

Jon R. Smith
County Attorney



William J. Kerekes
Chief Civil Deputy

Roger A. Nelson
Chief Criminal Deputy

Ronald Perkins
Director Victim Services

OFFICE OF THE YUMA COUNTY ATTORNEY

RECEIPT OF DOCUMENTS

RE: State v. **STEVEN LEE ANDERSON**
Justice Court Case Number **J1403MS200900009**

On behalf of **MARC VICTOR, I,** _____

(PRINT NAME), received a copy of the following documents from the Yuma County Attorney's Office in the above-referenced case:

- Misdemeanor Complaint
- Summons or Warrant
- Supplemental Disclosure
- Plea Agreement
- MVD Record
- Photograph(s)/Audio Tape(s)/DVD(s)/VHS Tape(s)

Received this _____ day of _____, 20____, at _____ am/pm.

(Signature)

(WPK/KW for ST)

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IN THE **THIRD** PRECINCT JUSTICE COURT
COUNTY OF YUMA, STATE OF ARIZONA

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN LEE ANDERSON,
Defendant.

Number: **J1403MS200900009**

CERTIFICATION

I hereby certify that I have placed in the box of MARC VICTOR, Attorney for Defendant in the above entitled and numbered action, the disclosure materials required by Rule 15.1, Arizona Rules of Criminal Procedure, consisting of:

[x] Supplemental Pages 33 through 20, DR# 2009-020080 (AZ DPS).

Dated this MAY 20, 2009.

KW
K.W. for S.T.



ARIZONA DEPARTMENT OF PUBLIC SAFETY
CONTINUATION/SUPPLEMENTAL REPORT

DR No.
2009-020080

CONTINUATION REPORT SUPPLEMENTAL REPORT

ADDITIONAL INFORMATION

SUPPLEMENTAL 2009-020080
 Detective R. VanKeuren #5301

ADDITIONAL SUBPOENA LIST

Special Agent Henry Johnson, Immigration and Customs Enforcement, Yuma Office
 Lieutenant George Anderson, AZDPS District 4 Commander.

EVIDENCE LIST

USBP video surveillance CD
 DVD containing video captured on video cameras belonging to suspect ANDERSON
 AZDPS photograph CD
 "YouTube" footage from <http://www.youtube.com/watch?v=LCe0zYqbq3g&nr=1>
 U.S. Supreme Court decisions:
 U.S. v Martinez-Fuerte, 428 US 543 (1976) (Checkpoints)
 U.S. v Carroll, 267 U.S. 132 (1925) (vehicle exception to 4th amendment)
 U.S. v Eura, 440F. 3d 625 (2006) (Canine sniffs)
 U.S. v Valle Cruz, 452 F. 3d 698 (2006) (PC search, barricade in vehicle)

SUMMARY

On April 16, 2009, I was assigned to conduct follow up investigation for an incident that had occurred on Interstate 8 at milepost 78. The incident involved the use of an issued Arizona DPS Taser.

TASER

On April 16, 2009, I was assigned to conduct a follow up investigation of an incident that had occurred on Interstate 8 at milepost 78 on April 14, 2009. The incident involved the use of an Electronic Control Weapon (ECW) issued to Officer Jeff Mitchell #3473. On April 17, 2009, I traveled to Gila Bend and completed a download of the firing information stored within Taser X-26 serial number X00-076095. I noted that the Taser recorded two firings for the date and time in question. The first firing was at 2254 hours, 56 seconds for a total of 13 seconds and then a second firing at 2255 hours, 7 seconds for a total of five seconds. There were no other firings recorded for that day. At the time of download, I further verified that Officer Mitchell was in possession of his second issued cartridge. I issued Officer Mitchell one additional cartridge to replace the one that was deployed.

I downloaded the firing data stored in the Taser issued to Officer Jones #2819. Taser X00-101407 showed no deployments for the April 14, 2009. I verified that Taser X00-101407 was the only Taser issued to Officer Jones and that this Taser would have been in his possession at the time of incident. At the time of download, I further verified that Officer Jones was in possession of both issued air cartridges.

It should be noted that all firing data is stored and locked within the memory of the Taser for the life of the weapon. The firing data can only be accessed by Armory Staff, or Instructor trained personnel with the proper encrypted software and downloading hardware. Data cannot be changed in any way by the department or its personnel. Only Taser International has the ability to reset firing data. The Taser in question accurately reflects the events on the date and time as it happened. On April 20, 2009, I spoke with Officer Max Olives #4265, of the Firearms Training Unit concerning Taser X00-076095. Officer Olives confirmed that Taser Serial Number X00-076095 is the only ECW issued to Officer Mitchell and would have been in his possession at the time of the incident.

Pending

CLOSED BY:

Arrest Other

OFFICER NAME: LAST VanKeuren	FIRST Rick	M.I. R	I.D. NO. 5301	LOCATION CODE 31010500	DATE
SUPERVISOR NAME: LAST	FIRST	M.I.	I.D. NO.	DATE	

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DPS 802-04087 (Rev. 4-2000) Electronic Version 1.0 (10-2004)

Disclosures Made MAY 20 09

33



CONTINUATION/SUPPLEMENTAL REPORT

DR No. 2009-020080

CONTINUATION REPORT

SUPPLEMENTAL REPORT

ADDITIONAL INFORMATION

SEARCH WARRANT

I then reviewed the reports submitted by the involved Arizona Department of Public Safety (AZDPS) Officers and U. S. Border Patrol (USBP) Agents involved, and drafted a warrant to search the two JVC video cameras belonging to Steven ANDERSON and secured as evidence at the time of his arrest. The search warrant was authorized by Presiding Superior Court Judge Andrew Gould on April 20, 2009 and served on April 21, 2009. I contacted ANDERSON's attorney of record Mr. Mark Victor on April 21, 2009. I verbally notified him that I had obtained a search warrant for ANDERSON's cameras and obtained an address to send him a copy. The search warrant and inventory return was mailed via certified U.S. mail at the main post office in Yuma on April 22, 2009 at 1519 hours. (transaction bill #1000500503932) Below is a synopsis of what was recovered from Mr. ANDERSON's two video cameras and video surveillance footage taken from the USBP checkpoint cameras of the incident.

VIDEO CONTENT

It should be noted that ANDERSON's video cameras have an audio track but the USBP cameras are overhead cameras and do not. It should be further noted that by the position of the American flag located on the west side of checkpoint, the wind is blowing from south to north bringing any airborne odor emanating from a vehicle in the number two lane into the center section that Border Patrol canines routinely stage in the pre-inspection area.

Within the video memory of JVC video camera serial number 152B2198 there appear to be five video clips dated April 14, 2009 shot at various times of the day concerning passage of ANDERSON through Border Patrol Checkpoints. One of the videos does not show his direct contact with agents. Two of the videos show an agent waiving him through without making verbal contact with him. Another video showed an agent making contact with him and asking his citizenship. ANDERSON does not answer the agent's question but then asks the agent if he is free to go. The agent then waives ANDERSON on, telling him that he is free to go.

BORDER PATROL VIDEO SURVEILLANCE

On April 14, 2009 at approximately 2152 hours, a red Hyundai driven by Mr. Steven ANDERSON entered the USBP checkpoint on Interstate at milepost 78 in the number 2 lane. USBP surveillance cameras show Agent Spoonamore and his canine partner working the pre-inspection/contact area. Agent Spoonamore is seen walking with his canine toward the driver's side door of the Hyundai. (approximate time elapsed from initial contact of vehicle to the inspection area until Agent Spoonamore contacts driver is five seconds)

FOOTAGE FROM CAMERA SERIAL NUMBER 152B2198

(One video clip duration of 48minutes 18 seconds)

Footage from ANDERSON's video camera then details the following. The video showed that ANDERSON only had his window lowered down approximately 1 inch. Agent Gomez contacted ANDERSON, greeted him and

Form with fields for Pending, Closed By, Arrest, Other, Officer Name (Last, First, M.I.), I.D. No., Location Code, Date, Supervisor Name (Last, First, M.I.), I.D. No., Date.

Disclosures Made MAY 20 08 34



ARIZONA DEPARTMENT OF PUBLIC SAFETY
CONTINUATION/SUPPLEMENTAL REPORT

DR No.
2009-020080

CONTINUATION REPORT SUPPLEMENTAL REPORT

ADDITIONAL INFORMATION

asked him his citizenship. ANDERSON did not answer Agent Gomez's question and only replied, "Can I go, am I free to leave". In the background, Agent Spoonamore can be heard telling Agent Gomez to send the vehicle to secondary inspection.

At that time Agent Spoonamore had made his way up to the driver's side of ANDERSON's vehicle and told him that his canine had showed an alert to his vehicle and that he needed to go to the secondary inspection area. Agent Spoonamore explained that his canine was trained to alert to concealed persons and narcotics, and that a canine alert to a vehicle was probable cause to search the vehicle. During this time ANDERSON repeated his request seven times asking to leave. The agents told ANDERSON that he could not and that he was being detained for a canine alert to his vehicle. ANDERSON said that he was not going to roll his window down or allow a search of his vehicle and again asked if he was free to leave. Agents again told ANDERSON that he was not free to leave. Over two minutes and twenty one seconds elapsed from the initial time of contact until ANDERSON verbally declared that he was a United States citizen. Over thirty one minutes elapsed before ANDERSON identified himself by name.

DETENTION IN INSPECTION LANE 2

During the course of the contact, the following comments and statements were made between USBP Agents and ANDERSON. ANDERSON asked what he was being detained for and agents responded that he was being detained for a canine alert to his vehicle. ANDERSON said that he was not going to roll his window down, move his vehicle off of the roadway into secondary inspection, or allow agents to search his vehicle. ANDERSON accused agents of making up a reason to illegally search his vehicle. Agents warned ANDERSON that he was blocking the roadway by not moving into secondary inspection. The agents further told ANDERSON that he was not free to leave because of the canine alert.

Also during this time, ANDERSON said that he did not care if agents broke out his window. ANDERSON was informed that DPS was notified and was coming to assist agents with him obstructing the roadway. ANDERSON became enraged and began to yell at agents saying that he was supposed to be in a free country and should be free to do whatever he wants. ANDERSON went on and further quoted the Fourth Amendment of the Constitution to agents. ANDERSON attempted to taunt agents by referring to the agents as morons and idiots, telling them that they were a joke and asked them how they took their jobs and themselves seriously. ANDERSON went on to ask agents how they respected themselves. ANDERSON told agents that they were too stupid to understand the questions he had for them. ANDERSON made racial comments to the agents and referred to them as Gestapo Nazis who wanted to control his life.

ANDERSON further told agents that he was not an illegal immigrant born in Mexico and told one of the agents that he looked like he was born in Mexico. ANDERSON then told the agents that they should go to work in Mexico where it is a Police state and an authoritarian government.

ANDERSON engaged agents with comments that his taxes paid the agents salary and that they were here to serve him not for him to serve them. ANDERSON asked agents if they were here to protect the U.S Constitution or rule over him. ANDERSON received several phone calls from his wife during the course of the detention. During one of these calls, ANDERSON acknowledges that the Border Patrol had to divert traffic around him because of him blocking the lane. It should be noted that during the time that ANDERSON was filming the encounter, he panne

Pending
 CLOSED BY:
 Arrest Other

OFFICER NAME: LAST VanKeuren	FIRST Rick	M.I. R	I.D. NO. 5301	LOCATION CODE 31010500	DATE
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35



ARIZONA DEPARTMENT OF PUBLIC SAFETY
CONTINUATION/SUPPLEMENTAL REPORT

DR No.
2009-020080

CONTINUATION REPORT SUPPLEMENTAL REPORT

ADDITIONAL INFORMATION

because of him blocking the lane. It should be noted that during the time that ANDERSON was filming the encounter, he panned the area several times. The secondary area can be clearly seen to the south edge of the roadway clearly lit and safely off of the roadway. There is ample room to move his vehicle so as not to block the roadway. (approximate distance off of the fog line is twenty five feet)

ANDERSON started to search around in his vehicle into bags and under objects in his vehicle. Agents asked ANDERSON, for their safety, not to reach in and around into bags. ANDERSON responded that he could do whatever he wanted that that he would not obey any orders until he was under arrest. ANDERSON further accused the agents of being terrorists.

ARRIVAL OF ARIZONA DEPARTMENT OF PUBLIC SAFETY OFFICERS AS DOCUMENTED IN CAMERA SERIAL NUMBER 123G1223

(Two video clips: Officer Jones clip 6 minutes, 6 seconds, Officer Mitchell clip 1 minute, 31 seconds)

Officer Russ Jones #2819, AZDPS was called at assist USBP, via DPS Tucson Operational Communications Center. On arrival, approximately 2249 hours by ANDERSON's vehicle clock, Officer Jones then met with agents. After learning the probable cause that USBP agents had to detain ANDERSON, Officer Jones placed his state patrol vehicle directly behind ANDERSON's vehicle and stop-sticks in front of several of his tires. Supervisory Border Patrol Agent S. Schultz spoke with ANDERSON. Supervisor Schultz told ANDERSON that he was being detained for probable cause that he was committing a crime of hiding a person or drugs. Supervisor Schultz told ANDERSON that it would behoove him to listen to what the officer had to say.

Officer Jones identified himself and who he worked for. Officer Jones asked ANDERSON if he could roll his window down further to talk but ANDERSON refused. Officer Jones tried to explain that a canine alert to a vehicle was in fact probable cause to detain a vehicle and its driver for a lawful search. Officer Jones explained that the agents had a legal right to search his vehicle once the canine alerted to his vehicle. ANDERSON said that he guessed that his Fourth Amendment rights didn't matter and again asked if he was free to leave. Officer Jones asked ANDERSON to end the encounter peacefully and come out of his vehicle, ANDERSON agreed to end it peacefully only if he could immediately leave. ANDERSON told Office Jones that he was not under arrest and had been illegally detained. Officer Jones told ANDERSON that he could consider himself under arrest. Officer Jones also explained that ANDERSON was under arrest for obstructing a public thoroughfare and resisting a lawful order. ANDERSON said that he was not going to move his vehicle or step out of it. ANDERSON asked Officer Jones if he was free to leave to which Officer Jones responded that he was not and that he was under arrest. Officer Jones then began reading ANDERSON his Miranda warnings per an issued card. ANDERSON then began to ignore Officer Jones not saying anything. Officer Jones asked ANDERSON if he was refusing to come out of his vehicle several times to which ANDERSON said nothing.

Pending

CLOSED BY:

Arrest Other

OFFICER NAME: LAST VanKeuren	FIRST Rick	M.I. R	I.D. NO. 5301	LOCATION CODE 31010500	DATE
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36



CONTINUATION/SUPPLEMENTAL REPORT

DR No. 2009-020080

CONTINUATION REPORT

SUPPLEMENTAL REPORT

ADDITIONAL INFORMATION

Officer Jeff Mitchell #3473 arrived shortly after ANDERSON refused to further speak with Officer Jones. ANDERSON asked Officer Mitchell if he was placing him under arrest. Officer Mitchell answered that he was under arrest. ANDERSON asked what for and Officer Mitchell tried to tell him for failing to obey him a lawful order. ANDERSON then started to speak over Mitchell asking him for what crime that he was being charged with. Officer Mitchell explained that the Border Patrol canine alerted to his vehicle. ANDERSON said that he had repeatedly asked for the dog to be brought back out because he believed that it did not happen and he thought that the agents were not telling the truth.

Officer Mitchell told ANDERSON that he could do one of two things, he could get out of the car or he would have to take him out of the car. ANDERSON began to try to argue with Officer Mitchell asking him that if he was to be arrested didn't he have to be charged with something specific. Officer Mitchell told ANDERSON that he was a police officer and that he was ordering him out of the vehicle. ANDERSON questioned Officer Mitchell's command asking him if he had to obey his command. Officer Mitchell responded that ANDERSON did have to, by law. ANDERSON then asked if he had to obey Officer Mitchell's command even though he was being stopped without cause. Officer Mitchell then left the driver's side of the vehicle and went over to the passenger side of the car.

ARREST

Officer Mitchell positioned himself on the front passenger side just behind the vehicle's "B" pillar. Officer Mitchell can be seen with his Taser out and an issued escape hammer preparing to break the passenger side front window. Agents and officers positioned themselves around the vehicle in preparation for when Officer Mitchell broke the window. An unknown officer or agent is heard telling ANDERSON to cover his eyes because his windows were about to be broken. Officer Mitchell then breaks the passenger side window making a dollar bill sized hole in it to put his Taser in through. (the window did not collapse) Officer Mitchell then deploys his Taser with air cartridge, striking ANDERSON on his right side. There is no further footage of the incident on the tape.

Border Patrol video surveillance showed that one Border Patrol Agent utilized an "Asp" collapsible baton to break the driver's side window. A second agent is seen opening the driver's side door after removing the vehicles' door lock. Three agents are then seen extracting ANDERSON from the vehicle and placing him onto the ground where he was taken into custody. (estimated elapsed time from opening of door until ANDERSON in placed on his feet, 45 seconds)

Pending

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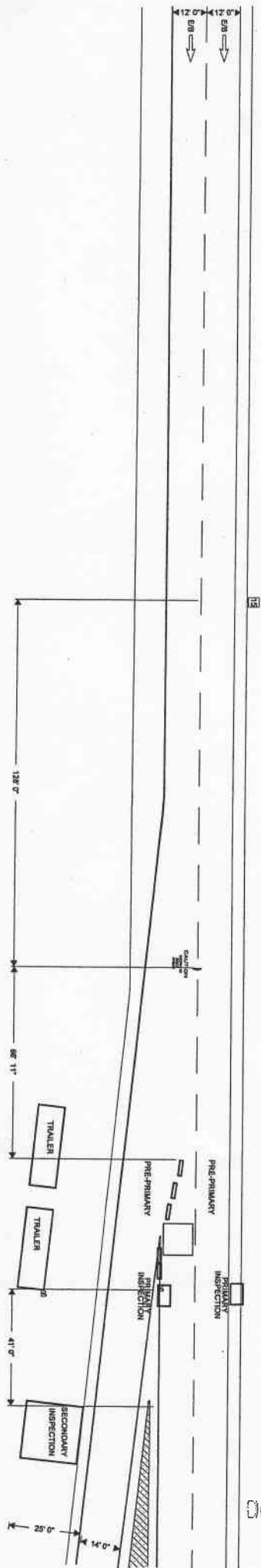
Arrest Other

Table with columns for OFFICER NAME (LAST, FIRST, M.I.), I.D. NO., LOCATION CODE, DATE, and SUPERVISOR NAME (LAST, FIRST, M.I., I.D. NO., DATE). Includes name VanKeuren Rick and I.D. NO. 5301.

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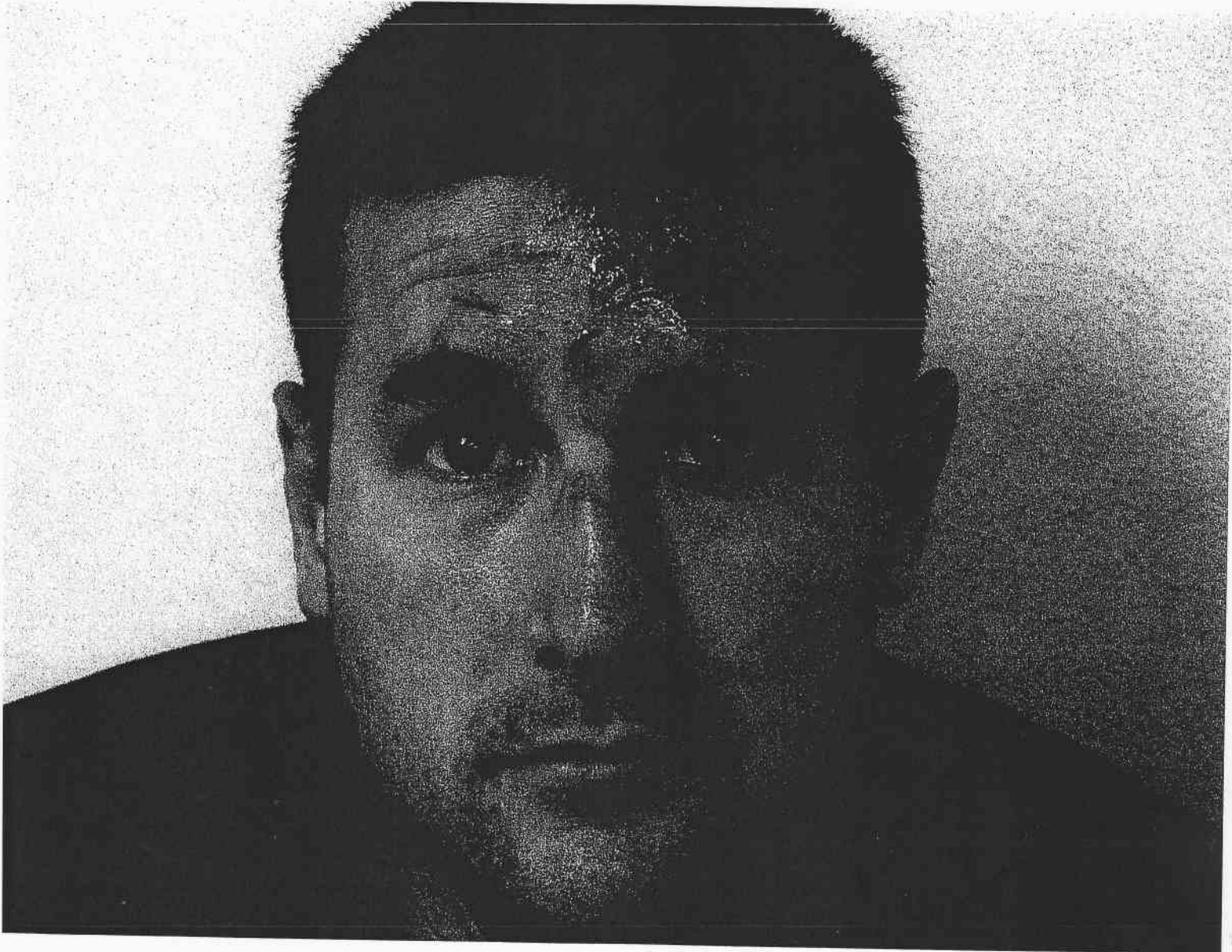
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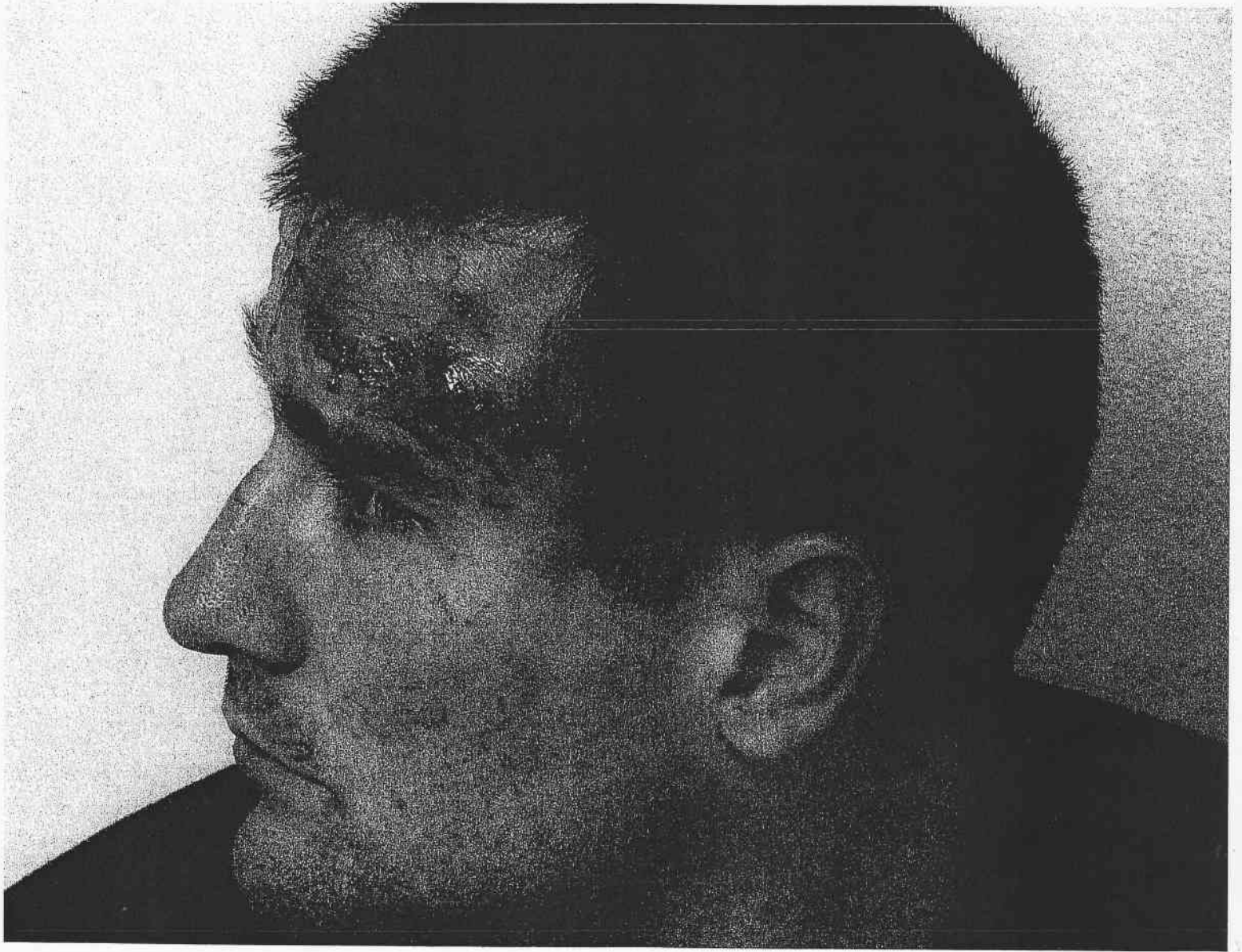
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51



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52