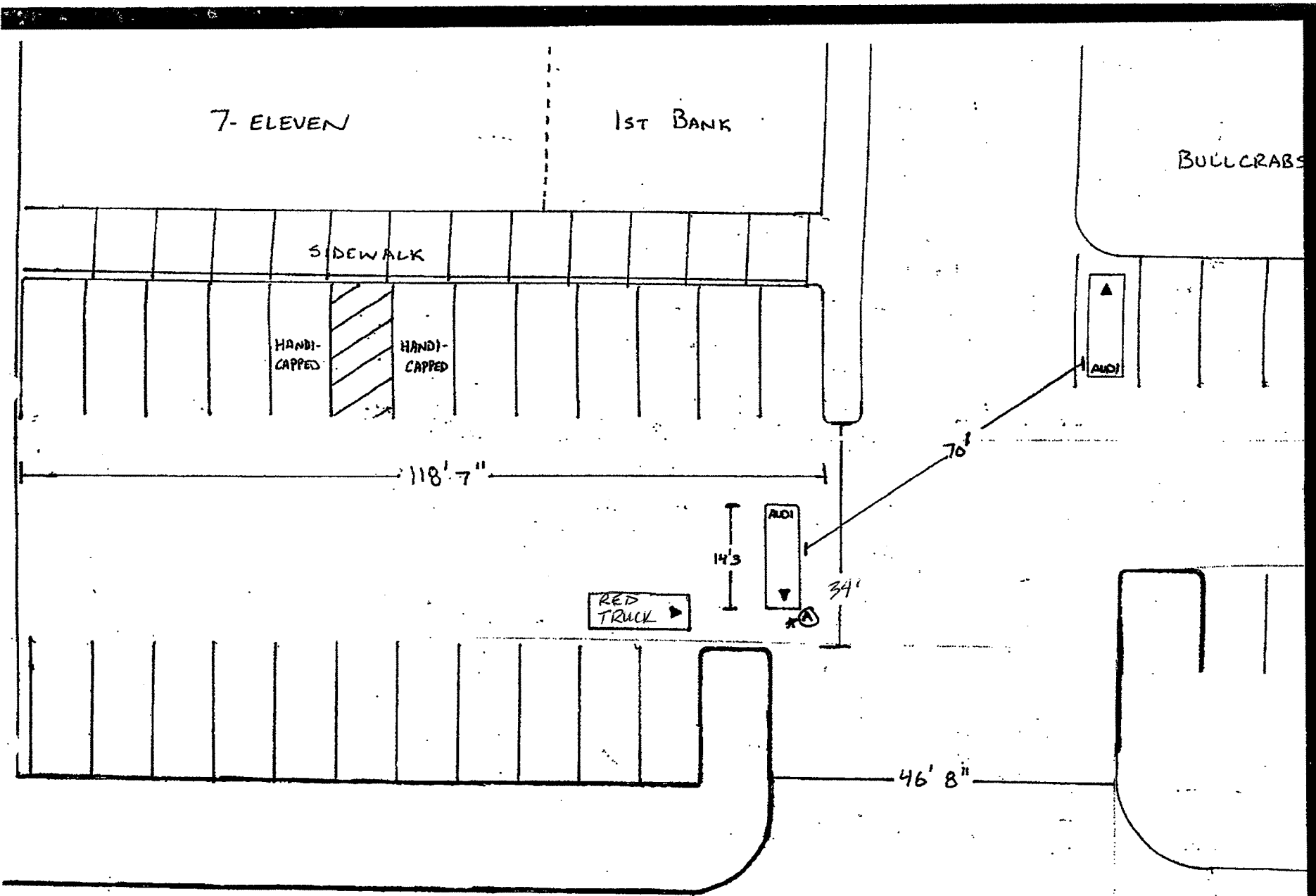

Date



EXHIBIT 1

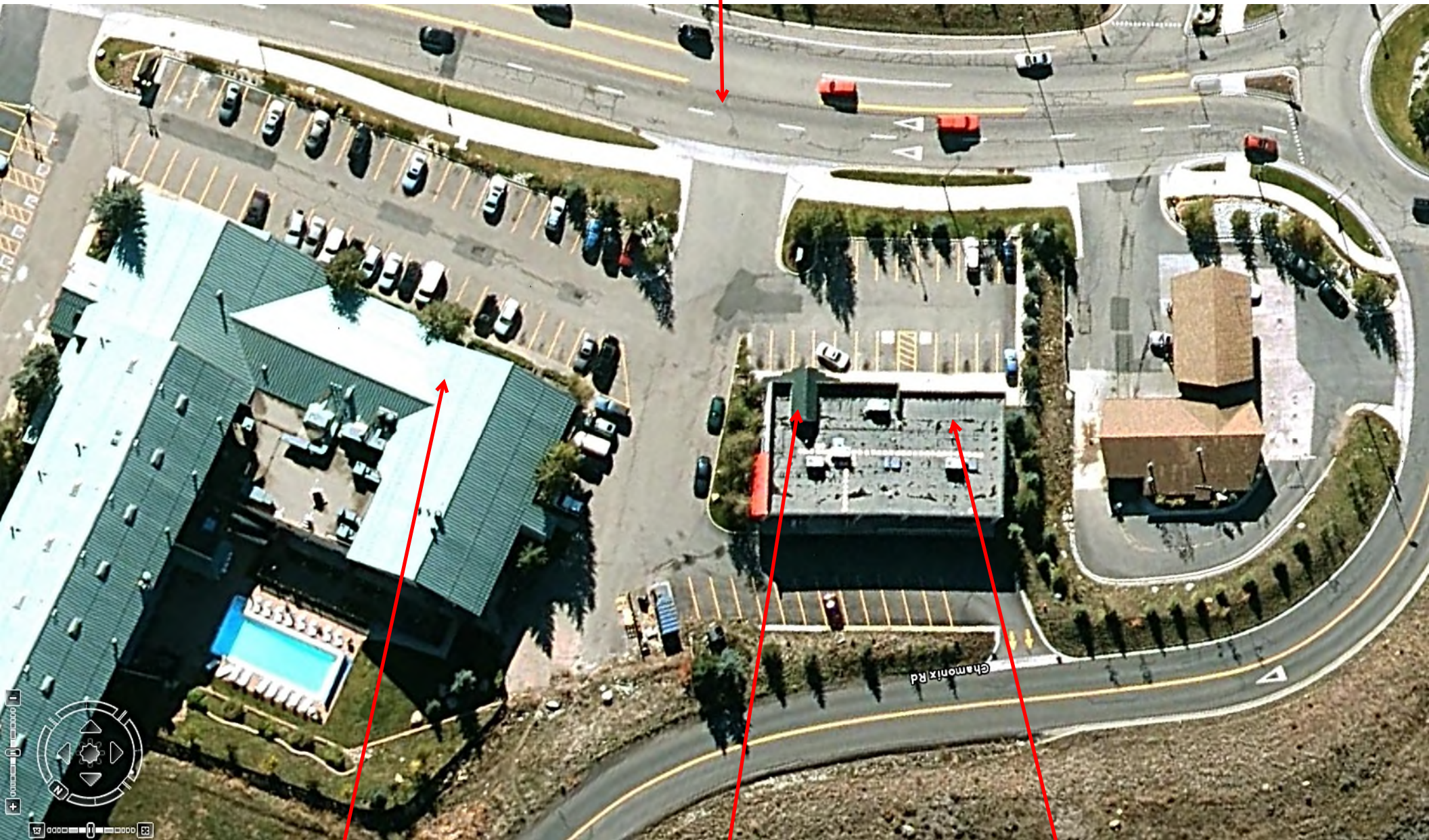


* (A) FLASHLIGHT RECOVERY LOCATION

NOT TO SCALE

EXHIBIT 2

FRONTAGE ROAD



BULL CRABS

FIRSTBANK

7-ELEVEN

EXHIBIT 3



EXHIBIT 4



1ST BANK

EXHIBIT 5



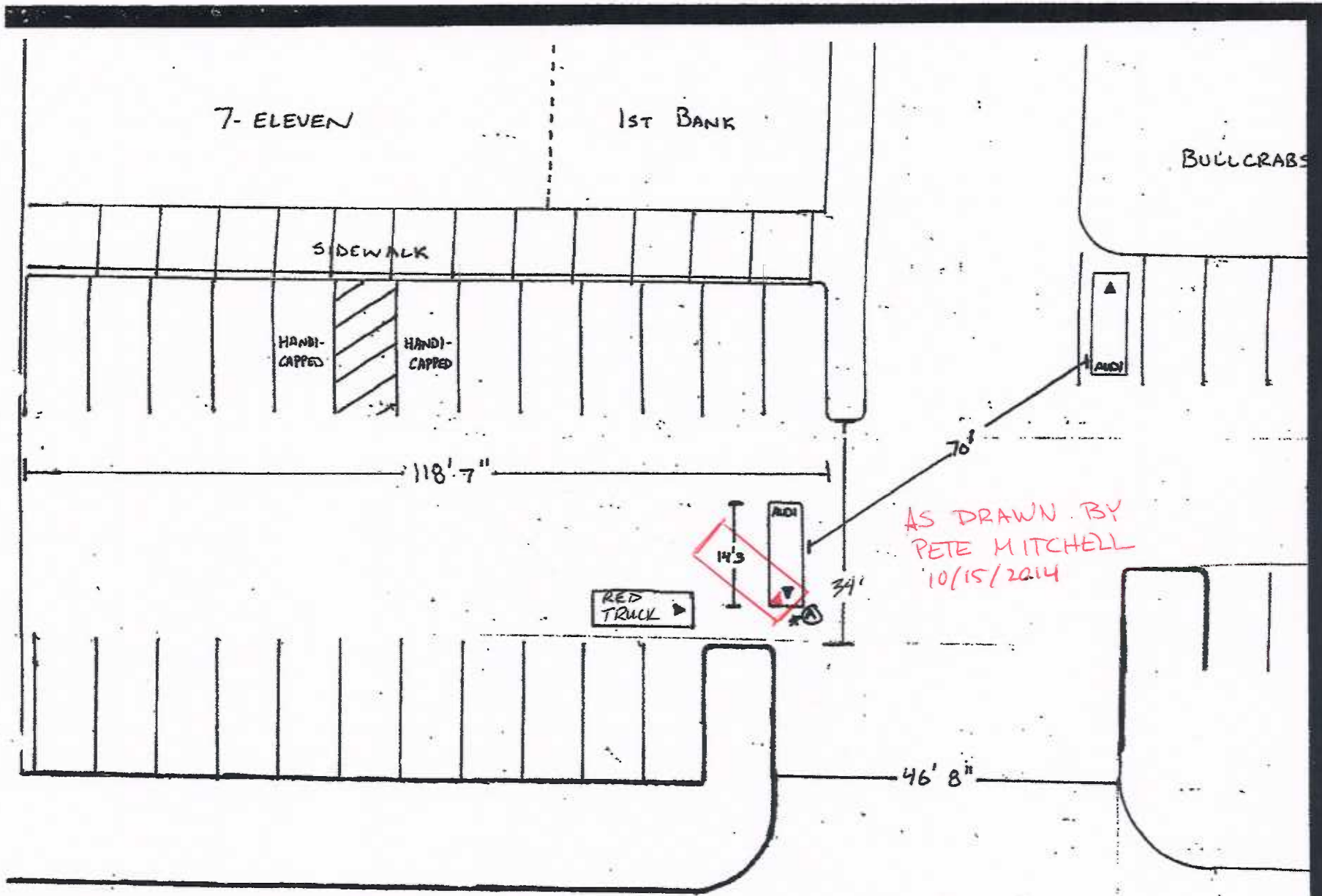
EXHIBIT 6



EXHIBIT 7



EXHIBIT 8



AS DRAWN BY
 PETE MITCHELL
 10/15/2014

* (A) FLASHLIGHT RECOVERY LOCATION

N. FRONTAGE RD W.

NOT TO SCALE

EXHIBIT 9

LONE STAR METHODIST HOSPITAL

Patient Name: JAMES, WILLIAM
Patient Number: 000337
Attending/ER Physician: KEVIN SWANSON
Adm Date/Source: 10/02/14
Primary Carrier: UNITED HEALTHCARE

Rpt#: 68846521321
Unit Number: ED26549
Patient Type: ADM IN
Discharge Date:

EMERGENCY DEPARTMENT REPORT

CHIEF COMPLAINT: Assault.

HISTORY OF PRESENT ILLNESS; This is a generally healthy 35-year-old male. He has had a fractured nose, otherwise no serious illnesses, hospitalizations, or other surgeries. He does take some pain medication. He has no known allergies. He is up-to-date on immunizations. His last tetanus shot was definitely within 10 years. The patient was involved in an altercation and was struck in the head with a blunt object. There was no loss of consciousness. Has slight neck pain, has a headache. No known abrasion on the left knee. No chest pain, abdominal pain, extremity pain, numbness, or weakness. He arrives by rescue squad with spinal immobilization.

SOCIAL HISTORY: He lives in Lone Star. He is in the military. Does drink some alcohol. He is a nonsmoker.

FAMILY HISTORY: Noncontributory.

REVIEW OF SYSTEMS: Otherwise noncontributory.

PHYSICAL EXAMINATION: On exam, well-developed, well-nourished male, alert and oriented x 3, GCS 15. Vitals as noted per chart. Head shows multiple lacerations. There is a 7 cm left forehead laceration down to the skull with a violation of the galea. There is a 5 cm left frontal scalp laceration with violation of the galea. There is a 3 cm stellate laceration of the midforehead. There is no foreign body in any other wounds. There is a left periorbital ecchymosis hematoma. Eyes and pupils are equal, round, and reactive to light. Fundi are benign. Extraocular eye motions are intact. No entrapment. There is tenderness over the superior orbital rim. No facial numbness. Nose is atraumatic. Mouth negative. No dental trauma. Neck is immobilized in a stiff neck collar. Chest nontender to AP and lateral compression with full and equal bilateral breath sounds.

(Continued ...)

Cardiac exam shows a regular rate and rhythm. Abdomen is soft, nontender. Pelvic stable. Extremities are all atraumatic except for the left lower extremity shows an abrasion over the anterior knee. No bony tenderness or ligament instability. Distal neurovascular functions intact. Neurologically, he is oriented. GCS 15. No gross focal neurological deficits.

JAMES, WILLIAM 10/02/2014
ATT DR. KEVIN SWANSON

EXHIBIT 10

Page 1 of 3

LONE STAR METHODIST HOSPITAL

Patient Name: JAMES, WILLIAM
Patient Number: 000337
Attending/ER Physician: KEVIN SWANSON
Adm Date/Source: 10/02/14
Primary Carrier: UNITED HEALTHCARE

Rpt#: 68846521321
Unit Number: ED26549
Patient Type: ADM IN
Discharge Date:

Evaluation included three-view C-spine. I see no fractures. Head CT was read by the radiologist. No intracranial injuries. He does have a nondisplaced left superior orbital rim fracture.

EMERGENCY DEPARTMENT COURSE: The wounds were anesthetized with 2% lidocaine with epinephrine prepped in a sterile fashion and cleaned extensively with Shur-Clens and saline diluted with Betadine to light tea color. The 7 cm left lower head laceration was repaired in three layers. Two sutures were placed to approximately at the galea. Three more sutures were placed in the subcutaneous tissue and a total of 12 6-0 Ethilon interrupted simple sutures skin closure. The 5-cm scalp laceration was repaired with 11 4-0 Prolene interrupted simple sutures and one 40 Vicryl suture was placed approximately at the galea. The 3 cm midforehead stellate laceration was repaired with an interrupted simple 6-0 Ethilon sutures. Wounds were dressed with antibiotic ointment. Maintaining inline, immobilization, stabilization of the head and neck, the anterior aspect of the collar was removed and it was palpated along the midline. There was no bony tenderness, He has full range of motion without any significant pain. Collar was removed. The abrasion on the left knee was cleaned.

FINAL DIAGNOSIS: Status post assault 7 cm left forehead laceration with layered closure, nondisplaced fracture of left superior orbital rim, 5 cm scalp laceration, 3 cm midforehead laceration, cervical strain, and abrasion left knee. Given suture instruction, suture removal is recommended in five days, head injury precautions are given, Tylenol for pain.

(Continued ...)

LONE STAR METHODIST HOSPITAL

Patient Name: JAMES, WILLIAM
Patient Number: 000337
Attending/ER Physician: KEVIN SWANSON
Adm Date/Source: 10/02/14
Primary Carrier: UNITED HEALTHCARE

Rpt#: 68846521321
Unit Number: ED26549
Patient Type: ADM IN
Discharge Date:

EMERGENCY DEPARTMENT REPORT

ADDENDUM

He was given Ancef 1 g IM and put on Keflex 250 mg p.o. q.i.d. for seven days for wound prophylaxis.



Kevin Swanson, M.D.

d. 10/03/14
t. 10/03/14



EXHIBIT 11-A



EXHIBIT 11-B

City and County of Lone Star

Department of Police

IR#: 14-2700
DATE: 10-20-2014

PHYSICIAN'S REPORT

“Serious Bodily Injury” means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree (Lone Star Revised Statutes 18-1-901(3)(e)).

I, Doctor KEVIN SWANSON, have read and understand the legal definition of **“serious bodily injury”** and, in my opinion, the injuries sustained by WILLIAM JAMES meet that definition.

My opinion is based upon the following list of major injuries he/she sustained:

- Nondisplaced fracture of ⊙ superior orbital rim
- 7 cm ⊙ forehead laceration
- 5 cm scalp laceration
- 3 cm mid forehead laceration

Signed: Kevin Swanson

Date: 10-20-14

Doctor's Office Address: Office Park, Suite 101A, 323 Broadway Blvd.
Lone Star

Doctor's Office Phone Number: 614-363-0100

Officer Obtaining Physician's Statement: [Signature]

Where Obtained: LONE STAR MEDICAL CENTER



Overview of the Audi A4 Avant

What's New for 2013:

- A4 Avant with SUV styling cues
- Raised suspension adds 1.5 inches of ground clearance
- Turbocharged 4-cylinder engine
- Standard Quattro all-wheel drive
- Electric steering

Exterior Features

Premium, Premium Plus, and Prestige trim levels are available. Standard features of the Allroad include heated side mirrors, heated washer nozzles, headlight washers, and stainless steel skid plates and side sills. The Allroad provides 7.1 inches of ground clearance based on installation of standard 18-inch aluminum wheels.

Interior Features

The new Allroad features leather power front seats, automatic climate control, satellite radio, and a panoramic glass sunroof. The Allroad supplies 27 cubic feet of cargo space behind the rear seat, and 50 cubic feet with the rear seats folded flat.

Optional Features

The Premium Plus trim adds Bluetooth connectivity, auto-dimming mirrors, power-folding side mirrors, heated front seats, Homelink remote, power tailgate, triple-zone climate control, and more.

The Prestige trim includes a Bang & Olufsen premium audio system, adaptive headlights, keyless

entry and ignition, blind-spot monitoring system, rear park-assist sensors, and a navigation system with Bluetooth streaming audio and a reversing camera. Audi Connect service converts the Allroad into a mobile Wi-Fi hotspot, and provides Google point of interest (POI) search and Google Earth imagery on the navigation screen.

A Sport Interior package includes 12-way power front seats and shift paddles. A Lighting package adds bi-xenon headlights with LED running lights and LED taillights. Additional upgrades include 19-inch aluminum wheels and rear side window sunshades.

Under the Hood

The 2013 Audi Allroad is equipped with a direct-injection, turbocharged, 2.0-liter 4-cylinder engine delivering 211 horsepower and 258 lb.-ft. of torque. An 8-speed automatic transmission feeds power to all four wheels through Audi's Quattro all-wheel-drive system. Audi claims the Allroad accelerates to 60 mph in 6.5 seconds.

An optional Audi Drive Select system gives the driver four vehicle settings: Comfort, Auto, Dynamic, and Individual.

Fuel Economy

EPA fuel-economy estimates for the 2013 Audi Allroad are 20/27/23 mpg (city/highway/combined).

Safety

The Allroad is equipped with 6 air bags, 4-wheel-disc anti-lock brakes with brake assist, traction and stability control system with an off-road mode, and rain-sensing wipers. Additional available safety features include rear side-impact air bags, as well as a reversing camera, adaptive front lighting, blind-spot monitoring system, and rear park-assist sensors. A Driver Assistance package includes adaptive cruise control, dynamic steering, and Audi Drive Select.

The National Highway Traffic Safety Administration (NHTSA) has given the Allroad 5 (out of 5) stars for side-impact rating. Other NHTSA ratings were unavailable as this overview was written, nor had the Insurance Institute for Highway Safety (IIHS) evaluated this model.

Available Trims for the 2013 Audi allroad Wagon

	Transmission	MSRP	Engine	City/Hwy MPG
2.0T Premium (Tiptronic)	8 speed automatic	\$39,600	211-hp / 2.0L 4-cyl	20/27

	Transmission	MSRP	Engine	City/Hwy MPG
2.0T Premium Plus (Tiptronic)	8 speed automatic	\$42,900	211-hp / 2.0L 4-cyl	20/27

Specs

Convenience Features

- Air conditioning
 - Automatic temperature control
 - Power moonroof
 - Speed control
 - Power windows
 - 1-touch down
 - 1-touch up
 - Remote keyless entry
 - Illuminated entry
 - Tilt steering wheel
 - Telescoping steering wheel
 - Driver vanity mirror
 - Passenger vanity mirror
 - Front beverage holders
 - Rear beverage holders
 - Overhead console
 - Driver door bin
 - Passenger door bin
 - Rear door bins
-

Entertainment Features

- AM/FM radio *SiriusXM*
 - CD player
 - MP3 decoder
 - Radio data system
 - Steering wheel mounted audio controls
 - Speakers 10
 - 1st row LCD monitors 1
 - Diversity antenna
-

Seats and Trim

-
- Max seating capacity 5
 - Front seats *bucket*
 - Power driver seat
 - Power passenger seat
 - Front center armrest
 - Rear seats *bench*
 - Split folding rear seat
 - Rear seat center armrest
 - Leather upholstery
 - Leather shift knob
 - Leather steering wheel
-

Warranty

- Basic warranty *48 months/50,000miles*
 - Powertrain warranty *48 months/50,000miles*
 - Corrosion perforation warranty *144 months/ unlimited distance*
 - Roadside assistance coverage *48 months/ unlimited distance*
 - Maintenance warranty *12 months/5,000miles*
-

Body Exterior

- Rear cargo *liftgate*
 - Power door mirrors
 - Heated door mirrors
 - Turn signal indicator mirrors
 - Spoiler
 - Tailpipe finisher *polished*
 - Door mirrors *body-color*
 - Bumpers *body-color*
 - Roof rack *rails only*
 - Two-tone paint
-

Safety and Security

- 4 wheel disc brakes
- ABS brakes
- Brake assist
- Dual front impact airbags
- Dual front side impact airbags
- Overhead airbag

-
- Knee airbag
 - Occupant sensing airbag
 - Panic alarm
 - Perimeter/approach lights
 - Ignition disable
 - Security system
 - Electronic stability
 - Traction control
 - Anti-whiplash front head restraints

Suspension/Handling

- Four wheel independent suspension
- Front anti-roll bar
- Rear anti-roll bar
- Power steering
- Speed-sensing steering
- Alloy wheels
- Front tires *245/45HR18.0*
- Rear tires *245/45HR18.0*
- Wheel size *18"*

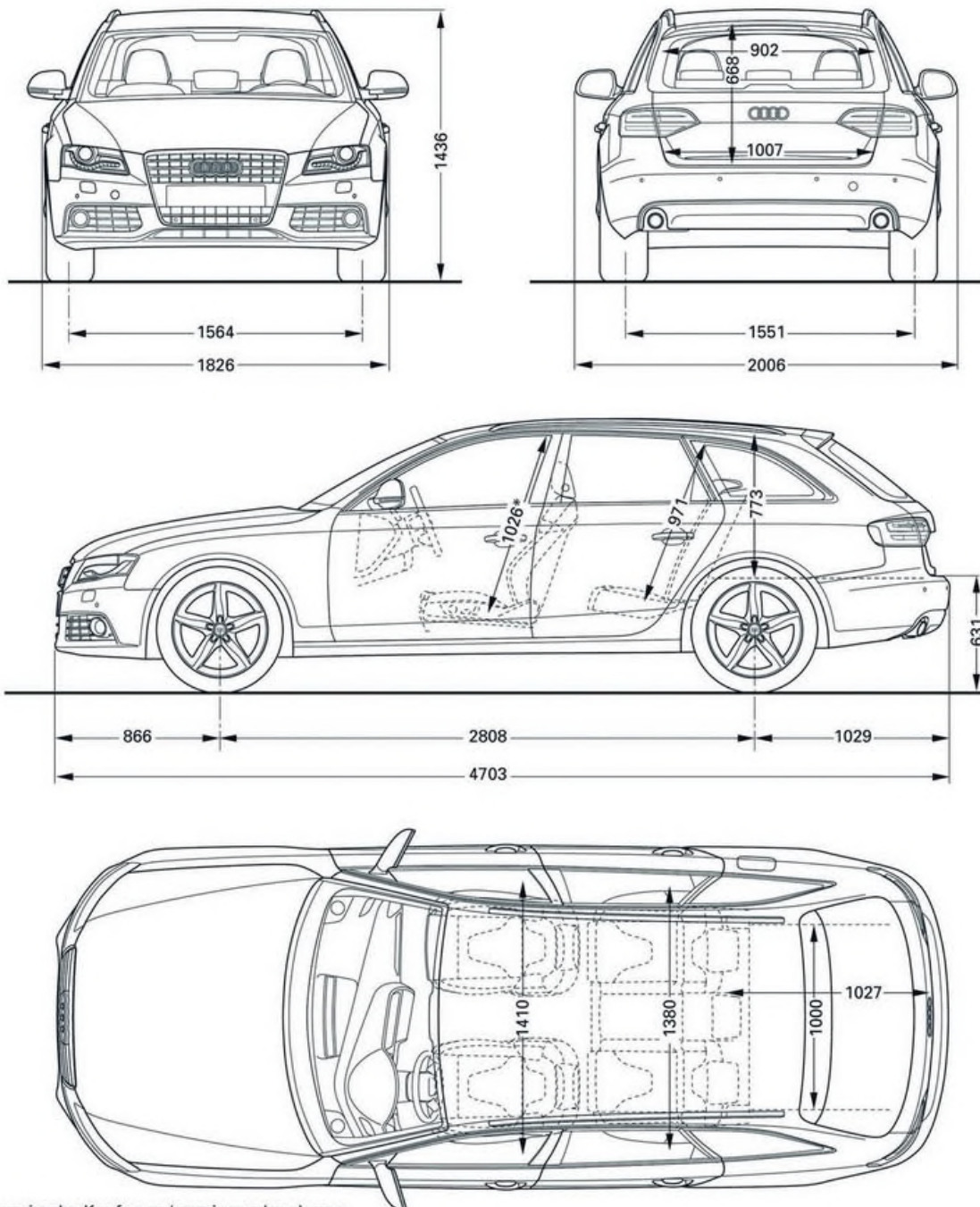
Lighting, Visibility and Instrumentation

- Delay-off headlights
- Headlight cleaning
- Front fog lights
- Variably intermittent wipers
- Rain sensing wipers
- Speed sensitive wipers
- Rear window wiper
- Rear window defroster
- Front reading lights
- Rear reading lights
- Tachometer
- Low tire pressure warning

Audi A4 Avant

Abmessungen
Dimensions

03/08



* maximaler Kopfraum / maximum headroom
Angaben in Millimeter / Dimensions in millimeters
Angabe der Abmessungen bei Fahrzeugleergewicht / Dimensions of vehicle unloaded



Overview

What's New for 2014:

- Completely redesigned
- New family of more powerful and fuel-efficient engines
- Improved towing and payload ratings
- Improved ride, handling, and brakes
- Standard Auto Grade Braking
- Available hill-descent control
- Standard electric steering
- New safety and infotainment technologies
- Extended Cab renamed Double Cab; has front-hinged doors
- Roomier Crew Cab model; available long box bed
- New High Country trim level
- Standard CornerStep rear bumper design
- New 2-tier pickup box design
- Free scheduled maintenance for 2 years/24,000 miles
- No price increase from 2013

Introduction

The 2014 Chevrolet Silverado is redesigned, equipped with improved aerodynamics, practicality, horsepower, torque, towing capacity, payload ratings, and fuel-economy estimates. Additionally, the new 2014 Silverado is available with new technologies and is offered in a new luxury-oriented High Country trim level. Free scheduled maintenance is included for the first 2 years or 24,000 miles of ownership.

These changes, and more, ought to keep the Silverado competitive against other full-size light-duty trucks including the Ford F-150, Nissan Titan, Ram 1500, and Toyota Tundra.

Models and Features

The Silverado Work Truck (1WT) is equipped with blacked-out exterior trim, a CornerStep rear bumper, and 17-inch steel wheels. Air conditioning, power windows, power door locks, cruise control, and a tilt steering wheel are standard, as well as a 6-speaker audio system equipped with 2 USB ports, an SD card port, and an auxiliary audio input jack.

A 2WT package adds chrome bumpers and high-wear cloth seats to the Work Truck model, along with Chevrolet MyLink Bluetooth connectivity with natural voice-recognition technology. OnStar telematics, remote keyless entry, and heated side mirrors with driver's-side spotter glass are also a part of this package.

The Silverado LT is equipped with 17-inch aluminum wheels, a chrome grille, EZ Lift and Lower tailgate, carpeting, under-seat storage, and a leather-wrapped steering wheel with audio controls. It is offered with more options than the Work Truck versions.

Silverado Double Cab and Crew Cab models are offered with LTZ trim, which adds a V-8 engine and an automatic locking rear differential. Additional upgrades include leather seats, heated front seats, tilt-and-telescoping steering wheel, dual-zone automatic climate control, and an 8-inch color touch-screen MyLink display with a reversing camera. Power-folding exterior mirrors, projector-beam headlights, fog lights, and 18-inch aluminum wheels identify the Silverado LTZ from the outside, and this version comes standard with a trailering package, remote engine starting, power-sliding rear window, and more.

Options and Packages

The 2014 Chevy Silverado can be optioned with a power sunroof, navigation system, premium audio system, rear-seat entertainment system, adjustable foot pedals, heated steering wheel, Driver Alert package, and more.

Custom Sport, Texas Edition, and Z71 packages are available for the LT and LTZ trim levels. The Custom Sport is offered everywhere except Texas, and includes 20-inch polished wheels, a trailering package, locking rear differential, and a premium audio system (LTZ). The Texas Edition is identical, but with special "Texas Edition" badges. The Silverado Z71 gets front tow hooks, an off-road suspension, automatic locking rear differential, hill-descent control, transfer case shield, and all-terrain tires.

Functional upgrades include a factory-applied spray-in bedliner, LED under-rail bed lighting, an EZ Lift and Lower tailgate, adjustable tie-down hooks, and an integrated trailer brake controller. Additionally, Chevrolet dealers can outfit a Silverado with a variety of utility-related accessories.

Under the Hood

A new direct-injection, 4.3-liter V-6 engine is standard for Work Truck and LT trim levels of the new Silverado. It makes 285 horsepower at 5,300 rpm and 305 lb.-ft. of torque at 3,900 rpm, and can tow 7,200 lbs.

A direct-injection, 5.3-liter V-8 engine is standard for the LTZ and High Country versions. It generates 355 horsepower at 5,600 rpm and 383 lb.-ft. of torque at 4,100 rpm, and can handle up to 11,500 lbs. of trailer weight.

The most powerful engine offering for the new 2014 Silverado is a direct-injection, 6.2-liter V-8 developing an estimated 420 horsepower at 5,600 rpm and 450 lb.-ft. of torque at 4,100 rpm. Properly equipped, this V-8 will pull a 12,000-lb. trailer.

Maximum payload ratings are 2,108 lbs. for a Regular Cab Silverado 1500, 2,101 lbs. for a Double Cab, and 2,007 lbs. for a Crew Cab.

All three of the new engines are equipped with Active Fuel Management technology, which allows them to operate on fewer cylinders under low-load driving conditions in order to conserve fuel. All three also employ a 6-speed automatic transmission to power the rear wheels or all four wheels.

Fuel Economy

As this overview is written, fuel-economy ratings are available for the 4-cylinder, V-6 and the 5.3-liter V-8 engine. Estimates for the 6.2-liter V-8 will be finalized at a later time.

According to Chevrolet, the redesigned 2014 Silverado will return up to 24 mpg on the highway when equipped with the new 4.3-liter V-6 engine and rear-wheel drive, regardless of cab configuration. The Silverado's new V-6 engine is more fuel-efficient than the V-8, but not significantly. For the V-6, the range is between 17 mpg in the city with 4WD and 24 mpg on the highway with 2WD. For the V-8, the range is between 16 mpg in the city for 2WD and 4WD models, and 23 mpg on the highway with 2WD.

Safety Ratings and Technology

As this overview is written, the National Highway Traffic Safety Administration (NHTSA) and the Insurance Institute for Highway Safety (IIHS) have not crash-tested the new 2014 Silverado 1500.

Trailer sway control and hill-start assist are standard for all 2014 Silverados. New safety-related options are included in the optional Driver Alert package, which features front and rear park-assist sensors, a lane-departure warning system, forward-collision alert system, and a Safety Alert Seat.

Specs

Convenience Features

- Air conditioning
 - Speed control
 - Tilt steering wheel
 - Passenger vanity mirror
 - Front beverage holders
 - Overhead console
 - Driver door bin
 - Passenger door bin
-

Off-Road Capability

- Ground clearance (min) *224mm (8.8")*
- Ground clearance (max) *254mm (10.0")*

Entertainment Features

- AM/FM radio
 - Speakers 4
-

Seats and Trim

- Max seating capacity 3
 - Front seats *bench*
 - Front center armrest *w/storage*
-

Warranty

- Basic warranty *36 months/36,000miles*
 - Powertrain warranty *60 months/100,000miles*
 - Corrosion perforation warranty *72 months/100,000miles*
 - Roadside assistance coverage *60 months/100,000miles*
 - Maintenance warranty *24 months/24,000miles*
-

Body Exterior

- Rear cargo *tailgate*
 - Bumpers *chrome*
 - Rear step bumper
 - Trailer hitch receiver
 - Width 6'8"
 - Length 19'10"
-

Safety and Security

- 4 wheel disc brakes
- ABS brakes
- Brake assist
- Dual front impact airbags
- Passenger cancellable airbag
- Ignition disable
- Electronic stability

-
- Traction control

Suspension/Handling

- Front wheel independent suspension
- Front anti-roll bar
- Power steering
- Front tires *265/70SR18.0E*
- Rear tires *265/70SR18.0E*
- Single rear wheels
- Wheel size *18"*

Lighting, Visibility and Instrumentation

- Fully automatic headlights
- Delay-off headlights
- Variably intermittent wipers
- Front reading lights
- Tachometer
- Voltmeter
- Oil pressure gauge

No. CR-14-15136

THE PEOPLE OF THE STATE
OF LONE STAR,

Prosecution,

v.

PETE MITCHELL,

Defendant.

§
§
§
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§
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§

IN THE DISTRICT COURT

IN AND FOR

THE CITY AND COUNTY
OF LONE STAR

JURY INSTRUCTIONS

Attached are the revised jury instructions in the above-referenced matter.

INSTRUCTION NO. 1

Members of the jury, the evidence in this case has been completed. In a moment I will read you the law which you must apply in order to reach your verdict. But first, I want to mention a few things that you need to keep in mind when you are discussing this case in the jury room.

It is my job to decide what rules of law apply to the case. While the lawyers may have commented during the trial on some of these rules, you are to be guided by what I say about them. You must follow all of the rules as I explain them to you. Even if you disagree or don't understand the reasons for some of the rules, you must follow them. No single rule describes all the law which must be applied. Therefore, the rules must be considered together as a whole.

During the course of the trial you received all of the evidence that you may properly consider to decide the case. Your decision must be made by applying the rules of law which I give you to the evidence presented at trial. Neither sympathy nor prejudice should influence your decision.

If you decide that the prosecution has proved beyond a reasonable doubt that the defendant has committed the crime as charged, it will be my job to decide what the punishment will be. You should not try to guess what the punishment might be. It should not enter into your consideration at any time.

At times during the trial lawyers made objections to questions asked by other lawyers, and to answers by witnesses. Do not draw any conclusions from such objections or from my rulings on the objections. These only related to the legal questions that I had to determine and should not influence your thinking. When I told you not to consider a particular statement, you were told to put that statement out of your mind, and you may not consider any statement in your deliberations which you were instructed to disregard.

Finally, you should consider all the evidence in the light of your observations and experience in life.

INSTRUCTION NO. 2

Every person charged with a crime is presumed innocent. This presumption of innocence remains with the defendant throughout the trial and should be given effect by you unless, after considering all of the evidence, you are then convinced that a defendant is guilty beyond a reasonable doubt. The burden of proof is upon the prosecution to prove to the satisfaction of the jury beyond a reasonable doubt the existence of all of the elements necessary to constitute the crime charged.

Reasonable doubt means a doubt based upon reason and common sense which arises from a fair and rational consideration of all of the evidence, or the lack of evidence, in the case. It is a doubt which is not a vague, speculative or imaginary doubt, but such doubt as would cause reasonable people to hesitate to act in matters of importance to themselves.

If you find from the evidence that each and every element has been proven beyond a reasonable doubt, you will find the defendant guilty. If you find from the evidence that the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you will find the defendant not guilty.

INSTRUCTION NO. 3

You may have to decide what testimony to believe. You should carefully consider all of the testimony given and the circumstances under which each witness has testified.

Consider each witness' knowledge, motive, state of mind, demeanor, and manner while on the stand. Consider the witness' means of knowledge, ability to observe, and strength of memory. Consider also any relationship each witness may have to either side of the case; the manner in which each witness might be affected by the verdict; and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case. You should consider all facts and circumstances shown by the evidence which affects the credibility of the witness' testimony.

You may believe all of the testimony of a witness, or part of it, or none of it.

INSTRUCTION NO. 4

It is an affirmative defense to the crime of First Degree Assault—Deadly Weapon, and Disorderly Conduct—Fighting that the defendant used physical force upon another person:

1. in order to defend himself from what he reasonably believed to be the use or imminent use of unlawful physical force by the victim, and
2. he used the degree of force which he reasonably believed to be necessary for that purpose.

The defendant is not justified in using physical force if:

1. with intent to cause bodily injury or death to another person,
2. he provoked the use of unlawful physical force by that person.

The defendant is not justified in using physical force if he is the initial aggressor, except that his use of physical force under the circumstances is justifiable if:

1. he withdraws from the encounter, and
2. effectively communicates to the other person his intent to withdraw, and
3. the other person continues or threatens the use of unlawful physical force.

In addition to proving all of the elements of the crime charged beyond a reasonable doubt, the prosecution also has the burden to disprove the affirmative defense beyond a reasonable doubt.

After considering all the evidence, if you decide the prosecution has failed to disprove beyond a reasonable doubt any one or more elements of the affirmative defense, you must return a verdict of not guilty.

INSTRUCTION NO. 5

In this case certain words or phrases have a particular meaning. The following are the definitions of these words and phrases.

“BODILY INJURY” means physical pain, illness, or any impairment of physical or mental condition.

“SERIOUS BODILY INJURY” means any bodily injury, either at the time of the actual injury or at a later time, which involved:

- (a) a substantial risk of death,
- (b) a substantial risk of serious permanent disfigurement,
- (c) a substantial risk of protected loss or impairment of the function of any part or organ of the body, or
- (d) breaks, fractures, or burns of the second or third degree.

“DEADLY WEAPON” means any of the following, which in the manner it is used or intended to be used is capable of producing death or serious bodily injury:

- (a) a firearm, whether loaded or unloaded,
- (b) a knife,
- (c) a bludgeon, or
- (d) any other weapon, device, instrument, material or substance, whether animate or inanimate.

INSTRUCTION NO. 6

The evidence presented in this case has raised an affirmative defense.

The prosecution has the burden of proving the guilt of the defendant to your satisfaction beyond a reasonable doubt as to the affirmative defense, as well as to all the elements of the crimes charged.

After considering the evidence concerning the affirmative defense, with all the other evidence in this case, if you are not convinced beyond a reasonable doubt of the defendant's guilt, you must return a verdict of not guilty.

INSTRUCTION NO. 7

The defendant is charged with committing the crimes of:

Count 1: First Degree Assault—Deadly Weapon

Count 2: Disorderly Conduct—Fighting

on or about October 2, 2014 in Lone Star. The defendant has pled not guilty.

INSTRUCTION NO. 8

In this case two separate offenses are charged against the defendant. Each count charges a separate and distinct offense and the evidence and the law applicable to each count should be considered separately, uninfluenced by your decision as to the other count. The fact that you may find the defendant guilty or not guilty of one of the offenses charged should not control your verdict as to the other offense charged against the defendant.

The defendant may be found guilty or not guilty of one or all the offenses charged.

INSTRUCTION NO. 9

The elements of First Degree Assault with a Deadly Weapon are:

1. That the defendant,
2. in the State of Lone Star, at or about the date and place charged,
3. with intent to cause serious bodily injury to another person,
4. caused serious bodily injury to any person,
5. by means of a deadly weapon,
6. without the affirmative defense(s) in instruction number 4.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of First Degree Assault—Deadly Weapon.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of First Degree Assault—Deadly Weapon.

INSTRUCTION NO. 10

A crime is committed when a defendant has committed a voluntary act prohibited by law accompanied by a culpable mental state. Voluntary act means an act performed consciously as a result of effort or determination. Culpable mental state means knowingly, as explained in this instruction. Proof of the commission of the act alone is not sufficient to prove that the defendant had the required culpable mental state. The culpable mental state is as much an element of the crime as the act itself and must be proven beyond a reasonable doubt, either by direct or circumstantial evidence.

A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the statute defining the offense. It is immaterial whether or not the result actually occurred.

A person acts "recklessly" when he consciously disregards a substantial and unjustified risk that a result will occur or that a circumstance exists.

A person acts "knowingly" with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts "knowingly" with respect to a result of his conduct when he is aware that his conduct is practically certain to cause the result.

A person acts "with criminal negligence" when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustified risk that a result will occur or that a circumstance exists.

INSTRUCTION NO. 11

The elements of the crime of Disorderly Conduct by fighting are:

1. That the defendant,
2. in the State of Lone Star, at or about the date and place charged,
3. intentionally, knowingly, or recklessly,
4. fought with another,
5. in a public place,
6. the defendant was not engaged in an amateur or professional contest of athletic skill, and
7. without the affirmative defense in instruction number 4.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of Disorderly Conduct--Fighting.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of Disorderly Conduct—Fighting.

INSTRUCTION NO. 12

The bailiff will now escort you to the jury room. Upon reaching the jury room, you are to select one of your members to be the foreperson of the jury. Your foreperson will preside over your deliberations and shall sign whatever verdict you reach.

The verdict must represent the considered judgment of each juror. In order to return the verdict, it is necessary that each juror agree to it. Your verdict must be unanimous.

Only one verdict shall be returned signed for each count, the two special verdicts regarding provocation shall also be returned, and the verdicts and these instructions shall remain in the possession of your foreperson until such time as they are called for in open court. Upon reaching the verdicts you will inform the Bailiff of this Court, who in turn will notify the Court, and you will remain in your jury room until called into the Courtroom.

You will be provided with one form of verdict for each count, including one special verdict forms that include lesser offenses, and you will be provided with two special verdict forms regarding provocation. When you have unanimously agreed upon the verdict you will select the proper signature line which reflects the verdict and the foreperson will sign it as the Court has stated.

I will read you the forms of verdict you will receive. You are further instructed that no inferences are to be drawn from the order in which the Court reads the verdicts.

THE PEOPLE OF THE STATE
OF LONE STAR,

Prosecution,

v.

PETE MITCHELL,

Defendant.

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IN THE DISTRICT COURT

IN AND FOR

THE CITY AND COUNTY
OF LONE STAR

VERDICT FORM – FIRST DEGREE ASSAULT

I. *We, the Jury, find the Defendant, PETE MITCHELL, NOT GUILTY of FIRST DEGREE ASSAULT—DEADLY WEAPON.

FOREPERSON

II. *We, the Jury, find the Defendant, PETE MITCHELL, GUILTY of

**[] FIRST DEGREE ASSAULT—DEADLY WEAPON

FOREPERSON

*The foreperson should sign only one of the above (I or II). If the verdict is NOT GUILTY, then I. above should be signed. If the verdict is GUILTY then II. above should be signed.

**If you find the defendant guilty of the crime charged or one of the lesser included offenses the foreman must complete this GUILTY verdict by placing, in ink, an “X” in the appropriate square. ONLY ONE SQUARE may be filled in, with the remainder to remain unmarked.

THE PEOPLE OF THE STATE
OF LONE STAR,

Prosecution,

v.

PETE MITCHELL,

Defendant.

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IN THE DISTRICT COURT

IN AND FOR

THE CITY AND COUNTY
OF LONE STAR

VERDICT FORM – DISORDERLY CONDUCT

- I. *We, the Jury, find the Defendant, PETE MITCHELL, NOT GUILTY of DISORDERLY CONDUCT—FIGHTING.

FOREPERSON

- II. *We, the Jury, find the Defendant, PETE MITCHELL, GUILTY of DISORDERLY CONDUCT—FIGHTING.

FOREPERSON

*The foreperson should sign only one of the above (I or II). If the verdict is NOT GUILTY, then I. above should be signed. If the verdict is GUILTY then II. above should be signed.