

# **EXHIBIT 4**

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UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

LISA VARGAS,	)	
	)	
PLAINTIFF,	)	
	)	
VS.	)	CASE NO.
	)	2:19-CV-03279-PSG-AS
COUNTY OF LOS ANGELES,	)	
NIKOLIS PEREZ, JONATHAN ROJAS,	)	
AND DOES 1 THROUGH 10,	)	
INCLUSIVE,	)	
	)	
DEFENDANTS.	)	
	)	
	)	

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DEPOSITION OF JENNY MAK  
LOS ANGELES, CALIFORNIA  
MONDAY, AUGUST 24, 2020

JOB NO. 4229455  
REPORTED BY:  
TERI L. SMITH, RPR, CRR, RMR  
CSR NO. 7949  
PAGES 1 - 51

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COUNTY OF LOS ANGELES, )  
NIKOLIS PEREZ, JONATHAN ROJAS, )  
AND DOES 1 THROUGH 10, )  
INCLUSIVE, )  
)  
DEFENDANTS. )  
\_\_\_\_\_ )

DEPOSITION OF JENNY MAK, TAKEN VIA  
VERITEXT VIRTUAL VIDEOCONFERENCE ON BEHALF OF PLAINTIFF,  
AT 2020 BEVERLY BOULEVARD, LOS ANGELES, CALIFORNIA,  
BEGINNING AT 12:00 P.M., ON MONDAY, AUGUST 24, 2020,  
BEFORE TERI L. SMITH, RPR, CRR, RMR, CERTIFIED SHORTHAND  
REPORTER, NO. 7949.

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A P P E A R A N C E S :

FOR THE PLAINTIFF:

GUIZAR, HENDERSON & CARRAZCO, LLP

BY: HUMBERTO M GUIZAR, ESQ.

CHRISTIAN CONTRERAS, ESQ.

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FOR THE DEFENDANTS:

IVIE, MCNEILL & WYATT

BY: ANTONIO K. KIZZIE, ESQ.

444 SOUTH FLOWER STREET, 18TH FLOOR

LOS ANGELES, CALIFORNIA 90017

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EXAMINATION

JENNY MAK	
BY MR. GUIZAR:	5
BY MR. KIZZIE:	35
BY MR. GUIZAR:	39
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BY MR. KIZZIE:	45
BY MR. GUIZAR:	45

EXHIBITS

EXHIBIT 39	LABORATORY EXAMINATION REPORT	21
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1 LOS ANGELES CALIFORNIA - AUGUST 24, 2020 - 12:00 P.M.

2 --000--

3 JENNY MAK,

4 having been first duly sworn, testified as follows:

5

6 EXAMINATION

7 BY MR. GUIZAR:

8 Q Good afternoon, Ms. Mak.

9 A Good afternoon.

10 Q I'm the -- I don't know if you can see me in  
11 the screen, but I'm the older gentleman -- the older  
12 guy.

13 A Yes. Humberto.

14 Q Yes. Nice to meet you.

15 A Nice to meet you too.

16 Q So we're going to take your deposition today.  
17 Could you please state and spell your name for  
18 the record.

19 A Yes. My name is Jenny Mak. My first name is  
20 spelled J-E-N-N-Y, last name M-A-K.

21 Q Okay. Have you ever had your deposition taken  
22 before?

23 A No, I have not.

24 Q Okay. So this will be the first time for you?

25 A Yes.

1 MR. GUIZAR: Okay. Go up a bit, Chris.

2 BY MR. GUIZAR:

3 Q And the "Examination Conclusions" indicate,  
4 "The evidence was processed for latent prints. No  
5 latent prints were developed." Is that correct?

6 A Correct.

7 Q And that's a conclusive finding; correct?

8 A Yes.

9 Q By you; right?

10 A Yes.

11 Q Okay. What is -- going up a little bit, what  
12 does "Prelims 10" mean?

13 A That is the, I guess the item number that is  
14 assigned to evidence when it is booked into our  
15 database, and so that was the number that was assigned  
16 to that item.

17 Q Okay. And underneath the "Laboratory  
18 Examinations," it has all the stuff -- all the  
19 procedures that you went through; correct?

20 A Yes.

21 Q Okay.

22 MR. GUIZAR: Go down, Chris. And so keep  
23 going. All right.

24 BY MR. GUIZAR:

25 Q So we're on the second page of the report and

1 meaningful value in the scientific analysis, which it  
2 doesn't. But go ahead.

3 BY MR. KIZZIE:

4 Q You can answer.

5 A Can you please repeat the question again.

6 Q Yes. In an attempt to sum up everything that  
7 you testified to regarding the difference in the crime  
8 shows and reality, just in general terms, based on your  
9 experience and expertise, do we as human beings tend to  
10 leave fingerprints on everything that we touch,  
11 regardless of circumstances?

12 A No.

13 Q Okay. Now, based on your experience,  
14 expertise and education, does the fact that no latent  
15 prints were developed from the firearm that you  
16 received -- does that mean to any reasonable scientific  
17 probability that the decedent did not in fact at any  
18 time have or handle the gun?

19 A No.

20 Q And why not?

21 A As I mentioned about the various factors in  
22 chance impressions, leaving behind fingerprints is  
23 difficult. They're delicate. The handling of the  
24 weapon, sometimes you have to handle it perfectly  
25 leaving it behind.



1 But sometimes an individual may not be a  
2 secreter. They may have very dry hands and they may not  
3 leave fingerprints behind. Those could be the factors.  
4 Someone could also be wearing a glove. That could also  
5 affect leaving behind fingerprints.

6 Q Okay. And so would it be accurate to say,  
7 based on your report and your finding and analysis, that  
8 you are concluding that there were no latent prints  
9 discovered on the firearm you were presented with  
10 stemming from this incident? Would that be accurate?

11 A Yes.

12 Q All right. Are you concluding that because  
13 there were no latent prints developed that the decedent  
14 or the suspect did not have or handle or otherwise  
15 possess the firearm at the time of the incident?

16 A No.

17 Q Okay. Thank you. I have no further  
18 questions.

19 EXAMINATION

20 BY MR. GUIZAR:

21 Q Okay. Just a little bit of follow-up.  
22 How long have you been working for the  
23 scientific division of the sheriff's department in  
24 prints?

25 A At my current position, I've worked here for a

1 experience and education, due to the fact that there was  
2 no latent prints discovered on the gun, are you  
3 concluding or opining that the gun must have been  
4 planted by someone else?

5 MR. GUIZAR: I'm going to object. That's out  
6 of the scope of this witness' purview. She has no  
7 information about that.

8 You can answer, if you know.

9 BY MR. KIZZIE:

10 Q You can answer.

11 A No, I can't answer that question.

12 Q Okay. All right. So I think my question is,  
13 as phrased -- I was trying to phrase it a little better.

14 Just like we discussed earlier in your  
15 testimony, you're only concluding that there was no  
16 latent prints found on the weapon; correct?

17 A Correct.

18 Q You're not concluding that the decedent did  
19 not at any time have, possess or attempt to use a  
20 weapon, are you?

21 A Correct.

22 Q Okay. You're also not concluding that the  
23 decedent at any time -- strike that.

24 So following up on those two things, you're  
25 also not concluding to any reasonable scientific

1 probability that because the latent prints were not  
2 discovered on the weapon, therefore the weapon must have  
3 been planted by someone else, are you?

4 MR. GUIZAR: Same objection.

5 THE WITNESS: No, I'm not saying that.

6 MR. KIZZIE: Okay. All right. I don't have  
7 any further questions.

8 EXAMINATION

9 BY MR. GUIZAR:

10 Q The firearm -- when you examined the firearm,  
11 were you also asked to examine bullets in the firearm,  
12 the chamber, and all the surrounding mechanism of the  
13 firearm?

14 A There were cartridges included in the box,  
15 along with the firearm, which I did process.

16 Q And there was a clip also that goes with the  
17 gun; right?

18 A Yes. There was a magazine, correct.

19 Q A magazine. So you did the same thing with  
20 the examination for latent prints of the entire, the gun  
21 and every single item of the gun, every single item of  
22 the clip, and all the bullets, and you didn't find any  
23 latent prints at all whatsoever; is that accurate?

24 A Yes.

25 Q Okay. All right. Thank you. I have no

1 I, Teri L. Smith, a Certified Shorthand  
2 Reporter of the State of California, in and for the County  
3 of San Diego, State of California, do hereby certify:

4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth; that any  
6 witnesses in the foregoing proceedings, prior to  
7 testifying, were administered an oath; that a record of  
8 the proceedings was made by me using machine shorthand  
9 which was thereafter transcribed under my direction; that  
10 the foregoing transcript is a true record of the testimony  
11 given.

12 Further, that if the foregoing pertains to  
13 the original transcript of a deposition in a federal case,  
14 before completion of the proceedings, a review of the  
15 transcript [ ] was [ ] was not requested.

16 I further certify I am neither financially  
17 interested in the action nor a relative or employee of any  
18 attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date  
20 subscribed my name.

21 Dated: August 27, 2020

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23 Teri L. Smith, CSR 7949  
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LISA VARGAS, )  
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PEREZ, JONATHAN ROJAS, AND DOES 1 ) 2:19-CV-03279-PSG  
THROUGH 10, INCLUSIVE, ) -AS  
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DEFENDANTS. )  
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VIDEOCONFERENCE DEPOSITION OF SAMANTHA INGALLS  
THURSDAY, OCTOBER 15, 2020

JOB NO. 4281024  
REPORTED BY: MELIA BASAVAND, CSR NO. 14089

1 flipped over the decedent.

2 But you can answer if you can.

3 THE WITNESS: What do you mean by "a reasonable  
4 scientific probability"?

5 BY MR. GUIZAR:

6 Q Yeah. You're the scientist. You're the  
7 criminalist. And you determine if GSR is transferred on  
8 by a -- from a weapon. So if the one gun was never  
9 fired --

10 Just limit it to this question: The gun that  
11 was recovered that was never fired -- fired or discharged  
12 -- right -- then it's not likely -- it's highly unlikely  
13 that the GSR came from that gun on his hand; is that  
14 true?

15 MR. KIZZIE: No. Objection. That's contrary to  
16 the statement --

17 Well, one second. It calls for speculation. It  
18 lacks foundation. I think it's been asked and answered  
19 that the deposition on GSR on services does not reveal  
20 how it got there. It also assumes facts not in evidence  
21 that the gun was -- that was recovered did not have GSR  
22 on it from a prior occasion. It also assumes facts not  
23 in --

24 It also assumes facts in evidence but -- that  
25 aren't in this hypothetical that the decedent grabbed and

1 held the gun which precipitated the gunshot. So it's  
2 calling for speculation.

3 But you can answer if you can, Ms. Ingalls.

4 THE WITNESS: Again with GSR it's -- there are  
5 so many different factors going on, and it's so complex  
6 that I can say that this person was in the environment of  
7 gunshot residue, sustained gunshot wounds where basically  
8 when -- when GSR is produced, most of it's coming out of  
9 the muzzle direction.

10 And also these particles -- it's not just a  
11 straight linear deposition. It's almost like a little --  
12 it's like you're throwing a flower at something. It's  
13 just a cloud of these particles.

14 So all of that to say it would be impossible to  
15 kind of hair pick where something specifically came from.

16 I can just say that this person was in the  
17 environment of gunshot residue and specifically how the  
18 particles got there, I can't say.

19 BY MR. GUIZAR:

20 Q Okay. But no one ever told in any report or  
21 otherwise that that gun was fired; correct?

22 A I know nothing about that gun other than it  
23 exists.

24 Q Okay. And no one ever told you that the  
25 decedent fired the gun before he was shot; correct?

1 A No, I don't know anything about that.

2 Q Okay. All right. That's all I have.

3

4 EXAMINATION

5 BY MR. KIZZIE:

6 Q All right. Ms. Ingalls, this is Antonio Kizzie.  
7 I'm counsel for the defendant. I just have a few  
8 questions for you.

9 Based on --

10 What's the number of this exhibit, Counsel?

11 MR. GUIZAR: 75.

12 MR. KIZZIE: 75. Okay.

13 Q This report, Exhibit 75, was this prepared in  
14 the course and scope of your employment with the Deputy  
15 Medical Examiners office in your scope and employment as  
16 a criminalist?

17 A Yes.

18 Q All right. And based on your understanding and  
19 experience, would this be maintained in the course and  
20 scope of the business of the coroner's office?

21 A Yes.

22 Q Okay. And in this report -- one of the  
23 conclusions that is reached in this report is just that  
24 Mr. Anthony Vargas' left hand and right hand both tested  
25 positive for particles attributable to gunshot residue;



1 is that correct?

2 A Yes.

3 Q Okay. However, you're not -- based on the  
4 science of gunshot residue, you're not offering any  
5 opinion as to how these particles got there; correct?

6 A No.

7 Q Well, I'll -- I'll phrase it because I -- the  
8 way I asked the question was poor.

9 So based on the science of how gunshot residue  
10 can be deposited, are you offering any opinion as to how  
11 the gunshot residue on his hands got there other than the  
12 three possible mechanisms discussed in your conclusion  
13 that he either discharged the weapon or was in the  
14 environment of gunshot residue or touched a surface that  
15 had gunshot residue on it?

16 Other than those three possibilities are you  
17 offering any conclusion as to how the gunshot residue was  
18 deposited on Mr. Vargas' hand?

19 A No. I'm just saying that it was there, and  
20 those are three ways it could have gotten there.

21 Q Okay. And have there been any studies -- if a  
22 firearm is fired previously, are there -- have there been  
23 any studies as to how long gunshot residue can remain on  
24 the surface of a firearm?

25 A Generally speaking, you know, these particles

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UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

LISA VARGAS,	)	
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PLAINTIFF,	)	
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V.	)	CASE NO. :
	)	2:19-cv-03279-PSG-AS
COUNTY OF LOS ANGELES, NIKOLIS	)	
PEREZ, JONATHAN ROJAS AND	)	
DOES 1 THROUGH 10, INCLUSIVE,	)	
	)	
DEFENDANTS.	)	
_____	)	

REMOTE PROCEEDINGS OF THE  
DEPOSITION OF ILENE KROKAUGGER  
MONDAY, SEPTEMBER 28, 2020

JOB NO. 4270570  
REPORTED BY SHARON D. ALLEN, C.S.R. NO. 10752  
PAGES 1 - 32

1 REMOTE PROCEEDINGS OF THE DEPOSITION OF ILENE  
2 KROKAUGGER, TAKEN ON BEHALF OF THE PLAINTIFF, AT 10:03  
3 A.M., MONDAY, SEPTEMBER 28, 2020, TAKEN REMOTELY BEFORE  
4 SHARON D. ALLEN C.S.R. NO. 10752.

5  
6 APPEARANCES OF COUNSEL

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25

1 BY MR. GUIZAR:

2 Q -- with regard to the five samples that you  
3 took?

4 MR. KIZZIE: Okay. I'll object to the question  
5 in that it states the incorrect standard. The correct  
6 standard is a reasonable medical probability.

7 But you can answer the question if you  
8 understand it.

9 THE WITNESS: I'm sorry. Can you --

10 MR. KIZZIE: Also to the extent it requires a  
11 legal conclusion.

12 I'm sorry. Go ahead, Ms. Krokaugger.

13 THE WITNESS: I'm sorry. Can you repeat that?

14 BY MR. GUIZAR:

15 Q Yes. What is your --

16 Let me ask it this way: What is your  
17 conclusion as to whether or not Anthony Vargas ever  
18 handled any part of the five swabs that you evaluated or  
19 ever -- or there was any DNA from Anthony Vargas on  
20 those five swabs?

21 MR. KIZZIE: Objection to the extent it's been  
22 asked and answered, vague and ambiguous.

23 You can answer in your own words the question  
24 as you understand it.

25 THE WITNESS: I can't provide a conclusion as

1 to whether or not somebody handled an item. I can only  
2 tell you my conclusions from my DNA analysis and give  
3 you the statistic and how much that is supported.

4 BY MR. GUIZAR:

5 Q Okay. When you go to trial in this case and  
6 someone was to ask you based on your DNA evaluation of  
7 the five swabs, could you -- would you testify to a  
8 scientific probability that Mr. Vargas ever touched or  
9 any of the DNA extracted from the five swabs were  
10 attributable to Mr. Vargas?

11 MR. KIZZIE: I will object to the extent the  
12 question is vague, compound, calls for speculation as to  
13 what Ms. Krokaugger will or won't be asked at trial. It  
14 states the incorrect medical standard and legal  
15 standard.

16 You can answer the question in your own words  
17 if you understand what's being asked.

18 THE WITNESS: I don't really understand what's  
19 being asked.

20 BY MR. GUIZAR:

21 Q Have you ever testified in a courtroom?

22 A Yes.

23 Q I'll just do it in a very simple way because  
24 that's jurors want to hear, a very simple way, I think.  
25 Mr. Kizzie might disagree with me and that's his