

# EXHIBIT S

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I Rudy Tapia Jr., Declare:

On March 24, 1984, I witnessed a stabbing assault that resulted in the death of Edward Brooks. On the day of the incident I was housed in the Security Housing Unit (SHU) 4A, on the third tier. I was on "Walk Alone Status," assigned to the upper exercise yard. On this particular morning I was walking around the entire yard along the chain link fence. I had been outside for a few hours when I heard a loud noise coming from the lower exercise yard. It sounded like someone was running into the chain link fence. The noise drew my attention and I quickly walked to the side of the yard where I could look down on the two lower exercise yards and see the chain link fence that separated the two yards. To my left was the White exercise yard and on the right was the Black exercise yard, but I could only see about half of this yard because the corner of the 4A building blocked my view. The area I could see was the chin-up, pull-up and dip bars, the two televisions located by the fence, a card table and a big punching bag.

When I approached the fence on my yard I had to step in an "Out of Bounds," area to get closer to the fence to look down on the lower yards. This out of bounds area was approximately one (1) yard wide marked with a yellow line. I looked back over my shoulder to see if the Guard in the gun tower over looking my yard was watching me. He was not looking my way, he was talking on the telephone. I stepped closer to the fence and looked down. Immediately I saw inmates on the Black yard scrambling around by the chin-up, pull-up bars and fence. There appeared to be several fights in different places on their yard. I looked below me and saw three inmates fighting by the punching bag, and further to my right others were fighting and wondered when the shot was going to come from the gun tower to stop the fighting? About (10) seconds had elapsed from when I first heard the loud noise and walked to the fence. I looked up to the gun tower in front of me on top #2 block to see if the Guard was getting ready to shoot someone or fire a warning shot to stop the fighting. The Guard in the gun tower was C/O Stafford. I had been in 4A approximately 3½ years and knew all the Guards on sight. C/O Stafford, was the Escort and Canteen officer in the 4A Unit. C/O Stafford, was talking on his telephone, laughing and looking in my direction or behind me. He gave no indication that he was aware of the fights taking place on the lower exercise yard.

When I looked back to the lower exercise yard I saw an inmate laying by the punching bag in a pool of blood and there ~~was~~ a trail of blood leading over to the pull-up bars where another inmate was face down on the ground. I then realized that this was more than just fights, it was a serious move going down and still no shot was fired! The inmate by the punching bag had on a black T-shirt and blue jeans. I later learned this was Edward Brooks. With the exception of a few all the inmates began moving away from the area of Brooks, towards the toilet and shower area. At no time did I see inmate Jeffrey Burks, involved in these fights. I never saw him on this part of the exercise yard.

After what seemed like minutes, I heard C/O Stafford, yelling for everyone to stop moving and to get down. I looked up at him and saw that he was coming out of the gun tower and pointing his rifle down at the Black yard and fired a shot! I thought he was shooting at other inmates still fighting by the toilet/shower area. I couldn't see over there, but the part of the yard I could see, all the inmates had stopped fighting and had moved away about ten (10) seconds before C/O Stafford, fired the first shot. I heard the alarm go off and knew that I had to move away from the fence and out of the "Out of Bounds," area. I didn't see anything else take place. Later that day I heard that several inmates were involved in the assault and one inmate had died. At the time it was just another attack at Folsom Prison and I gave it no further thought, I didn't know any of the inmates I saw involved in the incident and didn't know the victims. In 1998, I learned that Jeffrey Burks, had been convicted for the murder of Edward Brooks, and volunteered this Affidavit.

I declare under penalty of perjury that the foregoing is true and correct. I will take part in legal proceedings to help expose the truth. Executed this 30 Day of October 1999, at CSP/CAL, P.O. Box 5002, Calipatria Ca 92233-5002.

Larry McEwen  
Witness Signature

Rudy Tapia Jr.  
Rudy Tapia Jr.