

# HOMICIDE: Jones also claimed Ayala intended to shoot another person who owed him money

Continued from 1A

connection with a crime of violence. Each federal count packs a 10-year sentence that would run back-to-back.

Ayala also agreed to plead guilty to state charges of first-degree conspiracy to commit burglary and first-degree manslaughter. The deal allows the district attorney's office to bring the charges without the need of a grand jury indictment. District Attorney Dan Primus also would recommend a maximum prison term of 16 years to run concurrent with the federal time.

Six days after Ayala made the deal, Martin brought a new indictment against McIver and Vargas and added Nicholas Benjamin Jones to the mix. Under this indictment, the feds charged McIver with felon in possession of a firearm and Vargas and Jones with felon in possession of a firearm and ammunition. McIver and Vargas also have charges of aiding and abetting each other, assault with a dangerous weapon and use of a firearm in connection with a crime of violence.

Court records show the three men pleaded not guilty to all counts.

McIver's attorney, Per Olson of Portland, filed a 26-page motion on May 8 in Oregon U.S. District Court to dismiss all indictments. He argued the government brought the newest charges "solely for the purpose of causing delay and obtaining an unfair tactical advantage over defendant," which amounted to violating McIver's right of due process under the Fifth Amendment.

Federal prosecutors sought to buy more time for the state to bring homicide charges, Olson asserted, and they added Jones so he would not be available to testify as a defense witness in McIver's trial.

Olson also contended "details of the shooting itself, and what occurred before and after, are difficult to pin down as a result of inconsistent witness statements."

## Timeline of events in the homicide case

**Jan. 27, 2016** - Thadd Nelson is shot to death in his driveway near Meacham on the Umatilla Indian Reservation at close range. A woman who was with him escapes. Police within hours of the shooting death arrest Joseph Aaron McIver, Edward Duarte Ayala, and Armando Vargas.

**Jan. 28, 2016** - Umatilla County District Attorney Dan Primus charges McIver with murder. The other two await charges while in the Umatilla County Jail, Pendleton.

**Feb. 3, 2016** - Primus dismisses all counts after federal prosecutors indict the three on weapons charges.

**June 8, 2016** - Jennifer Martin, assistant United States attorney, brings the first superseding indictment against McIver, Ayala, and Vargas. This leads to delaying the trial until September 2016.

**Aug. 30, 2016** - Federal Judge Anna J. Brown grants the defense request to delay the trial until December 2016.

**Nov. 9, 2016** - Brown grants another continuance and resets the trial to begin May 16.

**April 13** - An Oregon Department of Transportation employee finds a gun near Old Highway 30. Police connect the gun to

Nelson's homicide.

**April 20** - Ayala takes a plea deal that nets him 20 years in federal prison. He also will have to face charges in Umatilla County Circuit Court of conspiracy to commit burglary and manslaughter. Primus promises to ask for a maximum sentence of 16 years to run concurrent with the federal time.

**April 26** - Martin brings a second superseding indictment, dropping Ayala from the case but adding Nicholas Benjamin Jones on weapons charges. McIver and Vargas also face aiding and abetting counts. All three men plead not guilty.

**April 27** - Martin sends an email to her trial team detailing the reasons for the new indictment. The discovery of the gun is central, she said, because it was the one Vargas used.

**May 8** - Per Olson, McIver's attorney, files a motion to dismiss all the indictments. May 22 - Martin files a response defending the superseding indictment.

**June 1** - The parties are expected to go to U.S. District Court, Portland, over the motion.

In the government's theory of the crime, he stated, McIver, Ayala, Vargas, and Jones set out from Hermiston in a GMC Duramax pickup to burglarize Nelson's home in the Meacham area. Ayala's girlfriend was the driver.

However, according to Olson, Jones claimed Nelson was not the target of the burglary.

Jones also claimed Ayala intended to shoot another person who owed him money because he thought that person would be with Nelson. And while Jones and another person in the pickup confirmed Ayala was a shooter, Olson stated, they differed on whether anyone else fired at Nelson.

Martin on Monday filed 42 pages in response to Olson's motion to dismiss, arguing the new indictment "appropriately finalizes the charges and defendants based on the investigation to date." And McIver's "formative role in this case," she stated, began weeks before he directed events that January night.

The following account

of events is from Martin's response.

McIver in early January 2016 "stole a golden colored object" from Nelson's home, and tried to pawn it in Portland. Nelson "made efforts" to find McIver about the dispute.

Witnesses said McIver hung out with Ayala and sold him a gun in the weeks before the deadly shooting. Another witness reported McIver claimed two men wanted the address of someone who owed them \$15,000 for methamphetamine, and McIver was going to get a third of the money for finding where the person lived.

Early on Jan. 27, 2016, McIver told a girlfriend he was going to do a "lick," or robbery. He and the other co-defendants soon dressed in dark or camouflage clothing, loaded at least seven firearms into a pickup and left from Hermiston.

They took extra ammunition, plus a rope, a blowtorch, night vision optics, and two masks. When they stopped for gas, Ayala bought duct tape.

Ayala, each armed, walked to the Scout and got in.

A neighbor called 9-1-1 and reported seeing Nelson shot and three shooters. They continued firing as they left, even shooting at the caller.

Police soon caught the five. District Attorney Dan Primus dropped charges, including homicide, as the feds brought their case.

The government's investigation between June 7, 2016, and April 24, Martin continued, included search warrants, DNA reports, and a witness reenactment at the scene. And on April 13, an Oregon Department of Transportation employee found a black Taurus Millennium .45 caliber pistol along Old Highway 30. The gun was in the "flight path" of Nelson's Scout.

"This is the gun we believe Vargas used to shoot at our victim, and that he used to kill Nelson," she told her trial team in an April 27 email. "The gun itself is strong evidence against Vargas."

And was central to the need for a superseding indictment.

Jones, she continued, told his mother "he believed they were going to collect a drug debt owed to Ayala and Vargas."

Ample evidence also pointed to Jones possessing a Braztech International LC Revolver .357 Magnum, which is among the guns police seized during the investigation.

The next hearing in the case is June 1 in Portland. Martin let her team know the court re-set the trial from mid-May to begin Aug. 8, but that may not be firm.

Martin in her response also stated District Attorney Primus intends to bring charges against all four defendants.

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## If FBI wants to talk to Kushner, lawyer says he's ready

WASHINGTON (AP) — If the FBI wants to talk to Jared Kushner about his Russian contacts, they won't have to track down the president's son-in-law. Amid reports the FBI is scrutinizing Kushner's encounters, his lawyer says he stands ready to talk to federal investigators as well as Congress about his contacts and his role in Donald Trump's 2016 campaign.

Federal investigators and several congressional committees are looking into Russia-Trump campaign connections, including allegations that there may have been collaboration to help Trump and harm his Democratic opponent, Hillary Clinton.

"The FBI tries to be thorough in their investigations," said defense lawyer Edward MacMahon, who is not involved in the case. "If it's been publicly reported that he met with Russians, and the investigation has to do with administration officials meeting with Russians, well, then, they'll probably want to talk to everybody."

Kushner was a trusted Trump adviser last year, overseeing the campaign's digital strategy, and remains an influential confidant within the White House.

One likely area of interest for investigators would be Kushner's own meetings with Russians, given that such encounters with a variety of Trump associates are at the root of the sprawling probe, now overseen by former FBI director Robert Mueller.

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