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 JOHN TENNISON

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 JOHN TENNISON,

12 Plaintiff,

13 v.

14 CITY AND COUNTY OF
 SAN FRANCISCO; SAN FRANCISCO
 15 POLICE DEPARTMENT; PRENTICE EARL
 SANDERS; NAPOLEON HENDRIX; and
 16 GEORGE BUTTERWORTH,

17 Defendants.

Case No. C 04-00574 CW

Consolidated with
 Case No. C 04-01643 CW

**REPLY DECLARATION OF CHANTE
 SMITH IN SUPPORT OF TENNISON'S
 REPLY IN SUPPORT OF MOTION FOR
 PARTIAL SUMMARY JUDGMENT ON
 LIABILITY AND OPPOSITION TO
 DEFENDANTS' HENDRIX'S AND
 SANDERS' MOTION FOR SUMMARY
 JUDGMENT**

Date: August 12, 2005
 Time: 10:00 a.m.
 Courtroom: 2
 Judge: The Hon. Claudia Wilken

1 I, CHANTE SMITH, declare and state as follows:

2 1. I was a witness to the shooting of Roderick Shannon by Lovinsky "Lavinsta" Ricard
3 in August 1989. The circumstances of that shooting as I related them in my interviews with the
4 San Francisco Police Department in 1990 and again in 1992 were as follows:

5 2. I was in the company of Luther Blue during the day of August 18, 1989. We had
6 been driving around in the Hunters Point area of San Francisco in my 1983 blue Mustang
7 convertible. We picked up Mark Anthony and Lavinsta Ricard, who were hanging out on
8 Oakdale Street, in the late afternoon. From Oakdale, we drove to Third Street Liquors on Third
9 Street. By that time, it was well into the night. As Lavinsta Ricard and Mark Anthony were
10 going into the store, a truck pulled up with between 6 to 8 young black men in it, followed by 2
11 other cars. I recognized some of them by their "Ill Mannered Posse" jackets, and one in
12 particular nicknamed "Coug Nut." I knew they were from the Lakeview district. Everyone
13 talked, and they decided to go drinking, which I didn't want to do, so I was just going to drop
14 them off after going to the 7-11 store on Bayshore.

15 3. While at the 7-11 store, I saw a dark colored Skylark driven up. It was driven by my
16 Godbrother, Troy Barnes, who is from Sunnydale. I was concerned for Troy because I was with
17 Hunters Point and Lakeview, and told him to get out of there, which he did.

18 4. Shortly after that, I saw, a dark colored Skylark drive by, and people were saying
19 "he's from Sunnydale" and "is he from Sunnydale." I thought it was Troy that had come back,
20 and I was concerned for him. All of a sudden people jumped into their cars and began to chase
21 the Skylark. Luther Blue and Mark Anthony got into my car, and Lavinsta Ricard got into the
22 pickup truck, which was shiny reddish, burgundy color with fenders that came out over the tires
23 and a rounded cab. I followed three vehicles which were chasing the person in the Skylark (the
24 truck followed by two cars, one of which was a dark blue '89 or '88 Skylark) because I thought
25 that it might have been Troy and I did not want anything bad to happen to him.

26 5. As I drove up Leland Street, I saw the Skylark going very fast in reverse, swerving. I
27 also heard gunshots. Mark Anthony jumped out of my car, and I turned off the street, and went
28 around the corner. I then turned off from following the chase vehicles, and looped around in the

1 other direction to stay in the vicinity to see what happened. As I turned the corner where the
2 market was located on Rutland and Leland, I saw Cooley running down the street. And I saw a
3 group out of their cars. I drove past, and Luther said that's Cooley. I turned the corner because I
4 didn't want to be there when the police came. Luther wanted to go back to pick up Mark
5 Anthony. By the time I came back around the block, and got to the corner where the store was, I
6 saw a group of people crowded in the corner, beating up Cooley. I then saw Ricard with a
7 shotgun go over to the area where the person was being beaten. People backed away, and I heard
8 a shot and saw Ricard return to the area of the truck with the shotgun. At about that time, Mark
9 Anthony got back in my car, and we left.

10 6. After the shooting, I drove to a park in Hunters Point called the Sundial. Ricard was
11 there talking to several people, saying that was "one down" and that it "felt good" to shoot that
12 guy and that there would be "10 for 2," which I understood to be referring to the two people who
13 had been killed in the drive-by shooting in Hunters Point.

14 7. Prior to August 18, 1989 day, I had known Antoine Goff, whom I called "Soda Pop,"
15 had known who JJ Tennison was. They were not among the people at the 7-11 or at the scene of
16 the shooting or at the Sundial park after the shooting.

17 8. In January 1990, I discussed this case with San Francisco Police Inspector Earl
18 Sanders. At that time, I had heard that JJ Tennison had been arrested for shooting Cooley, and I
19 knew that he was not present at any point during the homicide. I told Sanders that he had
20 arrested the wrong person, and told him that Lavinsta Ricard had shot Shannon. I also told
21 Sanders the names of other individuals who were present at the shooting, described several of the
22 cars involved in the car chase, and told him that the chase started at the 7-11. The reason that I
23 didn't tell him I was a witness was because I didn't want to have to go to court and because I was
24 afraid, that someone might hurt or try to kill me.

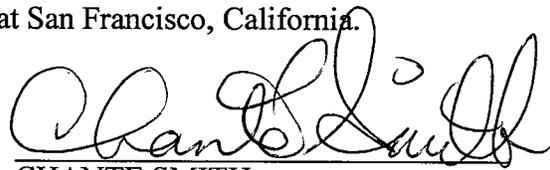
25 9. On at least one other occasion before Tennison's trial, Inspector Sanders came out to
26 my house and we sat in the parking lot and I again told him about the people and the vehicles
27 involved in the shooting, and that the chase had began at the 7-11. At some point after this
28 second interview with Inspector Sanders three San Francisco Police Officers from the Gang Task

1 Force visited me with photographs of trucks to see if I recognized any of them from the night of
2 the shooting.

3 10. In April 2005, the day after my regular meeting with my parole officer, my parole
4 officer called me in for an “emergency” meeting. This was unusual and caused me great
5 concern. The only reason for an “emergency” meeting is if that the parole officer wants to
6 revoke your parole and put you in custody. I asked my parole officer if I was being violated and
7 put into custody for some reason, by she refused to tell me anything. I was afraid, because I have
8 two children ages 12 years and 22 months, and if I was going to be put into custody, I needed to
9 make sure somebody (most likely my mom) would know that so she could pick up my children
10 after school. After I explained this to my parole officer, she told me that I should just come
11 down to the meeting, but that was it.

12 11. When I arrived the next day at the parole office, an investigator from the San
13 Francisco City Attorney’s Office was waiting for me in the lobby. He served me with a
14 subpoena for a deposition in this case. My parole officer explained that this was the entire
15 purpose of the “emergency” meeting. Apparently, the City’s investigator was trying to serve me
16 a subpoena at my mother’s house—where I do not live—and unable to find me there, called my
17 parole officer to schedule this “emergency” meeting. My parole officer further explained that
18 she refused to do so, so the City’s investigator contacted her supervisor, who then authorized the
19 “emergency” meeting. I’m afraid that if I say anything that might hurt Hendrix or Sanders in this
20 case or that the City Attorney doesn’t like, which the truth is likely to do, they will cause the
21 parole office to punish me on that basis.

22 I swear under penalty of perjury that the foregoing is true and correct and that this
23 declaration was executed on June 24, 2005 at San Francisco, California.

24
25 
26 CHANTE SMITH